

**Project Brief:**  
**Summary Description of the Rural Land Administration Project<sup>1</sup>**  
**and Recommendations for Future Similar Activities**

**1. Introduction**

Many formerly viable rangelands have become virtually barren wastelands. The degradation of rangelands has been accompanied by the conversion of some areas formerly used for pastures into rain-fed agricultural cultivation. This conversion in draught years and in low rainfall areas reduces the capability of the land to regenerate a stabilising plant cover.

Adding to these problems of degradation and loss of rangeland and a rural population in continuing need for pastures for their livestock, is the breakdown of the rules governing how communities and families get access to, and use pasture lands. By custom communities have decided who uses pasture lands, but by law the State claims the ownership of such lands. The disorder of recent years has weakened both customary and legal rules about pasture land management.

The result of these trends is that the most numerous and problematic conflicts are over rural land use and ownership concerning pasture lands.

The holders of agricultural land face fewer confusions as to their rights to the land, but they typically do not have legally produced title deeds to their properties. Only 10% of farmers have such documents, with most either holding customary deeds produced and witnessed locally or without any documentation. This lack of documentation of rights produces problems when rural people leave their lands even temporarily for work elsewhere and then return but can find others in possession of their land. Lack of legally recognized documentation also is or will be a constraint on the rural economy, when farmers want to enter into agreements with lending institutions or otherwise deal with the land market.

**2. Goal and Objectives of RLAP**

The goal of the project on Capacity Building for Land Policy and Administration Reform (RLAP) is to help improve rural land tenure security in Afghanistan. The project is coordinated through the Ministry of Agriculture, Irrigation and Livestock, funded by the ADB and DFID, and implemented by Scanagri and Terra Institute, in collaboration with CRA--an Afghan NGO.

**2.1 Rangelands**

The RLAP derives its objectives for improving rangeland management from the Government policy/strategy for the community based management of pasture and forest lands. The Inter-Ministerial Land Working Group expressed governmental policy concerning pasture land in the following terms:

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<sup>1</sup> Known formally as the Capacity Building for Land Policy and Administration Reform Project, MAIL/ADB/DFID

- *It is a national policy that access to land resources be clarified and secured as part of an integrated natural resource management which springs from local community based resource management. Such community based resource management must be conducted under the strict supervision and guidance of the Ministry of Agriculture.*
- *It is national policy that community-based natural resource management strives to ensure environmental protection and usage for all public owned pasture users.*
- *It is national policy that the resolution to complex issues of ownership and access rights to pasture lands be examined at the provincial level and traditional use rights of settled farmers and pastoralists established and respected.*
- *It is national policy that the Ministry of Agriculture reactivates land surveying in order to clarify rights to land.*

#### 2.2.6 پالیسی‌ها

- پالیسی ملی چنین است تا دسترسی به زمین که جزء منجمت منابع طبیعی همگانیست از طریق مشورت و همکاری مردم محل مشخص و تثبیت شده باشد، روشن و مصون گردد. این چنین منجمت استواربرپایه مردم محل بایست تحت نظارت جدی و رهنمایی وزارت زراعت تنظیم گردد.
- پالیسی ملی چنین است که پروسه تنظیم منابع طبیعی که استواربرپایه مشوره و اشتراک مردم محل در راستای تأمین مصونیت محافظت و استفاده از محیط زیست برای همه استفاده کنندگان از علفچراهای عامه می باشد بنا گردد.
- پالیسی ملی چنین است تا حل و فصل مسائل بغرنج مربوط به مالکیت و حق دسترسی به علفچرها بررسی گردیده و حق استفاده دهاقین و مالداران از علفچرها تأمین و مورد احترام قرارگیرد.
- پالیسی ملی چنین است تا وزارت زراعت و مالداران بمنظور روشن ساختن حقوق مربوط زمین، سروی زمین را آغاز نماید.

