

A close-up photograph of a hand holding a red stick over a spinning metal disc. The disc has a central bolt. The hand is wearing a ring. The background is dark and out of focus.

# Hajigak

## The Jewel of Afghan Mines

Working Paper



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JavedNoorani

Integrity Watch Afghanistan

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## **About Integrity Watch Afghanistan**

Integrity Watch Afghanistan (IWA) was created in October 2005 and established itself as an independent civil society organization in 2006 whose aim is to evolve into a reference actor related to understanding, analyzing and acting for transparency, accountability and anti-corruption issues.

### **IWA's mission**

The mission of Integrity Watch Afghanistan is to put corruption under the spotlight by “increasing transparency, integrity and accountability in Afghanistan through the provision of policy-oriented research, development of training tools and facilitation of policy dialogue”. IWA works across Afghanistan and in the following five pillars: Community Based Monitoring, Public Service Monitoring, Extractive Industries Monitoring, Community Trial Monitoring and Budget Tracking.

### **About Extractive Industries Program**

IWA will monitor the extractive industries' mechanism founded to assess whether companies comply with the international standard of extraction and commercial production of minerals. The monitoring aims to limit the adverse impact of mining on the environment and social setup. IWA organises different discussion forums with the government of Afghanistan, companies and civil society organisations in order to generate more interest in the sector and take an early and active start in checking deviational steps. It also seeks timely intervention through deliberative process. This process is believed to strengthen natural resource management and to avoid resource conflict. IWA is part of the Extractive Industries Transparency Initiative Multi-stakeholders group.

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## Acronyms

AKDN	Agha Khan Development Network
CSO	Civil Society Organization
EITI	Extractive Industries Transparency Initiative
IWA	Integrity Watch Afghanistan
MoM	Ministry of Mines
NEPA	National Environment Protection Agency
NGO	Non-Governmental Organization

## Executive Summary

Afghanistan is home to numerous confirmed mineral resources that are highly sought, especially iron, copper, chromite, lithium and hydrocarbons. Though the national narrative has been coloured for some time by issues associated with the country's natural resources, the mines discovered in 1970s, along with the recent discovery of huge untapped mineral deposits of cobalt, copper, gold, iron and lithium could elevate Afghanistan to membership among the countries that will witness windfall gains from mineral resources. It has provided international donors with hopes that the country will some day be able to generate its own revenues internally to fulfil its security and developmental obligations. It has sent many into a jubilant mood.

However, there are ample concerns. Integrity Watch Afghanistan (IWA), through this paper, highlights the short- and long-term concerns and brings these before stakeholders and decision-makers for consideration before they award mining contracts for Hajigak or any other major concession in the natural resource sector.

The IWA research team conducted a visit to Hajigak in central Afghanistan to meet people who might be affected by mining operations in the area. Hajigak is shared by Bamiyan and MaidanWardak provinces. It is known for its rich ore body and potential as a world-class mine. The team interacted with local people, community elders, religious figures, and district government officials, workers with non-governmental organizations (NGOs), members of the provincial government, and other opinion-shapers to learn about their views, expectations, concerns and level of awareness in regard to the mines.

The mineral discovery has occurred at a critical time. The government is grappling with corruption, a growing insurgency, and the lack of infrastructure. It is unable to finance developmental projects from internal funding sources. The region immediately around Afghanistan is also in flux: China, India, Iran and Pakistan all share borders with Afghanistan and are involved in resource disputes. They are in competition for influence, and they all believe that Afghanistan is strategic and cannot be left to the control of one actor. All four countries are watchful and scrutinize carefully the moves of the others in the region.

Hajigak represents a major opportunity for the government, all citizens and, especially, local communities. The potential of the veins of iron discovered in Hajigak has charmed investors and is so enormous that the iron could provide the Afghan state with regular revenues for the next century. The benefits of mining will help the government carry out its state-building agenda, gain stability and win loyalty. The exploitation of the Hajigak ore may also generate many development projects through social payments by mining companies, that is, investments in social development.

The population in Hajigak is vulnerable economically. It is exposed to harsh winters, which last for as long as seven months. Meagre harvests consist of carrots, potatoes and low-quality wheat. Agricultural output is often at the whim of the unpredictable forces of nature that are so characteristic of the higher altitudes in Afghanistan.

The land title mechanisms of the region are centuries old. Land has often been inherited over centuries based on ancient entitlement systems. The somewhat difficult and long-term nature of these entitlements underscores the significant effort the government must put into bringing coherence and uniformity and reduce the number of such titles so as to manage land disputes across the country.

Ore exploitation in Hajigak may unleash serious environmental risks. It may threaten already limited, but precious water supplies. It will produce gases that will pollute the air, soil and the glaciers nearby in the Hindu Kush range.

Mr Shahrani, the minister of mines, and Mr Zakhilwal, the minister of finance, have stated their commitment to transparency in the sector as a means to preventing corruption and encouraging optimal output for the benefit of the state. The political will at the ministerial level is apparent, but the capacity to implement it is not. This lack of capacity, combined with reported endemic corruption in Afghanistan, means that the Afghan government will not be able to ensure that Hajigak is well managed and, ultimately, beneficial for the future of the country. There is a need for capacity within MoM for the long term on small to medium size contracts, but outsourcing will probably continue for the big contracts.

There is going to be a heightened level of contention in Hajigak among political parties, which will be struggling to keep the allegiance of the local people. There is a serious concern that new networks of actors will emerge to exploit the natural resources of the country. Experience elsewhere shows that this concern is real. Thus, the civil war that consumed over a quarter million people in Liberia provides a stark example of military-political entrepreneurship driven by a desire to exploit natural resources.<sup>1</sup> Warlords will certainly be tempted to become active in Hajigak and in the sector, and this will be a sure trigger for violent conflicts over resources.

There are 22 companies bidding for the iron concession at Hajigak. Kabul has witnessed high-level visits from Australia, India and Turkey, and there is talk in diplomatic circles of a lot of strings being pulled. The conditions are all in favour of Afghanistan if the government uses the opportunities intelligently. It can increase the life choices of its citizens and may help stabilize the country and promote industrialization and long-term economic sustainability. There are few options for the political leadership but to follow the path of sustainability: recent decades have been too filled with interference by neighbours who have even resorted to blackmail by blocking transit routes to and from Afghanistan. It is imperative to underline that the government cannot and should not wish away civil society organizations (CSOs); they are vital partners in the democratization process in the country.

People familiar with the status of contracts in the natural resources sector have been airing the fear that warlords may seek to invest in the sector as a means to legalize their activities and enjoy their ill-gotten wealth. The most recent contracts awarded to investors are a cause for concern. The mining sector is now too exposed to war profiteers, and the level of interest shown among investors reveals the risk of allowing investors in rather too quickly. There is a

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<sup>1</sup> Heinrich Boll Stiftung, "Natural Resources and Conflict", [http://www.boell.de/downloads/Resources\\_and\\_Conflict.pdf](http://www.boell.de/downloads/Resources_and_Conflict.pdf) (accessed 2 June 2011).



need for the proper scrutiny of investors to assess their capacity and experience in the field before concessions are given. Mining rights in Hajigak need to be awarded in keeping with the long-term interests of Afghan society and the state. It is unrealistic to think that political structures will be immune to undue external influence, but transparency and the presence of civil society in the process will reduce to a minimum the impact of unhealthy forces. Open dialogue and communication with the communities affected by mining operations will erode the space for speculation and suspicion and make it easier for stakeholders to manage expectations wisely.

## Recommendations

The following are IWA recommendations on the procedures that should be associated with the mine concessions at Hajigak. These are explained in detail in the text hereafter.

1. *The mining concession and insulation against the geopolitical trap:* The concessions for the Hajigak iron mine must be decided on the basis of the premiums and revenues the country will receive, but also in light of the likely geopolitical strategies that are being unleashed by regional players.

