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LANDREFORM IN AFGHANISTAN (THE LARA PROJECT)

Land Clearance (Tasfia) and Dispute Resolution
Functions of Arazi Report
Feb. 2013

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The author's views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government

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PREFACE

The United States Agency for International Development (USAID) Land Reform in Afghanistan Project (LARA Project) is managed by Tetra Tech ARD under USAID Contract No. 306-C-00-11-00514-00, with implementation assistance from its partners Tetra Tech DPK, International Land Systems (ILS), Development & Training Services Inc (dTS), and Landesa (formerly the Rural Development Institute).

LARA project's primary government partners are MAIL/MAIL/Arazi (formerly the Afghan Land Agency), the Ministry of Urban Development Affairs (MUDA), the Independent Directorate of Local Governance (IDLG), as well as the Supreme Court and selected local municipalities.

The purpose of the LARA project is to develop a robust, enduring, and Afghan-owned and-managed land market frame work that encourages investment and productivity growth, resolves/mitigates land-based conflict, and builds confidence in government's legitimacy, thereby enhancing stability in Afghan society.

The Project continues USAID/Afghanistan's support for land reform and land rights strengthening that began through the earlier LTERA Project. The LARA project currently comprises an 18-month Base Period and an 18-month Option Period, with a contract amount of \$41.8 million. The LARA project is designed to contribute to USAID's AO and Afghanistan National Development Strategy. Three influences will help shape The LARA project's contributions to this Objective: (1) the foundations provided by the former USAID Land Tenure and Economic Restructuring in Afghanistan (LTERA) project that provides a starting point and methods that can be adapted; (2) USAID/Afghanistan management objectives including Afghanization and conflict mitigation; and (3) the following major LARA project objectives:

- Improve property rights delivery (land administration and formalization);
- Enable all citizens (women, minorities, and vulnerable populations) to exercise their rights through public information awareness (PIA);
- Strengthen land dispute resolution processes to reduce conflict and promote peace and stability;
- Promote economic development through clear and enforceable property rights, PIA, land rights delivery, and land dispute resolution; and
- Strengthen institutional, policy, and legal reform to secure property rights for Afghan citizens;
- Provide assistance in the cross cutting areas of gender, training, PIA, and private sector

development. These objectives are supported by three components that provide the over-arching structure for Programming activities and tasks in the work-plan are as follows:

1. “**Informal Settlements & Formalization**”-Support MUDA, AGCHO, IDLG, and the Municipality of Jalalabad with informal settlements upgrading, formalization, cadastral mapping, laws for urban planning and land use regulation, and training in planning and enforcement. Also, this project strengthens tenure security by supporting the Supreme Court and communities with rights formalization and informal dispute resolution.
2. “**Legal Framework**”-Provide limited assistance to MAIL/MAIL/Arazi to identify, manage, lease, and obtain revenue from Afghan government lands and provide targeted technical

assistance.

3. "Capacity **Building**"-

Build capacity of public (AGCHO, MAIL/MAIL/Arazi, IDLG, MUDA, Supreme Court) and private sector land service providers to improve and streamline land tenure processes to Afghan private and public sectors.

ACRONYMS AND ABBREVIATIONS

AGCHO	Afghan Geodesy and Cartography Head Office
AIMS	Afghanistan Information Management Systems
ALCBO	Afghan Land and Capacity Building Organization
ACCI	Afghanistan Chamber of Commerce and Industries
ALCO	Afghan Land Consulting Organization
AIHRC	Afghanistan Independent Human Right Commission
AO	Assistance Objective
APPF	Afghanistan Public Protection Force
MAIL/ARAZI	Afghanistan Land Authority
Biz-CLIR	Business Climate Legal and Intuitional Reform
CBDR	Community-based Dispute Resolution
CDC	Community Development Councils
COP	Chief of Party
CLIR	Commercial Law and Intuitional Reform
CRA	Cooperation for Reconstruction of Afghanistan
DCOP	Deputy Chief of Party
DCEO	Deputy Chief Executive Officer
DFID	United Kingdom’s Department for International Development
DUDA	Department of Urban Development Affairs
EOI	Expression of Interest
GIRoA	Government Islamic Republic of Afghanistan
GDMA	General Directorate of Municipal Affairs
dTS	Development and Training Services Inc.
Harakat	Afghan Investment Climate Facility Organization
HOOAC	High Office of Oversight and Anti-Corruption

KURP	Kabul Urban Reconstruction Project
KCI	Kabul City Initiative
IDLG	Independent Directorate of Local Governance
ILS	International Land Systems
LARA	Land Reform in Afghanistan
LLT	LARA PROJECT Launch Team
LTERA	Land Tenure and Economic Restructuring in Afghanistan
MAIL	Ministry of Agriculture, Irrigation, and Livestock
MEW	Ministry of Energy and Water
MCIT	Ministry of Communication and Information Technology
MOU	Memorandum of Understanding
MUDA	Ministry of Urban Development Affairs
NGA	National Geospatial Agency
NRC	Norwegian Refugee Council
PIA	Public Information Awareness
PSC	Private Security Contractors
SDO	Sanayee Development Organization
SWOT	A type of Analysis Consist of Strengthen, Weakness, Opportunity and Time
SGI	Spectre Group International
SOP	Standard Operating Procedures
SUPPORT	Services under Program and Project Offices for Results Tracking
TLO	The Liaison Office
USG	United States Government
USAID	United States Agency for International Development
WCLRF	Women and Children Legal Research Foundation
WLRTF	Women Land Rights Task Force

1. INTRODUCTION

This document is one of two reports from a consultancy conducted in January and February 2013, for the USAID LARA Project. This piece of work is concerned to make recommendations to the LARA Project regarding the Project's future support to the Afghanistan Land Authority or Arazi (literally meaning lands). This document records findings from one aspect of the consultancy and makes recommendations in regard to *tasfia* processes (referred to as land clearance and/or land rights identification and/or land settlement), as managed and undertaken by Arazi. It also refers to the work of the Dispute Resolution Directorate of Arazi. It addresses issues related to task 5.1 of the *LARA Project's Option Period Work Plan* as follows: *Conduct a MAIL/Arazi Training Needs Assessment for Land Dispute Mechanisms and Provide dispute resolution training supporting the tasfia process, and Provide Training on CDR Guidelines and On-call Dispute Resolution Services, respectively, as and where these tasks address the work of the Arazi Land Clearance (Tasfia) and Dispute Resolution Directorates.* It also refers to the Land Law Courses described under Task 8.1: *LARA staff will provide training to MAIL/Arazi staff on the Land Management Law and other relevant land laws.*

While making specific recommendations for work the LARA Project can undertake to support Arazi's *tasfia* and dispute resolution mandates, this document also presents some more general findings from the consultations undertaken with Arazi staff and makes recommendations for future land reform activities or programmes. The recommendations and findings this report makes are broadly in line with those made in the *LARA Institutional Partner Assessment* and many of the findings support those of the *ASI Review of Arazi*.

