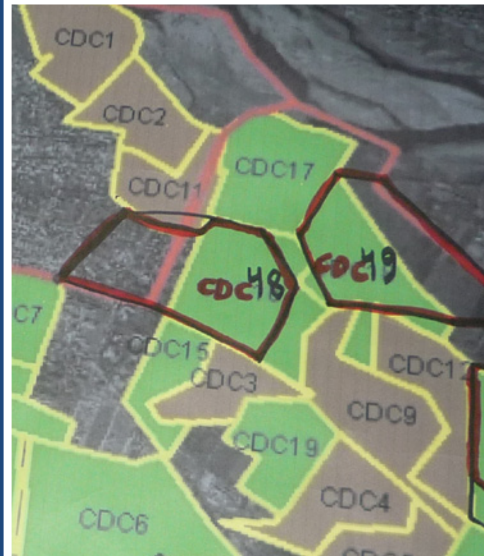
# GOVERNANCE AND REPRESENTATION IN THE AFGHAN URBAN TRANSITION

Tommaso Giovacchini

August 2011



Afghanistan Research and Evaluation Unit
*Research for a Better Afghanistan*

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## About the Author

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## About the Afghanistan Research and Evaluation Unit

The Afghanistan Research and Evaluation Unit (AREU) is an independent research institute based in Kabul. AREU's mission is to inform and influence policy and practice through conducting high-quality, policy-relevant research and actively disseminating the results, and to promote a culture of research and learning. To achieve its mission AREU engages with policymakers, civil society, researchers and students to promote their use of AREU's research and its library, to strengthen their research capacity, and to create opportunities for analysis, reflection and debate.

AREU was established in 2002 by the assistance community working in Afghanistan and has a board of directors with representation from donors, the United Nations and other multilateral agencies, and non-governmental organisations. AREU currently receives core funds from the governments of Denmark, Norway, Sweden and Switzerland. Specific projects in 2011 are funded by the European Commission (EC), the International Development Research Centre (IDRC), the Humanitarian Aid Department of the European Commission (ECHO), the UK Department for International Development (DFID), and UN Women.

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Tommaso Giovacchini
July 2011

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## Acronyms

| | |
|---|---|
| AREU | Afghanistan Research and Evaluation Unit |
| AUWSSC | Afghan Urban Water Supply and Sewerage Corporation |
| CSO | Central Statistics Organization |
| FGD | focus group discussion |
| IDLG | Independent Directorate of Local Governance |
| MAIL | Ministry of Agriculture, Irrigation and Livestock |
| MoUDA | Ministry of Urban Development Affairs |
| NGO | nongovernmental organisation |
| PAR | Public Administration Reform |
| PDP | Provincial Development Plan |
| UN-HABITAT | United Nations Human Settlements Programme |

## Glossary

| | |
|---|---|
| *benaqsha* | land developed with no prior planning authorisation (contrasts with *zorabad*) |
| *biswa* | unit of land measurement equivalent to around 100 square metres |
| *nahia* | precinct |
| *sahawy* | detailed site plan |
| *tafsily* | detailed area plan |
| *wakil-i-gozar* | head of urban ward |
| *wasita* | patronage network; relations to those with power or influence |
| *zorabad* | land abusively seized, generally with recourse to violence or the threat of violence (contrasts with *benaqsha*) |

# 1. Introduction

Between September 2010 and April 2011, AREU conducted the scoping and preliminary phase of a research project on urban governance in the Afghan cities of Herat, Charikar and Jalalabad. The research was designed to test the hypothesis that Afghanistan's urban transition is precipitating a crisis in existing local governance arrangements, stifling representation of new and old urban groups and interests, and leaving current regulatory mechanisms incapable of addressing the challenges of city growth. Specifically, the study focused on how this crisis is affecting land use regulatory mechanisms, such as city plans, and the processes of implementing urban planning provisions by local administrations.

This first stage of research involved 82 structured and semi-structured interviews and 14 focus group discussions (FGDs) conducted by a research team of ten members. Fifteen guides for structured interviews and two templates for FGDs were developed, along with a specific participatory mapping methodology. The fieldwork also included a three-week participant observation scheme, with the development of a research journal. Although it was ultimately not possible to continue beyond this phase of the project, initial investigation produced the following set of findings, which can potentially inform policymakers in the area as well as be used to define a future research agenda:

### *Expectations driving the urban transition*

Supported by existing research,[1] the fieldwork shows that expectations of access to services and livelihoods opportunities are behind most decisions by landless households—especially those affected by recurrent droughts—to resettle from provincial districts to urban areas. The new urban constituencies created by fast-paced urbanisation are particularly mobile at both provincial, national and international scales. How to represent these constituencies' expectations of access to services and livelihoods opportunities constitutes a significant policy issue.

### *Gaps in baseline data*

Within the expanding urban agglomerations, critical baseline gaps were identified with reference to urban populations, city boundaries, municipal finances and socio-economic factors. Incongruous or inconsistent data that fails to reflect current social and demographic trends threatens to undercut policies to address the needs and demands of urban dwellers. The question is also how far missing baselines contribute to a democratic deficit in the cities, for instance in undermining Article 141 of the Afghan constitution on the election of city mayors and municipal councils.

### *"Formal" and "informal" settlements*

Initial findings refute the possibility of a neat divide between formal and informal settlements. As cities expand, the demarcation line between "formal" and "informal" dissolves. Attempts to distinguish informally developed areas from those established in compliance with land use provisions generate unrealistic and unmanageable data on informality in the city. Likewise, lines between informally settled and illegally grabbed

1 Among others: Ingrid Macdonald, "Landlessness and Insecurity: Obstacles to Reintegration in Afghanistan," Refugee Cooperation, 9 February 2011, http://www.refugeecooperation.org/publications/Afghanistan/04_macdonald.php#note20 (accessed 23 June 2011); N. Majidi, "Urban Returnees and Internally Displaced Persons in Afghanistan," Refugee Cooperation, 26 January 2011, http://www.refugeecooperation.org/publications/Afghanistan/01_majidi.php (accessed 23 June 2011); "UN-HABITAT—Afghanistan," http://www.unhabitat.org/categories.asp?catid=245 (accessed 26 May 2011).

portions of the city are often vague and obscure since overlapping claims to the same parcel of land are commonplace across the vast majority of new developments. In addition, initial evidence indicates that uncoordinated delivery of urban services by local, national and international providers invalidates assumptions that link informality with urban vulnerability. For instance, settlements in breach of land use regulations may have gained better access to urban water and electric supplies relative to other sections of the city. Research on urban vulnerability should thus shift focus from informal settlements to insecurity of land tenure across the entire urban space, encompassing the continuum of environments from spontaneous settlements to formal developments.

***Land tenure insecurity***

An analysis of field data points to a diverse range of factors that can decrease—or enhance—security of land tenure. These include: the local impacts of urban infrastructure projects, provision of services through urban relief and development initiatives, urban politics, patronage networks, the quality of housing stock, titling documents available to a household, and land use regulations and planning instruments. This suggests that security of land tenure in the city cannot be reduced to the effects of land use regulations or to the provisions of master plans alone; rather, tenure insecurity is likely to be a multi-factor process operating across a continuum of formal and informal urban areas.

A research framework that factors urban politics and patronage networks into the security of urban land tenure must therefore focus on how to increase tenure security without strengthening mechanisms of patronage. In doing so, it must identify policies that address urban vulnerability, enhance social accountability and promote citizens' participation in a way that expands tenure security. These could include: avoiding a piecemeal regularisation process[2] of urban areas in breach of land use regulations; establishing city-wide regularisation mechanisms not centred on individual settlements; and ensuring the representation of vulnerable residents—whose landholdings may fall outside the municipal tax base—in the elections of mayors and municipal councils.

***Fiscal and budgeting constraints***

Initial data does not indicate an increase in municipal revenues from tariffs and levies in spite of rapid urbanisation. Since Afghan cities are growing by informal development there is no significant expansion of their tax base, as revenue is only collected from areas that comply with regulations on land use. Annual revenues from tariffs and levies are absorbed by operating budgets. Budgeting procedures discourage mid-term development projects, as they are rigid, centralised and have a strictly annual horizon for financial planning. There were also no identified connections between municipal budgets and Provincial Development Plans (PDPs). As a result, it appears that fiscal constraints and budgeting procedures hinder the formulation of development budgets, infrastructure plans and investment strategies.

***Inadequate supply of urban land***

Afghanistan's legislative framework has not yet proved capable of establishing a system of enforceable and transferable property rights to regulate real estate transactions between private citizens or leverage capital for urban development. At less than one

2 Turkstra and Popal define settlement regularisation as "the integration of upgrading through community empowerment and tenure security." See Jan Turkstra and Abdul Baqi Popal, "Peace Building in Afghanistan through Settlement Regularization" (Nairobi: International Society of City and Regional Planners, 2010).

percent of GDP, housing finance[3] in the country is basically absent. Conversion of farmland is explicitly discouraged by current legislation. In theory, the Ministry of Agriculture, Irrigation and Livestock (MAIL) cannot authorise the conversion of cultivated land of any type: only barren and uncultivated soil can be turned to residential, commercial or industrial uses. The procedure of conversion is cumbersome and includes a number of provincial and national line departments. It appears that land-grabbing by local strongmen and politico-military entrepreneurs may sometimes be a common form of land conversion; these actors normally allocate farmland to their clients and headmen who may then sell it as residential land. It appears the preconditions to establish real estate markets consistent with the needs of the urban transition have not yet been met.

### *Role and implementation of master plans*

Initial evidence points to the advent of a new generation of master plans—sometimes known as strategic municipal action plans—to replace old ones outgrown by the urban expansion. Although their intended objective is to provide up-to-date land use regulations to promote urban development, their most immediate result may be to ease the supply of land for city growth and to legitimate a simplified conversion of raw land to urban uses. However, despite the easier allocation of land to various urban functions, master plan implementation is expected to remain piecemeal and fragmentary. This is due to fiscal and procedural constraints in the budgets of the municipal administrations tasked with their execution. Piecemeal implementation may become discretionary, with a risk of speculative manoeuvres on the real estate markets on the part of local administrations and powers.

Findings from field research consistently support the hypothesis that sale of public assets makes up a significant—sometimes the most significant—source of revenues in a few municipalities. It appears that municipal governments regulate the real estate market by timing the implementation of the master plan through the ad-hoc development of area-specific zoning plans (*tafsily:* area plans; *sahawy:* site plans). Municipalities reportedly then purchase private land in the relevant area or acquire it from the ministry of agriculture. Finally, they return it to the real estate market as residential lots. It is therefore possible that some municipal administrations may combine the function of public regulator with that of a private developer.

### *Grassroots governance*

The research project explored grassroots options and opportunities to address the crisis of representation associated with the urban transition, with particular reference to vulnerable constituencies and territorial planning. The most relevant finding seems to be that grassroots governance arrangements may be in place, or rapidly evolving, in areas where important physical transformations of the urban space are projected or are likely to happen. Those arrangements present a complex institutional architecture which could accommodate urban development projects and plans of action for the city. However, such institutions are limited by gender-based exclusion, and women’s participation is low.

3 The value of financial instruments to support lending in the housing sector.

# 2. Urban Growth: Between Rigid Master-Planning and Spontaneous Settlements

## 2.1 The urban transition

Afghanistan is a rapidly urbanising country. With a city dwellers' population of around 7.2 million[4] representing almost one-quarter of the total[5] and increasing at an estimated annual rate of four percent,[6] it might well be the fastest urbanising country in Asia.[7] However, demographic trends highlight only one dimension of Afghan urban growth. The upper and richest levels of most commodities' value chains concentrate in a few urban areas. Likewise, opportunities to integrate different segments of the supply chain into larger business organisations are boosted by urban expansion. The centrality of Afghan cities for local economic development is therefore another key aspect of urban growth.

