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3.18.2. Land disputes

COMMON ANALYSIS

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Land disputes are common in Afghanistan due to the fragmented regularisation/registration of land, large population movements and rapid urbanisation, the protracted conflict situation, and a weak rule of law.

COI summary

Land disputes occur among individuals and families and can sometimes involve powerful elites or insurgent groups. They occur in a context of growing urbanisation, population growth and high numbers of returnees all over the country, and among all ethnic groups, including nomadic tribes. In rural areas, land conflicts can expand to include whole families, communities, ethnicities, tribes, or clans within one tribe [[Criminal law and customary justice](#), 2.1., pp. 22-23; [Society-based targeting](#), 6., pp. 71-72].

Land conflicts can quickly escalate and become violent, sometimes degenerating into small armed conflicts, as well as blood feuds (see also [3.18.1. Blood feuds](#)). Cases of conflicts over land and property in different regions of Afghanistan that resulted in killings and casualties were reported [[Criminal law and customary justice](#), 2.1., pp. 22-24; [Society-based targeting](#), 6.1., pp. 73-74].

In the past, a weak rule of law led to a possibility for powerful individuals to influence the administration in order to produce forged documents, and the judiciary to allow them to operate with impunity. In dispute resolution, both formal and informal mechanisms had displayed a bias towards the powerful, wealthy, men, elites and dominant ethnicities. Land disputes were reported to be the most common cases heard by the Taliban courts, during their time as insurgency [[Criminal law and customary justice](#), 2.3.1., pp. 25-26; 2.3.2., pp. 26-27; 2.3.3., pp. 27-28; [State structure](#), 3., p. 39; [Society-based targeting](#), 6.4.1., p. 77; 6.4.4., pp. 81-82; 7.7.4., pp. 91-92].

According to an international analyst, ethnicity has become more important since the Taliban took power, adding examples of Taliban supporting Pashtun communities in conflicts with non-Pashtun neighbours over property and land. Tensions between settled and nomadic communities have intensified in various provinces, leading to forced evictions and displacement of minority groups, including Hazaras, Uzbeks, and Tajiks. The Taliban's involvement in land disputes, particularly siding with Pashtun Kuchis, has resulted in the eviction of local populations. According to one source, these conflicts were attributed to complex land dispute

dynamics and as a strategy of the Taliban to gain political and military control over affected areas, rather than solely ethnic motivations for the purpose of 'Pashtunisation' of the country [[Country Focus 2023](#), 4.3.3., p. 69; 4.5.1., pp. 82-83].

Several land disputes have been reported in Takhar Province involving the reclaiming of the lands by Pashtun refugees from Pakistan, most of whom were Kuchis. The Taliban in the context of their support to the Pashtun Kuchis, subjected the local population, primarily Uzbeks and Tajiks, to forced evictions from their homes and lands. [[Country Focus 2023](#), 4.5.1., p. 83]

There were also reported cases of civilians being forcibly evicted in what seemed like acts of retaliation for supporting the former government [[Security 2022](#), 4.16.2., p. 136; 4.20.2., p. 150; 4.33.2., p. 190; 4.35.2., p. 194; [Targeting 2022](#), 2.4., pp. 68-69].

Even though the central and local authorities include non-Pashtun members, Hazara interviewees told an AAN analyst that ethnic balance in the Taliban's commissions responsible for handling local land disputes did not guarantee impartiality [[Country Focus 2023](#), 4.5.1., p. 81].

See also [3.14.2 Individuals of Hazara ethnicity and other Shias](#).

Conclusions and guidance

Do the acts qualify as persecution under Article 9 QD?

Disputes over land would not in themselves amount to persecution. However, the violence that entails from land disputes, together with the lack of an effective legal system to prevent it, may result in severe violations of basic human rights which would amount to persecution (e.g. killing).

In the case of forced evictions of communities, the individual assessment whether the discrimination and mistreatment against these communities could amount to persecution should take into account the severity and/or repetitiveness of the acts or whether they occur as an accumulation of various measures. The lack of an effective remedy for these communities should also be taken into account.



What is the level of risk of persecution (well-founded fear)?

The individual assessment of whether there is a reasonable degree of likelihood for the applicant to face persecution should take into account risk-impacting circumstances, such as: violent nature of the dispute, ethnicity, power and influence of the actors involved in the land dispute, area of origin, etc.



Are the reasons for persecution falling within Article 10 QD (nexus)?

Available information indicates that in the case of violence related to land disputes, there is in general no nexus to a Convention reason for persecution.

This is without prejudice to individual cases where nexus could be established based on additional circumstances (e.g. ethnicity in relation to Taliban taking sides based on the ethnic origin of the person, land dispute leading to a blood feud etc.).

Where there is no nexus to a reason for persecution, (the risk of) being subjected to forced eviction may qualify under Article 15(b) QD, depending on the severity of its consequences in the individual case.



Exclusion considerations could be relevant to this profile (see chapter [7. Exclusion](#)).

See other topics concerning individuals involved in blood feuds and land disputes:

- [3.18.1. Blood feuds](#)
- [3.18.2. Land disputes](#)

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