The key arguments this report makes fall into two categories; those applicable to Arazi in general and those more specifically relevant to the *Tasfia* and Dispute Resolution Directorates.

Arguments applicable to Arazi in general:

1. Arazi is a fragile institution, particularly in regard to funding its operations going forward. There is limited capacity to fulfill its current priorities and confusion prevails regarding its reporting structures. Despite this it is an aspirational and highly ambitious institutions, with a cadre of motivated senior staff.
2. There is a lack of communication and linkages between the central office and the sub-national level.
3. Little is known about the everyday work of Arazi staff at sub-national level, particularly district level.
4. Arazi's current priorities are all concerned with government lands.

Arguments specific to the *Tasfia* and Dispute Resolution Directorates

5. Neither of these directorates has a dispute resolution function in terms of mediation and arbitration. Their role instead is one of investigation and document analyses.
6. There is duplication in the work of these two directorates.
7. The work of the *Tasfia* Directorate is solely demand led.
8. There is little knowledge about or information available on how the work of these directorates at is carried out at sub-national level.
9. Staff are confident that the new Arazi procedures will greatly improve their work across the country.
10. There is a general recognition of the vital role that non-state governance actors can play in supporting Arazi's work.

In relation to these arguments the report recommends the following four activities:

1. The LARA Project lobby Arazi to change the name of the Dispute Resolution Directorate to reflect more accurately the roles and responsibilities the Directorate has the mandate to fulfill.
2. The LARA Project's capacity building efforts focus on expanding knowledge of the new *tasfia* and land restitution procedures and the amendments to the Land Management Law, to provincial and district level staff. This is already planned for under task 8.1 in the *LARA Project Option Period Work Plan*.
 - 2.1 Representatives of line ministries at provincial and district level who will be members of the *tasfia* delegations should be included in these trainings.
 - 2.2 At district level it is particularly important district governors are incorporated to some level in the trainings.
 - 2.3 Non-state governance and dispute resolution actors (community and district elders, both male and female) are included in aspects of these trainings.
 - 2.4 As staff are recruited for new *tasfia* delegations and for positions in the dispute resolution department, in order to fill the new Arazi *tashkhel* (organization chart) the LARA Project support the training of these new staff.
3. Arazi staff working at provincial and district level and members of the *tasfia* delegations should be made aware of the provisions in the civil procedure code for non-state justice actors to resolve disputes.
4. In preparation for future land reform programming a participant observation study of a selection of *tasfia* delegations from across the country be conducted.

Section Four of this report discusses each of these recommendations and explains the rationale for suggesting them. Prior to this, Section Three, of the report gives a brief overview of Arazi, examining the current condition of the institution and discusses the roles and responsibilities of the *Tasfia* and Dispute Resolution Directorates. Section Two which follows this one discusses the methodology for this aspect of the consultancy.

2. METHODOLOGY: CHALLENGES AND LIMITATIONS

Two methods were used to collect information for the aspect of the consultancy this report addresses. First, key informant interviews were conducted with representatives of Arazi at central level, focusing specifically on the Dispute Resolution and *Tasfia* Directorates, but also including staff from the executive office and land leasing. A total of twelve personnel were interviewed. Key informant interviews were also conducted with Kabul provincial level staff and staff from one *tasfia* delegation working in Kabul province. All except one of those interviewed are long-term civil servants. The general executive office of Arazi suggested the majority of those spoken to as respondents. Attempts were made to talk with representatives of other ministries, which Arazi is mandated to work closely with, these were largely unsuccessful. A representative of the Department of Huquq from the MoJ was interviewed. A limited number of experts in the field, with knowledge of Arazi, were also spoken with, and repeated discussions with staff from the LARA project were undertaken.

Second, a reading of the relevant literature, of particular use was the *LARA Project's Partner Institutional Assessment* (referred to from now on as the *LARA Project Assessment*) and Adam Smith International's (ASI) *Review of Arazi* for the World Bank. A translation into English of the draft of the Land Management Law 2012 Amendments was available and used. Translations of other Arazi procedures and policies were unfortunately not available.

There were some particular challenges and limitations that could not be overcome in collecting information and building knowledge about *tasfia* processes and the role of the dispute resolution directorate, as follows:

- First, in regard to the Dispute Resolution Directorate one challenge was that despite its name and a selection of interviews being pre-arranged with representatives of this directorate in advance of the consultancy, the directorate has little to do with resolving disputes, as is discussed below. While the information collected is addressed in the report it bears little relevance to the original terms of reference (TORs) for the consultancy, or the tasks outlined in the *LARA Projects Option Period Work Plan*. Nevertheless, speaking to representatives of this directorate proved extremely useful in building an understanding of Arazi's current priorities and particular challenges it faces.
- Second, and of most significance, is the lack of respondents from the provincial and district levels. Most data informing this report comes from respondents who work at the central level and assessments that have focused on activities at the central level. Within the scope of the consultancy it was not possible to visit different provinces and districts of the country or spend time examining the work of the *tasfia* delegations in detail. A trip to Nangarhar, which would have provided opportunity to speak with both provincial and district level staff from Jalalabad province was planned but had to be cancelled at the last minute due to weather conditions. The only Arazi staff spoken who do not work at central level were two staff who work in the Kabul provincial level offices and two who are members of a *tasfia* team who work in Kabul province. The amount of time allowed for the consultancy is the main reason more sub-national level Arazi staff could not be spoken to with.

