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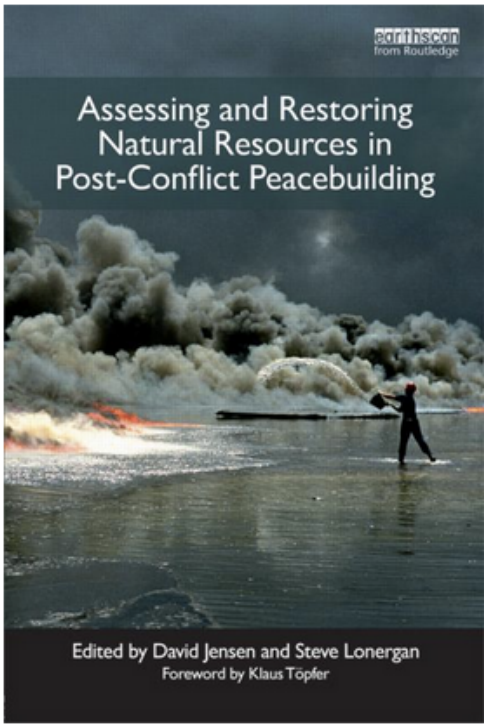

Road infrastructure reconstruction as a peacebuilding priority in Afghanistan: Negative implications for land rights

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Road infrastructure reconstruction as a peacebuilding priority in Afghanistan: Negative implications for land rights

Jon Unruh and Mourad Shalaby

The international community's understanding of war-affected societies and the processes leading to peace have improved significantly in recent years, particularly with the need for effective approaches to deal with unstable, failed, recovering, volatile, and poorly governed states and their restive populations. As knowledge grows of how and why civil wars occur, end, and often recur, efforts must progress beyond the pursuit of peacebuilding priorities as separate endeavors toward their integration. The need comes with the realization that conflict-related and stable settings are profoundly different. Peacebuilding projects and policies, although derived and implemented separately and on their own merits, interact on the ground in a largely unplanned and unexamined manner. Success in one area of peacebuilding can cause problems in another, and there can be unexpected and often volatile repercussions from interactions between priorities. As lessons learned in peacebuilding become more widely known, the opportunity emerges to examine harmful interactions between priorities to mitigate acutely negative outcomes at a minimum and, more ideally, enhance prospects for interactions to contribute to durable peace.

Although peacebuilding priorities vary according to country and conflict, two that are widely recognized as critically important are road-infrastructure (re)construction[1] and reconstitution of land and property rights systems. Based on a literature review of Afghanistan's land tenure and conflict and the experience of the authors in war-torn settings, this chapter examines the interaction between the two priorities in Afghanistan. It focuses specifically on how the road-infrastructure (re)construction effort by international donors affects land rights, which the Afghan

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[1] Parentheses are used to indicate that infrastructure was either reconstructed (it previously existed) or constructed for the first time (it had not previously existed).

government, with assistance from the international community, is attempting to recognize formally. The chapter presents some of the destructive interactions between road (re)construction and land tenure in Afghanistan to illustrate the need for better integration of peacebuilding priorities, raise awareness of the potential negative repercussions of well-intentioned investments, and contribute to understanding of how outcomes differ between war-torn and stable scenarios.

Donors who plan, fund, and implement projects believe that the (re)construction of road infrastructure in war-torn countries contributes substantially and independently to peacebuilding and post-war recovery. Road (re)construction is intended to ease trade and economic linkages; facilitate access to schools, health clinics, courts, and other services; boost agricultural yields; connect rural areas to the marketplace; provide security to rural communities; and lead to development in other sectors (JICA 2003, 2004, 2006; JSCE 2002; USAID 2006). Realizing the benefits is important for economic and livelihood recovery and development and thus to winning hearts and minds of people living in unstable and volatile sociopolitical settings (JICA 2004; Meilahn 2007; Mockaitis 2003).

