

Challenges of Urban Land Conflicts in Somaliland: the Case of Hargeisa

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ABSTRACT

The land administration in urban areas in Somaliland remains weak following the war with the Somalia's military regime which ravaged the major cities and the subsequent breakup of the responsible institutions for land governorship in 1988–1991. Certainly, the relation between land-use and land ownership, and the redistribution of land ownership in urban areas has largely disappeared from the political debate over the past twenty plus years in Somaliland. This study has shown that the current land disputes between Somaliland landlords in urban areas illustrate the type of problems which arise due to the skyrocketing prices of land selling among citizens on one hand, and the capacity of the state institutions to officially sanction such practices by which is not present on the other. Overall, while the capacity of the state authorities to govern the land is not the same as the capacity to invest, it can streamline, plan land-use and/or control, procedure and making better use of publicly owned land. The central objective of this study is to assess, evaluate and examine the current situation and practices on land ownership, the possible implementation of the land reform policies at local, regional, and national levels with a particular emphasis on Hargeisa, the nation's capital, and its implications for the economies both local and national authorities and the society at the grassroots', while the need for Somaliland to continue reforming its urban land policies is necessarily important. The study relied both primary and secondary data, and were analyzed it qualitatively.

INTRODUCTION

Every society and nation around the world has their unique problems and challenges. Somaliland is not an exception and is struggling to overcome many difficulties ranging from minor to major conflicts. As a reviving country, Somaliland is generally dealing with problems related to natural resources allocation, clan based systems, tribal problems, social challenges, economic obstacles and political complications.¹ Certainly, conflict over land is a main cause of contemporary insecurity in the major cities of Somaliland. Generally, disputes involved in land are an open disagreement between two parties over the title deeds of land and the existence of different interests of the rights to access, manage, sell, build, lease, or generate income. Obviously, conflicts can be seen as destructive, but there are many cases that conflicts lead to positive change. In common sense, if conflicts are mitigated early enough and transformed in a positive way where the disputing parties reach win-win solutions; it leads to a constructive and lasting change for the benefit of all. Land conflicts are not different and can be mitigated if proper resolution mechanisms are used. It is therefore important to deal with land conflicts in a constructive manner, instead of ignoring them or simply trying to stop them.

The collapse of Somali central government in 1991 led to the breakdown of all institutional and social structures and the appropriation of land and water resources by illegal means. During this period, refugees from Somaliland living in Ethiopia camps started to return to the country. Without a major rehabilitation plan, refugees managed to reach and settle in the

¹ M. Abdi, S. Tani & M. Osman (2010). *Contested Urban Land: Approaching Land Management and Land-based Conflicts in Urban Somaliland*. Hargeisa: Academy for peace and development.

major cities and seized public as well as privately owned lands.² This has generated ongoing ownership claims between the settlers and those who were claiming to own the land before the war. Consequently, land conflicts became persistent in most of the major cities in Somaliland and last till date. This drastic change in land management led to the development and production of several land related laws by Somaliland parliament such as law No. 17/2001 – the main law governing the urban land in Somaliland. An amendment was made to this law in 2008. Under this law, a committee consisting of 7 members from the different ministries and the local council was established to oversee land dispute cases and make decisions. It was also given the Supreme Court to receive appeals on these decisions. Moreover, the Ministry of Interior was assigned the responsibility to manage the allowances of this committee and also supervise their work and decisions.³ Although the committee was functioning up to 2017, the central government abolished and dismissed the members of this committee in June 2017 due to mishandling of land cases and unfair judgments.⁴ No new committees were appointed since then.

LAND CONFLICTS IN HARGEISA

The population of Somaliland is estimated around 3.5 million people. Maroodi-Jeh region is the most populous region in the country with an estimated population of one million plus people.⁵ Although national census was not carried out, Hargeisa is estimated to over 900,000 inhabitants.⁶ From the time when the war with Said Barre ended in 1991, Hargeisa was relatively peaceful. Although conflicts occurred in the city late in 1994, Hargeisa has largely remained peaceful since then. Peace and stability have resulted in steady economic growth, based on livestock trade and remittances from the large Somaliland community in the diaspora. The city has largely been rebuilt and water, electricity and telecommunication infrastructures as well as social services such as education and medical care were re-established.⁷ However, due to the weakness of the state to lead and fund the development agendas in the country, most of these initiatives were taken over by private individuals, communities and the growing Somaliland business class.⁸ Furthermore, as the capital of Somaliland, Hargeisa became the political and economic hub of the country, hosting the largest population and having business relations with Ethiopia and Djibouti.

The emerging economic and employment opportunities in Hargeisa have led to the extensive increase of people and rapid urbanization of the city which created a shortage of space, plots, housing and infrastructure. Since then, government institutions have become weak and unable to maintain order with ineffective land management systems worsened by the unclear land ownership and the rising real estate market, leading to rampant land grabbing and overlapping ownership claims. These challenges made Hargeisa city to have the highest urban land

² Ministry of National Planning and Development (2012). *Somaliland National Development Plan*. Hargeisa: Ministry of National Planning and Development.