2. *Political unity:* The decision to award Hajigak concessions must be based on the perspective of political unity in the face of the issues of territorial integrity, respect for the sovereignty of the government, human security and the expansion of the life opportunities and choices of all citizens.

3. *The National Environment Protection Agency and its role:* State agencies such as the National Environment Protection Agency (NEPA) must apply the lessons they have learned from the Aynak contract with China Metallurgical Group Corporation. NEPA must have clear guidelines for Mine Development Plan, Environment Management Plan and Environment and Social Impact Assessment.

4. *Transparency and role of civil society:* The MoM must have clear criteria for determining contract allocation and must publish them ahead of the bid process. The Afghan civil society must be given an observer seat with clear terms of reference. The bid evaluation must be followed by publication of all decisions and the necessary justifications. Civil society can play a role in grievance mechanism by virtue of its contact with the grassroots.

5. *IWA recommends publication of Aynak Contract so that civil society can evaluate its strengths and weaknesses in order to come up with more detailed recommendations for Hajigak.*

6. *Information, compensation and consultation with communities:* Local communities must become well informed about the social, economic and environmental impact of mining activities, and they must be consulted before any contract is awarded.

7. *Independent contract for each mine:* MoM seems to wish to package iron, chromites, coal and lime mining rights and offer the package to prospective investors. However, contracts for

each should be signed independently. The price of chromites is over twenty times greater than the price of iron.

8. *Award area for exploitation proportionate to the capacity of the company.* The amount of the ore body in the contracts should be awarded taking into account the exploitation capacity of a given company. Government must set clear guidance for the ore body with the low percentage of iron.

9. *The Inter-Ministerial Commission must bargain for a smelter in Afghanistan subject to the finding of Environment Impact Studies.*

10. *Reduce the number of land titles to avoid land-related disputes and address the land issues involved in development in light of Afghan legislation, World Bank guidelines for involuntary resettlement and John Ruggie's "Framework for Business and Human Rights".<sup>2</sup>*

11. *Social investment and equality in accessibility: The investing company must ensure that the social investment projects they carry out are accessible and equidistant from all communities in line with the problems of local resources and transportation.*

12. *The investing companies must operate in compliance with John Ruggie Recommendations, Natural Resources Charter, Equator Principles, Sustainable Development Principles, International Councils on Mining and Metals, Extractive Industries Transparency Initiative and other relevant environmental standards. They must also abide by the Afghan laws.*

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<sup>2</sup> World Bank, "Involuntary Resettlement Sourcebook: Planning and Implementation in Development Projects", Washington, 2004. Human Rights Council, "Protect, Respect and Remedy: A Framework for Business and Human Rights; Report of the Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises, John Ruggie", Report A/HRC/8/5 (UN Human Rights Council, Geneva, 7 April 2008).

## Introduction

Afghanistan is home to numerous precious and semi-precious metals, rare earths and hydrocarbons. There are reports of huge reserves of iron, copper, lithium, chromite and hydrocarbons. Among the metals, the exploitation rights to the iron ore deposits discovered in Hajigak are the subject of an approval process for international bidding.

The iron ore deposits at Hajigak are in a natural interface between one of the most pacific provinces and one of the most volatile provinces in Afghanistan today. The ore is located in a mountain locally known as *SiaKoh* (Black Mountain). Its black garb magnifies its majestic aura.

The country has proven mineral potential for investors. The presence of significant mineral deposits in Afghanistan is considered a good omen by many actors in the reconstruction and development of the country, such as the UK Department for International Development, the United Nations Development Program, the United States Agency for International Development and the World Bank, because they could be used to stabilize the security situation and the economy of the country.

However, there is also risk involved, as the experience of Africa has shown. In Africa, resource-driven conflicts have persisted for decades and have led to the death or displacement of millions of people. According to a report of the Heinrich Boll Stiftung, “one cause of the conflict lies in the way in which resources are extracted, how revenues from this sector are distributed and how local population is involved on the decision and development of the affected region.”<sup>3</sup> As the report states, natural resources have been an instrument of warfare in the past and will remain so in the future.

The Hajigak iron deposit has a potential of over 1.8 billion tons of iron ore body at a grade or concentration of 62 percent.<sup>4</sup> Sources at MoM boast that the potential of the iron ore is vast considering the possibility of open-pit mining, which is more attractive among investors because it requires less investment. The mountain, though, is at a high altitude (around 3,800 metres), and this could pose an initial challenge given the absence of infrastructure at the site.

Hajigak is the second large deposit that is being offered to foreign investors. The first mine in Afghanistan that was awarded to a foreign investor is the Aynak copper mine in Logar Province, which has over 11.3 million tons of copper at the ore grade of 1.5 percent per ton of rock, according to a senior geologist at MoM.<sup>5</sup>

The age-old strategic importance assigned to Afghanistan by experts in international relations and military thinkers is strengthened because of the wide occurrence of natural resources in the country. In a changing world order, in which a future centre of power may tip towards Asia, Afghanistan links South Asia and Central Asia, and its natural resources offer a convenient guise

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<sup>3</sup> Heinrich Boll Stiftung, op. cit.

<sup>4</sup> Ministry of Mine, “Minerals in Afghanistan” (MOM, Kabul, 2007).

<sup>5</sup> Ming'ai, Zhang, “3 Chinese Firms to Develop Afghan Copper Mine” (China.org.cn, 23 November 2007).

for emerging international players to seek a presence in this critical geostrategic area. Economic prosperity captures imaginations in developed countries, and Afghanistan's resources are attracting investors.

The initial disinclination of private investors to move into Afghanistan was driven mainly by security concerns. The decision of China to invest in Afghanistan has emboldened other aspiring great powers to venture in through the natural resource sector in a quest to ensure and sustain their buoyant economic expectations. Hajigak, which has been tendered to private investors, has generated massive interest in the international private investment community.

The iron ore at Hajigak offers good opportunities for the government of Afghanistan to generate revenues for its expenditure and development budgets and to shrink the distance between the government and society. The social investment that is supposed to accompany contracts with foreign investors will increase the dialogue between the government and local communities, thereby bringing the government closer to the people. The new employment that will be created because of investment in mining and the associated social investment will help improve understanding about the obligations of the government to its citizens. Investments in the natural resource sector in developed countries have generated activities in other economic sectors, allowing countries to improve hard and soft infrastructure appreciably. This infrastructure has been instrumental in assisting governments in satisfying the needs of its citizens and implementing sound political decisions, which is not easy for the government of Afghanistan today. The new Constitution of Afghanistan was written in light of the current social realities and to help the country transition out of conflict and sustain social order, but it is not yet a respected social document. There is a reason for this shortage of respect: the representatives of the people who went to Kabul to deliberate on the articles of the new Constitution did not engage first with their constituents to discuss and incorporate the views of these constituents on the articles to be enshrined within the Constitution. People who see the new Constitution as a document that does not reflect their interests will continue living by their particular tribal codes.

Investments often lead to social payments (investments in social development) and transparent deals in the natural resources sector. They can open up space for the government to interact more closely with citizens. Schools, clinics, roads, industries, electricity and other, associated sectors bring people and the government together. Social investment leads to social capital (or trust), which often improves the relationship between government and society. CSOs become critical partners in this process by ensuring that interactions lead to more trust among the actors and by highlighting areas for discussion and improvement.

This paper explores the opportunities represented by the Hajigak site and the challenges and implications for the country. The study was deemed critical in light of the stalemate at Aynak that has arisen because of the reactive policies of the government. According to IWA, the government must have a clear list of lessons learned from Aynak to avoid the many mistakes it made in that case. Though, Deputy Minister of Mines said that the MoM is institutionalising and formalising the actions that would result from lessons learnt at Aynak. Some of the activities it has undertaken are:

- Regularisation and publication of Inter-ministerial Commission activities,
- Development of Civil Society – MoM Working Group,
- Establishment of Social Protection Office,
- Regular social assessments of Aynak operations in Logar

The research also contemplates possible policy content and recommendations in developing a culture of inclusive decision-making and in taking the views of civil society into account so that policies have far-reaching positive impacts.