The reconstitution of land and property rights systems in conflict-affected settings is crucial for the return of dislocated populations; restitution; agricultural recovery and food security; broad economic recovery; dispute resolution; and addressing ethnic, tribal, and religious claims and attachments to land (Bruch et al. 2009; Unruh 2009). Reconstitution of functional land and property rights systems also leads to resolution of political problems associated with areas claimed, gained, or lost in battle (Andre 2003; Banks 2007; Unruh 2003, 2004). Land rights issues can also lead to armed conflict.[2] Ethnic cleansing, evictions, retribution, inequality in land and property, legal pluralism that favors some sectors of society over others, legal systems that are noninclusive or exploitive, and land-related grievances and animosities exacerbate conflict.[3]

Although road (re)construction and land rights do not interact at the levels of analysis, policy, planning, programming, implementation, and evaluation—and the Afghanistan case is particularly illustrative—they often interact quite negatively on the ground in an unplanned and to-date unexamined way (ANDS 2008; JICA 2003, 2004, 2006; USAID 2006). Some interactions work against peace and can be particularly problematic when a military response is perceived as the only answer.

The primary reason for not examining the interaction between peacebuilding priorities is the assumption that projects and activities will produce outcomes similar to those expected in stable settings (JICA 2006; MRRD and MPW 2007; U.S. DOD 2009). But one of the main lessons learned is that conflict settings differ profoundly from peaceful ones.[4] Much additional work is needed on how the differences affect the interaction of peacebuilding priorities. After describing

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[2] See Bailliet (2003); Barquero (2004); Bruch et al. (2009); Cohen (1993); Unruh (2009).
[3] See Bruch et al. (2009); Cohen (1993); DW (2005); Unruh (2009); Alden Wily (2003).
[4] See Bruch et al. (2009); Goovaerts, Gasser, and Inbal (2005); Junne and Verkoren (2005); UNEP (2009).

road (re)construction and land rights in Afghanistan and showing how they differ from those in stable contexts, the chapter provides an analysis of the volatile interaction between them.

ROAD INFRASTRUCTURE

Decades of war and neglect have made Afghanistan's limited roads and bridges nearly impassable (Glasser 2002). International donors presume that road (re)construction will help win over local populations and lead to peace (JICA 2003, 2004, 2006; JSCE 2002; USAID 2006). After security expenditures, road (re)construction absorbs the most aid and is the largest component of Afghanistan's economic recovery and development (Delesgues 2007; Olesen and Strand 2005). The United States and Japan have undertaken most of the road projects at a cost of several billion U.S. dollars to help grow the economy, improve security, and integrate isolated parts of the country (Delesgues 2007).[5] For the Afghan government, road (re)construction is "key to raising rural livelihoods and reducing poverty and vulnerability in rural areas. Better rural roads will improve market access and opportunities for rural households" (ANDS 2008, 9). Road (re)construction is also thought to improve the following (U.S. DOD 2009):

[5] See also JICA (2003, 2004, 2006); JSCE (2002); Schell (2009); USAID (2006).

- Access to schools, health clinics, courthouses, and other government and social services.
- Trade and economic links within Afghanistan.
- Trade with other Central Asian countries.
- Access to mineral resources.
- Peace, local-level security, and stability.
- National security.
- National integration of ethnic groups, clans, and religions.
- Administrative, trade, and economic contacts between district headquarters and provincial capitals.
- Bringing the hinterland into commercial contact with the market place.
- Transportation costs for agricultural produce to and from markets.
- Capacity and efficiency of all sectors.
- Access to markets for farming communities.
- Response time of military agencies to security concerns.
- Creation of businesses.

Of particular importance is the three-thousand-kilometer Ring Road connecting Kabul, Herat, and Kandahar (see figure 1). When completed, 60 percent of Afghans (approximately 17 million people) will live within fifty kilometers of the road (U.S. DOD 2009). Donors in different parts of the country are constructing provincial and feeder roads and bridges that will connect many areas of rural Afghanistan (MRRD and MPW 2007). The United States built 715 kilometers of the northern Ring Road and rebuilt six provincial roads and 0.4 kilometers of bridges to benefit some 5.3 million people. Current measures of success of road (re)construction are highly selective, easily calculated, and almost entirely based on logistics: reduced vehicle and transport costs, lower travel times and passenger fares, new businesses, increased traffic, and movement of more freight (U.S. DOD 2009). The measures of success fail to assess impacts on land rights, land grabbing, or conflict.[6]

LAND RIGHTS

Long periods of armed conflict, beginning with the Soviet occupation, have profoundly altered the statutory and customary land tenure systems of Afghanistan. Land tenure is based on confusing and highly divisive statutory, customary, ad hoc, Islamic, and warlord laws and regulations; is rife with problems; and is lacking in nationally legitimate, workable approaches (IWPR 2008; Alden Wily 2003).