- The third limitation is that not enough people who work with Arazi or have been customers of Arazi, either other ministries or members of the public, could be spoken with to gain their perspectives on Arazi's work. The difficulties of setting up meetings in other ministries and identifying who from the public to speak to within the timescale of the consultancy are the reasons for this.
- Fourth, when looking at any institution there are always different versions of reality and perceptions of the truth presented by respondents, and respondents will choose what they wish talk about. What people choose to speak about will depend on their own priorities, how they perceive the person they are speaking to and what level of trust they have in that person, how secure they feel in their own position in an organization and so on and so forth. In the case of this work most respondents were keen to present Arazi in a good light and described how things should be done according to the law and Arazi procedures. It was often more difficult to have respondents explain how things are actually working and what problems they face, beyond the need for greater resources. As is discussed below, there are both positive and more challenging reasons for such as optimistic picture of Arazi being painted by its staff. More nuanced pictures of Arazi's work were on occasion also presented, including the impossibility of fulfilling their remit within the current political system and culture of corruption. However, it was not possible to gain a truly in-depth nuanced understanding of Arazi's work particularly at field level within the scope of the consultancy.
- Fifth, the lack of opportunities to meet with respondents prior to interviews or even spend a longer time getting to know respondents and their work will have restricted what many felt comfortable to talk about. In general it is good practice to meet with a respondent, at least once, before an interview for the purpose of introductions and explaining fully what the interview will be about and to interview a respondent twice, in order to build some semblance of trust and rapport. This was beyond the scope or timescale of this consultancy. Despite this a limited number of respondents were candid despite being interviewed on first meeting with a stranger.

3. OVERVIEW OF ARAZI AND ITS *TASFIA* AND DISPUTE RESOLUTION DIRECTORATES

Arazi was formed in September 2009 by the merging of AMLAK, the Afghan Land Authority (ALA) and the Independent Commission for the Restitution of Illegally Occupied Lands. AMLAK, which had existed since the 1960s, was primarily responsible for surveying and registering land. The ALA formed much more recently, in 2009, as a department of the Ministry of Agriculture, Irrigation and Livelihoods (MAIL), was responsible for leasing government lands. The land restitution commission was formed only five months prior to Arazi coming in to existence. Arazi is an institution of the MAIL and is responsible to the Minister for MAIL but is also governed by a Board of Directors, which is chaired by the same Minister. The rest of the membership of this board includes senior representatives of the Afghanistan Geodesy and Cartography head Office (AGCHO), High Office of Oversight and Anti-Corruption (HOOAC), Independent Directorate of Local Governance (IDLG), Ministry of Finance (MoF), Ministry of Interior (MoI) Ministry of Justice (MoJ) and the Ministry of Urban Development (MUDA). Arazi is made up of seven directorates: Land Inventory and Survey; Land Clearance (*Tasfia*); Land Leasing; Land Dispute Resolution; Chief Executive Office and Administrative Operations; Land Transfer and Exchange; and, Monitoring and Evaluation.¹

There is some confusion among respondents regarding the Board of Arazi and the newly formed national level commission (also referred to as a steering committee) for the restitution of illegally occupied government lands, which has a very similar membership but is chaired by the Minister for Interior Affairs. Even senior staff seemed to not be clear on the role of the Board of Directors. This supports the findings of the LARA Assessment regarding the lack of clarity as to the management and reporting structures of Arazi.

For some of those spoken with Arazi is essentially AMLAK with a different name and in a new office location. One respondent for instance used AMLAK interchangeably with Arazi and specifically used AMLAK to refer to Arazi's operations at district level. While this consultancy was not able to test this, the impression was given and anecdote agrees that Arazi is still called AMLAK at district level. However, since most of those spoken to were long-term civil servants who have had lengthy careers at AMLAK the use of AMLAK and Arazi in this way, by some, is not so surprising. It is also not that important whether the name AMLAK or Arazi is used, unless it is indicative of a lack of communication and linkages between the provincial and district level and the centre, which is of greater concern. The ASI review of Arazi points to this lack of linkages between the sub-national levels and

¹ For more detailed information on the management structure of Arazi see the *LARA Partner Institution Assessment* (17th April 2012)

the centre, even though they did not work at sub-national level.

Arazi has an office in each province. Senior staff at the central office reported that the provincial offices usually have a staff of four, who work on registration and surveying, archives, *tasfia* and leasing. However, the Kabul provincial office staff reported that they have seven staff and it was acknowledged that some provinces have less than four staff. The Head of the Dispute Resolution Directorate reported that in the new *tashkhel* for 1392 (21 March, 2012 – 20 March 2013), which has still not been approved, there will be one staff member appointed to each province from the Dispute Resolution Directorate.

Respondents asked, were keen to state that there is a real presence of Arazi staff in most districts. This is surprising given that this is not the case for many ministries and departments in Afghanistan. One respondent argued that the reason Arazi is able to maintain the presence of district level staff when others are not is because district level Arazi staff do not have to be that well educated and are often from and live in the district they serve. It was, however, acknowledged by at least one respondent that in some of the most dangerous areas of the country district staff are not present.

3.1 ARAZI: AN ASPIRATIONAL YET FRAGILE INSTITUTION

Arazi is a new institution and while significant achievements have been made since its formation in 2009 it remains fragile. Of greatest concern is the institutions insecure funding position. From its inception Arazi received significant funds through the Afghan Investment Climate Facility (HARAKAT), a not-for-profit, Afghan managed organization established and funded by the UK Department for International Development (DFID). HARAKAT funding came to an end in August 2012. These monies are potentially to be replaced by on-budget funding from the World Bank and USAID, which is yet to be finalized. With no further direct off-budget funding available to Arazi all further monies will come through the Ministry of Finance. Arazi's existing five-year strategic plan does not appear to have committed funding, nor does its proposed *tashkhel* for 1392.

The area where HARAKAT appears to have provided the most significant funding was for the salaries of 68 contractor staff based at Arazi central office in Kabul. With no further funding for these salaries after August 2012 Arazi was granted funding for four months for contractor staff from the MoF. However the situation post December 2012 is unclear. One senior staff member of Arazi informed that MAIL has agreed to pay their salaries for January. He was not sure on what would happen after this time.