### **Hajigak: the potential and the implications of investment**

The communities in and around Hajigak are inhabited by people who may be categorized in the lower strata of economic well-being according to their level of vulnerability. The people of the region are poor.<sup>6</sup> Farmers use oxen to plough land for cultivation. People have few skills and require assistance in education and skill development.<sup>7</sup> The area experiences seven months of harsh winter and a five-month summer. The harsh climate is adequate only for the cultivation of carrots, potatoes, poor quality wheat and a few other crops. Harvests occur at the whim of the weather. Harvests are small says Nawroz Ali, the representative of the village of PaiKotal in Kalo, the sub-district of Shiber where Hajigak is located.<sup>8</sup> There is no fruit grown in the region, and people cannot afford to have meat. Often, because of a lack of access to vital vitamins and proteins, they suffer from blindness. The local people, according to a doctor at the clinic in Kalo, “suffer from low blood count largely because they do not have access to vitamins and proteins.”<sup>9</sup>

Hajigak Valley is squeezed among mountains that are not easily climbed. The 50 villages in Kalo are scattered, and the land is not flat, making agricultural activities difficult. Residents are dependent on water streaming down from the mountains for their daily consumption and for irrigation. The amount of water is not sufficient for both consumption and irrigation. The people in the area, as in other parts of Afghanistan, therefore share with their co-inhabitants by taking turns in using the water available for irrigation. Ore extraction and the smelter will divert large amounts of the available water in the area, which will affect the livelihoods and the health of the people in the region.

<sup>6</sup> Author’s interview with Faiz Mohammad Saba, NSP Community Mobilizer in Shiber District for the Agha Khan Foundation (AKF), 22 September 2010.

<sup>7</sup> Author’s interview with Abbes Ali Rizwan, teacher at Mehdiya Kalo Madrassa, Shiber, 20 September 2010.

<sup>8</sup> Author’s interview with Haji Nawroz Ali Saifyar, representative of the community of Jafarai, Pai Kotal, Hajigak, 20 October 2010.

<sup>9</sup> Author’s interview with Dr Ghulam Sakhi, at Kalo Health Clinic, Shiber District, Hajigak, 20 October 2010.

The communities have sour memories of the days when the first iron ore was discovered in 1970s. A community representative claims that “the government of the time confiscated some eight *jeerab* [approximately 16,000 square metres] of my land for mining without compensating me and then completely diverted the water for the exploitation of the mine once the Russians came in. The government’s act tore apart people’s safety nets and forced them to relocate.”<sup>10</sup>

However, people are now hopeful that investment in the mine will begin to bring positive changes in their lives. “I am sure the work on a mine will provide us with job opportunities, and we will be able to sustain ourselves better,” said Khan Ali.<sup>11</sup> Mr Saifyar, in a swing of nostalgia, mentioned that “my father used to tell me that the world’s iron reserves will one day be exhausted, and then we can use this mine to make planes and cars.”<sup>12</sup>

MoM has invited private investors to bid for the site at Hajigak, and the local people have heard about it in the news. The mine reportedly has over 1.8 billion tons of iron with a concentration of 62 percent per ton of mined rock.<sup>13</sup> The region is remote, and there is no mining yet.

The project will bring many benefits to the region. The benefits to the state will be in both revenues and an increase in opportunities for interaction with the people. Investment in Hajigak will generate economic activities in the region that will employ large numbers of local people directly and lead to the rise of many other business sectors and economic in-migration. The development of infrastructure will have a multiplier effect.

There are 1,216 families and 6,110 people living in the 50 villages of Kalo.<sup>14</sup> The population is Shia, but there are denominations within this group. There are three main religious communities at the base of Hajigak: the ShiaSadaats, the JafaraiShia and the Ismailia Shia. Historically, the Jafarai held the Sadaats, who are considered direct descendents of the Prophet Mohammad, in high esteem. According to Juma Rasuli who works for the Agha Khan Foundation (AKF) in Bamiyan, there is harmony among these communities.<sup>15</sup> There have been small disputes over water and land, but they have been resolved amicably by community elders.<sup>16</sup> Nonetheless, decades of war, the changes in government and, now, the desire to build local voting constituencies have disturbed the old hierarchy and social order.

The Shia political leadership in Kabul is now actively seeking to establish new hierarchies in light of political developments. Traditionally, the Sadaats often led the rest of the JafaraiShia politically and provided them with leadership, but there appears to have been a change. The majority JafaraiShia are contesting the minority Sadaats, who used to enjoy advantages by virtue of being Sadaats. Those who fought during the early 1980s and led the resistance would like power as much as the Sadaats. This is reflective of the new order that has been brought

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<sup>10</sup> Author’s interview with a community representative who requested anonymity, 23 September 2010.

<sup>11</sup> Author’s interview with Khan Ali, village of Khwarzar, Maidan Wardak Province, 23 September 2010.

<sup>12</sup> Interview with Saifyar, op. cit.

<sup>13</sup> Ministry of Mines, “Hajigak Iron Deposit”, MoM, Kabul, <http://mom.gov.af/en/page/1382> (accessed 4 April 2011).

<sup>14</sup> Information provided by Shiber District governor’s office 22 September 2010.

<sup>15</sup> Author’s phone interview with Juma Rasuli, regional administration officer working with Agha Khan Foundation in Bamiyan, 22 February 2011.

<sup>16</sup> Author’s interview with Abbes Ali Rizwan, teacher at Mehdiya Kalo Madrassa, Shiber, 20 October 2010.

about by intervention. In a clear departure from the approach of the past, when leadership was determined based on fighting against an enemy, the fight now is over seats in the *WolusiJirga*, the lower house, and the *WalyatiShura*, the house of representatives at the provincial level.

The Ismailia are the disciples of Prince KarimAgha Khan. The Agha Khan Foundation is among the leading CSOs that are present in the area. Among the six villages, the JafaraiShia are the largest population segment, followed by the Ismailia. Some Sadaats are also living in Kalo sub-district.

### The estimated population in the six villages in Hajigak

<i>Name of village</i>	<i>Religion</i>	<i>Families</i>	<i>Population</i>	<i>Province</i>
Jaw Qol	Ismailia	10	140	Bamiyan
Nawrak	Jafarai	10	150	Bamiyan
PaiKotal	Jafarai	20	150	Bamiyan
Hajigak	Ismailia	20	120	Maidan-Wardak
Dawar	Jafarai	25	160	Maidan-wardak
Khwarzar	Jafarai	20	140	Maidan- Wardak

Source: Data compiled through interviews with villagers in Nawrak, PaiKotal and Hajigak, 20 October 2010.

The villages on the Bamiyan side of Hajigak have access to potable water, standard schools both for girls and boys, kindergartens, clean and well-equipped clinics, and hydropower, as well as solar electricity. The villages enjoy commendable cohesion and good structure and coordination. All villages in Kalo have access to electricity and television channels, including popular Hindi soap operas. They enjoy access to Iranian news channels.

The communities have complained that the schools do not have sufficient qualified teachers and that the clinics are run with the help of persons trained as nurses and doctors assistants. The standards of the clinics and schools are, however, higher than some in urban areas.

Enlightened community members are able to articulate their needs. They say: “we are an agricultural community, and we need training and help in this sector to benefit more rather than in areas where we need to start from scratch.”<sup>17</sup> They think investment would bring them lots of opportunities for business and employment, as well as infrastructure projects. Rizwan, one of the teachers at the JafaraiMadrassa, said that there are schools both for girls and boys, but they need more women teachers.<sup>18</sup>

<sup>17</sup> Author’s interview with Abbes Ali Rizwan, teacher at Mehdiya Kalo Madrassa, Shiber, 22 October 2010.

<sup>18</sup> Interview with Rizwan, 22 October, op. cit.