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[6] Land grabbing is the illegal or coerced seizure of land in the absence or against the will of the owner or legitimate landholder, whether or not the land is held under statutory law.

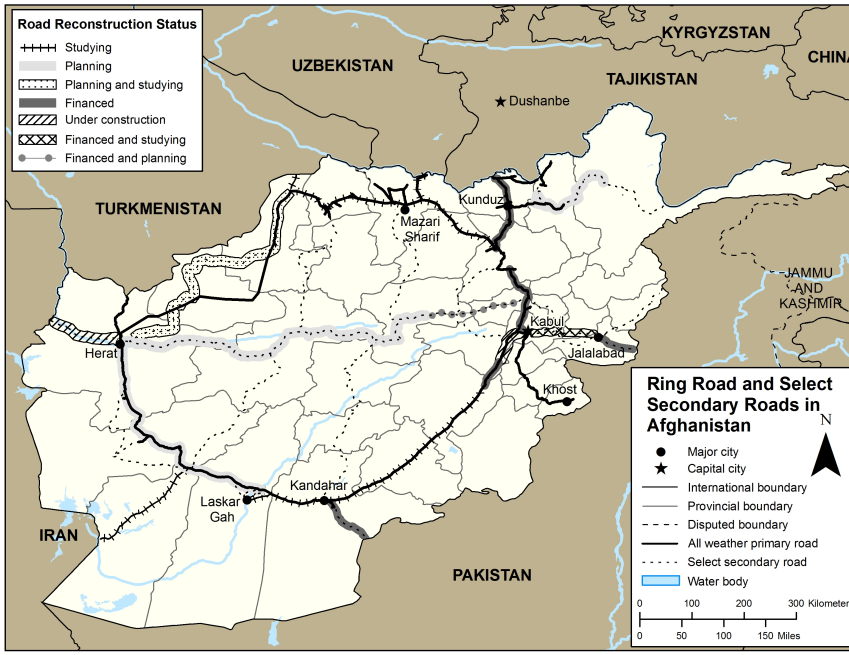

Figure 1. Ring Road and select secondary roads in Afghanistan
Source: AIMS (2003).

With the capture of the state by the mujahideen in 1992, the land tenure system began to disintegrate rapidly. Tenure security has since plummeted, and extortion, asset stripping, and land grabbing thrive as warlords, militias, and other powerful interests have emerged to acquire land (Alden Wily 2003). Customary agreements and land documents have become meaningless, and the poor are unable to pay the necessary bribes to keep the militias away from their land. As a result, land is among the most difficult issues confronting the Afghan government (IWPR 2008).

Disarmament, demobilization, and reintegration in Afghanistan depend on agriculture (Sato 2010), and the long-term stability of the country hinges on recovery and resilience at the local level (Rogers 2010). Rural and peri-urban lands are often invaded and degraded, and there are waves of land grabbing when individuals and groups gain or lose power (Alden Wily 2003). Land values have increased dramatically.[7] And although the 2007 National Land Policy (IRA 2007) acknowledges problems, it assumes that the government has control over the whole country, that corrupt officials will not use the law to seize lands, and that local warlords and other leaders will cooperate.

[7] See Batson (2008); InfoSud (2009); IRA (2007); Irvine (2007); IWPR (2008); Maletta (2007); Sherin (2009); Synovitz (2003).

THE PROBLEM OF CONTEXT

Although many concerned with post-war recovery in the international community appreciate that the sociopolitical context of a war-torn nation differs from that of a stable country, they have not examined how context affects peacebuilding in a way relevant to policy and programming.

The road (re)construction context

Even though road (re)construction always seems promising, some analysts have expressed concern about its impact on livelihoods, security, and society in Afghanistan. Lorenzo Delesgues comments on the cost of (re)construction and the increased insecurity and benefits to warlords and other well-positioned elites that result (Delesgues 2007). The consulting firm Mott MacDonald—commissioned by the United Kingdom's Department for International Development—examined problems with post-conflict infrastructure redevelopment: corruption, problems with disenfranchised and marginalized groups, access to essential services, coordination, security, and the aggravation or reemergence of grievances and tensions (Mott MacDonald 2005). The resulting report finds that "in most situations, the triggers for conflict can be related to power and/or resources and, while the reconstruction phase provides opportunities to mitigate underlying tensions, it is also possible to exacerbate them inadvertently" (Mott MacDonald 2005, 10). Bastiaan Philip Reydon also notes that a primary reason for land grabbing in conflict scenarios is power (Reydon 2006).