The speed of urbanisation is typically reflected in the scale of the challenges it brings. Among those challenges, the soaring demand for urban housing is a critical feature of urban expansion, as confirmed by AREU fieldwork. An indicator of rocketing housing demand is the expanding backlog, which a former minister of urban development predicted would reach 1.5 million units by 2015.[8] The poor condition of the existing housing stock and inadequate supply of low-cost housing are likely to worsen the impact of the housing shortfall on the urban population.[9] The absence of a framework to ensure transferable and enforceable property rights—another finding from AREU research—adds to the challenge, as banking institutions are likely to keep away from housing finance.[10]

Researchers and programme managers alike have also highlighted how gaps in baseline information undermine the definition of urban policies. Deficits of information concern figures on urban population, city boundaries, municipal finances, and socio-economic data[11] to mention just a few. In absence of suitable baselines, the various realities of urban growth become increasingly vague and indistinct—populations disappear, and the very shape of cities becomes indefinite for lack of boundaries[12] and information on their physical infrastructure. AREU field researchers in Charikar had the opportunity to compare the population figures provided by the Central Statistics Organization (CSO) for the

4 The World Bank, "Countries and Economies: Afghanistan," http://data.worldbank.org/country/afghanistan (accessed 22 May 2011).

5 Ibid.

6 Ibid.

7 United Nations Development Programme, "Goal 7—Ensure Environmental Sustainability," http://www.undp.org.af/MDGs/goal7.htm (accessed 17 April 2011).

8 Mohammad Yousef Pashtun quoted by T. Nenova in "Expanding Housing Finance to the Underserved in South Asia" (Washington, DC: World Bank, 2010).

9 Ibid.

10 The issue of transferable property rights was raised in an ambitious paper for Nangarhar (US Army, "Nangarhar Regional Development Plan: Bridging a Rich Past with a Bright Future" [Jalalabad: US Army, 2007]), which seems to reflect the long-term vision of its provincial government. The World Bank has frequently pointed to the impact of uncertain real estate titles on housing finance (Nenova, "Expanding Housing Finance").

11 G. Wright and E. Leonardo, "Municipal Governance Strategic Framework for Municipalities in the Islamic Republic of Afghanistan" (Kabul: USAID, 2008), 33.

12 The Independent Directorate on Local Governance (IDLG) seems aware of the problem, and in its policy paper on sub-national governance insists on "a well-defined geographical or territorial boundary" in its definition of municipality (See: IDLG, "Draft Subnational Governance Policy" [Kabul: IDLG, 2009], 148).

city[13]—51,400—with estimations by municipal officials. A significant divergence with CSO statistics emerged among the interviewees that attempted an estimation[14] of the figure. Moreover, respondents differ remarkably among themselves in their estimates, although they invariably agree that the city has significantly expanded in the last five years.

The distance between CSO data on urban population and city managers' estimates is even more remarkable in the case of Jalalabad. For Nangarhar's provincial capital, CSO data indicates a population of 194,400[15] while most respondents set it at around one million. Interestingly, a US Army strategic paper on development in the province relies on population figures for Jalalabad that are five times higher than CSO's.[16]

But while commentators have noted that dependable baselines are indispensable to crafting policies to address the needs and demands of urban dwellers,[17] this research raises another critical point: baselines which are incorrect or altogether missing point to a severe crisis of representation that characterises the urban transition in Afghanistan. A first manifestation of this is the failure to implement Article 141 of the Afghan constitution that envisages the election of mayors and municipal councils. Missing baselines on urban growth, on the new demographic features of the cities and on their physical expansion have thus contributed to a democratic deficit at subnational level, hindering so far the enforcement of constitutional provisions.

## 2.2 Factors and forms of the urbanisation process

Most observers, national and international, would agree that insecurity is the main problem currently facing Afghanistan. Almost 40 percent of respondents in the 2010 Asia Foundation Survey of the Afghan People reported that insecurity was their most serious concern for the country as a whole.[18] It might thus seem obvious that conflict and insecurity are the main factors behind Afghanistan's accelerated urbanisation. However, this is not confirmed by findings in the provincial capital of Parwan, Charikar. In the eastern city of Jalalabad, too, insecurity does not seem to be the main cause behind population movements to urban areas.

Charikar residents point primarily to employment opportunities in the urban economy for landless farmers and smallholders from poor rural districts to explain the recent substantial expansion of the city's population. Interviews and FGDs conducted in Charikar and Jalalabad highlight "pull factors"—jobs, services and a more dynamic society—that account for the rural-urban migration. When respondents discussed "push factors" driving households from the countryside, they mentioned landlessness and drought, but very rarely insecurity and violence.

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13 Central Statistics Organization, "Afghanistan CSO Population Data—1389 (2010-11)" (Kabul: CSO, 2010).

14 The most conservative figures offered by local officials set the resident population at 65,000, still 30 percent higher than CSO. Data obtained from the provincial offices of state corporate agencies in charge of water and electricity do not match CSO figures either. One senior agency official remarked that they serve 48,000 clients in Charikar; considering the very partial coverage such agencies provide, this would lead to a total population exceeding 100,000. In only one case, a local official offered an estimate of 24,485—lower than CSO and again demonstrating a sharp divergence from the official figures.

15 CSO, "Afghanistan CSO Population Data."

16 US Army, "Nangarhar Regional Development Plan," 51-2.

17 Wright and Leonardo, "Municipal Governance Strategic Framework."

18 37 percent of the polled respondents identified insecurity as Afghanistan's biggest problem at national level in 2010 (36 percent in 2009). Insecurity is far ahead of unemployment and corruption as a national problem. See The Asia Foundation, *Afghanistan in 2010: A Survey of the Afghan People* (San Francisco: The Asia Foundation, 2010), 23-5.

*Image 1: Caravanserai in Shahr-i-Khona, Charikar*

While this preliminary finding may be surprising, at a closer look it is consistent with broader polls and analyses. For instance, the 2010 Asia Foundation survey asked respondents to describe the most significant problem in their areas. Of the local problems identified, a lack of electricity and water was the biggest concern for 50 percent of the respondents and unemployment was the second most important local issue (26 percent).[19] By contrast, insecurity ranked seventh, at 13 percent. Droughts which lead to food insecurity among smallholders and farm labourers have indeed become more frequent and severe in recent years.[20] It is thus plausible that landlessness and the threat of droughts are the issues pushing people to the cities, whereas expectations related to quality of life and livelihoods opportunities, more than anything else, pull them there.

The urbanisation process in Afghanistan does not only mean the physical and demographic expansion of urban areas. It also is underpinned by an increased geographical mobility of the population. Fieldwork in Charikar and Jalalabad identified four broad types of population movement which accompany the urbanisation process: (1) from rural districts to the city; (2) from countries of asylum—Pakistan, Iran—to urban areas in Afghanistan; (3) from Afghan cities to Iran and Pakistan as economic migrants; and (4) seasonal migrations between urban and rural areas. These movements and migrations influence urban governance dynamics and how mobile social groups attain representation in the city.

A few preliminary findings on the forms of the urbanisation process may prove relevant. Firstly, migrants from rural districts—as opposed to international returnees—have made up the bulk of new arrivals in the cities in the past few years. In Charikar, most of the

19 The Asia Foundation, *Afghanistan in 2010*, 27.

20 According to the Famine Early Warning Systems Network, "in October and November of 2010 irrigation water availability was at its lowest recorded level." See "Afghanistan Food Security Alert January 20, 2011: Large rainfall defecits threaten 2011 wheat harvest in Afghanistan." http://reliefweb.int/sites/reliefweb.int/files/resources/45C8986A792E242A8525781E00782C5D-Full_Report.pdf (accessed 23 June 2011).

population influx in the last five years appears to have come from rural districts of Parwan. This would be consistent with the position taken in 2008 by the UN Refugee Agency (UNHCR) that "the era of mass voluntary return of Afghan refugees is over."[21] In Jalalabad, too, most migrants appear to come from the surrounding provinces of Kunar, Laghman, Nangarhar and Nuristan.

Secondly, while the flow of returnees has subsided substantially, in Charikar the research team found evidence[22] of ongoing economic migration to Iran; remittances from economic migrants there support construction activities in a few informal settlements in the outskirts of the city.[23] Reportedly, incomes earned abroad are also playing a growing role in Herat's urban expansion.[24]

Finally, fieldwork in Charikar produced initial evidence of seasonal migration between rural and urban areas, along with the role of household assets in the countryside in enhancing the livelihood security of urban residents.[25] A seasonal pattern of migrations between the city and provincial districts hints to the persistence of urban-rural links, a potential key to sustainable cities in Afghanistan.[26] Evidence of the historic roots of this linkage is embedded in the architecture of many cities, in physical spaces that retain some of their social and economic functions as links between town and country, such as the caravanserais of Charikar.[27]

The new urban constituencies created by accelerated urbanisation thus display an increased mobility at different geographical scales: within a province, for seasonal migrations; at a regional scale, for many landless farmers seeking employment and livelihood security; and across international borders for the last returnees and the new economic migrants.

The nature of these population movements and the push and pull factors that drive them creates a further governance challenge in terms of representation. The expectations of new urban constituencies and the demands they place on urban services and employment pose a challenge to existing governance arrangements as well as any future democratic municipal architecture as envisaged by Article 141 of the Constitution. Failure to represent the expectations of these constituencies may undermine state legitimacy and fuel armed conflicts.

## 2.3 The master-planning tradition

Modern city planners tend to look at urban planning as a negotiation process involving urban, national and sometimes global interests.[28] Both the nature of process and the negotiation of interests are notable by their absence in Afghan master-planning.

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21 See Ingrid Macdonald, "Landlessness and Insecurity: Obstacles to Reintegration in Afghanistan," Refugee Cooperation, 9 February 2011, http://www.refugeecooperation.org/publications/Afghanistan/04_macdonald.php#note20 (accessed 23 June 2011).

22 Focus group with local water committee; interview with *wakil-i-gozar*; interviews with provincial line department senior staff.

23 Such as in Block 11, mostly an informal settlement (*benaqsha*) in the northwest of the city.

24 Interview with head of news radio station, Herat.

25 Focus group with vulnerable female residents at provincial NGO office.

26 In relation to attempts at integrating rural and urban issues within urban policy as a strategy towards sustainable cities, see research conducted by (among others) the Human Settlements Group at the International Institute for Environment and Development: http://www.iied.org/.

27 The role of Charikar as hub of the raisin industry and the economic relations between urban and rural economies along the raisin value chain were confirmed in several interviews.

28 Andrew Thornley and Peter Newman, *Planning World Cities: Globalization, Urban Governance and Policy Dilemmas* (Basingstoke, UK: Palgrave Macmillan, 2004).

***Image 2: Old plannning map for Jalalabad City***

The country's master-planning tradition dates back to the sixties[29] under Prime Minister Mohammed Daoud Khan. In terms of urban governance, a key feature of this tradition—which spans half a century from Daoud Khan through the Russian-backed regimes to the Islamic Emirate and, partially at least, to the present administration—is its continuity. It has been noted that "even after Russian withdrawal from Afghanistan, the acceptance of master plans as primary mechanisms of urban development remained intact."[30] The Islamic Emirate took this tradition to its extreme, as the Taliban regime set the capacity to implement a master plan as one of the two requirements for the establishment of a municipality.[31] Continuity in the master-planning tradition means that its main features were bequeathed to the present generation of city planners and they are now a dimension of urban governance to reckon with, for instance with reference to participatory planning.

