

**Land Tenure: Issues in Housing
Reconstruction and Income Poverty
Case study of Earthquake-affected
Areas in Hazara¹**

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Working Paper Series # 113
February 2010

¹ This paper is derived from a larger report: Kaiser Bengali, Maqsood Jan, Talimand Khan and Shabnam Noreen, "Land Tenure and Housing Compensation Benefit Incidence-Case study of Earthquake-Affected Areas", October 2006.

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First Edition February 2010

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Land Tenure: Issues in Housing Reconstruction and Income Poverty Case Study of Earthquake-affected Areas in Hazara

Kaiser Bengali

1. Introduction

The massive 7.6 magnitude earthquake that hit a 27,000 square kilometer area in nine districts of North West Frontier Province³ and Azad Kashmir on 8 October 2005 caused an estimated 80,000 deaths, an equal number of injured, over 400,000 houses destroyed or structurally damaged, 3 million people rendered homeless, thousands of livestock killed, farms lost due to landslides, irrigation systems ruined, and roads and communications shattered.

The widespread devastation evoked a massive relief, reconstruction and rehabilitation response. There is universal acknowledgement among the affected people of assistance arriving within a day or two of the disaster; except in some remote parts where it took as long as a week for relief to arrive. Individual groups, NGOs, and religious organizations from as far as Karachi are said to have appeared almost overnight with relief goods and medical supplies. The Government of Pakistan was slower to respond, but once mobilized, it set its relief machinery in motion. The distribution of tents and, subsequently, CGI sheets was extensive. There was not a single family in the survey sample that did not at least possess a tent. Relatively more resourceful families that received winterized tents passed on the ordinary tents to tenants, servants and homeless persons. Many built shelters with a combination of tent, CGI sheets, bricks, wooden planks, and stones; some of these retrieved from destroyed homes. Tented and CGI sheet shelters, and combinations thereof, are still visible.

The Pakistan Army's airdrop of tents, blankets, food and medical supplies constituted a significant contribution to the relief effort, particularly in areas rendered inaccessible by the collapse of the road network. In Allai (Batagram district) for example, the survivors first lived off food in the market stores and roasted maize obtained from the then standing crop for a full week, before army helicopters began to drop tents, blankets, food and medical supplies.⁴ The Army opened the road to Allai after about 20 days to enable other organizations to bring in relief goods. The Army's role in restoring road communications and establishing air bridges throughout the earthquake-affected areas is accepted as critical.⁵ Also mentioned with gratitude and admiration are the roles of rescue and relief missions from Turkey, Cuba, Europe, USA, and other countries and the pervasive roles of UN organizations in the relief operations. Airlifts of heavy road construction equipment by US Chinook helicopters were critical to the Pakistan Army's task of opening the road network.

3 Given that the earthquake had almost exclusively affected the former Hazara Division of NWFP (a part of Shangla district was also affected, though not as seriously), the area is referred to in the paper as Hazara. This appears appropriate, as the land tenure patterns in the rest of NWFP are not the same as in Hazara.

4 However, the importance of the weeklong delay for the Army to begin airdropping relief supplies in Allai is not lost upon the affected people of the area.

5 The casualties that the Army (and UN personnel) suffered in opening the roads and providing relief in difficult and dangerous terrain have not been adequately recognized.

One of the key response measures on the part of the Government of Pakistan was the creation of the Earthquake Reconstruction and Rehabilitation Authority (ERRA), with responsibility for a range of issues. Of these, housing reconstruction tops the list. ERRA's mandate on housing reconstruction includes: help in reconstruction of houses, recommending architectural designs, specifications, and construction materials for housing and so on.

There are many commendable successes with respect to relief, recovery, reconstruction and rehabilitation tasks. The same, however, cannot be said unambiguously about housing reconstruction. Partly, the obstacles are rooted in ERRA's rigid procedures. In many areas, though, housing reconstruction has also become mired in the traditional land tenure regime.

This paper deals primarily with issues of land tenure, its impact on housing compensation benefit incidence and ERRA's handling of the matter. It also looks at the income implications of land tenure patterns and compares the situation in Hazara with that in Azad Kashmir. The study is based on a survey of two affected districts in Hazara: Mansehra and Batagram. The lessons that emerge with respect to land tenure, rural housing construction and incomes can perhaps be of indicative relevance to the rest of the country as well.

Section 1 provides a background to the situation, profiles the main features of the area, and presents an account of data collection and information gathering. Section 2 outlines the immediate relief measures undertaken in the wake of the earthquake and the efforts at housing reconstruction. Section 3 looks at the issue of land tenure in terms of the conflict it generates and its impact on incomes.

It is appropriate, herewith, to place upfront the limitations of the paper. The study was conducted over a brief period of four weeks, two of which were devoted to gathering information from the field. The interviews – using a checklist type questionnaire – were carefully structured and an attempt was made to record information in a uniform and systematic manner. Respondents were cross-examined and responses based on hearsay were discarded. Given that the sites and the respondents were not selected randomly, no claim is made as to the statistical representativeness of the data. As such, the statistics presented herein need to be regarded as indicative and the conclusions drawn read with due qualifications.