The MAIL Policy/Strategy for Forestry and Range Management reflects a similar community based approach:

*“The sub-sector partners shall adopt a community-based approach in forestry, range and wildlife management. This approach shall involve the transfer of effective management responsibilities for forestry and range resources within defined community geographical areas to communities in a manner which (i) creates value for community members (both in the form of productive resources – timber, firewood, better pasture, and as means of protecting natural resources from erosion), and (ii) develops within communities the capacities to organise, operate and sustain the improved measures with a minimum of support from outside.”*

#### 1-1 سیستم برای مردم / موسسات که منابع جنگلات، علفچرها و حیات وحش را اداره و تنظیم نماید

- شرکای کاری سکتور فرعی منابع طبیعی باید در رابطه با جنگلداری و علفچرها و حیات وحش روش معینی را بر بنیاد جامعه اتخاذ نماید. این روش باید انتقال مسولیت اداره موثر را در مورد منابع جنگل و علفچرها به اساس ساحات مشخص جغرافیایی بشکلی احتوا نماید که:
1. ارزشی را به اعضای جامعه پدید آورد (به شکل منابع تولیدی- چوب ساختمانی، چوب سوخت، چراگاه خوب و به عنوان وسیله حفاظت منابع طبیعی از فرسایش)
  2. ظرفیتی را در داخل جامعه انکشاف دهد که تدابیری بهتر را با حد اقل کمک بیرونی سازماندهی، اجرا و مراقبت نماید.

The RLAP contributes to the implementation of a community based approach to management of forests and rangeland in two ways:

- 1) Community consultations.

The RLAP defines a precise methodology for village *Shuras* and other stakeholders to agree among themselves about who has what **legitimate** rights to use what range and forest land during what times of the year. Agreements among these community segments come from consultations with CDCs, community elders, local community leaders, and heads of families who traditionally use specific and public pastures. This approach to defining the operational rules for managing rangelands and forests relies on decision making that is structured and regulated by the local community, within the broad legal framework of the State.

By “legitimate right” to use rangeland, we refer to the right to land which a person or group may have which by consensus of the village shura and elders is an established and uncontested right. A “legitimate right” of an individual or group to land could be considered as a customary right in other contexts, which by tradition and custom in a community is considered correct and acceptable by the community<sup>2</sup>. By contrast a “valid” right to land we consider as a right described in a document prepared or validated according to written legislation prepared by the State’s legislative body and administered by the State’s administrative agencies. A “valid” right acquired through force or corruption may not be “legitimate” even when supported by legally valid documentation. However, a “valid” right can also be “legitimate”. We hope that at some time in the near future, these two concepts become equivalent throughout the country, but under present conditions they are not always equivalent in fact. Like the management of land, the sorting out of legitimate rights to land is best centered in the community with efforts made to improve as quickly as possible the relations between community and the State.

## 2) Development of Government Policies and Services

The RLAP supports Government at the Woluswali, Provincial and Central levels in redefining the way its land institutions work and in formulating rural land policies and programs to resolve major issues relating to pasture lands as well as other rural land tenure issues identified in community consultations.

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<sup>2</sup>About customary rights to land, Liz Alden Wily reminds us of the following principles:

- ‘Customary’ rights mean land ownership and decision-making that is structured and regulated by the local community, not necessarily by laws devised and approved in distant capitals.
- Customary rights are often called ‘informal rights’. This is because they have not usually been formalized into written entitlements like leaseholds or freeholds.
- Custom changes: what was customary 100 years is rarely the custom today. Recognizing customary land tenure today means recognizing the norms and practices of today. Many of these rules and practices will be the same as 100 years, but not all of them.
- There is only one critical element of custom *which never changes* – this is that the framework of reference for a decision is the local community, not government administrations. That is, any practice or rule which is agreed by the local community as ‘our rule’ may be taken to be ‘customary’.
- The only customs which cannot be accepted by a Government are those which interfere with human rights. Denying women the right to own land, for example, cannot be accepted in today’s world.

## 2.2 Privately owned agricultural land

The documentation of rights to agricultural land is lacking. In the words of the Inter-Ministerial Land Working Group,

*In most cases, proof of land rights is based upon tax records, Amlak registration, customary deeds, formal deeds and local knowledge. Some formal deeds are suspect or fraudulent; in some areas registered deeds have been destroyed during the years of conflict. Under such a chaotic property rights situation, it is imperative for the government to establish a realistic and effective method of property clarification process. Best practices and the reality in the country inform that community-based property adjudication processes that utilize local knowledge can be effective vehicle to re-identify local ownership.*

### 2.2.7 Policy

- *It is a national policy that land ownership may be documented through a process of property clarification and certification process conducted at the community level.*
- *It is a national policy that recognition be given, in accordance with a law to be issued to govern the regularization of property rights, to customary documentation and legitimate traditional property rights affirmed by local knowledge.*

### 2.2.7 پالیسی

- پالیسی ملی چنین است که مالکیت زمین بر پایه پروسه احقاق حق ملکیت با اشتراک مردم محل که متکی بر معلومات محلی مردمی است.
- در منازعه بین اشخاص را میتوان از طریق یک پروسه معلوماتی که به سطح مردم محل راه اندازی گردیده به اثبات رساند و اسناد عرفی و حقوق مشروع ملکیت برسمیت شناخته شده و توسط معلومات محلی تایید گردند.
- پالیسی ملی چنین است که مالکیت زمین بین اشخاص و دولت تنها بر اساس اسناد مدار حکم تثبیت شده می تواند.