Communities on the MaidanWardak side of Hajigak feel that they have been left completely out of the AKDN agencies' benefit schemes. The main reason for this is the area-based approach of these agencies, which limit their intervention to Bamyan province. The village of Hajigak has 20 households, but they do not have electricity, a clinic, a school, or potable water. The IWA team found that the local wheat harvest was of inferior quality. Bakhtiri, an elder in the village of Hajigak, complained that "there are 20 families living in our village, but we are vulnerable. There is only 1,300 kilograms of wheat from the whole 20 jeerab of land [approximately 40,000 square metres]."<sup>19</sup> There was one poorly built school in the village of Khwarzar, which was the most remote of the three villages in the area. There was no sign of NGOs. The Kabul office of AKF said it had no projects on the MaidanWardak side of Hajigak.<sup>20</sup> However, the Ismailia Council in Bamiyan had projects on the MaidanWardak side, and they were being given support by the AKDN agencies in Bamiyan.<sup>21</sup> The village of Hajigak was under resourced.

### The landholding mechanism in Hajigak

Land titles in the area are held mostly by inheritance through *urfiqawala*, *sharheeqawala* and *malyati* entitlements. Urfi entitlement is a customary property deed (*qawala*) system that has been reorganized by the government. Sharhee entitlement is a government-recognized property deed that gives the holders of the documents the right to sell their land possessions as they wish. Malyati entitlement was put in place five decades ago. It was a system of collecting land tax from people who cultivated land in remote parts of the country for centuries, but had no sharheeqawala. The government would sometimes impose a nominal tax (*malyati*) on the land. The receipt given to farmers in return for the payment was recognized as documentation of the right to cultivate state land. Now, the tax payment slips themselves are considered legitimate land title documents in rural areas.

Article 9 of the new Constitution transfers all archaeological sites and mine-bearing land to the state. It does not, however, guide the government on how to deal with traditional landholding rights, such as malyati or inheritance that does not involve documents. The Afghanistan Research and Evaluation Unit, in its study on land-related conflicts, says in its findings that "the highest frequency of disputes concerns property ownership rights: inheritance and land occupation are the most common sources of dispute."<sup>22</sup> Land will remain a source of dispute in

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<sup>19</sup> Author's interview with Bakhtiri, village of Hajigak, Maidan Wardak Province, 22 October 2010.

<sup>20</sup> Angela Padellia, Manager for Civil Society Program of the Agha Khan Foundation, response to author's question through an email on 2 May 2011

<sup>21</sup> Author's phone interview with Juma Rasuli, regional administration officer working with Aghan Khan Foundation in Bamiyan, 4 April 2011.

<sup>22</sup> Deschamps, Colin, and Alan Roe, "Land Conflict in Afghanistan" (Afghanistan Research and Evaluation Unit, Kabul, April 2009).



most areas if it is confiscated in the name of the public interest unless the government draws the appropriate lessons from the Aynak case and provides coherent, uniform guidance.<sup>23</sup>

The drafting process for the Constitution looks now to have been bereft of the required deliberation and consultation between representatives and their constituents. The Constitutional *LoyaJirga* seems not to have taken into account the interests of the people on whose behalf it took part in the process. Communities across the country sent their leaders to participate in the process, but consultations were not held with these constituents. Covert resistance to the seizure by the government of community land in SeesoTangai, KozChinarai, Bar Chinarai, Adam Kaley, Walikaley and in Aynak should provide the government with yet another opportunity to consult with people to resolve the issue and project itself as a protector of the rights of the people.

### **The government's preparedness for investment**

Scrutiny of the government's actions shows that the government must enhance its capacities in several areas before the Hajigak iron ore deposits go under the hammer. IWA is concerned about the timing of the invitation for more investment in the minerals sector given that the government is dwarfed by its responsibility to carry out the regulatory obligations mandated by law. The director of inspection at the MoM has said that there is a "deficiency in capacity and tools to carry out our job in remote rural areas." Most of the staff at MoM lack capacity; many who were trained during the Soviet period have not had the opportunity to update their skills and knowledge.<sup>24</sup> The Inspection Department is responsible for collecting production data from companies, checking on mining activities and reporting widely on inconsistencies. A former senior staff member of MoM, now retired, said that MoM staff are susceptible to corruption by companies that pay cash if the data in the reports on production are manipulated.<sup>25</sup> The issue of corruption and incompetency were flagged by yet another senior MoM official, who said many sites are illegally exploited by local strongmen who have agreements with people in the government.<sup>26</sup> IWA also has documents indicating that mines are being exploited illegally. Yet, there is inconsistency in government reporting, and relevant departments within the line ministries have failed to take timely and appropriate action.

The current minister of mines, despite measures that have been adopted to promote transparency and his vision for turning MoM into a model ministry, is somehow not allowed to work towards these objectives. Some departmental heads should be subjected to in-depth

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<sup>23</sup> In Aynak, the land compensation issue has locked the state and local society in a stalemate because the people with claims to land lack documentary evidence. This will occur in Hajigak as well.

<sup>24</sup> Author's interview with the director of inspection, MoM, 1 April 2010.

<sup>25</sup> Author's interview with a former senior member of government who requested anonymity, Kabul, 12 January 2011.

<sup>26</sup> Author's interview with a senior member of government who requested anonymity, Kabul, 18 February 2011.

assessments to ensure their commitment to the goals of transparency. Middle-level MoM officials, specifically people appointed by past regimes, are resisting change and are hidden from the CSOs that are following the actions of the government in the mineral sector. This helps entrench corruption and will lead to massive losses by the state and society. For example, contract secrecy has fostered the renegotiation of contracts that companies consider unfavourable; royalties are reduced; immunity is extended to companies in violation of United Nations Human Rights Council standards that the government and companies are obliged to follow in their decisions and operations. Ignoring civil society's pleas for information often results in underpayment of royalties and violations of the terms of contracts. An example of the lack of the capacity of the government to oversee the mineral sector adequately is the case of the mine in Khost and Logar where chromites are being extracted illegally.<sup>27</sup>

The capacities of MoM are being enhanced through a programme that involves training conducted by an experienced team of foreigners. As of 2011, two of the three years of the training programme had been completed.<sup>28</sup> Afghanistan has a huge mineral potential, and MoM is gearing up the capacities of its departments to carry out various functions that are now being outsourced. However, outsourcing bid tendering and bid packaging for large scale mining investment for the sake transparency and international best-practice would continue for a long time. We deem it necessary to also develop capacity of bid tendering and bid packaging for small and medium size mining investment contract internally in the long-run. Minerals represent the only resources that could help the country pull out of its dependence on charity and donations. Minerals offer a good economic prospect, and MoM needs to prepare its staff to fulfil its responsibilities. This could save tens of millions of dollars every year. Indeed, neither NEPA nor MoM has the capacity even to perform independent environmental and social impact assessments in potentially rich mining areas of the country.

The decades of conflict in the country and the government's current engagement with an active insurgency have clearly had a negative impact on the growth of a vibrant private sector, including the ability of a local private sector to tap into the economic spillover in mining. The government has initiated measures such as resource corridors besides workshop for business houses to highlight opportunities, but it is primarily benefiting the businessmen rather than ordinary Afghans. The government can play a positive role in increasing the competence of local businesses so as to foster the emergence of local industries that are associated in mining. Yet, it must consider the common and vulnerable Afghans within the benefit schemes. Some of the industries that would accompany a mining project are transportation, catering, lodging, mechanical services, education, health care, construction and technical staffing. The government, with the help of investors, should analyse the needs and identify the industries that can emerge locally as a result of mining projects. It should share this information with the local private sector and support the sector in marshalling skills and resources to benefit from these opportunities. The government and the Afghan Chamber of Commerce should also now undertake the development of public-private partnerships.

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<sup>27</sup> Author's interview with a businessman from Khost who requested anonymity, Kabul, 23 January 2010

<sup>28</sup> Author's interview with Jim Skinner, the head of the MoM training team, Afghanistan Geological Survey, Kabul, 15 December 2010.