1.1. Profile of the Area

Mansehra: Mansehra district, in the former Hazara Division of NWFP province, covers an area of 4,579 square kilometers. It has two urban centers, Mansehra with a population of over 50,000 and Baffa with a population of over 12,000. There are about 500 rural settlements; 50 of which have a population of over 5000 and 182 of which have a population of less than 1000.

Mansehra has a population of 1.4 million and, with average household size of 6.7, the number of households is about 200,000. Male-female ratio is almost 50:50. The ratio is relatively favorable to women, as compared to Pakistan, on account of the high rate of male out-migration from the district. Nearly 95 percent of the population is rural. About 50 percent of the population is within the working age of 15-60 years. The literacy rate of the population

aged above 10 years is 36 percent, with male literacy at 51 percent and female literacy at 23 percent. Urban and rural literacy rates stand at 69 and 34 percent, respectively.

The share of women in the labor force is a mere 3 percent and male unemployment rate stands at 15 percent. Given, that there is a high proportion of male out-migration from the district, the unemployment rate of 15 percent is rather high and is indicative of lack of economic opportunities in the district. Of the employed labor force, 47 percent is engaged in agriculture and the remaining in tertiary sectors, including 17 percent in government service. Manufacturing employment is negligible.

The housing profile shows that about 12 percent of houses are ‘pucca’⁶ and the remaining 88 percent semi-‘pucca’ and ‘katcha’. About 84 percent of houses are owner-occupied and 4 percent rented. About 11 percent of houses are rent-free; i.e., they provide labor services in lieu of rent. The proportion of owner-occupied houses that are ‘pucca’ is 2.5 times greater than rented/rent-free houses.

Batagram: Batagram district, also in the former Hazara Division of NWFP province and neighboring Mansehra, covers an area of 1,301 square kilometers. It has no urban centers. There are about 100 rural settlements, almost all of which have a population of over 5,000.

Batagram has a population of about 370,000 and, with average household size of 6.5, the number of households is 57,000. Male-female ratio is almost 52:48. The ratio is significantly unfavorable to women, given the high rate of male out-migration from the district – indicating either under-reporting of women or high female mortality rate. The high rate of out-migration is characterized by the fact that the inter-censal 1981-1998 population growth in the district is negative 0.6 percent. The entire population is rural. About 48 percent of the population is within the working age of 15-60. The literacy rate of the population aged above 10 years is at an abysmal 18 percent, with male literacy at 29 percent and female literacy at a mere 6.5 percent.

The share of women in the labor force is zero and male unemployment rate stands at 12 percent. Given, that there is a high proportion of male out-migration from the district, the unemployment rate of 12 percent is high – indicating lack of economic opportunities in the district. Of the employed labor force, 55 percent is engaged in agriculture and the remaining in tertiary sectors. Manufacturing employment is zero.

The housing profile shows that about 6 percent of houses are ‘pucca’ and the remaining 94 percent semi-‘pucca’ and ‘katcha’. About 72 percent of houses are owner-occupied and 3 percent rented. About 26 percent of houses are rent-free; i.e., they provide labor services in lieu of rent. The proportion of owner-occupied houses that are ‘pucca’ is 4.5 times greater than rented/rent-free houses.

6 ‘Pucca’ houses are defined as having an RCC/BCC (concrete) roof; semi-‘pucca’ houses are defined as having brick walls and a roof that is made of GI sheets, wooden planks, tiles, etc.; ‘katcha’ houses are defined as walls and roof that is made of thatched materials (wood, GI sheets, stones, mud, etc.)

1.2 Sampling and Information Gathering

The research is based on a quasi-anthropological approach. A two-week tour of six affected Union Councils in two districts was undertaken. The sites were purposively selected to cover relatively easy as well as difficult to access villages at low and high altitudes. Respondents were selected at random, not randomly, and interviewed using a checklist type questionnaire.

At least five tenant families and one landowning family were interviewed in-depth in each Union Council. The Union Councils covered included Oghi, Kawai, Shankiari, Kawai, Shamlai and Biari. Twenty-two displaced families from Balakot, Kawai, Kuza Banda, Batta Mohri, Shamdara, Kala Dhaka, Tarand, Gangwal and Siran Valley were also interviewed and their experiences recorded separately. Four of these cases were nomadic families, without a fixed place of residence.

Detailed discussions were also held with office-bearers of three Hazara tenant organizations: Muttaheda Kisan Movement, Batagram Awami Mahaz and Tanzeem-e-Nujawanan-e-Batagram. The former is more active in Mansehra, particularly in Kaghan Valley, and the latter two in Batagram. The attempted interview in Kawai turned into a *de facto* focus group discussion as several tenants – over 50 – joined in.

The families selected for the interview included those living in tents, in makeshift shelters, in the process of constructing the ERRA-specified house and those in the process of building houses under their own specification. Special efforts were made to seek out and interview widows and families without adult male earners. The number of (in-depth) interviewees, i.e., sample size, equaled 55. Information was also obtained from ERRA officials, NGO activists, public transport operators, shopkeepers, roadside restaurant owners and customers. Much of the insights on landlord tenant issues have come from the interviews with office-bearers of tenant organizations and tenants themselves, particularly during the impromptu focus group discussion.

