Land Management for Improved Dispute Resolution and Property Tax Revenue for Local Governments: Evidence from Somalia

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INTRODUCTION

• UN-Habitat has been active in Somalia for over twenty-five years. In recent years, its core operations have focused on a wide range of issues spanning from humanitarian to sustainable urbanization interventions to strengthening local governance.


• The portfolio of UN-Habitat under the JPLG framework is on municipal finance, land governance, urban planning and development, urban environmental management and capacity building for local governments.

• This paper gives an overview of the progress UN-Habitat has made in the areas of land governance and municipal finance, in the JPLG framework.
The last several decades have seen a change in the legal landscape relating to land in Puntland and Somaliland.

Traditionally, both regions have consisted primarily of large swaths of rural and agricultural land, owned in common by clans and sub-clans in accordance with customary law.

In recent years, however, modernization and urbanization have led to:

- Rapid expansion of urban centres, causing confusion over whether the land should be classified as urban or rural, and giving rise to disputes between pastoralists and urban dwellers residing.
- Sharp increase in property values, resulting in an increase in the number of people seeking to buy and sell land for commercial reasons.
- Increase in the amount of privately owned property and decrease in the amount of communally owned property.
- Grabbing of undeveloped land from pastoralists and communal land owners.

As urban centres expand and private land ownership becomes more common, many people must make decisions about where to take disputes over urban land.
LAND GOVERNANCE - Land management for improved dispute resolution

- Land dispute resolution is a precursor to effective land management and land-based public revenue generation.

- Thus, UN-Habitat carried out an assessment of land dispute resolution mechanisms both in policy and in practice in Somaliland and Puntland in order to develop a relevant and practical solution.

Highlights of the assessment:

- Somaliland and Puntland recognize both customary and statutory land tenure;
- Customary land is communally held, and includes most of the agricultural and grazing land;
- Urban land, defined as “any land included in the master plan”, and includes most of the land earmarked for urban purposes;
- Historically two land dispute resolution options have been available, through the formal courts of law or through customary law (xeer – administered by committees of elders [Aquil in Somaliland and Namadon in Puntland])

- The intended outcomes of the JPLG thematic work on land governance issues was to reduce land disputes, build peace and improve service delivery, which ultimately led to the establishment of Land Dispute Tribunals in Somaliland and Land Dispute Committees in Puntland.
Land Dispute Tribunals in Somaliland

- The LDTs are administrative tribunals with quasi-judicial powers, consisting of appointees from local and state government line ministries and hosted by the local government. Their jurisdiction is over urban land only. The LDT is designed to be a hybrid institution that harmonizes formal and customary legal procedures to provide a trusted, efficient, and rights-respecting dispute resolution forum.

- In 2010, Somaliland’s first Land Dispute Tribunal (LDT) was established in Hargeisa and this proved to be successful in addressing urban land conflicts. To date, Hargeisa LDT has solved 468 cases out of 575 received cases.

- Cases are systematically referred by courts to this body, and decisions are rarely challenged through the constitutional court.

- The success of the Hargeisa LDT led to the expansion of the LDT system, with the establishment in 2015 of the Berbera LDT and the Boroma LDT.

- Capacity building for the LDT/Cs has focused on legal reasoning and statutory analysis, and conducted in all target districts.
Land Dispute Committees in Puntland

- Land Dispute Committees (LDCs) were established in nine districts in Puntland.

- The LDCs work as ad hoc administrative bodies that hear disputes over undeveloped land, both rural and urban.

- Puntland Ministry of Interior with the assistance of UN-Habitat, is in the process of regularizing LDCs by developing regulations and providing on-the-job training for committee members in the areas of statutory legal analysis, case hearing, and reporting.

Spotlight: Garowe Land Dispute Committee

- The process of regularizing LDCs in Puntland started with the establishment of the Garowe Land Dispute Committee as a regular administrative court, mandated to deal with land dispute cases.
- The cases relate to undeveloped land, which may include both urban and rural/agricultural land.
- The Garowe LDC operates independent of the local government.
- The Garowe LDC operates under the provisions of xeer, sharia law and Puntland constitution.
- The case load is around 8 – 10 cases per month.

- In addition, the Ministry of Interior is in the process of establishing LDTs in Puntland.
MUNICIPAL FINANCE - Land management to support/improve revenue-generation from property taxes

- Municipal finance is a central component of JPLG efforts to implement decentralized services and enhance local governance in Somalia.

- It is also central to UN-Habitat’s three-pronged approach to urbanization which focuses on the intersection of (i) urban planning, (ii) legal and regulatory frameworks, and (iii) municipal finance.