Investment in the sector would have several positive and negative outcomes, and the choice of policies by the government will influence the changes that result from mine exploitation. The exploitation of mines carried out according to international norms and practices and with the consent of the elected government and the concerns of the CSOs taken into account may generate many activities that promote peace, thereby eroding the fear among the people. Investment in large mines often involves the commitment of investors to participate in social development, such as activities favouring the wider coverage and higher quality of schools and universities, hospitals, roads, electricity supply, telephone distribution, radio stations and recreation. These all represent opportunities for interaction and dialogue among the various actors through activism and discourse to bring about more balanced relationships and a better distribution of benefits.

The Afghan government must award the rights to the Hajigak mine on behalf of the Afghan population. It must demonstrate the character to be as transparent as possible during all the related processes, including the publication of tenders, the opening of bids and the evaluation of each bid in the presence of multistakeholder groups consisting of the government, members of the Wolusijirga, communities and CSOs. This culture of transparency will have a positive effect on the country and the people because it will narrow the space for corruption that is generally associated with such evaluation processes.

In fragile states, the exploitation of mining has often led to social unrest and protracted conflict that consume the limited resources. These outcomes should alert the Afghan government to the need to steer clear of the pathways that have led other governments to conflict and dependency. There are sufficient models among other Third World countries that the Afghan government can follow in undertaking the development of a national natural resources sector so as to generate maximum revenue, feed other vital economic sectors and help diversify the economy.

### **Environmental threats**

The valley that bears the iron ore is beautiful. Hajigak Mountain stands tall and gazes down towards meadows on all sides. Numerous streams join the river that, in its course, merges into Shiber River at Kalo. The land available in Kalo is not sufficient for a steel refinery. The nearest possible point for building the plant is the Onia Desert, which is also in Bamiyan Province. Iron smelting requires abundant water. However, the quantity of surface and underground water is not large at the location. The region possesses small streams that the local people currently rely on for household and agricultural uses. The water of Kalo River would not be sufficient to supply huge steel smelters. Moreover, steel smelters would expose the river to pollution unless the government can identify and enforce clear measures to protect the river. NEPA is too small and lacks the capacity and oversight capability to ensure that the environment is not

threatened. NEPA is supposed to make basic data on Hajigak available during the evaluation of company bids.

The high altitude of Hajigak reduces the possibility of locating a smelter in the area because of the environmental hazards a smelter would pose to the glaciers and water resources of Kohi Baba, according to Dr John Schroder, professor of geography and geology at the University of Nebraska, in Omaha. He offered his expert views through a personal communication (dated 8 May) and added that “planting a smelter should also be done with full knowledge of the dominant wind directions so that they can reduce local contamination and air pollution as much as possible near where people live.”

### **Economic implications**

The economic benefits of investment in the Hajigak mine arise in three areas: local, regional and national. To increase the benefits and improve infrastructure, the Afghan government must impress upon prospective investors the need to establish smelters within the country and then supply the product to local and international markets. The rationale is simple: finished steel is cheap in the international market, and Afghanistan can obtain the best value from royalties and other benefits if the steel is produced in the country. Smelters in the country will expand employment among the local labour force and create opportunities for associated industries and services such as transportation, hotels, mechanical services, restaurants, and so on.

### **Local impacts**

There will be local economic spillovers because of mine investment. A steel smelter would lead to the involvement of many people in constructive economic activities. A plant for finished products would lead investors to help improve infrastructure and the associated facilities and participate in social development to ensure smooth production and transportation. If the government can manage to make investing companies commit to the sort of social investment the China Metallurgical Group Corporation has promised, local communities will be transformed positively within a short time. People will have access to health care, better links with the outside world, electricity, water, telephone, Internet, and education.

### **Regional impact**

Mine operations in Hajigak will make the district and region more attractive. The number of opportunities that accompany such an investment will cause people to seek employment with the project and cater to the project. Related small and medium enterprises will flourish. The

project will be a source of new skills and healthy competition in the region. It may increase interaction among different groups and help bind them in a relationship of interdependence.

### National impact

The government will enjoy multiple benefits from investments in Hajigak. Investment will lead to social expenditures, besides the most obvious benefit: the significant revenue to the state in the form of royalties. The fulfilment of the government's obligation towards its citizens to provide social services such as health care and education, as well as employment, will be assisted by the companies that invest in the mine. The government has not been able to provide social services and employment to its citizens because of a lack of resources. Investing companies often help develop local communities by carrying out projects to build or improve health clinics, schools, roads and the supply of electricity and water. This offers the government an opportunity to interact with the most vulnerable citizens of the country, who may be won over to form a cornerstone of stability and social order in the area.

There are uncertainties about the possibility of locating a steel smelter in the region, according to Jim Skinner, senior MoM mining expert, because iron extraction requires substantial high-quality coke, and Afghanistan has no proven reserves of this resource. However, a retired geologist with 36 years experience in mining has stated that there are over 11 million tons of high-quality coke in DaareSuf coal mine and that there are numerous other sites in the north that can provide sufficient coke for the final production of steel products.<sup>29</sup> This claim was confirmed by another senior Afghan geologist, who said that the coal in DaareSuf, Hashtpushta and Kletch all have over 7,500 calories and can therefore be turned into coke.<sup>30</sup> This news represents significant political support for the location of the steel smelter in Afghanistan. The author, in conversations with the minister of mines during the fifth global conference, "Transparency Counts", of the Extractive Industries Transparency Initiative (EITI), in Paris at the beginning of March 2011, noted that the minister said MoM would seek a smelter within the country. The minister also said that he would package the chromite mine in Logar and the coal mine in DaareSuf with the iron mine in Hajigak in the tender. It is certainly a healthy development to seek smelters in the country because this will help keep many economic benefits at home.

However, there are three main concerns that require detailed attention. The first regards the merging of the contracts for three mines into a package. If the government offers Hajigak, chromite in Logar and coal from DaareSuf through one contract, the focus will primarily remain on the iron, and the two other mines—the chromite mine and the coal mine—are likely to be assigned at a cheaper rate. This scenario will probably give the bidder an important leverage to get chromite and coal at cheaper rate.

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<sup>29</sup> Author's interview with a retired MoM official who requested anonymity, Kabul, 2 January 2011.

<sup>30</sup> Author's interview with a senior MoM official who requested anonymity, Kabul, 23 February 2011.

The Afghan government must make sure that it gets the best deal for each of the resources. The contract for three resources, namely, iron, chromites, and coal together should all be independently negotiated at the best possible royalty rate because chromites are expensive, and the government must exercise prudence so as to sell the mines at the going international rate.

The second issue is related to the contract concession to bidding companies. The confirmed estimate of the size of the iron ore deposits at Hajigak is 1.8–2.2 billion tons of rich iron. One company cannot exploit the site fully, and, thus, there is a chance that more than one company will win the right to exploit the site. As the guardian appointed by the Afghan Constitution, MoM must assess the extraction capacities of each potential entity and award the rights on that basis. For example, if a company states in its mine exploitation plan that it can extract a million tons of iron annually, it must be given a site that contains a million tons multiplied by the number of years in the contract; it must not be given an unlimited area. This approach will save a lot of resources. Sources within MoM assert that Hajigak is divided into five blocks and that each block would be exploited in a sustainable manner.

The third issue is the ore body. What will be the lower bar for the exploitation of the ore? For example, the company may say that it wants to exploit a site that has a larger amount of 20 percent iron. What do we then do about the ore that has a grade less than 20 percent? The current technology and the depletion of iron ore across the globe call for the proper preservation of economically less viable ore now for possible future use.

Afghanistan will attract investors aiming at more than one area. This will, in turn, generate opportunities for the government to manage and diversify the economy with forethought. Economies are more sustainable if they depend on a balanced blend of the agricultural, industrial and services sectors. The policy planners in the country need to keep this balance in diversification in mind when they begin receiving the revenue from the mineral sector. Suspicion, fear and interference from the neighbourhood over the past five decades has made Afghanistan a hostage. Afghanistan's vulnerability and exposure to blackmail by neighbours can only be addressed through self-sufficiency, at least in critical sectors. A knowledge-driven economy would create the potential to ensure this objective.