The sites at which detailed interviews were carried out include:

<i>Serial</i>	<i>Village</i>	<i>Union Council</i>	<i>Tehsil</i>	<i>District</i>
1.	Darha	Oghi	Oghi	Mansehra
2.	Chulundrian	Kawai	Oghi	Mansehra
3.	Makriha Bala	Shankiari	Mansehra	Mansehra
4.	Bhonja Fareedabad	Kawai	Balakot	Mansehra
5.	Shamlai	Shamlai	Batagram	Batagram
6.	Pokal	Biari	Allai	Batagram

2. Relief and Reconstruction

Post-earthquake efforts can be divided into two phases: immediate relief and recovery and the more medium-term reconstruction activity. The latter again can be divided into reconstruction of infrastructure and that of houses. While immediate relief and recovery has generally been on track and progress on reconstruction of infrastructure has been mixed, reconstruction of houses has been seriously problematic. Ironically, the difficulties in housing reconstruction appear to emanate largely from ERRA's housing reconstruction policy itself.

2.1. Immediate Relief

Immediate relief was provided in terms of four packages: Rs. 100,000 for each death; Rs. 50,000 for each injured person, in addition to free medical treatment at all government facilities and medical camps set up by Pakistani and foreign groups; Rs. 25,000 for immediate shelter needs; and Rs. 3,000 cash grant for six months for the most needy families.

In all the areas visited, all the respondents whose family had suffered a death and/or injury reported receiving the Rs. 100,000 and Rs. 50,000, respectively, compensation. This is also generally true of the payment of Rs. 25,000 – being the first installment of the housing reconstruction compensation. In Shamlai, Batagram, for example, there were 755 deaths and all the respondents were said to have received the compensation amount. The assistance has been non-discriminatory; as indicated by the fact that all the 14 non-Muslim families in Shamlai, Batagram have received the compensation along with other families of the area.

However, there are also some respondents (7 cases, 12.7 percent) who have not received the Rs. 50,000 assistance for injuries or the Rs. 25,000 for shelter support. These are cases where adult males were unavailable at the place of residence and survey/assessment teams failed to register the families for assistance. Adult males were unavailable as family members had suffered injuries and had to be taken to nearby hospitals or they were out to bring relief goods from distribution points. Herewith, the male bias was explicit. These cases were being addressed, however.

Nomadic families continue to face problems. The four nomadic families that were interviewed received the Rs. 25,000 shelter payment, but are now ineligible for receiving the remaining Rs. 150,000 of the housing reconstruction compensation on account of the fact that they cannot produce evidence of residence, much less ownership or tenancy.

There are problems too with the Rs. 3,000 cash grants. Initially, all affected families with 3 children aged under 18 years were eligible for the grant. Subsequently, the policy has been revised to allow this grant to families with at least 5 children. It appears that the revised policy is meant to assist families in greater need. However, the rationale for the policy change has not been communicated adequately. Resultantly, there is a sense of resentment among families with less than 5 children. Three respondents (5.5 percent) expressed confusion regarding the policy or expressed concern with the change in policy. One mother with 3 children remarked that she was too poor to ‘rent’ the rest of the two children to qualify for the Rs. 3,000 grant!

2.2. Housing Compensation Policy

ERRA issued a draft Policy Document on Rural Housing Reconstruction Strategy⁷, which *prima facie* appears to be a sound document. It is practical as can be discerned from one particular instance: it does not provide “a standard design for a house, rather standard design principles for different walls and roof systems common to each area.”

7 ERRA, Building Back Better: Rural Housing Reconstruction Strategy of Earthquake Hit Districts in NWFP and AJK, February 2006

ERRA's financial assistance package applies to all types of houses and is disbursed directly to the bank accounts of landlords and tenants; linked to compliance with specified earthquake resistant standards. Financial support is provided for a core house of 250-400 square feet; with recipients expected to use their own labor and/or hire labor. Houses are required to be built at least 3 feet apart and a house is defined by a common roof, i.e., it is houses, not households, that are eligible for housing reconstruction compensation.

Assistance funds were scheduled to be disbursed as follows:

- Rs. 175,000 for destroyed houses: An initial payment of Rs. 25,000 to cover immediate shelter needs and the balance of Rs. 150,000 in three installments of Rs. 75,000, Rs. 25,000 and Rs. 50,000. The first installment of Rs. 75,000 is a mobilization advance, the second installment of Rs. 25,000 is payable upon completion to plinth level, and the final installment of Rs. 50,000 is payable upon completion of walls. A technical inspection of the roof is to follow.
- Rs 75,000 for structurally damaged houses: An initial payment of Rs. 25,000 to cover immediate shelter needs, followed by a payment of Rs. 50,000 in one installment.
- Houses without structural damage are not eligible for any assistance.