Three elements of the Afghan master-planning tradition deserve consideration. First, the master plan is intended to be a neat pre-figuration, a picture of the city as it should be.[32] The expected output from a master-planning exercise is essentially a map. It is not a process, nor a set of policies or standards, but primarily the graphic representation, as detailed as possible, of the final stage of city development as imagined by the planner.

The most immediate function of the master plan is thus control. It neatly tells apart what is inside the map from what is outside. The state agency in charge of implementing

29 Kandahar master plan, 1964; Jalalabad master plan, 1970.

30 V. Samaraweera, *Municipal Governance in Afghanistan: a Handbook* (Kabul: USAID/ Afghanistan Municipal Strengthening Program, 2009), 93.

31 *Law on Municipalities 1421* (*Official Gazette* no. 794), 2000 (SY 1379).

32 As one municipal official put it, "the master plan should be a long-term planning instrument, in which all future changes should be considered."

the master plan—by definition a municipality—must only follow the lines on the map, in theory a task that can be achieved even by poorly-trained municipal staff. In practice, such an emphasis on the map means that master plans are expected to monitor and check urban growth, rather than promoting development or mobilising resources towards specific objectives for the city.[33] Because of a dubious assuption about the power of maps to shape actual urban forms, Afghan city planners have disregarded resource constraints and pressures from other local governance actors.

Scholars and managers of urban programmes are generally perplexed by many aspects of Afghan master-planning. The United Nations Human Settlements Programme (UN-HABITAT)'s Patrick McAuslan somewhat convincingly comments that the mainstream master-planning tradition in the country seems located in a "time warp."[34] Nonetheless, the tradition also carries elements that may prove beneficial and valuable in the urban transition.

The country's long history of master-planning means that Afghan engineers have developed urban planning skills, at least in terms of maps and urban design. Likewise, Afghan universities have set up colleges that have an established tradition in city planning.[35] It is therefore possible and might be immediately beneficial to "work with and build on existing master-planning skills, such as knowledge of regulations, roles and responsibilities," for instance, "to service and secure unplanned areas."[36] A legacy of professionalism, even if related to obsolete planning methodologies, is an asset in the urban transition and may enhance accountability in the city planning process. In Herat, the research team collected initial evidence pointing to the role of professionals—engineers, architects and planners in particular—in successfully challenging land-grabbing attempts by warlords and their strongmen.[37]

In addition to placing planners and city development professionals firmly in the position of stakeholders in urban governance dynamics, the master-planning tradition bears another more important feature. This is the concept, deep-seated among many municipal managers and planners, that master-planning is an element of the state-building process in Afghanistan. Since capacity to implement a master plan is a requirement for the recognition of a municipality, the bureaucracy responsible for city planning is given a very special identity and role in the governance of the city, similar even to the military or judiciary in other contexts.[38] This may explain the involvement of urban planners, engineers and architects in several episodes of collective action to protect urban heritage or promote sustainable urban development. Contrasting with "predatory" strategies by political elites, this group of intellectuals and bureaucrats seems to manifest what Evans describes as the "embedded autonomy of state bureaucracies," opposing arbitrary use of power.[39]

33 One internal UN-HABITAT report notes that the current master plan tradition presents "...a stress on physical location and design of sites and buildings; very little or no reference to social, environmental or, most important, financial matters—how much will it all cost. Such plans are made with no public involvement; the role of the public is to comply with the plan..." See P. McAuslan, "Urban Land Law in the Islamic Republic of Afghanistan - An Issues and Options Paper [unpublished draft]" (Kabul: UN-HABITAT, 2005), 5.

34 Ibid.

35 Interview with engineering graduate in Herat. The respondent proudly remembered that he graduated from his degree in the 1980s, along with other 26 students, 13 women and 13 men.

36 J. Beall, and D. Esser, "Shaping Urban Futures: Challenges to Governing and Managing Afghan Cities" (Kabul: AREU, 2005).

37 A reported episode of citizen mobilisation for better planning of city spaces in Herat involving the significant role of professionals concerns the area of Kandahar Darwaza, where collective action reportedly led to a revision of the planned residential development.

38 A number of respondents from the urban planning bureaucracy tended to present themselves as the custodians of the city's orderly development, although with different degree of success in their mission.

39 See P. B. Evans, *Embedded Autonomy: States and Industrial Transformation* (Princeton: Princeton

However, a number of points in the master-planning tradition represent challenges for urban governance and city development. Its rigidity and lack of realism, along with the indifference to resource mobilisation and citizens' participation,[40] have led to ossified planning procedures, which age rapidly and soon become obsolete. Several respondents among the city planners suggested that implementation of master plans was slow or difficult, and many highlighted the need to update them. The lack of built-in mechanisms to update the existing master plans makes it hard or plainly impossible to adapt them to the actual situation.[41] Extreme centralisation, where all plans are developed, revised and approved in Kabul, adds significantly to the problem.[42]

The mainstream master-planning tradition is thus probably part of both the problems and solutions to the governance challenges in Afghanistan's urban transition. There is no doubt, however, that planning instruments must display a capacity to adapt rapidly to evolving urban contexts in order to meet the needs and expectations of new and highly mobile constituencies in the cities. This capacity is altogether missing at present.

However, adaptability cannot be reduced to a technical add-on to be included in more modern city plans and mapping software. Instead, it must depend largely on a dialogue among urban interest groups, professionals and bureaucrats involved in urban planning, along with state entities with a bearing on city development. The challenge of representation thus lies at the core of more flexible and adaptable planning instruments. A new generation of master plans may be able to meet demands of the fast-paced urban transition if it answers the question of how to represent new urban constituencies.

## 2.4 Informal settlements

The discourse on informal settlements tends to pivot around two assumptions implicitly or explicitly stated: that there is a clear divide between formal and informal portions of the city; and that vulnerability and informality overlap. Initial research findings do not bear out either assumption, and instead seem to refute both. Since informal settlements are the main form of urban expansion in many cities of Afghanistan, it is important to examine which governance processes and planning instruments are commonly chosen to identify them. This relates to the discussion of the Afghan master-planning tradition, as city plans are frequently used to single out and classify informal settlements.

A clear divide between formal and informal urban settlements would appear to be helpful in producing figures and quantifying the problem, and a stream of data on informal settlements has been consistently generated through programmes and research projects. According to such estimates, 50 percent of Jalalabad city would be composed of informal settlements,[43] 5.5 million Afghan citizens would live in urban

Uiversity Press, 1995). Of course, only a few members of the urban planning professional bureaucracy conform to Evans' description, while there may be examples of predatory behaviour among professional city planners as well.

40 "...master-planning has been discredited due to its top-down nature, inflexibility and lack of ownership among city residents" (J. Beall and S. Schütte, "Urban livelihoods in Afghanistan" [Kabul: AREU, 2006], 62).

41 McAuslan, "Urban Land Law."

42 As one municipal official in Charikar put it, "the Ministry of Urban Development has responsibility to make the master plan. No one has permission to introduce changes into the master plan, which is developed by the ministry in Kabul. The ministry has engineers and laboratories to test soil; they consider the risk of natural disasters, the quality of land and its location to identify which land is best for residential areas, industrial areas, hospitals, schools, green areas and so on."

43 R. Mahmoudi with B. Boyer, "Jalalabad: a Resort City of Change—Case study of Jalalabad City" (Plaisains,

***Image 3: Formal and informal settlements. Clockwise from top-left: informal settlement, Charikar; formal settlement, Charikar; informal settlement, Jalalabad; informal settlement, Jalalabad***

informal settlements,[44] and 99 percent of the country's urban population would live in "slums."[45]

However, the reliability and significance of these figures depends on how far it is possible to distinguish formal from informal developments within urban spaces in Afghanistan. Respondents from local administrations consistently stated that they rely on master plans to identify informal or even "illegal" settlements.[46] A planning tradition that often reduces city planning to the development and implementation of a map supports such an uncompromising approach, which inflates the figures of informal settlements. According to many local state representatives, anything outside the master plan counts as informal. The master plan map thus seems to "generate" informal settlements, and many municipal officials provide rather extreme information and figures on burgeoning informality and "illegality" as urban expansion unfolds.

France: Groupe URD, 2006), 40.

44 Emerging Markets Group, "Land Titling and Economic Restructuring in Afghanistan: Project Completion Report (2004-2009)" (Kabul: USAID, 2009), 12.

45 "UN-HABITAT—Afghanistan," http://www.unhabitat.org/categories.asp?catid=245 (accessed 26 May 2011). HABITAT cites 2001 estimates.

46 As a MAIL official in Parwan put it, "A legal settlement is where residents have built their properties in a residential area covered by the master plan."

***Box 1: Overlapping land claims in Charikar***

In the late 80s, land in Charikar's Block 11 was distributed by the regime of Dr Najibullah to supporters. However, in the early 90s, two commanders from Salang District, north of Charikar, reallocated the land to their fighters and relatives. Then, at the fall of the Taliban regime, returnees from Pakistan and Iran tried to settle or resettle there too. At present, remittances from Iran contribute to the intense construction activities in the Block. Because of growing tension and overlapping claims, in 2008 the provincial administration allocated land in a different area of the city (e.g. Block 13) to compensate those who had been granted land titles at Najibullah's time, but could not repossess their land now. Attempts to distinguish "informally settled" from "illegally grabbed" in Block 11 thus seems hopeless.

As a possible alternative, other stakeholders in urban land use trace the divide between formal and informal settlements to the documents available to the households that occupy land in the city.[47] A further distinction—that between grabbed land and informal settlements—adds to the complexity of the topic. A few analyses by international agencies seem to parallel local attempts to tell apart *benaqsha* (land developed with no prior planning authorisation) from *zorabad* (land abusively seized, generally with recourse to violence or the threat of violence).[48] The clear advantage of classifying land according to *benaqsha* versus *zorabad* is the actual use of that distinction by several urban communities.[49] However, how far this distinction offers viable criteria and policy options is less clear, as charges of abusive land occupation are to some extent common in all forms of urban informal settlement,[50] especially those where the market value of properties is soaring. The long-standing tendency of political and military leaders from different epochs and regimes to reward followers with the distribution of land further muddies the divide between "informal" and "grabbed."

***Formality versus tenure security***

Evidence from this research suggests an alternative hypothesis: a clear divide does not exist between "formal" and "informal" settlements in Afghan cities and towns.[51] Efforts to draw a line between these two different modes of development tend to produce unrealistic and unmanageable figures on informality. Besides, they may lead to policies

47 This is generally the stance of most "property dealers" interviewed for this study. According to one such respondent, "*benaqsha* and *zorabad* are areas where residents and the whole settlement don't have official documents."

48 Land Titling and Economic Restructuring in Afghanistan (LTERA), for instance, endeavours to separate urban informal settlements from "grabbed" land, or land illegally seized from its private or governmental owner by powerful individuals such as warlords or political figures and sold or distributed to occupants (See Emerging Markets Group, "Land Titling," 51).

49 The distinction between *benaqsha* and *zorabad* was used by a few participants in FGDs, especially in contexts where the threat of eviction was perceived as more immediate. Practically no respondent admitted to dwelling in a *zorabad*, but a few used it to stigmatise residents in other areas.