Afghanistan has agreed to implement the EITI. The crux of the process is to promote transparency in the revenues from natural resources. The EITI process leads to a larger debate about the minerals in a country. It also focuses on the prudent use of natural resources and promotes good governance in the sector.<sup>31</sup> The commitment to the EITI process by the government gives ample space to political figures to spearhead a debate, in tandem with CSOs, on natural resources and the need to achieve healthy governance standards. The achievement of EITI compliance will enlarge the discourse on contract concession and revenue spending. This would become a key to a future transparent system in the sector, which is both critical and urgent.

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<sup>31</sup> Extractive Industry Transparency Initiative, "The EITI Principles and Criteria", EITI, Oslo, <http://eiti.org/eiti/principles> (accessed on 24 April 2011).

In the region of Hajigak, like so many rural areas of Afghanistan, the roads are rough and primitive. They zigzag close to the mountains. The iron ore body is in the form of a high mountain that will require proper access roads. The transportation of iron from the site will be a major challenge. It will require a rail link, conveyor systems, or a pipeline to move the ore slurry. The region does not have a sufficient supply of electricity for industrial activities. The mining operation would demand a huge amount of electricity.

The Chinese have agreed to build a railway line to transport copper from Aynak in Logar. This represents a good opportunity for the government to exert pressure on the railways to link the various critical mines in the country. Such an effort, if successful, would raise the chances of investment in the sector, while integrating the country and providing room to promote greater social order.

## War profiteers

The natural resources sector has generally remained safe from indigenous war profiteers largely because they do not yet seem to have the skill to exploit it. Nonetheless, they have already entered small- and medium-scale legal and illegal exploitation in a major way across the country. They possess a major network that influences decisions at critical levels.<sup>32</sup>

There have been flagrant violations of Afghan sovereignty by many foreign entities that have established direct contacts to get regional warlords, powerful men and political parties to carry out their wishes in political and military matters. This trend, if continued, will be pursued in economic affairs as well. It may threaten the gains that have been achieved over the last decade at the cost of much blood and money.

Experts have aired a certain amount of scepticism about the rapidity with which the QaraZaghan mine in northern Baghlan Province was awarded.<sup>33</sup> An Indian company that bid for rights to the site was turned down without a fair chance.<sup>34</sup> Sources said that up to 1.5 kilograms of gold was the weekly output from the QaraZaghan gold mine before the Taliban captured the area and transported all the machinery to Kandahar in the 1990s.<sup>35</sup>

A contract for an oil field has been given out in Sar-e Pol Province without a prior assessment of the capacity of the company making the selected bid. IWA sources say the company does not have the technology required, is unwilling to invest in the equipment to separate water and other impurities from the oil and has therefore not exploited the field according to the agreed

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<sup>32</sup> Author's interview with a senior MoM geologist who requested anonymity, Kabul, 23 February 2011

<sup>33</sup> Nichols, Michelle, "Afghan Gold Mine Deal Brings Foreign Investment", Reuters, 10 January 2011, <http://af.reuters.com/article/metalsNews/idAFSGE70907820110110>.

<sup>34</sup> Author's interview with a mine analyst who followed the contract and who requested anonymity, 31 January 2011.

<sup>35</sup> Author's interview with a government employee who requested anonymity, Baghlan Province, 28 February 2011.

plan. MoM calls the agreement another feather in its cap, but the rapidity with which the contract was signed away from the scrutiny of CSOs increases the chance of underhanded transactions and corruption. However the most recent decision by the MoM says that Angot oil field in Sar-e-pol will be packaged with Amu Daria and would be offered to potential investors.

According to IWA's sources, the chromite deposits in Khost, Ningarhar and Logar are being illegally exploited by a well-connected network that is managed from Kabul.<sup>36</sup>

Serious questions have been raised by sources on the ground and by international experts about the way the Sabzak coal mine in Herat Province is being exploited and about the way royalties are being paid. Sources say that the company has extracted 170,000 metric tons of coal, but pays royalties on only 40,000 metric tons.<sup>37</sup> If true, this is a turning point in the modus operandi of profiteers, who are now making their ill-gotten wealth through investments in natural resources. The fear that payments are being made to form an electoral alliance to facilitate agreement on mineral concessions is palpable. However, in response to IWA's request on the 5<sup>th</sup> of June, during the Multi-stakeholders group meeting, the Minister of Mines said that MoM will maintain production data.

Sources following the contract negotiations on the natural resources of the country have expressed trepidation. They say that many more contracts have been applied for by warlords and that there is a good chance the warlords will succeed. World Bank officials have expressed concern at the way small contracts have been signed away.

Any mine is a natural entity that can provide war profiteers an easy foothold. This is particularly the case if the local environment includes a blend of unaddressed concerns, fear and serious myths about the effectiveness of the government (see elsewhere below).

### **Intensified political contrast**

The country has been through decades of incessant turmoil. Conflict has disturbed internal harmony. Warfare has torn apart the moral fibre of society. The politicization and ethnic subjectivity of statecraft hold unity and the polity hostage. Neighbours have given free rein to intense and flagrant interference in the country's internal affairs. This has all stalled the incorporation of Afghanistan into the international community.

The changing strategic equation in the world appears now to favour Afghanistan. The abundance of the country's mineral resources is increasing the chance that Afghanistan can reap a better deal. However, this will depend on good government policy-making, rational resource development plans and the pragmatic awarding of contracts to investors.

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<sup>36</sup> Interview with a senior MoM geologist, 23 February 2011, op. cit.

<sup>37</sup> Author's interview with a senior member of government who requested anonymity, Kabul, 2 January 2011.



Many people in the communities in Hajigak, like so many other people across Afghanistan, have been forced to take refuge in neighbouring countries. There is a silver lining. Decades of migration have exposed Afghan refugees to other systems of governance. The people in Hajigak speak often of the Iranian model as a viable one. This is probably because the spiritual sources of guidance of the communities are in Iran. Progressive people in Hajigak now say that investment in mining could bring benefits to the communities. They consider the presence of mines in the area as a blessing that will improve their chances of finding employment and lead to better infrastructure, including in education, and the integration of Afghan communities into a larger world. As a villager on the MaidanWardak side of Hajigak confesses, "I am sure the work in mining will provide us with job opportunities, and we will be able to sustain ourselves better."<sup>38</sup> Another community member aired similar views, saying, "we are happy to hear that at last the government is going to allow investment in the site, and we will certainly benefit from it. We will get better jobs, roads and clinics."<sup>39</sup> Interviews and group discussions with women in the villages revealed the joy of obtaining better employment opportunities, infrastructure, more schools and health care, but also the fear of losing land, of relocation and of environmental hazards.<sup>40</sup>

The communities, though, have not yet witnessed much development, except in education, but people are hopeful. They believe that, in the long run, development will come to the region, and they perceive the government as an entity that can bring them benefits. Expectations have been rising. Juma Mohammad, head of *Shura* (a consultative body) in the village of GharGhara, said, 'we really look forward to investment in the area, and at least we will get better roads. It may lead to a railway link as well. We will also get employment.'<sup>41</sup> There is a clear opportunity for the government to extend its popularity among people who have traditionally felt deprived of funding and support.

The government can insert terms in the contracts that could promote people's integration with the rest of Afghan society and provide a platform to allow integration to seep into the local mindset through constructive programmes and projects. This will help ensure a positive image of the government among local people and thus advance the socialization of the rules and laws of the state.

Bamiyan is a peaceful province. There are four major political groups representing the Shia population: *WahdatIslami*, led by Ustad Mohammad Mohaqiq; *WahdatMardomi Afghanistan*, led by KarimKhalili; *HarkatIslami*, led by Sheikh AsifMohsini; and the *Ismailia*, the spiritual leader of which is MansoorNadiri. Dr SadiqMudabir is another political stalwart who intends to tap the Shia vote.