2.3. Problems with the Housing Compensation Policy

While the ERRA policy document, stressing technical efficiency and uniformity, looks sound on paper, it appears to ignore local socio-cultural, economic and, in instances, even topographical factors and translates into a 'one size fits all' policy on the ground. ERRA policy draftspersons do not appear to be well informed about local nuances; i.e., the social architecture that defines housing design and building costs at different altitudes. The following cases indicate the nature of the problems and serve to provide a context to the issues.

One, provision of housing grant on the basis of houses and not households translates into a "one-roof, one compensation" policy, which does not appear to be in consonance with the culture of housing in the area. About 70 percent of houses (38 cases) were found to be of the type where two or more households belonging to one extended family live in built spaces in close proximity, with their roofs linked. However, ERRA's provision for a 250-400 square feet house implies that only one family can be accommodated.

Then, there are the post-earthquake issues that have arisen. Under pressure of sheer survival, the institution of the joint family appears to have weakened in some respects. In 9 of the cases (16.4 percent), the "one roof-one compensation" policy has led to friction among brothers/cousins and contributed to domestic tensions. Widows and orphans appear to be more vulnerable as they are prone to be edged out in the process. There are practical factors as well. In one case, two brothers shared a roof. The land on which their houses stood collapsed. The brothers have moved to adjacent land a few feet away, but – given the nature of the topography – have to build two separate houses at two levels. However, they are receiving compensation for one house only.

Two, ERRA's policy requiring a three feet distance between houses implies that the size of houses on small plots will be squeezed even further. It is not that the policy is flawed, given the considerations of safety. However, the policy needs to be accompanied by a program of

alternative land provision to owners of very small plots affected by ERRA's three feet distance policy.

Three, ERRA regulations render house building costly. They also require that a skilled mason – a 'mistry' – be hired if ERRA specifications are to be met. However, skilled construction workers are in short supply and expensive. Generally, pre-earthquake rates for a 'mistry' and 'mazdoor' (laborer) were Rs. 250 and Rs. 100 per day, respectively, which have escalated now to Rs. 500-800 and Rs. 300 per day, respectively. In this respect, uniform compensation rates for houses to be built at low and high altitudes are problematic. ERRA assumes that 'bajri' (small stones used for construction) is available at low cost. This may be true at locations near streams; at higher altitudes, 'bajri' has to be transported, with the result that on-site 'bajri' cost more or less equals store cement price.

Many of the respondents (20 cases, 36.4 percent) find it difficult to adhere to ERRA's guidelines; of whom about 90 percent (18 cases) are proceeding with building their homes without reference to ERRA guidelines. In fact, of the 5 cases that had received the Rs. 75,000 installment, 4 are planning to ignore ERRA specifications as being too expensive and are prepared to forgo the remaining installments.

Nevertheless, all homebuilders appear to be aware of the need to avoid building in a manner that would pose risks. Partly on account of ERRA financing and partly on account the liberal distribution of CGI sheets by governmental, non-governmental and donor organizations, the quality of housing that is emerging is stated by building professionals to be better and safer than that existed prior to the earthquake.

Four, ERRA's housing package is designed for home owners only; those who were living in rented multi-unit houses or were homeless at the time of the earthquake have not yet been considered for compensation for their asset losses. Under the "one roof, one compensation" policy, the landlord is entitled to receive compensation for only one house. Tenants in multi-unit houses (2 cases, 3.6 percent) have been rendered homeless and are living in tents, provided by a Lahore group, in a graveyard in Shankiari, Mansehra.

There are other categories of families that have not received the housing reconstruction compensation. One category is of those whose land on which the house stood has been swept away in the landslide (2 cases, 3.6 percent). Bereft of a house, they do not qualify for compensation. Another category is of those whose house has been (correctly) deemed by ERRA to be located on unstable land (2 cases, 3.6 percent). They are advised to move to an alternative plot in order to qualify for the compensation. However, alternative land is costly and unaffordable.

3. Land Tenure Issues

A more serious and structural bottleneck to housing reconstruction has emerged in the form of land tenure issues. In 20 of the cases (36.4 percent), tenants are locked in disputes with their landlords with respect to ERRA-stipulated rules for reconstructing their houses.

Hazara has a history of landowner-tenant issues dating back to pre-British days. On account of historical factors, the landowners – referred to locally as 'khans' – are generally Syeds, Swatis and Khankhels, while the tenants and landless wage laborers are generally Gujjars.

Although Swati tenants can be found, Gujjar ‘khans’ are not common. Landowner-tenant conflict has defined the politics of the area and has raised its head as well in the aftermath of the earthquake, particularly with respect to the distribution of compensation.

As stated earlier, ERRA paid the first installment of Rs. 25,000 to all affectees, irrespective of their ownership status. However, the balance amount of Rs 150,000 is payable after ascertaining the ownership status of the destroyed houses.