50 Amir Zeb Khan explores briefly the causes of land disputes and highlights that "...successive governments in Afghanistan have adopted land allocation policies as a means of rewarding and consolidating their own support." Moreover, "overlapping claims to the same parcel" are frequent and, at least in part, they may be "linked to the inequitable system of land ownership and the huge number of landless people." See A. Z. Khan, "Extraction of Parcel Boundaries from Ortho-rectified Aerial Photos: A cost effective technique" (Mainz, Germany: Mainz University of Applied Sciences, 2009), http://www.ipi.uni-hannover.de/fileadmin/institut/pdf/isprs-Hannover2009/Khan-112.pdf (accessed 23 June 2011).

51 At least not in those cities covered by the AREU scoping exercise (Charikar) and by the initial stages of the field research (Herat and Jalalabad).

which intend to promote "orderly" urban development[52] but instead result in the vain attempt to curb urban growth. For reasons discussed above, a three-way classification of urban land into formally developed, informally settled and illegally grabbed may also have limited usefulness.[53] Diluting further the distinction between "grabbed" and "informally settled," most returnees' preference to relocate in urban centres instead of rural areas[54] frequently results in overlapping claims by two or more households over the same urban lot in an informal settlement.

A different approach focuses instead on insecurity of land tenure along a continuum between formal and informal urban developments that embraces the whole city. Insecurity of land tenure is a multi-factor process, determined by much more than the provisions of various master plans, or the land titles available to a household. Such an approach could provide a more accurate reading of Afghan urban realities and suggest more viable policies as a consequence.

A shift of focus from informal settlement to insecurity of tenure leads us on to question the common identification between informality and vulnerability. Initial research findings do not support the assumption that informal settlements are necessarily the areas in the city where the most vulnerable residents live. The use of the term "slum-dweller" to describe a resident of an informal settlement is misleading, as many informal settlements can in no way be defined as "slums." Areas built in unplanned sections of the urban space, developed in breach of planning provisions or even seized by strongmen and warlords do not always conform with typical representations of urban vulnerability. In fact, lots and properties in those areas may belong to the highest price brackets of the city real estate market.[55]

Urban vulnerability and insecurity of tenure seem to originate from multiple and often interrelated causes. While planning provisions certainly can have influence—both positive and negative—other factors unrelated to the degree of compliance with planning instruments[56] also have a major impact on urban vulnerability and tenure insecurity.

### *Service provision*

Access to services is a key element in defining urban vulnerability. Moreover, the provision of services and the establishment of urban infrastructures can enhance security of tenure, no matter whether services and infrastructures are within formal or informal settlements.[57]

52 McAuslan briefly discusses the topic of "order" in urban development and in the understanding of their own role and profession that urban planners sometimes hold. See "Urban Land Law."

53 Paradoxically perhaps, we registered a degree of consensus among city residents who singled out a few informal developments as *zorabad*, but such a convergence of opinions covered only settlements whose dwellers appear socially and economically more vulnerable. The consensus, however, seems to rest more on the absence of political leverage and influential patrons to protect a group of informal dwellers than on particular violations of planning provisions or on specific propensity to criminal and violent behaviours.

54 N. Majidi, "Urban Returnees and Internally Displaced Persons in Afghanistan," Refugee Cooperation, 26 January 2011. http://www.refugeecooperation.org/publications/Afghanistan/01_majidi.php (accessed 23 June 2011).

55 One municipal official in Charikar indicated that 95 percent of the buildings in Block 11 are abusive. Nonetheless, the price of a *biswa* (100 square metres) in Block 11 may exceed $1,100 according to information collected from the field.

56 Property dealers interviewed in Charikar concur on three factors that affect real estate prices: access to services (water, energy and waste collection in particular), accessibility from the city centre, and compliance with the planning instruments.

57 McAuslan reflects that "a planning system that is so rigid and hidebound by the past that it would prefer to destroy investment [in informal settlements] rather than adapt itself to invest in and improve what is already there gives a bad name to the concept of planning quite apart from the unaffordable waste

*Image 4: Power supply in Shahr-i-Khona, Charikar (formal)*

Electricity and water supply seem to be by far the most important.[58] Waste collection, which is the most typical municipal service, probably ranks third, but in larger metropolitan areas access to health and education facilities is likely to outweigh its relevance to residents. Importantly, supplies of water and energy are often independent of the degree of formality of a settlement, and public utilities in cities appear largely unaffected by provisions in their master plans. Throughout the research, the limited—or utterly absent—coordination between urban planners in state agencies and public utilities stood out as a critical challenge in the urban growth.[59] Researchers who described state entities operating in the urban environment as "vertically integrated silos" insulated from and independent of each other have offered a convincing portrait of the situation.[60]

The extreme centralisation of the city planning process[61]—the entire development of master plans takes place at the national Ministry of Urban Development Affairs (MoUDA) office in Kabul—may account in part for the lack of coordination between services and physical planning.[62] In turn, this has hindered service delivery and expanded areas of urban vulnerability, both outside formally planned areas and within them. The mixed

of private resources which such a policy would entail." See "Urban Land Law."

58 Access to a reliable electricity supply through the public grid seems an essential determinant of household and community welfare in Jalalabad, where private generators charge up to 75 Afs a kilowatt. Urban midwives in one FGD held in Jalalabad identified the rich in the city by their continuous electric supply. This is logical in a city where the estimated demand exceeds 150 megawatts, the electric grid can handle no more than 43 at its best, and the primary public utility source for electric power (Darunta Dam) could generate 13 megawatts if it worked at 100 percent of its efficiency. See US Army, "Nangarhar Regional Development Plan."

59 Herat Water Supply is supposed to be one of the most successful local Strategic Business Units among the eight established to handle water supply and sewerage in urban areas. Nonetheless, the connection with city planning, for instance in areas of urban expansion, appears absent, as lamented by a senior member of one internationally-funded water supply programme.

60 The World Bank referred to "highly centralized line ministries which work in vertically integrated silos with relatively weak, *externalized* linkages between them." The World Bank, *Service Delivery and Governance at the Sub-National Level in Afghanistan* (Kabul: The World Bank, 2007), 47; See also The World Bank, *Intergovernmental Fiscal Relations and Subnational Expenditures in Afghanistan* (Kabul: The World Bank, 2008), 7.

61 According to McAuslan, "the present arrangement of the Ministry making the plan and the municipality having to implement it is not conducive to efficient or effective planned urban development" ("Urban Land Law"). IDLG provides a more precise picture: "Municipalities are the subject of master-planning efforts conducted by the central government, which is primarily responsible for developing, confirming and approving municipal master plans...institutional structures and mechanisms to ensure coherence with the plan-budget process are generally not yet in place at the municipal level." See IDLG, "Draft Subnational Governance Policy," 63.

62 Sparse coordination efforts do occur, as MoUDA sits on the board of directors of both the power and the water authorities. However, this tends to have limited impact.

results of a corporatisation process that has transformed the government agencies in charge of energy distribution and water supply into state corporate entities may have added to the coordination challenge,[63] complicating water and energy supply to urban residents.

International agency operations and donor priorities may have further separated the city planning process from actual service provision to urban settlements. Initial evidence, including vehement complaints by local state officials, suggests that international water supply projects have sometimes overlooked or simply disregarded city planning indications. Government officials raised concerns about incoherent initiatives that muddle the orderly provision of urban services, such as internationally-driven energy supply projects to residential areas and industrial parks. A degree of competition among international agencies and donor organisations may also impinge on coordination across urban areas.

Many parts of Afghan cities remain in dire need of safe water and face severe shortages of critical power supply. However, a chart of those areas where such problems are most severe would not necessarily follow the contours drawn in the map of a master plan. As a result of the lack of coordination described above, unplanned settlements may have gained better access to urban water and energy than other sections of the city falling within the official master plan. This would reduce their relative vulnerability by lowering the cost of indispensable commodities.

### *Urban Politics*

Political power dynamics are another factor that defines different degrees of vulnerability and security of tenure among urban residents. A number of political actors shape and influence forms and directions of urban expansion, especially those with substantial stakes in urban real estate markets. Formally, city planning represents a top-down interaction between municipalities and MoUDA. The physical plan is formulated in Kabul and implemented in the city; the process requires a presidential sanction for each city plan, and the central approval of any zoning map. However, this apparently linear relationship masks a much more complex process where many more actors than the municipal administration and the ministry of urban development intervene. For instance, initial evidence suggests that the provincial governor, more than the mayor, is the actual initiator of the urban planning process and plays a key role in promoting local priorities within the centralised planning exercise at MoUDA. This finding appears in line with comments by researchers who underlined governors' "soft" power over their cities.[64]

In a few cases, informal settlements sponsored by local powerholders are eventually included in the legal planning provisions. In others, local and national powerholders offer adequate security of tenure to residents even as their residences remain outside the jurisdiction of the master plan. A significant degree of security of tenure within well-sponsored informal settlements was seemingly confirmed by the admitted impotence

63 A senior official at the Afghan Urban Water Supply and Sewerage Coorporation (AUWSSC) reported that there is almost no coordination with the provincial administration, and even less with the municipal government, while all the provincial plans on water and sewerage are developed in Kabul and any decision on appointments is taken by the AUWSSC central office. The weakness of such a centralised system is evidenced by the inability of AUWSSC's office in Kabul to update the annual provincial plan of operations, with no new or revised plan for Parwan in the last four years.

64 The World Bank cites "a number of 'soft' institutional channels, some legislated, some not" available to the provincial governor to influence and often lead urban development policies at sub-national level. See The World Bank, *Intergovernmental Fiscal Relations*.

of municipal and local planners to act against informality. Local planning officials are often unable to enforce regulations, either because of explicit threats of violence or the presence of *wasita*—connections to patronage networks—that stretch all the way to Kabul. In such cases the real estate market adjusts to the balance of power, pushing up land values in politically endowed settlements.

One indicator of political sponsorship in areas outside the master plan is the number of property dealers present. Both formal and informal (i.e. not registered with the Ministry of Justice) property dealers tend to operate in areas of rapid urban expansion, many of which are informally developed. Their capacity to secure adequate tenure security for their clients relies on their direct connections with holders of political power. In a few cases, the property dealer seems to act as the local representative of his political patron within a newly-urbanised area.

The growth in the ranks of property dealers in such areas confirms that tenure security does exist regardless of what the master plan says. It also shows that resources to invest are available—the origin of resources invested in raw land urbanisation and in the real estate market is an important question.

Not all the informal settlements neatly dovetail with the urban networks of patronage. Several unplanned developments do not boast political sponsorship and are sometimes labelled as the “authentic” *zorabad*, the real cases of “illicit” urban expansion. This demonstrates the problem with setting a clear dividing line—complemented by different policies—between what is just informal and what is “grabbed,” since cases of genuine land-grabbing may be confused with informal developments that lack powerful political patrons.

In the mid-term, key political players in a city are likely to pursue a convergence between the actual balance of power—as reflected in the different degrees of security of tenure across the new developments—and the master plan itself. Such a convergence would boost market values, but would also require significant negotiations between powerful and competing political stakeholders.

## 2.5 Conclusion and ways forward

Preliminary findings from this study refute a significant correlation between social vulnerability and the various degrees of informality of urban settlements. Instead, they point to a linkage between vulnerability and tenure insecurity, where the latter is determined by a diverse range of factors including localised investments in services and infrastructure, urban politics and patronage networks, the availability of titling documents, and planning provisions.