The Shia population across Bamiyan Province could become the subject of intense competition among these political entities. UstadMohaqiq, KarimKhalili and Sheikh AsifMohsini will contest the Jafarai constituencies, and MansoorNadiri has his own undisputed constituency, the

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<sup>38</sup> Interview with Khan Ali, op. cit.

<sup>39</sup> Author's interview with Sharaf Ali, a caregiver at a local school, Jaw Qol, Kalo, Shiber, 23 September 2010.

<sup>40</sup> Author's interview with Mahjan, a woman community member, Pai Kotal, Kalo, 21 September 2010.

<sup>41</sup> Author's interview with Juma Mohammad, head of Shura, village of Ghar-Ghara, Kalo, 21 September 2010.

Ismailia. The population of the region is a mixture of Ismailia, Jafarai and Sadaats among the Shia, but the clinics and schools and a hydro dam are all located in an area populated by the Ismailia. AKDN agencies also undertake beneficial schemes among other local population groups, as their area-based approach does not target any particular group. Some of the skills and training imparted by AKDN agencies are in agriculture, education, cooperative financial schemes, vocational training, leadership, financial accounting, wool thread-making and the drying of vegetables.<sup>42</sup> For instance, FOCUS Humanitarian Assistance that is an agency of the AKDN gave 20 sheep each to Ismailia families in the region several years ago.<sup>43</sup> Today, each family has up to 80 sheep.

The bidding for the iron mine could take the political contest to a higher level. The parties might project themselves as advocates of people's rights and welfare to solidify their positions in the local polity. There appears to be room for debate over the benefits to communities. Shia leaders may all seek to represent the interests of local communities in a quest to ensure they obtain more votes during elections.

There is a risk if investors attempt to gain influence through local strongmen. This may awaken inter-factional competition. Moreover, it would bypass the government and, thus, show unnecessary disrespect for the sovereignty of Afghanistan.

There are 22 companies bidding for the mining rights in Hajigak. Of these, 15 are based in India, two in Iran and one each in Australia, Canada, China, Turkey, the United Kingdom and the United States.<sup>44</sup> This might be described as a clash of the titans. There are intense diplomatic consultations and secret visits to cultivate actors who may influence the final decision of the Inter-Ministerial Committee. Anonymous but reliable sources within diplomatic and government circles have told the author of high-level visits by representatives of the countries interested in the mine. The Indian foreign minister visited early in the year, followed by a visit of the Indian prime minister and a pledge of US\$500 million for the development of Afghanistan. A minister in the government of Turkey made a visit and promised to help MoM. There was a ministerial visit from Australia, with more funds promised to MoM, along with five scholarships. Given that Australian companies are participating to the bid, these government visits should be accompanied by public and transparent commitments.

The government and the state would reap rich, long-lasting benefits by allowing local communities to have a voice during the lead-up to the signing of contracts. One of the best ways to involve the communities is through information sharing and consultations with the communities so as to take their views and needs into account. Informed communities have been active and helpful in the implementation of contracts and in guaranteeing smooth, responsible mining operations elsewhere.

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<sup>42</sup> Interview with Saba, *op. cit.*

<sup>43</sup> Email response from Rebecca Haines, Deputy Director Policy and Partnership of AKF, 20 August 2011. In an earlier version of this report, we stated that this aid was provided by AKDN on the basis of information provided by AKF official in Shibar and the local beneficiary community members.

<sup>44</sup> Najafizada, Eltaf, and James Rupert, "Tata Steel, JSW among Firms in Race for Afghan Iron Ore", Bloomberg, 18 January 2011.



## Social impact

Kalosubdistrict contains numerous lofty mountains that are sometimes intersected by deep valleys through which travellers often pass. The rugged geography used to represent a natural protection against outside aggressors, but it has also isolated the subdistrict from development. The roads now running through the valleys are bad.

The 6,000 residents in the area share two clinics, where doctor assistants and nurses examine patients. Though there are NGOs active in the area, the local people feel that their work is not in just proportion to the amount of money committed to the country. A survey carried out by the Asia Foundation found that “varying levels of awareness of development projects across regions suggests that there is a heavier concentration of donor-assisted development projects in certain areas of the country, particularly the East, while other regions, especially the Central/Hazarajat and to a lesser extent the North West, are less aware of development assistance”.<sup>45</sup>

## Intercommunity relations

Intercommunity relations are calm on the surface, but there are certain problems. Community members talk of harmony among the communities, and there is no major dispute among the three communities. However, historical differences exist. Moreover, the location of the clinics, the kindergarten and school, and the hydropower generators has created apprehension. Observation during the IWA field visit showed that most projects had benefited some communities more than others. This practice will result in asymmetry and possibly foster discontent and social unrest. In undertaking social investment for the benefit of the communities, mining companies cannot afford not to heed the local dynamics.

## Findings and analysis

Hajigak must take a greater place in our collective imagination, especially because of the intense interest shown in the site. The Hajigak iron mine can become a jewel of Afghanistan. Now, the big regional powers and Western companies have converged in large numbers to bid for rights to the mine. Investment in the mine will be a source of long-term revenue for the

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<sup>45</sup> Tariq, Mohammad Osman, Najla Ayoubi and Fazel Rabi Haqbeen, Afghanistan in 2010: A Survey of the Afghan People (San Francisco: Asia Foundation, 2010).

state. The private investors who are competing for the deal have the strong support of their respective governments. Massive media interest in the mineral sector of Afghanistan has been triggered because of the country's geostrategic importance and the economic bridge it represents in the region.

The future Hajigak iron mine offers a great opportunity beyond the financial benefits to the government, including the social investments of the companies that gain the rights to the mine. The communities in Hajigak are vulnerable and are reluctant to pledge their loyalty to the state because of past government policies. The social investments will provide a chance for the government to interact more positively with citizens and reduce the huge gaps in development.

The Afghan government today lacks the capacity to regulate large-scale mines; however, staff in critical departments, such as Inspection, Cadastre, and the Afghan Geological Survey, is undergoing training to improve their skills. There are concerns. Current MoM employees say the heads of some departments are openly practicing nepotism by sending relatives for training, despite MoM implementation of the pay and grading merit based hiring system.<sup>46</sup>

Because of the interest in tapping into Hajigak, the regional equation has already been readjusted, and new alliances and new transnational mergers should not be ruled out. A major concern is the lack of transparency in the bidding process and the exposure of important state actors to political and diplomatic manipulation, besides the political manoeuvring to retain the loyalty of the local communities. Another major concern is related to land compensation and the resettlement of the people who are going to have to make way for the mining operations. In Aynak, the government is moving at a snail's pace, and there is no resolution in sight. There seems to be no provision in Afghan law for citizens to sue the government in the event of a disagreement.

Large-scale mining is often accompanied by opportunities for associated small and medium enterprises. There are economic spillovers and significant revenue streams involved, and the government must identify them and prepare the private sector to benefit from them. Through mining contracts, the Afghan government has another opportunity to diversify the economy so as not to depend entirely on the mining sector for revenue. To ensure transparency, the Afghan government should be encouraged to publish openly all mining and associated contracts, which CSOs believe should be signed on behalf of Afghans for the betterment of Afghans. This will promote a new culture of openness that will have rewards in the long term for the country as a whole.

The mining sector is now too exposed to war profiteers, and the level of interest shown by investors indicates that there may be a temptation to allow investors in rather too quickly. The most recent contracts awarded to Afghan investors are a cause for concern. The rights to Hajigak need to be awarded in keeping with the long-term interests of Afghan society and the state. It is unrealistic to think that political structures will be immune to undue external influence, but transparency and the presence of civil society in the process will reduce the influence of unhealthy forces.

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<sup>46</sup> Author's interview with a senior MoM official who requested anonymity, Kabul, 13 January 2011.