Absent from Japanese and U.S. road (re)construction programs was understanding of the potentially detrimental land rights and sociopolitical outcomes of peacebuilding. The U.S. infrastructure (re)construction effort took into account twenty-three Afghan laws relevant to road (re)construction (U.S. DOD 2009) but failed to consider national laws on land and environment or customary land law and tenure through which most people in the country access and claim land.

A broader concern in post-conflict road (re)construction is the disconnect between international donors, who see projects' economic and societal advantages, and local inhabitants affected by changing sociopolitical patterns. The former generalize based on understandings of the market economy, access to services, mobility, and security in largely stable settings. The latter worry about land grabbing; control of agricultural production; speculation; rent seeking; recruitment of indentured labor; and increased access to villages for exploitation by corrupt government officials, the Taliban, or foreign troops.

From the foreign military viewpoint, access is the explicit purpose of road (re)construction (Rogers 2010; U.S. DOD 2009). Taliban insurgents heavily target roads (Catarious 2010). In 2010, violence in the more peaceful north "escalated as the Taliban converge[d] on roads that bring supplies from Central Asia to military bases in Afghanistan" (Rahim 2010). Roads used for military operations and for extending the government's reach are attractive locations for placement

of improvised explosive devices (IEDs). In the first six months of 2010, there were 94 percent more incidents involving IEDs than there had been in the same period in 2009 (UNSC 2010). Civilians are dislocated as a result of IED-related violence, and land tenure is thus severely affected. As a local resident of Dara-e-Pachaye in Kabul's Paghman District noted, "foreign forces came to our village and said they want[ed] to asphalt the road but we said no. We know the road is good but we also know that an asphalted road brings ISAF [International Security Assistance Force] patrols and with them come suicide and roadside attacks" (IRIN 2010b). At times, villages call international forces to destroy bridges, including those used by the Taliban (Hauslohner 2010). National and international private security forces also abuse the citizenry, particularly on the country's roads (Ahmad 2010). The problem is so severe that President Hamid Karzai called in August 2010 for all private security groups in the country to disband. He cited the need "to better provide security for the lives and property of citizens, fight corruption, prevent irregularities and the misuse of arms, military uniforms and equipment by private security companies that have caused heart-breaking and tragic incidents" (Ahmad 2010).

Particularly problematic are donor assumptions that road infrastructure will benefit all or most of society equally and that economic development and access to services will result. But societies in or emerging from conflict are highly fractured, lawless, desperate, and grievance based. They evidence a culture of impunity, power struggles, subjugation, and exploitation. Road redevelopment thus takes place where seeking advantage and protecting oneself (or one's group) by any means is the norm. In a stable setting, by contrast, rule of law facilitates more equitable realization of benefits from road construction.

Donors assume that the state, local government, nongovernmental organizations, and internationally funded programs will provide social services and that access to the services will contribute to increased well-being and durable peace. In stable countries, institutions intervene in land conflicts and land grabbing. They also handle surveying, titling, land registration, and use of land as collateral. But in a war-related context, such as Afghanistan, institutions are often nonexistent, weak, or highly corrupt. Insurgents capitalize on their absence or dysfunction by providing missing social services (Berman 2009; Stern 2010). Insurgents even destroy development and reconstruction projects and target aid workers and state institutions, so they can create need for their hospitals, schools, courts, and other institutions (Oppel 2010; Stern 2010). At the same time, they intimidate, attack, or kill those who cooperate with the government (Hammond 2010).[8] Where insurgents provide justice, security, employment, education, and welfare, they are much more able to recruit and assert control of the economy, for example (Stern 2010). Thus the greater the insurgents' monopoly on government functions, the greater their

[8] The UN reported that civilian casualties increased 31 percent and assassinations and executions over 90 percent in the first half of 2010 (Hammond 2010).

control of their constituencies is (Berman 2009). Insurgent groups go to great lengths to establish and maintain their ability to provide social services (Berman 2009). To the extent that road (re)construction increases access to services provided or imposed by insurgents, it detracts from durable peace and, in Afghanistan, allows the Taliban to move more easily.[9] General Stanley McChrystal, former commander of all foreign forces in Afghanistan, observed that "in places, [the Taliban] control roads, collect revenues and mete out swift justice" (IRIN 2010a).