To develop procedures for community property clarification and certification RLAP has applied some of the procedures developed for producing pasture land agreements to the identification of legitimate rights which villagers have to privately owned agricultural land. The notion is to provide greater security of tenure to holders of this type of land, and thereby encourage investments and access to the capital markets based on their legally documented landownership.

## 3. Activities

There are three main types of activities launched by the Ministry through the RLAP:

### 3.1 Community Based Activities

The definition of legitimate rights to pasture and forest land parcels is composed of consultations with village *Shuras*, elders and other stakeholders and government engagement with this community consultation process. The community based activities include:

- Training workshop on land issues and project methodologies for fieldwork facilitators held in September, 2006 and updated during the work in the four test sites.
- A methodology for community based agreements about access to, and use of pasture lands which we call ADAMAP, has been devised and tested in four test sites (in Herat, Kunduz and Takhar Provinces)

- A methodology for community confirmation of ownership rights to agricultural land parcels has also been devised and tested in the Kunduz test site.
- Seven community and provincial workshops have been held in these three Provinces, involving villagers, Ministry and Cadastre personnel, and local NGOs concerning what has been learned concerning the preparation of village pasture land agreements and pasture land parcel maps in all test sites, and the preparation of maps of agricultural land parcels and parcel forms in the Kunduz test site.

### **3.2 Technical Activities for Improving Information about Pasture Lands and Agricultural Lands**

- Satellite imagery for the test sites has been donated by ISAF, and used by village *Shuras* and project field teams for the delineation of pasture and forest land parcels, and agricultural land parcels.
- The delineated images showing parcel boundaries and the parcel agreements and private agricultural parcel forms are archived in the villages and administered by a “recording secretary” selected by the village shura in facilities provided by the community.
- A digital copy of the delineated satellite imagery and associated agreements and forms, linked in a GIS by AGCHO is being archived by AGCHO in order to provide security to the villagers in case their records are damaged or in case someone tries to change the records without following the proper procedures.
- This digital back-up archive also can be used to produce statistics concerning land use for the MAIL.

### **3.3 Governance Activities**

The RLAP has significant implications for village governance and for improving the governance services that Woluswali and Provincial governmental agencies provide to villagers. The Project also has shown ways how the relations between community and the State can be improved for the benefit of the country.

Village Governance:

- In the test site villages, *Shuras* meet and delineate pasture parcels on the satellite images, and then arrive at descriptions of who has the legitimate rights of access to and use of the pasture parcels during what times of the year.
- These descriptions are then prepared as written agreements signed by village leaders which along with the delineated satellite imagery are put on public display in the villages, and are reviewed in Provincial Workshops.
- Staff from the Provincial Natural Resource Directorate (NRD) of the MAIL review these agreements as to their completeness, particularly whether all stakeholders are represented in them, including Kuchis.
- These Staff also work with the stakeholders in the pasture agreements to produce plans for improving the carrying capacity of the pasture lands. These plans are kept in the villages shura archives as well as in the NRD for supporting projects aimed at improving range lands.
- Village shuras also review the delineation of agricultural land parcels and the parcel forms associated with each parcel as to whether the information about ownership and other features of each parcel is correct.
- The final delineated images and pasture land agreements are archived in a safe location designated by the Village Shuras, under the supervision of a person also authorized by the Village Shura.

The community management of these records concerning pasture and agricultural land has been well received in the test sites and in the governmental agencies committed to strengthening local capacities for providing such services. By “community management” we mean the following:

- Community consultations for producing consensus about rangeland parcel boundaries and the legitimate rights to these parcels,
- Community review and assurance that the boundaries of agricultural land parcels are correct as are the claims of ownership and other rights to these parcels.
- The secure archiving in a community designated facility (room and cabinets) under the responsible management of a person designated as “recording secretary” of the community.
- The updating of the archived records when conditions or terms of agreements or boundaries of parcels change.
- The archiving of the original records in the appropriate governmental land administration agencies, and the communication of changes made in these records to the appropriate agencies.