The ERRA Policy document provides for owner-tenant eligibility for compensation as follows:

“There are some cases in which owner has several houses and has rented them to various tenants. In that case, the owner will only be eligible for the housing subsidy with respect to one house in which he or she was residing when the damage was caused to that house. In case of rented houses belonging to the same owner, the owner will have to sign an agreement with the occupant/tenant of his house according to which tenant will reconstruct the house on behalf of the owner. The government will disburse the funds to the occupant of the house once the occupant produces the agreement signed by the actual owner of the house... the owner-tenant agreement will have a specific non-eviction clause, allowing the tenant to reside in the house for a period of at least 3 years after the reconstruction/restoration is completed.”

The provision is problematic in its entirety. It is applicable only in a situation where a tenant rents an independent house from the owner. In the case of a multi-unit house, tenants are rendered ineligible for compensation, as they cannot build *a part* of the house that they have been occupying. Multi-unit houses are, however, not a norm in rural areas.

More seriously, ERRA’s policy draftspersons do not appear to have been aware of the relatively complex aspects of land tenancy in rural areas. Therein, houses are dispersed as they belong to each of the tenants working a portion of the owner’s land. However, the houses are not rented from the landowner. It is the land that is rented and the house is constructed and lived in as part of the land tenancy.

There are 4 categories of households in rural areas:

- Owners living in personal houses on self-cultivated land;
- Tenants living in houses built by themselves on land cultivated on (near-permanent) lease tenancy basis;
- Tenants living in houses built by owner/themselves on land cultivated on (non-permanent) lease/sharecropping basis;
- Wage laborers living on houses built by owners and providing services in lieu of rent.

Tenants of the first kind are called hereditary (or occupant) tenants and are known locally as ‘morusi kashtkar’. They possess and cultivate their plot of land in perpetuity and cannot be removed except through an elaborate legal process stipulated under the NWFP Tenancy Act 1950. Tenants of the second kind are called tenants-at-will and are known locally as ‘mazaray’. They have been rented the land for cultivation on a non-permanent basis. Tenants of the third kind are called rent-free tenants and are known locally as ‘kandri’. Services they

provide, referred to as ‘begaar’, include work on the landowners cultivated lands, cutting grass, collecting fuel-wood⁸, tending to his livestock and household work.

ERRA’s requirement of an agreement⁹ between the landowner and the tenant – generally referred to as the NOC – is the principal source of the problem. The ERRA drafted agreement disallows the landowner from removing the tenant *before* the expiry of three years and is *prima facie* intended to protect the tenant. Incidentally, this proviso is being interpreted by landowners and tenants as ‘permitting the landowner to remove the tenant *after* three years’. Hereditary tenants are understandably agitated. These tenants claim that it is they who have cut and leveled mountainsides and cultivated the land for decades – and under which their grandfathers are buried. As such, they are unwilling to surrender their hereditary rights and subject themselves to eviction after 3 years for a paltry sum of two Rs. 75,000 installments.

The policy has had somewhat differential impacts in different areas, determined to some extent by electoral factors. Two typologies can be discerned. One: lower altitude, higher population density and larger constituency area. And two: higher altitude, lower population density and smaller constituency area.

At lower altitudes, population densities are relatively higher and constituency area is relatively small in size. In a situation where land ownership is concentrated with two or three landowners within one electoral constituency and landowners compete amongst themselves for votes to be elected to the national or provincial legislature, landowner benevolence is expected to attract sufficient votes to translate into electoral victory.

This is a situation that has seen the landowner to be generally benign. Here, landowners have provided the ‘NOC’ to their tenants on the explicit understanding that the eviction option will *not* be exercised. In fact, there are traditional pockets of support that the landowner would *not* want to displace. This was evident in one case in Darha, where the landowner has even allowed *kandri* tenants to report themselves as owners in order to obviate the need for obtaining the ‘NOC’. ‘*Biradari*’¹⁰ relationships ensure that they would not actually stake ownership claims.

In these areas, there has been little or no conflict between landowners and tenants and the housing reconstruction compensation process has been proceeding ‘on schedule’; subject to other problems outlined earlier.

At higher altitudes, population densities are relatively low and electoral constituency size is relatively large. In a situation where land concentration is relatively low, i.e., there are a number of landowners, landowner benevolence is not likely to necessarily translate into sufficient votes to ensure electoral victory. These are areas – Oghi, Balakot, Batagram and Allai, for example – where significant levels of landowner-tenant tensions are found and where housing reconstruction is held up.

8 Grass cutting and collecting fuel wood are important rural activities, as grass has to be stored for use as fodder and fuel wood for heating and cooking during the long snow-bound winter months.

9 The Agreement is an Affidavit signed by the landowner in favor of the tenant granting permission to the latter to apply for and receive compensation from ERRA for house rebuilding.

10 Ties through family.

3.1. Profile of Conflicts

A variety of situations exist. Where the landowner is absent, tenants have had relatively smooth sailing. The absentee landowner situations are, however, not common. In any case, given that the Rs. 25,000 cheque was disbursed to every household without owner involvement, the tenants benefited across the board.