The behaviour of real estate markets amidst urban growth provides a possible indicator of tenure security, since prices of properties grow with land security. From the data gathered so far, prices may also offer indications on vulnerability, decreasing where residents are more vulnerable. However, cycles of large urban transformation envisaged in a few master plans will probably impact on the current geographical hierarchy of real estate prices in the cities.

If vulnerable urban conditions do not coincide with locations in informal settlement, piecemeal regularisation of a few unplanned areas in the city might not reduce vulnerability. A piecemeal process might even strengthen the patronage networks that

have sponsored more secure informal settlements.[65] The issue here is thus how to increase security of land tenure across the urban continuum in a way that enhances citizens' representation without strengthening mechanisms of patronage. While piecemeal regularisation of politically sponsored informal settlements may reduce social accountability, a city-wide process to increase security of land tenure might empower citizens and boost vertical accountability—those processes by which residents hold local administrations and city powers to account. This would probably require a comprehensive regularisation mechanism covering the whole urban area rather than a sequence of initiatives centred on individual settlements. In order to reduce urban vulnerability, a city-wide regularisation process should encompass the most marginalised settlements, where real estate values are particularly depressed and whose landholdings do not contribute significantly to municipal revenues.

The existence of formal representative institutions such as elected municipal councils would certainly ease the implementation of such a comprehensive regularisation process. In the same vein, it is also imperative that vulnerable residents, whose landholdings are less secure and generally excluded from the municipal tax base, are fully represented in the future elections of city mayors and municipal councils. In practice, there is a risk that tying voters' rights to the payment of real estate taxes will bar a portion of city residents from the municipal elections, since most dwellings in recently-established settlements are "not *registered* habitations that provide a tax base."[66] Peoples' right to vote in municipal elections should therefore not be dependent on whether the municipality collects revenue from their household.

65 In Kandahar, the Governance and Development Support Project (GDSP) led to "de facto" regularisation, i.e. municipal acceptance of occupancy rights, of a large informal settlement. See J. Turkstra, "Achieving Development and Security: Governance and Development Support Programme. The case of Kandahar, Afghanistan" (Kabul: UN-HABITAT, 2009). Although the implementing agency deemed the initiative a success, questions about the risk of strengthening local patronage networks and supporting the agenda of powerful political leaders were raised, according to one UN-HABITAT officer.

66 Samaraweera, "Municipal Governance in Afghanistan," 73.

# 3. Leading New Cities Through the Urban Transition

## 3.1 Fiscal constraints

***New cities, old administrations***

The Law on Municipalities enacted in the last year of the Taliban regime assigns a broad set of functions to municipal administrations, and remains largely unaltered to this day. In particular, it charges municipal administration with the construction and maintenance of infrastructure, including city roads, drainage systems, shopping centres and public markets, parks and amenities, public baths and cemeteries. The law also includes responsibility for essential urban waterworks,[67] though these were eventually transferred to the Afghan Urban Water Supply and Sewerage Corporation (AUWSSC).[68]

Nonetheless, public expectations on the role of the municipal government in delivering services to city residents were probably limited until the recent onset of rapid urbanisation under the current administration. In reality, the role of municipalities had mainly been limited to waste collection and price regulation, echoed in the views of both municipal staff and the population at large as to the responsibilities of this level of government.[69]

Expectations have sharply increased, however, as new urban constituencies have taken form in the municipalities—first with the return of 5.5 million refugees, then with the immigration of rural population in a quest for improved livelihoods and better services. Meanwhile, even the services traditionally delivered by municipalities have become far more complex to handle as cities have expanded. With open dumping no longer legally tolerated[70] and also less socially acceptable, the absence of sanitary dumpsites or the extensive reliance on dry-vault latrines[71] has driven municipal managers into a corner. Moreover, issues which used to be minor, such as stray dogs roaming the streets, have turned into public health threats in more crowded urban spaces.[72]

In addition, while the legislative framework on municipalities has stayed almost unaltered between the Taliban period and the current government,[73] recent legislation has expanded the responsibilities traditionally attributed to municipal governments in areas like environment protection, transport and local economic development.

67 With an access to piped water estimated at 18 percent and the sewerage system limited to a few apartment complexes in Kabul, municipal waterworks represent a monumental task. See R. Aminzai, “Corporatizing Municipal Water Supply Departments as Strategic Business Units (SBUs)” (Kabul: International City/County Management Association/Commercialisation of Afghanistan Water and Sanitation Activity, 2009).

68 Samaraweera, “Municipal Governance in Afghanistan.”

69 One qualified engineer in Herat lamented the narrow focus by municipal officers on waste collection and price regulation, highlighting the need to change this mindset. Waste collection emerged as the municipal service by definition in practically all the interviews with municipal officers conducted by the research project.

70 See *Environmental Law* (*Official Gazette* no. 912), 2007 (SY 1385).

71 Dry-vault latrines are probably the most viable option in urban Afghanistan and the most common as well. Given the very short supply of water and energy that bars other solutions, dry-vault is likely to be a realistic mid-term technology. But dry-vault latrines require solid waste collection.

72 Reportedly, stray dogs have become a serious concern for Charikar residents, who have demanded a response from the local administrations.

73 With reference to changes in the municipal administration, the most important legislations enacted by the Transitional Islamic State of Afghanistan, provisionally established after the ousting of the Taliban, and by the Islamic Republic are the *Public Finance and Expenditure Management Law* (*Official Gazette* no. 865), 2005 (SY 1384); and the *Elections Law for the Municipalities* (*Official Gazette* no. 814), 2003 (SY 1382).

Critically, intergovernmental financial transfers in favour of municipalities have not accompanied new expectations and responsibilities at municipal level, although the scope for their introduction has been recognised.[74]

Furthermore, since Public Administration Reform (PAR) has not been implemented within municipal government offices, organisational structures, management processes, staff motivation and pay and grading mechanisms have remained the same, leaving the municipalities poorly equipped to take new responsibilities or fulfil growing expectations.[75] In the sample cities, municipal officers have consistently pointed to the delayed introduction of PAR-type measures as a factor that significantly hinders municipal capacities.[76] Although some attempts at piloting at least some aspects of the PAR agenda in a few municipalities have taken place,[77] the deep-seated view of municipalities as "fiscally self-sustaining entities"[78] has probably held back wider efforts to expand the PAR process at this level.

### *Municipal revenue and its sources*

Municipalities are expected to operate on the revenues they manage to collect; their annual budgets are thus directly determined by the expected levels of those revenues.[79] While municipal revenue sources have been the subject of significant analysis and research in recent years,[80] one aspect that has received less attention is where in the city this revenue comes from.

Initial findings track the sources of municipal budgets to the urban core of the provincial capitals.[81] The contribution to municipal finances from large companies and enterprises seems to be minimal.[82] Likewise, more recent and generally informally developed settlements seem to represent a tiny share of the revenues garnered by the city administrations.[83] The bulk of tax revenues thus seem to originate from relatively

74 The World Bank, *Intergovernmental Fiscal Relations,* 35.

75 Efforts to schedule or at least to pilot the Public Administration Reform in the municipalities are evident in IDLG's Draft Subnational Governance Policy, but the timeframe for implementation is still unclear.

76 A relative majority among the municipal civil servants interviewed had a very high pay grade, which indicates an extended tenure of public administration posts. However, a relative majority also had fairly limited professional or academic backgrounds. Besides, most of the municipal personnel comprised casual staff: in Charikar, for instance, 42 municipal employees are casual workers, contracted on a fixed-term basis, and only 16 are permanently employed.

77 Wright and Leonardo, "Municipal Governance Strategic Framework," 41.

78 Samaraweera, "Municipal Governance in Afghanistan," 94.

79 One provincial Ministry of Finance official in Jalalabad remarked: "Municipalities generate their own revenues and their budgets are based on those revenues. However, sometimes municipalities happen to ask for money from the Ministry of Finance...normally for road construction."

80 See for instance: Samaraweera, "Municipal Governance in Afghanistan"; The World Bank, *Intergovernmental Fiscal Relations*; and Wright and Leonardo, "Municipal Governance Strategic Framework."

81 This consideration excludes the fiscal revenues from the sale of public assets, a source in theory precluded by national legislation. Fiscal revenues can be probably subdivided in three groups: real property taxes, charges or tariffs for municipal services, and business licences, although municipalities have "a large number of revenue sources, including a large number of nuisance taxes, providing them with an excessively fragmented municipal revenue structure." See World Bank, *Intergovernmental Fiscal Relations*, 33. Most likely, property taxes on commercial and residential buildings represent "the most predictable source of revenue for municipalities as well as one that has the most potential to generate revenues for them." See Samaraweera, "Municipal Governance in Afghanistan, 121-2.

82 For instance, one tax officer in Jalalabad indicated that large national tax payers (those paying above 100 million Afs) play almost no role in local revenue generation.

83 In fact, an official in Charikar's fiscal department stated: "A municipal tax on real estate is payable only by home or shop owners in legally established urban precincts. That payment somehow approves the legality

formalised settlements, generally old urban developments like Shahr-i-Kohna ("the old city") in Charikar, which often hold the bazaar, its economic activities and its associated social classes.[84] Its small traders and vendors pay for licences and business permits;[85] its real-estate values were generally assessed and recorded by the head of the municipal fiscal department, thus its buildings are subject to property taxes;[86] and tariffs for garbage collection are charged by municipal staff and grudgingly paid by the residents.[87] Municipal officers, many of whom have worked for decades in municipal administrations, are generally familiar with the bazaar economy and know how to levy revenues there. The municipal building itself is generally located close to the bazaar, and—should a taxpayer prove overly unsympathetic to city fiscal policy—the main police station lies beside it. By contrast, new urban settlements are often unexplored territory for municipal personnel involved in tax collection: property values there have never been assessed, and evaluation may be more complex since such areas stand outside the map of the master plan.[88] Moreover, what is built outside the map should not theoretically exist and therefore cannot be taxed. In addition, such settlements may have been established by strongmen who command a coercive power far beyond that of municipal taxation officers,[89] or are shielded by other forms of *wasita* that allow them to fend off any municipal interference.

In a sense, current fiscal legislation and social practices make municipal taxation regressive since poorer and less powerful communities often end up paying more. This is likely to heighten as the bazaar economy—centred around links between the urban core and its rural hinterland—loses out to radically different new growth processes associated with development corridors and the mining industry.[90]

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of a building"; Asked whether residents in the informal settlement in Block 11 pay real estate taxes, women who took part in an FGD replied that they did not pay them, "because a real property tax is imposed on a title, which the houses in the street do not have."

84 As one provincial official of the Ministry of Economy in Parwan stated: "Tax revenues to the municipality come from shops, which are located in Shahr-i-Kohna."

85 According to one Charikar municipal official: "When someone wants to open a shop or drugstore, they need a licence from the municipality. The fee for a licence is fixed"; and another: "The *nahia* (precinct) administration distributes business licences. The fee for a licence differs according to the type of business. The highest payment for a licence is around 300 Afs, and the lowest is about 15 Afs. Each licence has annual validity and must be renewed every year. Officers from the municipal administration oversee shops, markets and businesses by issuing business licences to the respective owners." In Jalalabad, 174,865 Afs accrued to the municipal coffers from payments for business licences in 2006. See Samaraweera, "Municipal Governance in Afghanistan," 126.

86 Assessments might include more offices than the fiscal department. They may also involve the municipal engineer, an officer from the *nahia*, the prosecutor's office, the Ministry of Finance and the provincial administration. Annual rates are set in Kabul and are three percent of the market value for residential buildings and 7.5 percent for commercial.