The *ASI Review of Arazi* reports that the contractor staff have been responsible for the most of the production at Arazi, "ARAZI (sic) is heavily dependent on the contractor workforce to support both its core skills base, current operational activity and future plans for expansion".² It is confident in reporting that skill transfer is slowly happening from contractor staff to regular civil servants, and that this is happening despite the lack of a formal strategy or any deliberate action for skills transfer. Among some of the civil servant staff spoken with, for this consultancy, there is resentment felt toward the contractors who tend to earn between ten and twenty times the salary of their civil service colleagues. One senior member of staff went as far as to say that the contractor staff simply do not know enough, do not have enough experience and do not do any work. He addressed specifically how much more they earn than him. This particular respondent is a long-term civil servant for first AMLAK and now Arazi. At the beginning of the interview he explained how he understood the needs of farmers and has a lot of experience but cannot use a computer or database. Here he was clearly referring to the differential valuing of skills; with contractors who have computer skills and similar being paid far more than people like himself who have years of experience and knowledge of the needs of the general public who Arazi is meant to serve. Perhaps if skill transfer were viewed as more of a two-way need, for both contractors and civil servants, with experience and knowledge being valued as highly as technical competencies it would go some way to rectify this situation. Nevertheless, the differentials in salaries

² ASI 2012 p21

between contractor and civil service staff, which is the crux of the problem, within Afghan government institutions is a much broader problem, a situation that has yet to be resolved and involves a discussion significantly beyond the scope of this report.

Despite the fragility of Arazi and the uncertainty regarding its financial sustainability senior staff in Kabul appear to be both motivated and ambitious.³ One explanation for this is the clearly expressed enthusiasm to implement the newly drafted amendments to the Land Management Law (LML) and the procedures for land exchange, transfer, leasing and *tasfia* and the draft of the restitutions of illegally occupied government lands policy or procedure. Respondents were very keen to cite both the chapters and articles in the LML when being interviewed and to clearly explain what is in the new procedures relevant to their directorate. Indeed, it was difficult at times to find out how work is currently and has previously been conducted at both central level and across the country as oppose to what is in these new procedures. This enthusiasm and motivation regarding the new procedures is certainly positive and is in large part due to the hard work of the LARA Project's Legal Team in supporting Arazi to draft the LML amendments and the new procedures/policies. However, none of them have been formally approved as yet and the amendments to the LML and the policy regarding the restitution of illegally occupied government lands could still take some time as they have to go to the cabinet. A similar situation prevails regarding the proposed *tashkhel* for 1392. There are large staff increases included yet the current number of unfilled positions in Arazi is substantial. So while the *tashkhel* is ambitious and includes needed staffing increases, it is not approved, funding is not secured for it and there may be difficulties in recruiting all these new staff. A general lack of resources such as transportation facilities and IT equipment, which are discussed further below, make it questionable as to how realistic it is that the provincial and district levels will be able to implement these new procedures, once they are approved.

As argued in detail in both the *LARA Project's Assessment* and the *ASI Review of Arazi* there is in general limited to carry out the functions that Arazi has defined for itself. Both these reports argue that basic structural and organizational weaknesses need to be addressed before Arazi embarks on further expansion. When talking to staff at Arazi there is almost a culture of denial permeating in that these weaknesses and challenges are rarely referred to. The same is true of the broader challenges of the lack of state reach to most of Afghanistan and the deteriorating security situation across the country. A couple of respondents were very candid and less positive about Arazi's potential to fulfill its objectives.⁴

3.2 ARAZI'S CURRENT PRIORITIES

Arazi's current priorities were made very clear during interviews, they are the following four activities:

- the restitution of or recompense for illegally occupied government lands;
- the *tasfia* of government lands;
- making government land available for transfer to and exchange between government institutions (essentially the allocation of government lands to different ministries)
- making government land available for and leased to the private sector, to increase government revenue

In support of these priorities Arazi is concerned to have the amended LML, the government land

³ It should be noted as referred to in the methodology section of this report most those spoken to were selected for the consultant to speak to by Arazi, as such, it is likely that the most motivated and committed staff would have been selected.

⁴ As pointed to in the methodology section of this report, the way in which meetings with staff were organized and the lack of time to build any kind of relationship with Arazi may have influenced the overly positive picture presented by some respondents.

restitution policy and its related presidential decree, and other new procedures approved by the relevant bodies and finalized.

It is important to stress that currently Arazi is primarily concerned with government land that is not within the jurisdiction of the municipalities. Arazi's priorities do not lie with privately owned land. Nevertheless, the *LARA Project's Assessment* discovered in Jalalabad that private individuals do bring their documents of land ownership to the Arazi office for registration. The degree to which this is happening in different areas of the country, the types of private individuals and the types of land that are being registered with Arazi in this way has not been investigated or analyzed.

3.3 THE ROLE AND RESPONSIBILITIES OF THE *TASFIA* DIRECTORATE

According to the Land Management Law (LML)⁵:

Tasfia is a process of specification, segregation and verification of private, State, public and special lands of village or villages by assigned delegation in the area, as a result the land in terms of quantitative and qualitative particulars, alteration, transfers, quality of ownership and types of documents is defined. (article 3 para 24)

As described in the quotation above the overall aim of the *tasfia* process is to decide who owns specific areas of land and where the boundaries fall, to classify the land and to register all this information. According to central level respondents, there are fifteen *tasfia* teams or delegations⁶ with, in theory, a permanent membership of three Arazi employees each. The Arazi members of these teams are based out of Kabul, but work across the country. Information provided by members of *tasfia* teams who work in Kabul province indicates that the Arazi membership of *tasfia* teams is neither quite so clear cut or always at the full complement of three. Examples of three rural districts and Kabul city were given. It was explained that each of these districts has Arazi representatives that undertake the *tasfia* process and are part of the *tasfia* teams. One of the people spoke to describe how he splits his working week between working with a *tasfia* team in Kabul city and one in a rural district. Of the four teams discussed two have two members and two have three members. It was also implied during this conversation that there are four teams working in Kabul province which would leave only eleven for the rest of the country.

According to central level *Tasfia* Directorate staff under the new *tashkhel* for 1392 a further sixty staff are to be recruited for the *tasfia* delegations in order to add another 20 delegations. This would lead to a total of 35 delegations to work across the country. As referred to earlier there are representatives of the *Tasfia* Directorate at provincial level as well as general Arazi staff at district level however what these staff actually do in regard to the *tasfia* processes was not mentioned by anyone spoken with. The *LARA Project's Assessment* argued that provincial staff are not involved in the *tasfia* process and procedures should be amended to give them a greater role. Given the financial constraints that Arazi is facing and the slowness in getting the new *tashkhel* approved this would seem to be a pragmatic way forward.

The current per-diem for Arazi members of the *tasfia* delegations is Afs 500 (USD10) to cover accommodation and subsistence. This is clearly inadequate to cover their costs. Arazi provides no transportation to their staff, who are members of the delegations either, instead they have to rely on members of the delegations from other government bodies or those who have requested that the *tasfia* process be undertaken to provide transportation.