However, there appeared to be problems in, say, about one in ten situations. There are cases where the Rs. 25,000 payment has been confiscated by the landowner. One tenant in Batta Mohri is reported to have been killed by the landowner upon his refusal to hand over the Rs. 25,000 amount. In some cases, tenants-at-will have subsequently been expelled. Widows have particularly suffered in this respect. In other cases, landowners have persuaded tenants to surrender the Rs. 25,000 on the grounds that it would be used to obtain the remaining installments. In yet other cases, landowners have allowed tenants to retain the Rs. 25,000, with the stipulation that the remaining installments would be turned over to them. One widow-tenant reported that her landowner was pressuring her to turn over the Rs. 25,000 she had received, but was protected by Army personnel. However, she subsequently agreed to hand over the next Rs. 75,000 cheque, as she could not afford to antagonize the powerful landowner “too much”.

The matter of the subsequent compensation cheques involves the landowner, who has to ‘provide the NOC’. Two kinds of situations have arisen and both are widespread. In one set of cases, where the tenants – largely tenants-at-will – are relatively poorer and desperate for any assistance they can get, are prepared to arrive at an agreement with the landowner. Herewith, landowners have tended to demand a share of the Rs. 75,000 payment and a kind of market has emerged, with a market rate appearing to have settled at around Rs. 30,000. Needless to say, there is considerable resentment among the tenants, as the balance amount of, say, Rs. 45,000 is insufficient to build any kind of durable housing. The result is that the balance amount available is spent on other non-durable needs, with the families remaining in temporary shelters at the mercy of the elements of weather.

The process of ‘obtaining the NOC’, with or without providing a share to the landowner, does not always rest the matter. In cases of joint ownership of property, the ‘NOC’ provided by one member of the landowner family is sometimes contested by another member. In such situations, the tenant is restrained from cashing the cheque and cannot proceed with reconstructing his house. There are reported to be about 200 cases in Kuza Banda Union Council, where landowners have obtained a stay on tenants reconstructing their houses. The matter had become so contentious that a ‘jirga’, called to settle the matter, failed and, in the ensuing protest by tenants, three landowners were killed.

In another set of cases, tenants – largely hereditary tenants – have refused to sign the agreement with the landowner and have organized themselves. Such tenants in Mansehra and Batagram districts have formed their organizations and organized protest demonstrations. Agitational activity in Kaghan Valley in Mansehra district has led to arrests of tenant leaders. The demonstration in Batagram on 10 June 2006 is reported to have drawn about 10,000 tenants. As the demonstrators were dispersing, there were cases of stone throwing and the police arrested about 50 people, including office bearers. The local Sessions Judge,

reportedly a nephew of one of the landowners, refused to grant bail to the arrested persons, which was subsequently obtained from the Peshawar High Court.

The composition of the local ruling elite is also a matter of continuous comment. Throughout the survey, mention was made of the fact that the ruling elite – from the MNAs and MPAs elected from the area to the district and union council level officials, elected as well as appointed, and judicial officials – belong to landowner families and tenants fail to obtain a fair hearing at any level. It needs to be noted here that the organizations representing tenants relate to hereditary tenants ('morusi kashtkar') only. Tenants-at-will ('mazare') and wage laborers ('kandri') continue to be unorganized and unrepresented and remain vulnerable to exploitation.

Clearly, the ERRA requirement of an agreement between the landowner and the tenant, known as the 'NOC', is a serious bottleneck in the compensation distribution process. The problem is not without a solution. The agreement form may be made to specify that the rights of the tenants under the NWFP Tenancy Act 1950 as they existed on 7 October 2005 will continue to apply upon the expiry of the three-year period. This provision will, however, still expose tenants to the extortion demands of a share of the Rs. 75,000 payment. Tenants hold the view that if the compensation is for the house and not for the land, then the landowners' involvement needs to be eliminated altogether. This can be done by removing the requirement of the landowners' agreement to tenants receiving compensation for reconstructing their houses, with the stipulation that receiving compensation for reconstructing the house shall not prejudice the rights of the landowners or the land tenure status as it existed on 7 October 2005. Perhaps, tenants may be required to submit to ERRA an affidavit reiterating the ownership rights of the owner and their obligations as tenants under the NWFP Tenancy Act 1950 in order to qualify for the balance Rs. 150,000 housing reconstruction compensation.

3.2 Implications of the Land Tenure Equation on Income

Landlord-tenant issues predate the earthquake and the housing compensation matters arising out of the earthquake cannot be resolved satisfactorily without reference to the land tenure relationship. Herewith, the spotlight on land tenure provides an opportunity to focus on the effect of the land tenure pattern on income poverty.

There is an abundance of literature exploring the relationship of land tenure and a range of variables: productivity, livelihood, poverty, plight of tenants/peasantry, empowerment, and gender. Literature on the impact of land tenure patterns on the income of the tenants is available. However, the limited search of the relevant literature has not turned up studies of the impact of land tenure patterns on the income of the landowners.

One study¹¹ in Pakistan, though, does broach the subject and it is relevant to quote there from:

“The 1972 land reforms made landlords highly fearful of similar subsequent measures so they started evicting the tenants from lands and turned to self-

11 'Land, Peasants and Poverty: Equitable Land Reforms in Pakistan,' The Networks Publications, Islamabad, 2004.

cultivation by hiring agricultural laborers ... planted fruit orchards on their lands, invested in agricultural technology, enhanced the use of high-yield seeds, fertilizer and pesticides and increased their income manifold, while the tenants turned destitute.”