87 Payments of garbage collection fees are registered in the log-book of tariff payments. In Charikar the precinct administrators distribute these books among the residents in their precincts. Acquisition of the log-book is frequently part of a regularisation strategy in absence of property deeds and titles.

88 It has been noted that "officials trained in property valuation are a rarity, and no detailed database of property is available." See Samaraweera, "Municipal Governance in Afghanistan," 122.

89 A senior UN-HABITAT officer in Parwan commented: "The municipality is helpless against strongmen when it tries to control informal settlements, because the municipal administration cannot turn to the force while local military leaders have guns." A municipal official in Charikar added: "The municipality has a master plan, which was developed by the ministry of urban development. Nonetheless, they have problems with the implementation because of powerful commanders. The municipal administration has done nothing, because the commanders' relatives and their supporters are armed, so a municipal employee doesn't dare to question their right."

90 The inter-ministerial cluster for economic and infrastructure development, and MoUDA in particular, refers to the "excellent prospects for Afghanistan's economic growth, driven by proposed programs to accelerate expansion of extractive industries" and lays out its vision by which "the urban areas in the

***Image 5: Proposed relocation site at Top Dara, Charikar***

Finally, urban regeneration projects may impact particularly on those spaces in the city from where municipal revenues presently originate. As a few urban cores may undergo major transformations—sanctioned by a new generation of master plans—and turn into modern central business districts, the traditional tax base of the municipality may be relocated outside the city centre along with the old bazaar. In the end, urban development strategies pursued by a few municipal administrations may tear down the very places in the city that currently provide the bulk of municipal revenue. In the midterm, those strategies may push the classes that have been paying the municipal bills for so long to the physical and social margin of the city as it expands.

***The pretence of fiscal self-sufficiency and its impact on municipal development planning***

A narrow tax base, the fragmented structure of municipal taxation, and the very idea of municipalities as "fiscally self-sustaining entities"[91] all undermine the role of municipal administrations in urban development. The process and structure of the municipal budget also hamper that developmental role. Data and information gathered in the initial phase of the research suggest that municipal budgets are allocated almost entirely for operational costs. Development chapters in those budgets do exist—sometimes supported by international initiatives to enhance budgeting procedures[92]—but they are allegedly more an administrative and bureaucratic requirement than real financial planning. Funding for development projects comes almost entirely from international initiatives, nongovernmental organisations (NGOs) and Provincial Reconstruction Teams.

country will become hubs for economic growth." See "The Economic and Infrastructure Development Cluster National Priority Programs" (Kabul: Government of Afghanistan, 2010), 58.

91 Samaraweera, "Municipal Governance in Afghanistan."

92 According to a provincial officer at the Ministry of Finance in Nangarhar, whose salary is subsidised by the USAID-funded Economic Growth and Governance Initiative.

In Parwan, the director of the provincial Ministry of Economy office saw the complete absence of a development budget as critical in constraining municipalities from taking on any role in local development. More emphatically, a municipal officer remarked that the Charikar city administration would "collapse" without the support of a USAID-funded project.[93] In Jalalabad, the head of the municipal construction department lamented that the development budget was inadequate for "the municipality to do its job properly."[94] His complaints were echoed by precinct administrators who stated that the municipal development budget is unable to fund a single development project carried out in the city precincts and is entirely reliant on donor and NGO assistance.[95] Articulating a broad consensus, the manager of a public utility in Charikar stated that local institutions including the municipality have no funds for urban development, regardless of any supposed fiscal autonomy.[96]

It should not come as a surprise, then, that there is no connection between municipal development budgets and Provincial Development Plans (PDP) drawn up by provincial administrations.[97] The former seem to be administrative exercises in compliance with bureaucratic requirements, while the latter are basically a document to interface with donor organisations, providing prospective funders with a shopping list to pick from.

Lack of integration between municipal budgets and PDPs cannot be dismissed as a minor administrative flaw. PDPs do list critical development initiatives which are likely to transform the urban environment if chosen and financed by a donor organisation. The failure to coordinate PDPs and municipal budgets may reflect a broader coordination deficit that would certainly affect the master plan and its implementation. In Charikar, for instance, the provincial development plan comprises five major urban development projects,[98] whose realisation would change the built environment and infrastructural framework in the entire city.[99]

The head of one municipal department in Charikar commented that "PDPs are used to expand the city, while master plans are to limit and regulate urban growth."[100] This view is understandable in a fiscal environment where local finances are irrelevant and urban development is determined by donor-funded PDP initiatives. However, this understanding is problematic as it allows city planning to forgo its development role, to the point that future municipal-level elected bodies could fast become redundant and easily ignored.[101]

## 3.2 Municipal fiscal crisis and city planning

Strong evidence is available that expenses for payroll and operations and maintenance expenses absorb almost all municipal revenues. In theory, however, 45 percent of the annual budget should be allocated to operational costs and 55 percent should go to

93 In this case the Afghanistan Municipal Strengthening Program, implemented by the International City/County Management Association (ICMA).

94 Construction department official, Jalalabad.

95 Precinct administrator, Jalalabad.

96 AUWSSC senior official, Charikar.

97 Parwan provincial MoUDA official.

98 Industrial park in Senjet Dara; Gulghondai park and recreational facilities; Gulghondai residential subdivision; commercial development of Shahr-i-Kohna with relocation of the present resident population to Top Dara; widening of the Kabul-Jabulasaji highway across the old city core of Charikar.

99 Senior official in Parwan provincial administration.

100 Construction department official, Chariakar

101 In 2008, The World Bank commented that "the lack of a sound municipal fiscal framework is undermining the viability of this sphere of government." See The World Bank, *Intergovernmental Fiscal Relations,* 33.

development initiatives in accordance with the 2000 law on the role of municipalities.[102] In absence of reliable data on the "fiscal space occupied by the municipal level,"[103] a straightforward explanation for the gap between legislative provisions and actual practice is difficult.

The most obvious hypothesis is that municipalities cannot collect enough to cover anything above their day-to-day running costs. This is the view shared by most municipal administrators and much of the general public. A young participant in a group discussion observed that "the municipality is very poor and they are not able to collect garbage or bring electricity and clean water to the residents." [104] But while scarce revenues from property taxes, service charges and retail permits undoubtedly present a real challenge for viable municipal governments in Afghanistan, the fiscal crisis of the municipal administrations is worth investigating further; to this end, future research should explore how that crisis reflects on the municipal role in city planning and in the involvement of municipalities in local real estate markets.

A few informants, for instance, would not necessarily agree that municipalities are very poor. In fact, respondents at the provincial department of agriculture stated that municipal revenues are "high";[105] a senior member of a provincial MoUDA department commented that municipal revenues are boosted by the limited and discretionary implementation of the master plan via detailed *tafsily* plans, although such a piecemeal approach might not benefit the city as a whole.[106]

Researchers have correctly identified the potentials for a "windfall"[107] for cash-strapped municipal coffers thanks to the implementation of master plans. Through discretionary implementation of master plans, municipalities can designate areas for future residential or commercial development. Municipal administrations can thus generate hefty revenues by acquiring raw land in those areas, developing it, and selling it on. Being in control of the timeframe for the execution of the master plan in each specific section of the city allows municipal administrations to maximise the opportunities for revenue generation. This may happen through the discretionary development of *tafsily* or *sahawy* plans[108] in specific areas or sites where the local administration has acquired or owns land. These opportunities to collect massive returns from the real property market are rooted in the main features of master plans as they have been conceived and executed in Afghanistan. Since Afghan master plans tend to be a map without a strategy, the administrations in charge of their enactment can set priorities and time-frames, garnering considerable latitude in selecting where and when individual urban development initiatives will happen.

The central government has enacted a string of legislative initiatives to end such windfalls by prohibiting the sale of public assets: Presidential Decree no. 99,[109] Presidential Decree

102 Wright and Leonardo, "Municipal Governance Strategic Framework," 18.

103 The World Bank, *Intergovernmental Fiscal Relations*.

104 Focus group at Charikar youth department.

105 Nangarhar provincial MAIL official.

106 Senior Parwan MoUDA official.

107 Samaraweera, "Municipal Governance in Afghanistan," 74.

108 *Tafsily* plans can be rendered as "detailed area plans" and *sahawy* plans as "site plans."

109 *Non-Distribution of Intact and Uncultivated State-Owned Land*, Decree no. 99 (*Official Gazette* no. 802), 2002 (SY 1381).

no. 83,[110] and the Law on Managing Land Affairs[111] all bar municipalities from selling public land. However, the sale of municipal lands continues despite this legislation, and may even be gaining momentum. Initial data from Jalalabad indicates that municipal revenues from the sale of public land in the new development of Qasim Abad in 2010 amounted to 33 million Afs (US$700,000), with forecasts at around 30 million Afs for 2011. Returns from the sale of lots in Shahidano Mena were around 1 million Afs in 2010, but the municipal administration expects returns of up to 47 million Afs from sales in the same area in 2011.[112] In Charikar, anecdotical evidence sets the price of a *biswa* (100 square metres) of prime land at $2,000 or more.[113] The development in Gulghondai consists of 500 to 600 prime residential lots[114] each sized between four and five *biswa*. Hypothetically, real estate transactions for a single residential subdivision in Charikar might thus generate a revenue of several million dollars.

The figures above need further verification: they may be over-estimations, or they may concern very special cases. Nonetheless, they seem to question the assumption that municipal administrations are inevitably poorly resourced, pointing instead to a widespread practice of the sale of public assets with the potential for high returns.

***The failure to translate resources to development***

If municipalities do indeed have the actual or potential capacity to generate substantial resources from the real estate market, we have to explain their apparent failure to produce and implement development budgets to engage with the dramatic challenges of ongoing urban expansion. If resources to finance development are in fact available, future research must explain why the development chapters of municipal budgets are seemingly relegated to the role of mere administrative accomplishments.

Initial evidence suggests that three factors may account for the failure to translate the available resources into municipal budgets that lay down and support actual development strategies for the cities. A first factor is the unsuitable structure and cumbersome procedures of the municipal budget itself. Second is inadequate oversight by supervising agencies and insufficient horizontal accountability[115] within local administrations, which can reduce even a relatively prosperous fiscal situation to one of fiscal constraint. Finally, and perhaps most importantly, the city planning process that includes centralised development and local implementation of master plans denies representation to much of the urban population, preventing residents from holding their local executives to account.[116] It thus apppears that it is these three factors—and not simply scarce revenues—that may disconnect resource generation from resource allocation through municipal budgets, and from strategic planning in Afghanistan's cities.

110 *Immovable Property,* Decree no. 83 (*Official Gazette* no. 816), 2004 (SY 1382).

111 *Law on Managing Land Affairs* (*Official Gazette* no. 958), 2008 (SY 1388).

112 Nangarhar provincial Ministry of Finance official.

113 Parwan provincial Ministry of Economy official; property dealer in Block 11, Charikar; property dealer in Shahr-i-Naw, Charikar.

114 Senior Parwan provincial administration official.

115 Guillermo O'Donnell describes horizontal accountability as the relations between executive state powers and other state agencies, such as those in charge of oversight, legislative bodies or the judiciary. See G. O'Donnell, "Horizontal Accountability in New Democracies," *Journal of Democracy* 9, no. 3 (1998): 112-26.