The iron mine is disputed among emerging regional and global powers. Despite all the talk, the key to the contract is the government, which can bring the best results home if it acts with integrity to permit people to exercise their choice. Transparency will help avoid scandal and the subsequent ignominy.

## Recommendations

IWA feels that the government must study the lessons learned from the Aynak contract so as to avoid the many mistakes in that case. In pursuance of this objective, IWA proposes the recommendations below to all stakeholders.

The potential of the Hajigak iron mine offers statesmen in Afghanistan the chance to replace old ways of thinking with loyalty and a feeling of ownership among the people with respect to the government. The concerns of the local communities must be weaved together with national needs to expand people's choices and address their vulnerabilities through the mining contracts.

### Recommendations: the government and the International Security Assistance Force

1. *The mining concession and insulation against the geopolitical trap:* The concession for the Hajigak iron mine must be decided not only on the basis of the premiums and revenues the country will receive, but also *in light of the likely geopolitical strategies of regional players*. The country's territorial integrity, which is under threat, must be considered. The concession must also be awarded under terms that are driven by the economic benefits accruing to the various provinces. Economic interdependence and industrial integration were important in the recovery of Europe after World War II. The investment in the iron mine could also help in the economic integration of the region by replacing old security dilemmas with new opportunities for cooperation and development.

2. *Political unity:* The decision to award the Hajigak concession *must enhance political unity, territorial integrity, respect for the sovereignty of the state, human security, and the expansion of life opportunities and choices for citizens, and it must enshrine a serious commitment to social development* by turning natural resources into national wealth. The current political quagmire may have an adverse impact on the contract. The government needs to consult senior political leaders at the national level and in the provinces to explain the benefits of the projects and to take their concerns into account before awarding the contract. It will thereby insulate itself against manipulation and undue influence. It is imperative for the government to keep the national interest, security and prosperity as the focus of the discourse and reach a decision on the iron mine concession in this light.

3. *The role of National Environment Protection Agency (NEPA):* Government agencies such as NEPA have to examine the lessons they have learned from the Aynak contract. NEPA must have clear guidelines for Mine Development Plan, Environment Management Plan and Environment and Social Impact Assessment. NEPA has to acquire the capacity to *conduct an independent environmental and social impact assessment* so as to avoid stalemates with investors and be able to present rational arguments, rather than be reactive. Mining companies may release chemical pollutants and toxins, which will have a lasting impact on the environment and on all forms of life. The government *must clearly calculate the environmental costs of mining operations to ensure that they can be addressed and do not outweigh the financial gains*. The government must seek to place the smelters within the country so as to reap the maximum benefit. The rates on iron are low in international markets, and the royalties on iron ore alone will be of limited fiscal benefit to Afghanistan.

4. *Transparency and role of civil society:* The MoM must have clear criteria for determining contract allocation and must publish them ahead of the bid process. The Afghan civil society must be given an observer seat with clear terms of reference. The bid evaluation must be followed by publication of all decisions and the necessary justifications. The government has to take the role of CSOs sincerely and seriously into account by virtue of their contacts with people at the grassroots. The contact of CSOs with citizens could provide vital information that may be helpful in avoiding conflicts. Civil society can play a role in grievance mechanism by virtue of its contact with the grassroots.

5. *IWA recommends publication of Aynak Contract so that civil society can evaluate its strengths and weaknesses in order to come up with more detailed recommendations for Hajigak.*

### **Recommendation: the government and companies**

6. *Information, compensation and consultation with communities:* The constitution-making process looks now to have been bereft of the required deliberation and consultation between the representatives and their constituents. The Constitutional LoyaJirga seems to have not taken into consideration the interests of the people, on whose behalf they took part in the process of drafting the constitution. Communities throughout the country sent their leaders to participate in the process, but consultations with constituents were absent from the process. The covert resistance after the government confiscated community land in Aynak represents yet another opportunity for the government to consult with the people to resolve an issue and to project itself as a protector of people's rights. However, in Hajigak, the government has a chance to show that it has learned from the mistake in Aynak. It has to carry out an assessment, collect data on the socioeconomic background of the communities and undertake appropriate programmes to include the communities within benefit schemes.

*The communities must be informed about the social, economic and environmental impact of mining activities and consulted before the contract is awarded. It is urgent for the communities to share their concerns from an informed position.* It is the responsibility of the government and CSOs to mobilize the communities and consult with them. *The government must make it a*

*priority to consult with local communities as partners rather than dictate outcomes. In this way, it can avoid a gold rush mentality and help people obtain information and have more realistic expectations.*

*7. Independent contract for each mine:* Smelters require lime, chromite and coke to purify iron ore into steel. Afghanistan has sufficient reserves of lime, chromite and coke. In light of the enormity of the reserve, the government might be tempted to contract out chromite, lime and coke more cheaply at concessional rates. This should not be up for negotiation. The government should not award chromite, lime and coke mines at concessional rates. Contracts for each mine should be signed independently of the others at the prevailing royalty rates.

*8. Award area for exploitation proportionate to the capacity of each company:* The Hajigak site is too big to be exploited by one company; there is a chance that more than one entity will win the rights to the reserve. The contracts therefore need to be awarded based on the extractive capacity of each company. For instance, a company may be able to extract 1 million metric tons of pure iron each year, and it seeks a contract for 30 years. The government must award the company an area that has 30 million tons of iron, but not more. What will be the lower bar for the exploitation of the ore? For example, the company may say that it wants to exploit only a site that has more 20 percent iron. What do we do with the ore that has less than 20 percent iron ore? The current technology and the depletion of iron ore across the globe call for the proper preservation of economically less feasible ore now for possible future use. It is imperative to contract out sites in a manner that would make it obligatory for companies to exploit low and high ore bodies to ensure the maintenance of the reserve for future generations.

*9. The Inter-Ministerial Commission must bargain for a smelter in Afghanistan subject to the finding of Environment Impact Studies:* The country's critical need requires that the steel smelter be established within the country to make the concession beneficial to local communities, the economy and the country as a whole. The exportation of ore will bring in little in revenues, employment and economic benefits. This must be impressed upon prospective investors. However, the decision makers must heed to the findings of Independent Environment Impact Assessment.

*10. Reduce the number of land titles:* The government must make land entitlement a priority issue and reduce the number of titles so as to avoid land-related disputes and bring uniformity to land titling across the country. It will avoid tens of thousands of land-related disputes in this way. Land disputes arising due to involuntary displacement need to be resolved in light of World Bank guidelines for involuntary resettlement and John Ruggie's "Framework for Business and Human Rights".

*11. Social investment and equitable access:* Mining companies cannot afford to avoid heeding local dynamics in their social investment for the benefit of the communities. Though there is no major point of dispute among the three communities and relations appear calm on the surface, the historical differences among the communities will emerge during the evaluation of the bid proposal by perspective investors, who may try to take advantage of these differences. It is



therefore important to assess the needs of the communities and carry out developmental projects in a manner that would be beneficial to all people equally.

*12. The investing companies must operate in compliance with Afghan laws John Ruggie Recommendations, Natural Resources Charter, Equator Principles, Sustainable Development Principles, International Councils on Mining and Metals, Extractive Industries Transparency Initiative and other relevant environmental standards.*

## Hajigak

### A Jewel of Afghan Mines

#### Working paper

The potential of the Hajigak iron mine offers statesmen in Afghanistan the chance to replace old ways of thinking with loyalty and a feeling of ownership among the people with respect toward government. The concerns of the local communities must be weaved together with national needs to expand people's choices and address their vulnerabilities through the mining contracts.

#### About IWA

*IWA's mission is to increase transparency, integrity and accountability in Afghanistan's reconstruction process. IWA considers that high integrity standards must be applied in the public and private sectors. To achieve this goal, IWA provides policy-oriented research, and develops monitoring tools for local communities in order to empower them in ensuring a positive impact from reconstruction efforts.*

*Integrity Watch Afghanistan: [www.iwaweb.org](http://www.iwaweb.org)*