⁵ When referring to the Land Management Law it is the Land Management Law with the 2012 amendments that is being referred to which has not yet been approved.

⁶ While in the LML the terminology of delegation is used when speaking to members of these delegations they used the word team. Consequently, in this section that refers considerable to information provided by members of the delegations the word team is used as well.

The LML specifies that the three Arazi staff who are part of the *tasfia* delegations should be joined by representatives from the Supreme Court (SC), Ministry of Finance (MoF), Ministry and Energy and Water (MEW), the extension department of MAIL, the cadastral department of AGCHO, the Arazi commission in the area, and if the *tasfia* has been requested by a government body a representative from that institution. *Tasfia* team members from Kabul provided information that their teams are made up of themselves and representatives from MAIL, MEW, MoF and cadastre. As yet the SC and the Arazi commission are not included. According to the LML Arazi is the chair of the delegation and the technical and administrative lead.

It should be noted here that for any piece of land to be cleared by the *tasfia* teams it has to have been mapped by the cadastre department: cadastre should always happen before the *tasfia* process. There is a great deal of similarity in the information needed for *tasfia* and for cadastral mapping, it can be assumed that the *tasfia* teams would take this information from the cadastral maps rather than re-measuring and classifying etc. If a *tasfia* team is requested to clear an piece of land and they discover that the cadastral mapping of the land has not been done their first task is to request from the AGCHO for this to happen. As such, the *Tasfia* Directorate of Arazi is dependent on the cadastral department of AGCHO to complete its work. A senior member of the *Tasfia* Directorate explained that even in areas where security is relatively good and the cadastral mapping should be reasonably straightforward the process can take six months or more. There has been some discussion about the possibility of bringing the cadastral department within the auspices of Arazi, but it is highly unlikely that this will now happen.

The most important tool for the teams undertaking the *tasfia* process is documentary evidence. Indeed, the primary role of the *tasifa* teams is to collect all documentary evidence and based on this provide an opinion on land specification and characteristic and of most importance ownership of the land.

The documents which have the most weight are a *share-e-qabala* a document issued by the court in respect to ownership of the land, whether this be through resolution of a previous dispute, inheritance, exchange, and so on and so forth. These documents, or copies of, are held variously by the landowner, the local courts and or the Supreme Court. A *sadarat*, a document to show that the land was decreed to an individual by the state and tax or water rights documents are also used to prove ownership. The LML recognizes customary documents in-relation to purchase, donation, legacy and testament. However, the wording of the LML makes them secondary to state issued documents in stating that they are only recognized if, "there are no nullifying documents available", which it can be assumed would mean a state issued document.⁷

According to the LML and *tasfia* staff spoken with all the information they collect is logged on two forms. An area evaluation form, used to record the specifications and characteristics of the plots of land and a re-registration form, used to evaluate the characteristics of the land, record the opinion of parties claiming ownership, and describe the documentary evidence. The outcome of the *tasfia* team's investigation as to who owns the land and their opinion on ownership if the land is in dispute is also recorded on this form. The completion of these forms represents the completion of the *tasfia* team's work. For the *tasfia* team members spoken to the key change brought about by the amendments to the LML and the new procedures (which seem to already be being used even though not approved) is the standardization of these forms and hence the process of *tasfia* country wide.

If after completing all the requirements of the evaluation and re-registration forms the opinion of the *tasfia* team is accepted by all concerned, including any parties claiming ownership of the land, the *tasfia* process is completed and the land can be used for purpose. If the parties, specifically those claiming ownership of the land, do not agree with the opinion of the *tasfia* team then, as described in the LML, this dispute should be forwarded to the relevant authorities. If the dispute is between individuals, the

⁷ Consequently a decision to end a dispute made by a community-based dispute resolution process which divided lands between two parties and all parties agreed to at the time and signed a customary document to that effect could in the eyes of the law be undone if one of the disputing parties had a predating *share-e-qabala* to say the land was his and decided to use this.

case will be referred to the Department of *Huquq* or a court, if the dispute is between an individual and the state, the *tasfia* directorate will refer the case to the State Cases Department of the MoJ who will take the case to court. If the dispute is between two state entities then the case should be sent to the State Cases Department for resolution.⁸

It is clear from this description of their work that the *tasfia* delegations are not mandated to resolve disputes themselves. Neither do they mediate or arbitrate disputes according to accounts of staff from the *tasfia* teams and the *tasfia* Directorate. What the *tasfia* process does is play a lead role in the administration and investigation of disputes by locating, authenticating and recording documentation. As one *tasfia* staff member put it, "we solve disputes with documents".

The extent to which *tasfia* teams follow the processes as outlined in the LML and described by senior staff is not known; whether or not these teams do get further involved in dispute resolution on the ground is also not known. The extent to which it would be prudent to expand their role in the mediation or arbitration of disputes needs to be determined by research at sub-national level and would demand a change in the law. The lack of a dispute resolution role for *tasfia* teams is important in relation to task 5.1 of the *LARA Project's Option Period Work Plan*.

The *tasfia* process is presently demand led. There are four dominant circumstances which lead to a demand for *tasfia*:

1. A government entity wishes to use a piece of land for the purpose of constructing a facility. For instance, the Ministry of Public Health may want to build a clinic on a particular piece of land they believe to be government land. Before any construction or property development can take place the *tasfia* processes has to be completed.
2. The government wishes to lease a piece of land which they believe they own but the *tasfia* process has not taken place. (It should be noted as was described by a senior member of staff of the Leasing Directorate leasing is also often demand led. Members of the public are aware of land that is unoccupied and if they want to use it they will make a request to their district governor, who will refer it to Arazi.)
3. A government entity is already using a piece of land and a private individual claims it belongs to them. Senior staff from the *Tasfia* Directorate provided an example to illustrate this case. In this example the provincial government had been leasing a piece of land for some time to one individual. However, another person claimed the land was his and said he has documentation to prove it. The dispute between the two individuals had become quite serious and destabilizing for the area. When the *tasfia* team began their investigation they found that no cadastral map for the area had been done. It is six months since the case first came to the attention of Arazi and still the cadastral mapping has not been completed.

Another quite different example, which falls into the same category of individuals challenging the government over ownership of land comes from an area on the outskirts of Kabul city. It is a relatively newly developed area, where the municipality has begun to build roads. A number of property owners in the area are claiming that some of the land that the roads have been built on belongs to them. This year between four and six cases have come to the *tasfia* team, who explained that they have so far been quite straight-forward as people have had the relevant documentation and the opinion of the team has been accepted.