In the Afghan context, the term “land administration” refers to the activities of a governmental agency for processing and applying information about the ownership, use and value of the land. Village shuras are not yet considered as governmental agencies. Therefore, the activities outlined above of village shuras concerning land records we refer to as “village or community management of land records”. Village land records management capabilities are being built on the investments of the NSP program for strengthening community resource management.

The term “land management” refers to the actions of the owners of the land—private (individual, family, clan, tribe, corporation, or other legal person) or State—for their purposes of income generation or other forms of enjoyment of their lands. Community based forest and rangeland management means the actions that community groups in coordination with governmental guidelines take to **“establish and maintain forest and range land covers and regimes of utilisation which achieve a balance between, on the one hand, maximisation of production and productivity in all agricultural land uses (dryland farming, irrigated farming, livestock husbandry, forest products, wildlife exploitation) and, on the other hand, effective maintenance and enhancement of the natural and wildlife resource bases.”**(from the MAIL Policy/Strategy for the Forestry and Rangeland Subsectors)

Comments of villagers have indicated that the land records produced by the RLAP provide them with improved security of tenure, which should contribute to improving the land resource and the economy of the villagers. Plans for improving rangeland parcels have been devised through consultations with the village managers of these parcels.

Governmental Agencies:

- Lessons learned from test sites and workshops are being fed into drafting of a new legislation which will support and regulate the MAIL policy/strategy for community based management of rangeland and forests, and for community management of land records.
- Techniques have been tested for community based identification of legitimate rights to rangeland and agricultural land, and for the village recording of local parcel agreements with digital copies archived in Cadastral offices.
- AGCHO/Cadastral Survey have been strengthened for fulfilling their critical roles in the RLAP—future provision of needed satellite imagery plotted at the needed scales, processing the digital delineation and agreements in GIS package, archiving the final digital GIS for each village as backup of village paper records.
- Assessments of land administration and management institutions—Cadastre, Amlak and Natural Resources General Directorate—have been done, with recommendations for improving the capacities of these agencies to carry out their mandates for the development of the country.
- RLAP project staff has assisted in drafting the national Land Policy

- Review of legal framework concerning rights and responsibilities of land holders is being done, with special reference to rangeland.

#### 4. Outputs Produced by August, 2007 (Asad, 1386)

The following outputs have been produced since the project started in August, 2006 (Saratan, 1385) through August, 2007 (Asad, 1386):

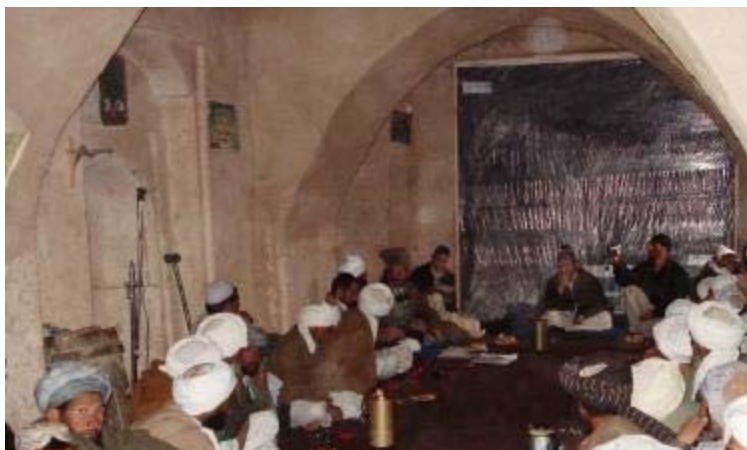
- Four test sites have been identified through consultations with Amlak, Cadastre, MAIL, MRRD, local NGO's, and village *Shuras* of candidate villages (Village Dara-e-Kalan in Ishkamesh Woluswali, Takhar Province; Village Beydak Saghari, Karokh Woluswali, Herat Province; Village Safar Khan in Zindajhan Wiluswali, Herat Province; and Village Nau Abad, Chardara Woluswali, Kunduz Province.
- A method of community consultation for reaching agreements about legitimate users of pasture and forest land has been successfully developed and tested in four test sites, and refined through community and Provincial workshops.
- A similar method of community consultation was developed for identifying the boundaries of agricultural land parcels and the legitimate rights of the holders of these properties

The sites were selected where pastures are critical for the livelihoods of villagers, where there is a functioning community CDC (Shura) with three years of experience with the NSP, where security concerns are minimal, and where the village *Shuras* agreed to produce village approved agreements about the legitimate rights to pasture land parcels.