116 With a consequent absence of vertical accountability from local executives towards city residents.

Recent studies[117] have identified three interrelated faults in Afghan municipal budgeting procedures: a rigid annual budgeting cycle, that lack necessary flexibility to address emergencies and take advantage of opportunities; the absence of mechanisms to plan capital investments; and the absence of connections between annual budgets and urban development strategies as reflected, for instance, in the master plan. These faults are compounded by the assumed fiscal self-reliance of municipal administrations, which can lead to conservative and over-cautious budget choices by city managers who prefer to rely on prudent forecasts of the annual revenues.[118]

As a consequence, the annual budget cycle in the municipalities can manage recurrent operational and wage expenses fairly well,[119] but struggles to handle urban development. Municipal managers face major challenges in financing a strategy for the city within the existing budget cycle, since a strictly annual budgeting horizon can hardly accommodate the infrastructure and related capital investments that a longer-term urban strategy would entail. A possible explanation for the restriction of municipal spending to recurrent and ordinary costs may therefore be the rigid annual budgeting cycle that seems to choke development initiatives. In a sense, it is thus the procedure for resource allocation rather than the actual lack of resources that hinders the execution of development budgets.

A city administrator in Charikar vividly described the stiffness of the annual budget cycle, noting that "a municipality by itself is not allowed to transfer even a single Afghani from one line of the budget to another. Prior to any change in budget lines, it must get approval from the provincial governor, the Ministry of Finance and the Independent Directorate of Local Governance (IDLG)." In view of this inflexibility, the same officer explained that city administrations must invest in land that might then generate future revenues if needed.[120] A precinct administrator in Jalalabad also described how the budget cycle stifles investment for transport infrastructure: "they cannot carry out much development activity with the annual budget. Now, for instance, they need to plan for asphalting a main road between two areas of the *nahia*. But there aren't sufficient funds allocated for this type of infrastructure in the development budget."

While municipalities do have a degree of independence in setting budget ceilings compared with provincial line departments, for example,[121] ceilings for recurrent expenses are determined rather mechanically and strictly monitored by IDLG. Furthermore, ceilings for capital investments may be affected by conservative estimations of annual revenue to reduce the risk of fiscal crises associated with budget inflexibility.

Increasingly, the possibility of fiscal crises seems to be a risk municipalities must reckon with. This is not just because of the rigid budget cycle; municipal administrations' growing reliance on revenues from transactions on the city's real estate market exposes them the erratic behaviour of that market. As city managers fund more and more of their budgets with the sale of public land, fiscal sustainability thus becomes more and more of an issue, owing to fluctuations in the price of properties and in the returns from the sale of public assets. Substantial oscillations in municipal budget

117 Wright and Leonardo, "Municipal Governance Strategic Framework."

118 Samaraweera, "Municipal Governance in Afghanistan," 111.

119 The World Bank, *Intergovernmental Fiscal Relations,* 54.

120 Charikar municipal official.

121 The budget ceilings of provincial line departments are set in Kabul.

forecasts may be evidence of this problem. In Jalalabad, the budget for year 1389 (2010) was around $1.3 million, but $4.7 million for 1390 (2011).[122]

Evidence from this research suggests two possible strategies that municipal administrators and city mayors pursue to address fiscal sustainability issues and the risk of fiscal crises. As discussed above, the first strategy involves adopting conservative estimations of their revenues and the consequent under-scaling of development budgets.[123] The second consists of accumulating substantial amounts of property, either bought on the real estate market[124] or acquired from the ministry of agriculture.[125] A vast municipal estate, ready to be sold in lean years, is meant to operate as a buffer against the risk of fiscal crises. These strategies thus combine to choke off funding for development budgets and divert municipal resources from needed infrastructural investments towards property accumulation.[126]

Poor horizontal accountability may hamper municipal development initiatives even in the presence of substantial revenues from the sale of public assets. This may occur if municipal administrators have limited control over and access to those revenues. The actual use of municipal financial resources—especially those generated from the trade of properties in the real estate market—is dependent upon power dynamics within subnational government. This is especially true for the imbalance of power between the municipal administration and provincial governor. This political power gap can define how revenues from the sale of public assets are generated, and may limit the municipality's ability to access those revenues for urban development projects. The lack of clear lines of accountability between municipal and provincial authorities seems to widen this power gap.

Preliminary data confirms the blurred lines of accountability[127] that prevail within provincial governance arrangements, especially between governor, on one side, and line departments and municipalities on the other. While the formal authority of provincial governors over municipal administration may be limited,[128] they wield a power of veto over budgets and have a critical influence on urban policies, including the development and implementation of master plans. In theory, IDLG approves municipal annual budgets and the "municipal list of sanctioned posts,"[129] which are then sent to the Ministry of Finance.[130] In fact, the endorsement of municipal budgets by the governor's office constitutes the first and most important step toward their final approval.

122 The amount for 2011 would be 214,152,881 Afs according to an official at the Nangarhar provincial Ministry of Finance.

123 Samaraweera, "Municipal Governance in Afghanistan."

124 One senior municipal official in Charikar noted that "a municipality is an independent organisation and its main income derives from taxes, as well as buying and selling lands and commercial properties."

125 Generally, municipal administrations would be expected to pay for land acquired from MAIL, but the payment can be waived. As a provincial MAIL official in Parwan describes, "If the municipality wants to expand the city and extend the area currently mapped by MoUDA beyond the borders of the current master plan, the municipal administration must contact the provincial line department of agriculture, office of land registry, to buy and obtain new lands."

126 An officer in the Charikar municipal fiscal department reported that on average the municipality apportions ten percent of its budget to buying land, while the remaining 90 percent is spent for municipal operations. Very little, if any, remains to attune the city infrastructure to the demands of its residents.

127 The World Bank, *Service Delivery and Governance*.

128 The Asia Foundation, "An Assessment of Sub-National Governance in Afghanistan" (Kabul: The Asia Foundation, 2007), 17.

129 Samaraweera, "Municipal Governance in Afghanistan," 85.

130 The World Bank, *Intergovernmental Fiscal Relations*.

Provincial governors' cross-cutting influence over provincial line departments is of critical importance. In the case of MAIL, this means that land conversion to urban use cannot occur without their active involvement and agreement; for MoUDA, it means that master plans, *tafsily* plans and *sahawy* plans cannot be developed without a governors' full consent. In fact, regulations on land use are often adopted on the initiative of provincial governors.[131] Governors are thus instrumental in establishing and controlling the very foundations of the windfalls that municipalities can gain from implementing master plans and area plans.

The governors' power over municipal revenues is reflected in the testimony of city administrators. As one department head in Charikar explained: "The municipality generates its own budget from taxes and from the sale of land, but it doesn't have any authority to spend it without the permission of the governor. Collected taxes are transferred to the Ministry of Finance and if municipalities need funds for expenses apart from recurrent and operational costs, they request those funds from the Ministry of Finance with the permission of the governor."[132] While this statement does not clarify the supervising role of IDLG, it leaves no doubt about the governor's authority. Respondents in Herat and Jalalabad also confirmed that the governor's permission was necessary to access development funds generated from the sale of public assets.[133] The authority of provincial governors over municipal budgets and revenues may even increase in future since there is a possibility that financial supervision over development budgets may shift from national to provincial-level Ministry of Finance departments,[134] further expanding the governor's influence over budgeting procedures.

## 3.3 City planning and citizens' representation

The legislative framework which has evolved after 2001 has expanded state jurisdiction over land,[135] but it has not proved capable of establishing a system of enforceable and transferable property rights.[136] This has vastly complicated real estate transactions between private citizens, and leveraging private capital for urban development has proved almost impossible as a consequence. As mentioned, housing finance is basically absent, accounting for less than one percent of Afghanistan's GDP.[137]

Conversion of farmland is explicitly prohibited by current legislation. Land outside the cities is divided into seven categories: five categories of farmland and cultivated land, and two covering what is described as "barren" and "vacant." Only barren soil that cannot sustain farming activities can be assigned to urban uses through a transfer

131 Senior provincial Ministry of Economy official in Parwan.

132 Senior municipal construction department official in Charikar.

133 Land registry department official in Jalalabad.

134 Provincial Ministry of Finance official in Jalalabad.

135 See Presidential Decree no. 83 and the Law on Land Affairs. Article 3 of Decree no. 83 states that all land for which the ownership of individuals cannot be established legally shall be considered property of the state. Article 2 establishes that all individual claims to land that were submitted but not processed or recognised for a period exceeding 37 years shall be denied and the state shall be considered the owner of the property.

136 Gebremedhin defines the judicial and administrative mechanism for the transfer of real property rights archaic, cumbersome, inefficient and riddled with corruption. See Y. Gebremedhin, "Legal Issues in Afghanistan Land Titling and Registration" (Kabul: USAID/Land Titling and Economic Restructuring Activity, 2005), 3.

137 T. Nenova, "Expanding Housing Finance to the Underserved in South Asia" (Washington, DC: The World Bank, 2010).

to municipal authority.[138] But even in the case of non-productive land, the procedure for conversion is discouraging. Although specific steps are likely to vary in accordance with specific governance arrangements at provincial level, a municipal petition for the conversion of rural land to commercial, residential or industrial use may go through up to eight administrative stages before its approval.

The first step in a land conversion process is approval by the provincial governor's office.[139] The petition moves to the provincial department of MAIL, then to the national level of the same ministry, then back to the province, where a conversion committee including seven different state agencies[140] is formed and chaired by MAIL. Once the committee has ascertained that the land in question is not farmland, it can assign it a value. The petition then returns to the governor's office for a second endorsement, and is passed to the Afghan Land Authority in Kabul. Finally, a conversion decree is issued indicating whether the municipality must pay for the land, or if it will obtain it free of charge from MAIL.

Not surprisingly, very little land is actually converted following this cumbersome procedure. However, if the intention of those who introduced such legislation was to arrest or contain fast-paced urbanisation and the flow of landless farmers to the cities, their attempts seem to have been generally frustrated. While state-sanctioned conversion of rural lands has proved all but impossible, land grabbing by local strongmen and politico-military entrepreneurs has in some cases become the most common form of land conversion. These actors regularly allocate farmland to their clients and headmen, who may then sell it as residential. There is some evidence that some local commanders also act as private developers, establishing residential subdivisions either directly or through property dealers.[141]

Absence of enforceable property rights, indiscriminate policies to discourage conversion of rural land to urban use and pervasive land grabbing thus seem to characterise the context of the ongoing dramatic urbanisation. This would suggest that the preconditions to establish real estate markets consistent with the needs of the urban transition have not yet been met.

### *The new master plans*

Initial evidence points to the advent of a new generation of master plans (sometimes known as "strategic municipal action plans") meant to replace the old ones outgrown by the urban expansion. Recently completed or ongoing planning exercises seem to reflect superficially the prevailing views on local governance that exist within the donor community. New regulatory mechanisms and planning processes are expected to be effective, accountable, participatory and consultative.[142] Some analysts have even written about the creation of an "Afghan model" for participatory urban development programs,[143] which would presumably encompass the new round of master plans.

138 Afghan Land Authority official in Kabul.

139 The procedure described here refers to the case as identified in Parwan Province.

140 Provincial land registry, municipality, AUWSSC, MAIL, MoUDA, Ministry of Culture and Youth Affairs and Ministry of Mines.

141 In Jalalabad there is some evidence that Jihadi commanders act as private developers, establishing residential subdivisions either directly or through property dealers. Likewise, mujahiddin commanders are supposedly behind the formation of Block 11 in Charikar by allotting plots to their followers as well as selling them to private buyers.