  - UN-Habitat promotes the consideration of all three fundamental components of the three-pronged approach by local authorities in the process of planning and implementing urban development programmes so as to achieve sustainable urbanization.

  - Sound performance in these three areas is essential to exploiting the potential of cities to generate wealth, employment, co-existence and cultural interchange and to avoid the pitfalls of a unplanned/spontaneous development.

- The Municipal Finance Portfolio of the JPLG is focused on local government finance policy and procedures, promoting revenue and financial management systems, as well as capacity building. UN-Habitat has supported local and state governments in the Somali region, particularly Somaliland and Puntland, in policy development, revenue generation, financial system development, and capacity building to strengthen local government systems.
Improving finance policy

• A legal foundation for the decentralization of financial responsibilities and functions to local government authorities in Somaliland and Puntland was established through the adoption of the Decentralization Policy in 2013.

• The policy provides a framework for decentralization via devolution and de-concentration of financial functions to local governments.

• After the adoption of the Decentralization Policy, UN-Habitat supported the Somaliland and Puntland governments to develop Local Government Finance Policies (LGFPs) aimed at providing a framework for the devolution of financial functions to local governments.

• The local government finance policies provide a guiding framework on key municipal functions such as:
  • strategic and cross-cutting issues
  • revenue generation
  • budgeting and financial management
  • procurement
  • internal control mechanisms
  • asset management
  • debt and credit management, and,
  • monitoring and evaluation mechanisms
Improving revenue generation and financial management systems

- To support revenue generation and to decentralization in Somaliland and Puntland local governments, UN-Habitat identified three key areas of support within the framework of JPLG, being:
  
  - (a) to design an enforceable legal framework with delegation of authority for tax collection within the established legal framework;
  
  - (b) to establish an automated accounting and billing system to improve accountability, transparency, and efficiency;
  
  - (c) to develop an up-to-date database to facilitate property taxation.

(a) Legal framework

- When developing the Local Government Finance Policy (LGFP), the focus was on creating legislation that would mandate and support decentralization, and the revision and/or harmonization of local governments’ financial laws and regulations as necessary.

- UN-Habitat worked with local and state authorities in Somaliland, Puntland and Mogadishu to establish a property tax regime for urban areas, which provided a framework for ensuring a fair taxable rate for different properties, improving accountability and enforcement, and establishing conditions for exemptions for the urban poor.
(b) Automated accounting and billing systems

- An Accounting Information Management System (AIMS) and a Billing Information Management System (BIMS) were introduced to Somaliland and Puntland local governments at the start of the JPLG in 2008, in order to improve transparency, accountability and efficiency.

- AIMS and BIMS have been used in local governments’ daily operations for all financial transactions and reporting and for improving tax collection.

(c) Property database

- A geographic information system (GIS) based property database was established by UN-Habitat in conjunction with local government authorities.

- The database serves to collect, catalogue and store data on properties and urban parcels, focusing on data sets such as property characteristics (such as location, quality, land use, infrastructure, ownership, number of occupants etc., in order to define the tax rate for each property and notify occupants of their tax obligation to the municipality.

- This data is then connected to the local government finance system to generate bills and to account for tax collection.
MUNICIPAL FINANCE - Land management to support/improve revenue-generation from property taxes

The process of creating the GIS property database

Footprint of properties is drawn using GIS.

Additional information on properties are attributed to properties.

Various types of information is combined and a comprehensive spatial database is created.

Spatial database is then incorporated into BIMS - property tax bill is printed.
MUNICIPAL FINANCE - Land management to support/improve revenue-generation from property taxes

Districts where the GIS-based property database was rolled out
The implementation of these municipal finance programmes resulted in significant revenue collection from property taxation.

Municipal revenue from JPLG-supported districts in Puntland, 2008 - 2015

Source: Data from the Districts’ Accounting Information Management System (AIMS)
Conclusion

• UN-Habitat has been active in Somalia for more than 30 years and currently is implementing a portfolio of interventions worth over USD 40 million with communities, local authorities, state governments, and the Federal Government of Somalia across all Somali regions.

• UN-Habitat’s activities have evolved from targeting immediate local needs to a systematic shift towards addressing sustainable urban development through integrated human settlement programmes.

• In Somalia, UN-Habitat successfully collaborated with ILO, UNCDF, UNDP, and UNICEF to implement the JPLG, with the aim of strengthening local governance and enhancing decentralized services in all the regions of Somalia, under portfolios of municipal finance, urban planning and development, land governance, urban environmental management and capacity building for local governments.
THANK YOU

United Nations Human Settlements Programme
Urban Economy Branch, GLTN Secretariat

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