The land rights context

In Afghanistan, population dislocation and return, widespread corruption, landmines, and landmine clearance create an exceedingly difficult land rights context for road-infrastructure (re)construction.

Although over 5 million refugees have returned to the country since 2002, in the largest-ever repatriation (U.S. DOS 2010), as of 2009 there were still approximately 2.7 million Afghan refugees in Pakistan and Iran (Rehmani 2009; UNHCR 2009) and approximately 235,000 internally displaced persons (IDPs) in Afghanistan (IRIN 2009). Dislocations continue to occur due to ongoing insecurity and conflict between the Taliban and the Afghan population (Hammond 2010) and between the Taliban and national and international forces. The massive population displacement results in large-scale abandonment of land and property, to which the owners intend to return.

Pervasive corruption in Afghanistan hinders the country's recovery and is a primary point of contention between the government and the international community (Gebauer and Volkery 2010; UNODC 2010). War-torn countries are generally the most corrupt (BBC News 2009); only Somalia ranks higher than Afghanistan in this regard (TI 2010). According to Integrity Watch Afghanistan, corruption in the country has doubled since 2007, and by UN accounts, 59 percent of Afghans believe that corruption is a greater threat to the country than the lack of security (IWA 2010). Afghans find services impossible to obtain without paying bribes. With corruption higher in rural areas, land tenure is in considerable jeopardy (UNODC 2010).

Among its eight recommendations, Integrity Watch Afghanistan included combating land sector corruption (IWA 2010). Land seizures and evictions are increasing, and the corruption money leaving Afghanistan is more often coming from landgrabs (Bowman 2010). Threats of land seizure are frequently used for extortion (World Bank et al. 2007). Because the justice system is the most corrupt sector of the government (IWA 2010), Afghans are driven to the Taliban

[9] T. Hayashi, Japan International Cooperation Agency (JICA), personal communication with the authors at the Second International Symposium on Strengthening Post-conflict Security and Diplomacy: Policy Recommendations to Integrate Natural Resources, Infrastructure, and Peacebuilding, Tokyo, Japan, June 25, 2010.

for recourse in land conflicts (Carlstrom 2010; Giampaoli and Aggarwal 2010). The "popular perception is that property rights are for sale by the government to insiders with influence" (USAID 2008, 24).

Landmine clearance plays a significant part in Afghanistan's recovery. The country is the most mined in the world,[10] and it has the largest and longest mine action program (Landmine and Cluster Munition Monitor n.d.).[11] A Mine Clearance Planning Agency report found that agricultural and grazing land accounted for 95 percent of mined areas (ICBL n.d.). IEDs are concentrated along roads, hindering farmers' access to their land and putting communities, particularly along the Ring Road, at risk (Villano 2009).

Mine-related dislocation and post-clearance land reoccupation greatly affect land rights (AusCare 2008; Unruh, Heynen, and Hossler 2003). In Cambodia, post-clearance land tenure was so contentious that authorities considered not clearing properties if ownership could not be ascertained (AusCare 2008).[12] When demined land is near reconstructed or new roads, it rises in value. Thus the likelihood increases that the rich and powerful will grab it and that the magnitude and severity of subsequent land disputes will prevent further clearance and development (AusCare 2008). In Afghanistan, the resulting tenure insecurity may lead to less advantaged households' abandoning cleared land and further marginalize the poor, impede development (AusCare 2008), and ease recruitment by insurgents.

LAND GRABBING: A VOLATILE OUTCOME OF THE ROAD-LAND INTERACTION

When road (re)construction and land tenure issues collide, there is often a surge in land grabbing, which is driven by large increases in land values after road (re)construction, weak customary and statutory tenure systems, increased access to land, flourishing corruption, and the absence of landowners, tenants, and their relatives or heirs. The nine provinces with the most seized land (Reydon 2006) are along the Ring Road. In six of them, 80 percent or more of the agricultural area has been grabbed. Land can be grabbed once, even twice: all of the land in three provinces has been grabbed, and much of the land in Logor Province has been grabbed a second time (Reydon 2006). A "land mafia" seizes, subdivides, and sells land in a number of areas (Irvine 2007; IWPR 2008).