4. The fourth category is disputes between individuals. This category of cases was not focused on by staff spoken to from the central office of the *Tasfia* Directorate but representatives of the *tasfia* team, spoken to, said that they get quite a lot of cases like this coming to them. They

⁸ One respondent explained that 60% of people are happy with *tasfia* process, 20% of people know someone in the court so will want to go there and 20% are gunmen who we can do nothing about.

provided one example in which a person who is now based in Europe has a *share-e-qabala* stating an area of land in a rural area of Parwan province belongs to them. Another person who has been farming the land has tax documents to prove it belongs to them. Both parties are claiming that the documents of the other person are fake. This case has been ongoing for one and half years and is now with the courts.

While individuals in dispute with other individuals clearly do bring cases to Arazi it is the exception rather than the norm and it can be surmised that it is more likely to be done by wealthier individuals who can afford the costs of fighting a case through State institutions. During this consultancy a representative of the Department of *Huquq* argued that individuals would be worried that if they brought their cases to Arazi during Arazi's investigation it would be decided that neither party could prove ownership and the government therefore owns the land. Fieldwork conducted for other projects on dispute resolution, such as AREU's extensive research on Community-Based Dispute Resolution, supports the assertion that few private individuals would take their disputes to Arazi for investigation.⁹ Since *tasfia* is currently purely demand driven and the *tasfia* teams are not able to keep up with the workload as it is, it is perhaps a blessing that more individuals do not bring their disputes to Arazi.

The *Tasfia* Directorate's most pressing priority is to complete the *tasfia* processes for the international military bases as security responsibility transitions to the Afghan National Security Forces (ANSF) takes place. A respondent from the *Tasfia* Directorate explained that an order had come from the President to do this. The same respondent also stated that he believed this process would not be completed within six months. This timescale seems highly ambitious given that there are some significant disputes over ownership of the land where international military bases have been constructed and many of the bases are in some of the most unstable and insecure areas of Afghanistan, where there is minimal to no reach of the Afghan Government. (The same informant also argued that the *tasfia* team members would have no time for further training until the *tasfia* process has been completed for all the bases. This, if so, could have implications for the LARA Project's training schedule.)

3.4 ROLES AND RESPONSIBILITIES OF THE DISPUTE RESOLUTION DIRECTORATE

Despite its name the Dispute Resolution Directorate of Arazi does not resolve disputes. It does not have the authority in the law to do so. Instead, and in common with the *Tasfia* Directorate, it is responsible to provide information, documentary evidence and analysis to those institutions charged with dispute resolution. The Directorate is made up of four units or departments: Government Land Protection Unit; Executive Office; Affairs and Implementation Unit; Monitoring and Evaluation Unit. The responsibilities of each of these units are described in the *LARA Project's Assessment* and are not repeated here.

The Dispute Resolution Directorate is responsible to identify, analyze and manage a wide range of land disputes, including those between individuals and those between the state and individuals. The responsibilities it has for collecting evidence and analyzing cases for referral to the relevant authorities: the courts, Department of Government cases and the Department of *Huquq* replicate the work of the *Tasfia* Directorate. The *LARA Project's Assessment* argues that many of the responsibilities of the Dispute Resolution Directorate are a duplication of the work of other agencies and institutions and questions the need for this directorate at all.

From interviews with staff of the Dispute Resolution Directorate it is clear that in actuality the Directorate now has one clear priority and that is the restitution of illegally occupied government lands. This was virtually the only area of work those interviewed from the Directorate spoke about, even

⁹ For example see, Smith (2009), Smith and Lamey (2009) and Smith with Manalan (2009).

though they were asked in general about their work.

The restitution of illegally occupied government lands is currently a key priority for Arazi as an institution. How successful Arazi is as overseer of this process is likely to be seen as a measure of its capacity as an institution and could establish it as an important government institution in Afghanistan and influence the extent of its role and authority going forward. The priority given to this area of work is largely in response to Presidential Decree 45 (translation dated 21 June 2012), in which clause 27 paragraph 2 states that in cooperation with MoJ, MoI, the Attorney General's Office and the HOOAC information about the seizure of lands should be collected. An entirely new Chapter dealing specifically with the usurpation of government land, 'land grabbing', has been added to the LML; *Chapter Ten Access to Usurped Land*.

Without a translation of the new policy/procedure for the restitution of illegally occupied land it is not possible to describe accurately what the responsibilities of the Directorate and Arazi, more generally, are going to be and how they plan on fulfilling the demands of Decree 45 or the new chapter of the LML. What instead is presented here is an understanding based on conversations with staff of the Dispute Resolution Directorate and Arazi's Executive Office, and what is written in the LML.

A 'land grabbing' survey is being conducted in all 34 provinces and 366 districts. Some respondents reported that this activity is still on-going and some reported it as completed. Regardless, it would seem that such a process should be continual as the grabbing of land is a constant; the dynamics of which are continually changing. It was agreed by respondents that to date 1.2 million *jirib's* of grabbed land have been identified and more than 15,000 private individuals and 139 government entities have grabbed land. Conducting this survey in part fulfills article 87 of the LML, the first article of Chapter Ten. This article asks for MAIL/Arazi with the cooperation of the office of the Attorney General, MoI, IDLG, HOOAC, Cadastral Department of AGCHO and MoJ to identify those who have grabbed land and refer them to the relevant judicial bodies. This is in line with the responsibilities of the Directorate of Dispute Resolution, however it also falls within the responsibility of the Directorate of *Tasfia*. Article 94 of Chapter Ten of the LML states that when Arazi cannot handle the cases resulting from land grabbing they should be addressed as in Article 31. Article 31 specifies that after *Tasfia* has been conducted if those claiming the land do not agree to the opinion of the *Tasfia* delegation then the case will be referred to the relevant judicial body be this the court, Department of Government Cases or in the case of private individuals the Department of Huquq. Consequently, the preparation of documents for an investigation of land cases seems to be both the responsibility of the Directorates of *Tasfia* and Dispute Resolution.

Once the survey of land grabbers is deemed complete it is due to be sent to the office of the President and to the Parliamentary Committee on Land Grabbing. After this, it was reported, that the list will be publically released.