- In four test sites the following outputs have been produced:
  - 17 village pasture land signed agreements for 17 pasture parcels, covering approx. 28,210 Jeribs in three villages, and over 110,000 Jeribs in large community pasture and two public pastures in the fourth test site in Kunduz (3 agreements).
  - 39 satellite images, ortho-rectified, scale 1:5,000, printed in 4 paper copies, each showing 4.5 km x 4 km on paper images of 84.1 cm x 76.2 cm, with 20 pasture land parcels delineated. In the Kunduz site, satellite images of smaller scale were used to delineate the very large public pasture parcel boundaries.
  - The agreements and delineated images showing pasture land parcels are archived in the four test sites.
  - In the Kunduz test site, 100 agricultural land parcels have been delineated on a satellite image (scale 1:2,000) and parcel forms prepared describing the rights claimed by their owners for these 100 parcels, confirmed by the village elders as being accurate.
  - Shura members have asked for the satellite imagery covering the remaining agricultural land parcels of the village of Naw Abad, and blank copies of the parcel forms so that they can complete the file of maps and forms for all of the privately owned agricultural land parcels of the village.
- Capacity building:
  - Two village facilitation teams and Ministry personnel have been trained through courses and experience on the techniques of producing village pasture land agreements and village verification of the private ownership of agricultural land parcels.
  - Four village *Shuras* have fully participated in how to devise pasture land agreements and how to use satellite images to delineate pasture land parcel boundaries.

- One village Shura has fully participated in the identification of the boundaries of 100 agricultural land parcels on satellite imagery (scale of 1:2,000) and the preparation of parcel forms describing the ownership rights and other features of those 100 parcels.

*Public Display of Parcel Maps in the village mosque of Beydak Saghari*



- In the three Provinces (Herat, Kunduz and Takhar) the Ministry policy/strategy for community based management of forests and pastures is more widely appreciated.
- The procedures followed, the discussions held and the conclusions reached at the village and provincial workshops on the Ministry policy/strategy and on the RLAP implementation of some aspects of that policy have been documented in the Interim Report and in the Final report of the RLAP as well as in various RLAP publications, conferences and workshops.
- The RLAP provided AGCHO with two licensed copies of ArcInfo 9.2 and 18 AGCHO technicians have been trained in its use for processing the satellite imagery and linked agreements and parcel forms. The company LIWAL has provided technical backup and training for this investment in AGCHO.
- Fifteen staff of the Land Resource Dept and Amlak of the MAIL, and of the Cadastral Survey Dept and the GIS unit of AGCHO have been educated as trainers of others in their organizations concerning the procedures developed and tested by the RLAP for supporting and guiding community based management of land records.

## **5. Challenges/issues**

The issue of including nomadic pastoralists in the agreement process needs careful consideration. Given the timeframe of the RLAP it is very probable that the field teams have not been able to meet with all nomadic groups which use the pastures, so that it is left to the sedentary villagers to cite nomadic grazing (or indeed transit) rights. This is not an ideal situation, since it might appear in the interest of the sedentary peoples to minimise the rights of the nomadic pastoralists. In order to allow the individual nomadic communities to register an interest in any given village agreement, a field team representative has returned to the test sites at the time of likely nomadic presence to revisit the agreements made with sedentary communities and to get the consent of nomadic people with the agreement documents governing the rights over distinct parcels of pastures.

The field teams have also contacted the Provincial Kuchi Directorate representatives to help alert the Kuchi groups who traditionally have access rights in the test sites to review the agreements and assure their proper formulation. For scaling up the project, the issue of recording legitimate nomadic use and access rights needs careful consideration and planning, especially in terms of properly scheduling the



agreement process in different areas to physically get the involvement of nomadic groups, and protect their rights of access.

The secure preservation of pasture land agreements, agricultural land parcel forms, and parcel maps in the villages also needs special attention. Measures taken to date include:

- A log book listing each agreement and parcel form is kept in the village. This log book provides some assurance that the agreements and forms cannot be easily changed without authorization.
- The RLAP has provided each village shura with cabinets with locks and map storage tubes for the secure archiving of these materials.
- The RLAP has also produced digital copies of these materials which are archived in the regional Cadastral Offices. Unauthorized changes in the documents in the village archives can be detected through examination of these digital copies.