The recent discovery of large mineral deposits (Risen 2010; Rubin and Mashal 2010) will require more road (re)construction to facilitate exploitation and may result in seizure of land above mineral deposits and along new access roads. The road

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[10] R. Okumura, Osaka School of International Public Policy, Osaka University, Japan, personal communication with the authors, June 23, 2010.

[11] Some put the number of landmines as high as 10 million (George 2002).

[12] For further information on demining strategies and operations in Cambodia, see Nao Shimoyachi-Yuzawa, "Linking Demining to Post-Conflict Peacebuilding: A Case Study of Cambodia," in this book.

construction will likely raise suspicions that foreign builders want to control land that contains minerals[13]—fears the Taliban, among others, will likely encourage.

In Afghanistan, land grabbing by powerful interests, including government officials, militia commanders (Sherin 2009; Synovitz 2003), former military commanders, and members of parliament, is pervasive and firmly related to the corruption and dislocation of people (Irvine 2007). Land grabbing is lucrative, widely known, and historically volatile (Batson 2008; Irvine 2007; Sherin 2009). It may push the country into renewed civil unrest (Batson 2008; IWPR 2008), even decades of conflict (*PakTribune* 2003).

Land grabbing creates economic, social, and political instability (Reydon 2006; Sherin 2009). The economic development thought to follow road (re)construction is made more difficult by illegal seizure of land, including government-owned property for which development projects are planned (Irvine 2007). According to the National Land Policy, "land grabbing has been one of the most problematic aspects of land management throughout the country" (IRA 2007, 6). There is little law enforcement, and Afghans are not convinced that the statutory courts can resolve land disputes. Although the legal code outlaws land grabbing, legal redress is nearly impossible (InfoSud 2009).[14] Refugees and returning IDPs trying to regain land do not trust the authorities and courts (Olesen and Strand 2005).[15] Through the state land tenure system, government officials often know about the location, size, potential value of lands and properties, and from whom land can be most easily seized. Greater access to state services associated with road infrastructure (re)construction increases access to lands by corrupt officials and works against peace and economic development. Consequently, local inhabitants search for alternatives to state institutions for land security.

The Taliban are only too eager to provide an alternative, especially when it leads to violent action against state actors and non-Taliban warlords. The Taliban supply disgruntled and disenfranchised villagers with weapons to use against land-grabbing government officials (Sato 2010) and recruit those who want retribution because of land grabbing. As sympathy and support for the Taliban grow among the general population (Sato 2010), elites and warlords remain unwilling to relinquish land they have forcibly grabbed from the peasantry

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[13] M. Nishimura, Japan Institute of International Affairs, personal communication with the authors at the Second International Symposium on Strengthening Post-Conflict Security and Diplomacy: Policy Recommendations to Integrate Natural Resources, Infrastructure, and Peacebuilding, Tokyo, Japan, June 25, 2010.

[14] Complaints to the Human Rights Commission regarding landgrabs have doubled between 2007 and 2009 (Bowman 2010).

[15] Chandet (2010) and J. Ironside (University of Otago, New Zealand, personal correspondence with the authors at the International Research Workshop on Collective Action, Property Rights, and Conflict in Natural Resources Management in Siem Reap, Cambodia, June 28–July 1, 2010) note a similar relationship between new roads and land grabbing in Cambodia, where courts are also corrupt, distrusted, and difficult to access.

(McAuslan 2009). In neighboring Pakistan's Swat Valley, the Taliban were able to gain control by taking advantage of landlessness, unresolved land disputes, land-related corruption, and the local population's desire for an alternative to the corrupt, ineffective state (Perlez and Zubair 2009).

CONCLUSION AND RECOMMENDATIONS

Donors assume that road (re)construction will lead to economic development, peace, and security. But the interaction between road (re)construction and land tenure in a stable political environment is different from that in a war-torn country such as Afghanistan. As far as most Afghans are concerned, road (re)construction has undermined the land tenure system.

Given the interaction's often-negative outcomes in conflict-affected areas, there should be consideration of whether or not to (re)construct roads—despite their positive effects on some localities—until peace reigns in Afghanistan. Those tasked with security and development should at least change their approach to construction of road infrastructure so that well-placed Afghans do not benefit at the expense of the majority who cannot legally or nonviolently defend their rights. There must be a realistic examination and understanding of how (re)construction contributes to or undermines peacebuilding in Afghanistan and other war-torn parts of the world.

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