It was reported by both central and provincial level Arazi staff that they rely on Arazi staff in the districts to report back to them on government land that has been illegally occupied. It is also the responsibility of the Provincial and District Governors to identify and report on government land that is illegally occupied. Provincial Level Commissions are being formed to support the identification of grabbed land and its restitution. Some respondents spoke as if these are already in place and others reported they are in some provinces and not in others. It is difficult to tell if these commissions are formed and what their level of functionality might be without further research at sub-national level. The membership of these commissions should include the MAIL Provincial Director and representatives of the extension department and Arazi, Supreme Court, MoI, IDLG, MEW, cadastre department, MoF and other entities as required. While it is not stated in the LML it was reported that the provincial commissions will be chaired by the Provincial Governors. One of the members of the Board of Directors of Arazi objected to the chairpersonship going to the Provincial governors, arguing that the Provincial Governors are among the biggest land grabbers! The board overturned his objection. One senior member of staff from the Dispute Resolution Directorate when telling this story explained the

decision by simply saying, "if the governors are grabbers and the ministers are all thieves who are we to give this responsibility to!"

Respondents identified three types of land grabbers, as follows:

1. Those using the land for profit through cultivation or building townships. In the case of townships and residential areas, if these are not contrary to the plans of MUDA or the Municipality then they can remain intact but the grabber will be charged rent. One respondent reported that these townships at times are built to a high standard providing accommodation and services to people which the government has not been able to provide.
2. Poor people who grab land because they have nowhere else to go and use the land to accommodate themselves. In this case, it was reported, that the people would be allowed to remain on the land as long as it is not part the plans on MUDA or the Municipality. Those occupying the land will be able to buy the land either at market value or based on what they can afford.
3. Government bodies which have grabbed government land.

Respondents mentioned different ideas and ways that should be or are to be taken forward for restitution of government lands. They included amnesties for land grabbers, separate courts to deal specifically with land grabbing cases and of most importance to the focus of this report the formation of district and village level commissions or *shuras* made up of non-state governance actors (elders, maliks and other community leaders) to support the work of Arazi. Non-state governance actors were mentioned as an important resource for Arazi in the identification and restitution of grabbed lands. It was reported that elders report cases of land grabbing to Arazi staff and at times are able to assist them in restitution the land. It was also reported that in the main this would only be in the case of the less powerful land grabbers; implying those who are not linked to or are powerful figures in the Afghan Government and/or who do not have their own groups of armed men to defend their interests. How wise it would be to formalize the support non-state governance actors give to Arazi is beyond the scope of this paper. However, it is important to recognize that most disputes, including land disputes are both managed and resolved by non-state actors through processes of community-based dispute resolution (CBDR).¹⁰ It is often because of their ad-hoc and non-state status that they are able to do this and so any formalization of these processes needs to be undertaken with great care. It should also be mentioned that a previous policy to recognize the roles of non-state justice actors and formalize the relationships and links between state and non-state justice actors was halted within the MoJ after at least two years' work, and is unlikely to be revived.

As of yet there are no procedures in place for monitoring government land after restitution particularly if it is not transferred or exchanged to a government body or leased to the private sector. Staff from the Dispute Resolution Directorate reported that this is not their responsibility. Staff from the leasing department did indicate that they are meant to follow up on leased land to see if it is being used for purpose but are not doing so. Without any process for monitoring land once it has been returned to government hands it could easily be grabbed once again by the same or a different individual.

As with other staff spoken to at Arazi the staff working in the Dispute Resolution Directorate appeared generally motivated in their work and hopeful of making achievements in regards to the restitution of illegally occupied lands. They are realistic about what could be achieved within the current political climate in Afghanistan. The opinion that land grabbing would increase as Afghanistan nears transition was expressed. There is a wide-ranging acceptance that they would not be able to do anything about large powerful lands grabber (meaning those connected to or in government and/or those with their own armed force to protect their interests). It was widely reported that it will be those who have grabbed relatively small amounts of land that will be dealt with under the new policy and procedures. All respondents gave examples of the failure to restore lands to the ownership of the government, many

¹⁰ See various research reports by AREU, and the United States Institute of Peace (USIP).

from the Kabul area. But as one respondent put it, " what should we do; we have to hope; we have to do something; we can't just sit and do nothing."

4. CONCLUSIONS AND RECOMMENDATIONS

The focus of this very brief study of Arazi has been the functions of the *Tasfia* and Dispute Resolution Directorates. Certain findings were made regarding Arazi as an institution in general. Although many of these are already argued in the *LARA Project's Assessment* and the *ASI Review of Arazi*, it is worth repeating them here. First, Arazi is an aspirational yet fragile institution. Its senior staff are motivated and enthusiastic regarding the amendments to the LML and the new policies and procedures and optimistic that these will improve the ability of Arazi to meet its mandate. At the same time Arazi has no secure funding source, is operationally and structurally weak and has limited human, material and technical capacity. Second, there appears to be weaknesses in communication and linkages between the central office and subnational staff. Third, and related to the second point little seems to be known about the everyday work of Arazi staff at the sub-national level, specifically the district level, where most of the Afghan population live. Fourth, while its mandate is broader, Arazi's current priorities are concerned with government lands.

Regarding the *Tasfia* and Dispute Resolution Directorates more specifically the findings of this report are first, that neither of these directorates has a dispute resolution function beyond the administration and investigation of disputes using documentary evidence. This finding is particularly important in relation to the *LARA Project's Option Period Work Plan*, which suggests developing training modules for Arazi staff on dispute resolution. Second, there is duplication in the roles and responsibilities of the Dispute Resolution and *Tasfia* Directorates; both directorates are charged with collecting documentary evidence where lands are in dispute and analyzing such documents. There is, likewise, significant overlap between the *Tasfia* process and cadastral mapping. Third, the work of the *Tasfia* Directorate is presently demand led. This has implications for the plans outlined in the *LARA Project's Option Period Work Plan* in relation to public awareness raising. If awareness of the role of the *Tasfia* Directorate is increased it might be assumed that demand will increase, yet Arazi is not able to keep up with demand as it is. Fifth, there is very little information available as to the work of these directorates at sub-national level, specifically empirical knowledge of the operation of the *tasfia* teams in the field. It is imperative that future programming and policy making are evidence based. Sixth, while staff are confident that the new policies and procedures will greatly improve the efficiency of their work they are also realistic about what can be achieved within the current political context of Afghanistan. Finally, there is recognition of the vital role non-state justice actors can play to support Arazi's work among many Arazi staff spoken with. This does not however equate to a necessity to formalize the work of non-state justice actors in anyway, or provide trainings on CBDR processes.