The report addresses equity aspects of land ownership and focuses on the plight of tenants. However, while distributive aspects are of critical importance, efficiency aspects cannot be overlooked. After all, distribution of income can only follow generation of output. The report quoted above does indicate that self-cultivated farms do possess the potential to raise output and incomes; albeit for the self-cultivating landowner.

It is widely accepted that labor is surplus in agriculture, i.e., marginal productivity of labor in agriculture is low. Modernization of agriculture – in technical as well as institutional terms – is essential to raise output and incomes. And any such modernization effort is likely to displace surplus labor. Of course, the weight of evidence on the question of land size and productivity supports land reforms in favor of small farms. However, it is also accepted that farms below a certain minimum size are uneconomical. Continuing to place equity issues ahead of efficiency considerations in the case of such farms is questionable.

Moreover, there is no merit in the argument that the peasantry or tenants need to find their livelihoods in the agriculture sector only. Development is a holistic process. While the modernization of agriculture is likely to evict labor from the sector, they need to be absorbed in off-farm work or in other non-agricultural or non-rural sectors. The effort must, therefore, be on the latter rather than on continuing to strive for peasant/tenant rights to land in areas characterized by fragmented land ownership and where landowners themselves fall in the middle income category.

3.3 The case of Hazara

The agriculture sector in Hazara is largely of a subsistence character. The small plot sizes, fragmented land holdings, sharing of produce between (generally non-cultivating) landowners and cultivating tenants generates produce for self-consumption and that of livestock. For all other food and non-food expenditures, families have to obtain supplementary incomes, the avenues for which are limited.

Resultantly, household incomes are rather meager forcing families to resort to a range of coping mechanisms in order to make ends meet. Some families supplement their incomes by selling (a kilogram or two of) milk; although, there are more sellers than buyers. Generally, however, there is extensive dependence on income from off-farm work; with the term ‘off-farm’ defined to include areas as far as Karachi and abroad. As a general rule, young able-bodied men move out to work, with remittance income being a key part of total family income for almost all the households in the area.

Relevant district-level remittance data is not available. However, the significance of remittances in household income in NWFP as a whole can be gauged from the fact that while domestic and foreign remittances comprise 9.2 percent of total household income in rural Pakistan, the same for rural NWFP is 18.6 percent.

The movement of labor is also seasonally determined, as workers stay back during sowing, harvesting and grass cutting seasons and look for daily wage work in the cities during off-peak periods. Consequently, it is the elderly, the women and children who are left behind in the villages. The males who stay behind engage in wage work, e.g., on construction sites, and the women and children engage in tending to livestock, cutting grass and collecting fuel-wood. Yet, aggregate incomes are low and poverty levels are high.

The earthquake contributed to aggravating the situation. There has been out-migration from the area, particularly of tenants and wage laborers. Three out of six landowners reported that their tenants who received the first housing construction compensation of Rs. 25,000 have left the area altogether. The remaining tenants cite lack of work and lack of hope that there will be work in the future. The upheaval also appears to have broken their traditional ties to land and to the landowner and persuaded them to move on to other pastures.

The departure of agriculture labor has tended to aggravate landowner-tenant problems. All the six landowners reported that tenants who have remained have tended to demand a greater share of the produce; a demand that landowners are resisting on the grounds that cultivation will no longer be profitable. Resultantly, several tracts of cultivable land are found to have been left fallow. Part of the reason for non-cultivation of land is also the extensive draught animal mortality, which has not enabled farmers to plough the land for sowing.

3.4 Comparison with Azad Kashmir

The landowner-tenant problems and the impact on agricultural output and incomes raise some macro-institutional issues and a comparison with Azad Kashmir is pertinent. The two Azad Kashmir districts that are used for comparison are Muzaffarabad and Bagh. Azad Kashmir is similar to Hazara in terms of topography and agro-ecology. However, the land tenure regimes are different on account of progressive land reforms carried out in Azad Kashmir in the early 1950s and, as a result, the bulk of the land is owner-cultivated.

The area comprising Hazara and Azad Kashmir is mountainous/hilly and only about 45 to 65 percent of the farm area is cultivable. Per rural household size of cultivated land stands at 2.7 acres in Mansehra, 2.4 acres in Batagram, 2.2 acres in Muzaffarabad and 1.1 acres in Bagh. The small size of the farms is indicated by the following: about 80 percent of farms in Hazara and over 90 percent in Azad Kashmir are less than 5 acres. And about one-quarter of farms in Hazara and over one-third in Azad Kashmir is less than one acre; only one percent of farms in Hazara and less than one percent in Azad Kashmir are in excess of 25 acres. Moreover, between 53 percent (in Muzaffarabad) and 76 percent (in Batagram) of farms are fragmented into 2 to 10 portions.