142 Turkstra, "Achieving Development and Security."

143 Turkstra and Popal, "Peace Building in Afghanistan."

However, concrete evidence of a participatory or consultative approach to urban planning is sparse, to say the least, and strong government influence tends to prevail. Several officers from local administrations appeared more eager to "convince" residents about the urban options included in the master plan than to consult or involve them. A few local managers went so far as to enlist the provincial prosecutor and the local courts in convincing more recalcitrant residents.[144]

The rationale for a new round of master plans, however, seems to be the consensus—shared by most local officers—that new urban development policies should be geared toward establishing "transit and resource hubs";[145] the link between urban planning and economic growth was a dominant theme of many interviews for this study.[146] But although both local and international actors involved in city planning highlight the connection between updated master plans and generation of municipal revenues, there is a key difference in perception. While managers in donor-funded urban development initiatives emphasise the importance of new databases to support master-planning, identification of property boundaries, and improvement in revenue collection from real estate taxes,[147] local administrators underline opportunities new master plans would offer to generate revenue from the sale of property on the real estate market. A city planner phrased this approach very clearly: "The implementation of the city plan promotes economic development, for instance because the municipality can sell more land to people."[148]

Another critical aspect of the new master plans was outlined by a senior official in a provincial MAIL department: "The land registry office in MAIL does not have responsibilities related to the master plan. *Lands covered by the master plan belong to the municipality* [author's emphasis]."[149] As noted above, even the conversion of barren rural land requires a procedure of such a complexity to discourage most attempts at formal conversion. However, it appears from this quote at least that any area included in a master plan automatically leaves MAIL custody once the plan is ratified. Large-scale, rapid[150] conversion of land to urban use thus becomes possible through the development of a new master plan, which can include areas previously classified as rural or even agricultural. While the intended objective of new master plans is to provide up-to-date land use regulations and promote urban development, the most immediate priority for municipal administrations may therefore be to legitimate the conversion of rural land to urban uses in a way that sidesteps ponderous standard procedures.

### *Master plan implementation*

Despite the easier allocation of land to various urban uses, master plan implementation is likely to remain piecemeal and fragmentary due to fiscal and procedural constraints in the budgets of the municipal administrations tasked with their execution. Piecemeal implementation may become discretionary and tied in with speculation on the real estate markets.

144 Senior Ministry of Economy official in Parwan Province. While local administrations seem to pay only lip service to the concept of participatory planning, the modernising aspect of the new master plans, such as the introduction of new mapping applications and software, has received much more enthusiastic approval from city administrators.

145 "The Economic and Infrastructure Development Cluster," 72.

146 Senior provincial MoUDA official in Parwan.

147 Wright and Leonardo, "Municipal Governance Strategic Framework," 24.

148 Charikar construction department official.

149 Provincial MAIL official in Parwan.

150 The development of the Charikar master plan took four months, according to a provincial MoUDA official in Parwan.

It appears that municipal governments regulate the real estate market by timing the implementation of the master plan through ad-hoc development of area-specific zoning plans. City managers seem to have a clear sense of the opportunities involved in developing detailed *tafsily* plans. As one senior official commented, “In theory, there is the master plan, but in practice and for any urban initiative, there is a *tafsily* plan.”[151] Reportedly, municipalities proceed with the acquisition of raw land in the areas covered by detailed planning as the plan develops. Generally, municipal administrations obtain land included in a *tafsily* plan from MAIL, with land transfers under the provisions of the master plan.[152] However, in a few cases it appears that the municipality might have actually purchased farmland on the property market.[153] Eventually, the city administration returns the land to the real estate market as residential lots. The sale of residential properties included in a detailed area plan seems commonplace and their price seems relatively close to the actual market price,[154] although broader data collection would be needed to determine how municipalities set prices of the parcels they supply.[155]

In the average provincial capital, the implementation of a master plan might generally take the form of a two-tier arrangement: the master plan and the detailed *tafsily* plans. In larger urban centres such as Jalalabad, this might involve an additional tier of *sahawy* plans. Both *tafsily* plans and *sahawy* plans contain provisions on services and amenities, which may influence the value of residential lots. However, amenities and services outlined in those plans are expected to have a relatively minor impact on property prices; the largest urban infrastructures are probably defined in the master plan itself,[156] while critical services such as water and electricity fall mainly under the remit of state-owned entities like AUWSSC and Breshna Sherkat (Afghanistan’s electricity supply company), and are thus separate from the planning process in the city.

## 3.4 Conclusion and ways forward

In conclusion, research findings consistently indicate that the sale of public assets represents a significant—sometimes the most significant—source of revenue in the study municipalities. This raises the possibility that it is standard practice among municipal administrations more generally to combine the function of public regulator with that of private developer, integrating functions associated with public control of the real estate market, purchase of raw land and sale of residential lots.

Our preliminary findings relate to a limited sample of cities, and further investigation is due. However, three key issues warranting further research stem from data collected on the role of local administrations in their relative real estate markets.

Firstly, there is an issue of transparency and accountability, as local governments may play the role of traders in the markets they regulate through the implementation of master plans.

Secondly, there is a question of fiscal sustainability when municipal administrations are financed mostly through the sale of public assets. Returns from such practices can indeed

151 Senior municipal official in Charikar.

152 Because of the master plan, a municipality seems to gain a right of prelation, namely the right to be considered the buyer of preference by MAIL. It might happen, however, that if the city administration does not take advantage of right, MAIL transfers lands under a master plan to other entities. From an interview with a provincial MAIL official in Parwan.

153 Municipal fiscal department official, Charikar.

154 Property dealer in Shahr-i-Naw, Charikar; senior provincial Ministry of Economy official in Parwan.

155 Senior provincial MoUDA official in Parwan; municipal fiscal department official in Charikar.

156 Senior provincial MoUDA official in Parwan.

be substantial, but evidence suggests they are also volatile and unpredictable. Moreover, since public assets are finite in a given urban area, such a financing strategy represents a short-term and limited solution that avoids dealing with structural financing challenges.

Thirdly, the restriction of citizens' participation and access to information. Field experience in the sample cities has shown that master plans are often considered confidential documents, as indeed they must be if used as a tool to extract revenues from the real property market. This practice effectively shuts out urban citizens from the planning process.

# 4. Grassroots Governance

## 4.1 A complex grassroots governance architecture

The research also considered grassroots options and opportunities to address the crisis of representation associated with the urban transition, with particular reference to vulnerable constituencies and territorial planning.

The most relevant finding seems to be that sophisticated grassroots governance arrangements may be in place, or rapidly evolving, in areas where important physical transformations of the urban space are anticipated. Grassroots governance seems largely to revolve around the three poles of the mosque, local community councils and the *wakil-i-gozar* (head of urban ward).[157] These institutions are critical in organising decision-making processes within the community, negotiating with state authorities[158] and supporting collective action. They could possibly offer a way to represent the interests of urban constituencies in the formulation of new master plans and other planning instruments for the city, as well as undergird urban development projects.

In a few urban contexts, the mosque stood out as the key venue for social engagement, the social space chosen by the community leaders to mobilise resources and engage with external actors.[159] Community councils are relatively common institutions and largely precede recent efforts at promoting "good governance" mechanisms. Finally, in the sample cities, the *wakil-i-gozar* stood out as the critical interface between state and community. Sometimes, the *wakil* also seems to assume a role of gate-keeper as he controls relief organisations' access to the community and the flow of resources from urban development projects to its residents. Some studies have seen the enduring relevance of the *wakil* within urban communities as a limit to the direct participation of residents in the governance of the city.[160] However, initial data from this research contests this assertion. Instead, the *wakil* appears to exercise his influence and authority within a well-articulated set of arrangements that includes checks on his powers by other community institutions.

In a few cases, this tri-polar layout of urban grassroots governance seems able to sustain collective action, in particular around urban planning provisions, land use and access to services. However, barriers to women's participation—already widely identified in rural areas[161]—are replicated within the urban grassroots architecture.

It remains to be seen whether the existing grassroots governance architecture will be able to represent new urban constituencies in decision-making processes about urban planning and land use in the city. To an extent, it may depend on whether urban development initiatives choose to give voice to urban communities, especially those in the most sensitive urban contexts, and in particular those where massive transformations will occur in the near future.[162] The reorganisation of a few urban cores might lead, for

157 The usual translation of *gozar* is "neighbourhood." However, that translation probably fails to convey an essential feature of the term: the *gozar* is an administrative unit, in fact the lowest tier of subnational government, and its head is both member of the state administration and a grassroots leader.

158 In fact, negotiation does not seem limited to state authorities, but may include international agencies too.

159 Interview with mullahs in Block 11, Charikar.

160 Wright and Leonardo, "Municipal Governance Strategic Framework."

161 As to the limits of women's participation in Community Development Councils, see Hamish Nixon, "Subnational State-Building in Afghanistan" (Kabul: AREU, 2008).

162 The establishment of urban Community Development Councils may—and should—be an opportunity to

instance, to extensive demolitions of the existing settlements with the relocation of their residents.[163] How far city residents are able to negotiate their demands amid vast transformations of the urban landscape will ultimately depend on a number of factors, including the will on the part of local authorities and city governance stakeholders to promote participatory planning in the very urban communities where substantial changes are envisioned.

empower those communities most affected by urban transformations.

163 This seems the case of Shahr-i-Kohna in Charikar, whose residents might be relocated to a settlement in Top Dara, presently a mostly vacant and predominantly barren area at the boundaries of the city (see Image 5).

# 5. Concluding Remarks

The scoping and initial phase of the AREU project on Afghan provincial capitals demonstrates the increasing importance of empirical evidence in urban studies and local governance research. In the long-term, the urban transition creates new social groups and new spaces in the city, and understanding them requires research. In the short-term, the need for an expansion of democratic institutions to the level of city governance demands that Article 141 of the Afghan constitution be enacted with the election of city mayors and municipal councils. This offers an extraordinary opportunity to address the challenges of representation brought about by the urban transition. To gain an accurate appreciation of the democratic deficits in the city and how new elected institutions might address them, analyses of urban dynamics founded on detailed observation of local governance arrangements is urgently needed.

On the one hand, since the early 1960s an urban intelligentsia seems to have coalesced around city planning efforts. While those efforts have been largely unsuccessful,[164] they have embodied a critical attempt at state-building. On the other hand, urban movements[165] can still count on a social capital only partially eroded by the protracted conflicts and on a quite robust institutional architecture at grassroots level. Municipal elections may set up a suitable framework for coalition-building, where an alliance between grassroots movements and urban intelligentsia for city development and local democracy can arise. Migrations and heightened mobility may favour innovative political processes that bring new constituencies, new ferments and new forms of social organisation to the cities. Aspirant mayors may champion platforms that promote coalitions between intellectuals and community groups, where the traditional agenda of Afghan city planners on balanced and orderly urban development integrates with the demands for services and livelihoods advanced by the new urban constituencies. Political contest may thus lead to an alternative to patronage politics with the formation of social blocs for urban reform.

An agenda for urban reform could give priority to a twofold challenge related to current regulatory mechanisms in the city: the representation of urban interests in urban planning processes, with specific emphasis on representation of women and the most vulnerable residents; and the efficient regulation of urban expansion by flexible planning instruments negotiated at city level and locally developed. Such an agenda will likely confront the blurred lines of accountability that seem to characterise the current interplay between various tiers of sub-national government, as well as the centralised arrangements of the current master-planning process.

164 See Section 2.3.

165 The term “urban movements” refers here to those processes—frequently arranged in the tri-polar form described above—that sustain collective action in the city and generally aim at expanding access to service and meeting basic needs.

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