4.1 RECOMMENDATIONS

The LARA project is already providing support to Arazi and has laid out plans for future support in its *Option Period Work Plan*. For instance, regarding activities already undertaken it held an urban planning clinic in Jalalabad city, which included representatives from Arazi. It supported a national

training seminar for Arazi on land leasing and other land policy issues. It funded the refurbishment of the Arazi training center. The support most often referred to when speaking to central level Arazi staff was that provided by the LARA Project's Legal Team. Specifically the extensive support provided to Arazi in writing substantial amendments to the LML and writing the new procedures and policy. Indeed, Arazi on 28th February 28th, 2013 presented the Legal Team of the LARA project with a certificate of appreciate for their work.

Going forward the LARA Project plans to continue its support to Arazi. This will be specifically in the areas of IT support including providing software to assist Arazi to implement its land inventory, *tasfia* and leasing work. As is discussed in detail in another report from this consultancy the LARA Project will provide significant technical support to begin a process of gender integration or mainstreaming of Arazi. Of most relevance, in regard to the recommendations that follow, are the capacity building activities which the LARA Project has planned for and in particular those trainings planned for on the LML and the new procedures for land exchange, transfer, leasing and *tasfia* and the draft of the restitutions of illegally occupied government lands policy or procedures.

This report makes four recommendations. The first three are broadly within the plans and capacity of the LARA Project and the fourth is to be conducted to inform any future land reform programming in Afghanistan.

1. *The LARA Project lobby Arazi to change the name of the Dispute Resolution Directorate to reflect more accurately the roles and responsibilities the Directorate has the mandate to fulfill.*

It has been suggested by LARA Project staff, reports and other consultants that this Directorate be renamed the Case Management and Analysis Directorate. This would certainly be a move in the right direction. However, as there is so much overlap in the work of this Directorate and that of others and since the priority of this Directorate is that of the restitution of illegally occupied government lands it is suggested that this overtly become the responsibility and name for this Directorate.

2. *The LARA Project's training and capacity building efforts focus on expanding knowledge of the new tasfia and land restitution procedures and the amendments to the Land Management Law, to provincial and district level staff. This is already planned for under task 8.1 in the LARA Project Option Period Work Plan. The inclusion of representative of line ministries at provincial and district levels who will be members of the tasfia, delegations, it is recommended, be included in trainings on tasfia processes.*

The *LARA Option Period Work Plan* under task 5.1 suggests providing training to *tasfia* delegations on dispute resolution techniques. Based on the findings of this report it is suggested that all resources for training *tasfia* delegations be spent on training them on what they are mandated to do in the LML and the *tasfia* procedures.

- 2.1 *It is important that district governors are incorporated to some degree in the trainings.*

As discussed above there is a distinct lack of awareness of the work of Arazi at community level. The key state interlocutor at district and village level is the district governor and research has shown that virtually all people living in rural Afghanistan, if seeking state support to resolve their disputes, go to the District Governor in the first instance.¹¹ Consequently, it is recommended that district governors are included in aspects of the training provided to Arazi staff in order that there awareness of the responsibilities of *Tasfia* and Dispute Resolution Directorates are raised.

- 2.2 *Non-state governance and dispute resolution actors (community and district elders both male and female) should be included in aspects of these trainings.*

As discussed earlier most disputes, including land disputes, are managed and resolved across

¹¹ See Nixon (2008) and Smith (2009) and Smith with Manalan (2009) and Smith and Lamey (2009) for an analyses of the role of the district governor. See Smith (2009) and Smith with Manalan (2009) for detailed analyses of the role the district governor plays in both state and community-based dispute resolution.

Afghanistan by CBDR mechanisms. Elders are very competent in regard to mediation and arbitration of disputes; however what they often need and request is greater knowledge of Afghan state law.¹² It is highly likely, but not evidenced, that the *Tasfia* delegations already use the capacity and resources of CBDR actors in their work. There is no provision in the LML for them to do this. Consequently, it is suggested that rather than provide training to either Arazi staff or CBDR actors on CBDR techniques pre-se, training is provided to CBDR actors alongside

Arazi staff and *tasfia* delegation members on the LML and *tasfia* procedures. These trainings should be participatory and allow time for discussion of the problems both groups face in following their responsibilities and reaching solutions to these. It should be remembered in facilitating such events that, as discussed above, the role that CBDR actors can have in resolving disputes between the state and individuals (particularly very powerful individuals) is minimal. The primary role CBDR mechanism play in regard to dispute resolution is personal disputes between members of their own communities.

2.3 *As staff are recruited for new tasfia delegations in order to fill the new Arazi tashkhel, the LARA Project provide support to train these new staff.*

If the new *tashkhel* is approved and staff are recruited for the new *tasfia* delegations before the end of the LARA Project senior staff from the *Tasfia* Directorate requested specifically that the training of these new staff be supported by the LARA project.

3. *Arazi staff working at provincial and district level and members of the tasfia delegations should be made aware of the provisions in the civil procedure code for non-state justice actors to resolve disputes.*

Despite efforts to write a policy to more formally recognize the role that CBDR mechanisms and non-state actors play in the governance of Afghanistan, particularly at sub-national level, there is very little provision in Afghan law that specifies this. There is provision in the civil procedure code for non-state actors to resolve disputes. These provisions are clearly laid out in the LARA Project CBDR guidelines, which could be used to ensure Arazi staff are aware of these provisions so they have the confidence to overtly use and report how they work with non-state governance actors where needs be.

4. *In preparation for future work a participant observation study of a selection of tasfia delegations from across the country should be conducted.*

As has been discussed at various points in this report there is virtually a complete lack of knowledge and information, based on rigorous research, regarding the work of Arazi at sub-national level. A lack of knowledge frequently leads to at the least inappropriate or ineffectual program design and at the worst harmful programming. As a first step to correct this and prior to any further land reform programming a study of the work of *tasfia* delegations around the country should be conducted. It is suggested that this be largely an observational study (it could even follow a classic participant observation methodology if the appropriately qualified field researchers could be located). An observational study would involve field researchers following and reporting on the day-to-day activities of *tasfia* delegations. This could be supplemented by semi-structured interviews with members of the *tasfia* delegation and community members living or working on or near the land where the *tasfia* process is taking place. A qualified and experienced researcher would of course be needed to design and analyze the data from such a study.

¹² See Smith (2009) and Smith with Manalan (2009)

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