The Agricultural Census 2000 reports that, in Mansehra, 81 percent of farms are owner-cultivated, with the remaining 9 percent owner/tenant cultivated and 10 percent tenant cultivated. Of the 19 percent of farms that are owner/tenant and tenant cultivated, 17 percent is reported to be cultivated under share-cropping/leasing arrangements. In Batagram, 63 percent of farms are reported to be owner-cultivated, with the remaining 3 percent owner/tenant cultivated and 34 percent tenant cultivated. Of the 19 percent of farms that the owner/tenant and tenant cultivated, 21 percent is reported to be cultivated under

sharecropping/leasing arrangements. In Azad Kashmir, 93 percent of farms are owner-cultivated.

Field surveys in Hazara, however, do not corroborate these statistics. Landowners appear to have protected themselves from land reforms and tenancy laws in two major ways. One, a majority of owners who have tenants on their lands have registered their farms as ‘khud-kaasht’, i.e., self-cultivated, in order to avoid the legal constraints and obligations imposed by tenancy laws. And two, many landowners transferred small portions of their lands in the name of their servants in order to preempt appropriation of their lands by the state on account of land reforms in 1959 and 1972. These servant-owners are *de facto* tenants. *De facto*, at least half of the owner-occupied reported farms are tenant cultivated under sharecropping arrangements. As such, the average size of cultivated units is even smaller.

The subsistence economy features – characterized by the small unit size of farms, particularly cultivated areas, the fragmentation of holdings, and the sharing of the meager produce between landowners and tenants in Hazara – impacts the income levels of landowners as well as tenants. In this respect, a revealing picture emerges from a comparison of the economic status of the landowners of:

1. Hazara, where agriculture is characterized largely by tenant-cultivated farms, operated on the basis of sharecropping, and
2. Azad Kashmir, where agriculture is characterized by owner-cultivated farms.

Economic theory postulates that poorer households devote a higher share of their income on food, compared to richer households. In this respect, the Table 1 on composition of expenditure of landowning households shows that while landowners in Hazara allocate close to half of the income to food, the same in Azad Kashmir is just over one-third. Azad Kashmir landowners also allocate twice as much on education, compared to their counterparts in Hazara. The implication clearly is that Azad Kashmir landowners are in relatively higher income brackets than their counterparts in Hazara. In fact, the average incomes of Azad Kashmir landowners appear to be between 80-90 percent higher than their Hazara counterparts.

Table 1: Composition of Expenditure of Landowning Households (percentage share)

Hazara	Azad Kashmir		Before Earthquake ¹²	After Earthquake
	Before Earthquake	After Earthquake		
Major Expenditure Group	Earthquake	Earthquake	Earthquake ¹²	Earthquake
Food	47.1	46.2	34.3	35.8
Clothing & Personal Effects	7.5	7.9	11.2	10.5
Energy	6.3	5.3	3.4	2.5
Transport	5.4	6.1	7.0	6.5
Education	8.4	7.7	15.7	14.5
Others	11.3	11.6	17.2	18.1
Total	100.0	100.0	100.0	100.0

Source: SDPI Earthquake Area Survey, August 2006

12 Note: The ‘Before Earthquake’ data was obtained on recall basis. It appears that the earthquake has not had much of an impact on the composition of expenditure.

4. Conclusions

The above analysis highlights two related aspects: obstacles in housing reconstruction and low employability and incomes. Both are outcomes of land tenure related constraints. While the early response to the earthquake was excellent, the rehabilitation effort has been less successful on account of deeper structural problems that the earthquake has aggravated. The situation not only provides an opportunity to rebuild houses, but also presents an opening to improve the land tenure equation and, as the Azad Kashmir case shows, create the conditions for enhancing incomes and for realizing the region's economic potential.

There is, thus, a case for land reform. Any mention of land reform generally brings to mind a scenario where the landowner is removed and ownership is transferred to the cultivating tenant. This does not necessarily emerge as the preferred option in Hazara. Given the already small unit size of farms, even of farms reported as self-cultivated, transfer of ownership to tenants is likely to further reduce land size and lock the rural economy at the subsistence level. It may, therefore, be more feasible to consider measures to removing the tenant and turning farms into self-cultivated units.

This step needs to be taken in the framework of an area development strategy, in which agriculture is a central component. The prime objective of the area development strategy should be to raise household incomes and obviate the need for out-migration to supplement locally generated incomes. A five-point strategy may be considered:

1. Leveling and terracing of hillsides to create (a) more cultivable land and (b) cultivable plots of larger sizes.
2. Introduction of higher value added crops.
3. Promotion of livestock ownership, and
4. Identification of growth nodes and promotion, therein, of processing industry for farm and livestock produce.
5. Development of tourist centers.

The larger self-cultivated farms are likely to be more efficient and accrue greater income for the landowners. The displaced tenants in Hazara can be expected to be absorbed in the new industrial/tourist sector in the area. The strategy is likely to inject an element of dynamism in the local economy and provide employment opportunities to local labor force, instead of leaving them with little choice but to look for employment as expatriate labor in other areas of the country and abroad.