Additional measures are needed, such as monitoring of the management of these records and devising procedures for their authorized updating in cases that the community shura and leaders decide on such updating.

Consultations with Provincial Judges in Herat and Kunduz about the legal significance of the rangeland agreements and parcel forms yielded positive opinions about these documents. Provincial Judges stated that if cases were brought to them about disputes concerning rights to such lands, the agreements about the legitimate users of rangelands, signed by village shura members and elders and other stakeholders, would be given high significance. The judges were very supportive of the effort to get community consensus expressed in signed documents about what the communities considered legitimate rights to rangelands and agricultural lands.

## **6. Recommendations**

Based on the project achievements thus far, four main recommendations have emerged:

1. As support to the MAIL community based management of pastures and forests policy-strategy, the government should expressly authorize the extension of the ADAMAP procedures to a significant number of Woluswali in a significant number of Provinces.
  - Government should authorize expressly the formation of village level capacities for producing and managing agreements which identify the legitimate users of pastures and forests.
    - The training and equipping of Village Recording Secretaries authorized to manage these pasture land agreements and maps,
    - The strengthening of the Provincial Land Resources Directorate staff and offices to be able to handle their new responsibilities for the preparation of user agreements and pasture improvement plans,
    - The equipping and training of regional Cadastral Offices and the Central AGCHO office for providing needed satellite imagery as well as processing and archiving delineated satellite images and associated rangeland agreements in digital form.
    - The preparation of pasture improvement plans for the rangeland parcels with legitimate user agreements in place.

With these community agreements and improvement plans, Government and Donors can launch more effectively programs for the improvement of the carrying capacity of rangelands and begin to rehabilitate forested areas.

2. As support to the Land Policy, Government should expressly authorize the community management of agricultural land records, including:
  - The use of the procedures developed and tested by RLAP and refined by others to produce delineated satellite imagery showing agricultural parcel boundaries and Village Shura verified parcel forms containing information about the rights to these parcels and other pertinent information.
  - The training, equipping and supervision of village shura recording secretaries for the management of these agricultural land records.
  - The new roles of the Amlak and Cadastral Survey in assuring the accurate preparation of agricultural parcel information and maps and the secure management of these records subsequently, including the procedures for Amlak and Cadastral Survey to archive and update digital copies of this information.
3. The current shape of the Afghan land administration system needs to be reformed in support of these two initiatives. Responsibilities for public land administration and public land management should be concentrated in fewer rather than many different offices, and at the same time responsibilities for recording rights to land and managing the records about such rights should be devolved to village councils, supported and guided by the appropriate governmental land administration agencies.

One government level re-organization option for supporting village land records management and for securing those records and using them for broader land administration programs is a unified Land Administration General Directorate that combines some responsibilities of Cadastre and Amlak and perhaps property taxation and land use planning in a single institution. This General Directorate will support, guide and archive the land records management done by Village Shuras.

Assessments of the Cadastral Survey Department of AGCHO and Amlak have been drafted, with recommendations about the structure and functions of two new agencies: 1) A Land Administration General Directorate combining some of the present functions of Amlak and the Cadastral Survey, and 2) A State Land Management Authority, containing the State agricultural land management functions of Amlak plus responsibilities for the management of other types of State land.

The rationale for this restructuring is that the government land administration activities are services to the general public, having to do with the documentation of rights to land. These public services require expertise and a public service purpose, client orientation, and service efficiency which attracts the public to the institution offering these services.

The State Land Management Authority has the mandate to assure the proper uses of state lands, and generate income for the state from these state lands. There is a “landowner”—“lessee” relationship between the Authority and its clients, governed by the terms of the leases or other agreements. This relationship requires actions by the Authority to enforce the terms of the agreements, and to carry out other regulatory actions. The relationships between the Authority and its clients are completely different than those between the Land Administration General Directorate and the public which it serves.

#### 4. Land Survey

One of the main concerns of the Ministry of Agriculture currently is the lack of information pertaining to different land classes (e.g. rain-fed, irrigated, grazing land), which makes agricultural sector planning very difficult. A comprehensive land survey in Afghanistan is needed. If the Government decides to expand the RLAP into a countrywide program for legitimizing rights to pasture and agricultural land and recording of information about these rights in a functioning registration system, its methods can potentially evolve into a land survey tool at the same time.

A plan is needed about how to accomplish such a survey, with priority given to the final design of the forms for recording pasture land agreements and agricultural land parcel ownership claims.