³ Somaliland Law (2016). *Somaliland Land and Planning Laws: Urban Land*. Available at http://www.somalilandlaw.com/land_planning_law.htm. accessed on August 10 2017.

⁴ Hangoolnews (2007). *Warbixin xukuumadda oo quful ku dhejisay xafiiskii guddida ka garnaqa dacwadaha dhulka ka dib xukun ay ka soo saareen dacwadda beerta agoontii muj.Axmedjimcaale*. Available at <http://hangoolnews.com>, accessed on August 2 2017.

⁵ Ministry of National Planning and Development (2012). *MaroodiJeh Regional Development Plan*. Hargeisa: Ministry of National Planning and Development.

⁶ *Ibid.*, 2.

⁷ *Ibid.*, 1.

⁸ UN-Habitat (2015). *Harmonization of the Legal Systems Resolving Land Disputes in Somaliland and Puntland*. UN-Habitat.

conflict rate in the country.⁹ In recent years, disputes related to land are causing most of the violent incidents that happen in Hargeisa.

This study is therefore, sets out to the assessment of the root causes and consequences, identification of major actor and challenges hindering to lasting solutions for land conflicts in Hargeisa. The research employed four major questions about the root causes, consequences, actors and resolutions of land conflicts. Methodologically, the study adopted qualitative method of research and applied non-probability sampling. Besides, the study employed data collection techniques like desk-review, key informant interviews and focus group discussions. The overall respondents reached were 49 (37 participants for FDGs and 12 interviews). The research was conducted in Hargeisa city and focused only Koodbuur and Ga'an Libah Districts. These two districts are deliberately selected because of their frequent land conflicts.

THE ROOT CAUSES OF LAND CONFLICT

Land is a form of resource endowed by God to the human being. Land has no cost of production and is considered as one of the most valuable assets that a person acquires. Urban land in the major cities of Somaliland is known to be expensive. Hargeisa is the most expensive compared to other cities in Somaliland.¹⁰ In recent years, land has become a valuable investment for the business people, diaspora and a major income-generating factor for the owners.¹¹ One of the research respondents who recently purchased a plot of land in Hargeisa said that, "Land has become the first property a person can own. If the person does not own a land in Hargeisa, it is very difficult to live and survive in this large city.

Consequently, cases related to land conflict had become rampant in the major cities of Somaliland. A research conducted by the Academy for Peace and Development in 2008 states that urbanization increases 8% every year in the large cities and that urban land conflicts affect around one third of the Somaliland population who live in the large cities. The research also states that Hargeisa has the highest level of land conflicts when compared to other cities in Somaliland because of the rapid urbanization and the large number of rural migration.

When asked, respondents emphasized that it is very important to discuss conflicts related to land, because Land conflict needs to be addressed and publicly debated as it is considered as one of the main factors destabilizing the security in the urban areas. Land conflict is also important to discuss because disputes over land hinders investments from both internal and external investors who could have settled and improved the economy of the country.

WAYS OF OWNING LAND IN HARGEISA

In the 1970s, the Somali government issued a law stating that all land belongs to the state and would be administered by the government. Since then, allocation and distribution of land was the sole responsibility of the central government. Following the collapse of the central government of Somalia in 1991 and Somaliland's declaration as a separate state from the rest

⁹ *Ibid.*, 1.

¹⁰ J. Singh (2017). *Land: Meaning, Significance, Land as Renewable and Non-Renewal Resource*. Available at <http://www.economicdiscussion.net/factors-of-production/land-meaning-significance-land-as-renewable-and-non-renewal-resource/785>, accessed on July 12 2017.

¹¹ UK Essays (2015). *Land Based Conflicts in Somaliland Politics Essay*. Available at <https://www.ukessays.com/essays/politics/land-based-conflicts-in-somaliland-politics-essay.php>, accessed on August 23, 2017.

of the country, illegal land grabbing became a major problem in Somaliland. Currently, all the land in the country is in the hands of individuals who claim ownership. To find out how people acquire ownership of land in Hargeisa, a group of respondents were asked the possible ways that a person can own a land in Hargeisa. Interviewees and FGDs participants shared different ways as categorized below:

Purchase of land from one private owner to another or from government to a private person is the most common form of owning land in the city. Land has different prices determined by location, access to water, roads, market and transportation. Depending on the financial capability, a person can buy a plot equivalent to what he can pay and obtain ownership from the local government in a legal way. Furthermore, inheritance of land is the second most known form a person can own land in Hargeisa. Under the Islamic Sharia, successors have the right to take their share when one of their close relative dies. Through this form, people are able to gain land and legally transfer ownership.

Illegal grabbing is another way of obtaining land in Hargeisa. It relates when certain individuals claim ownership of a large area of land as their own farms. With the support of the local government authorities, these land-grabbers are recognized as the right owners of these lands, regardless whether the land in question is suitable for farming (mountains, hills and rocky areas are claimed as farms) or else. Through this means, landlords in Hargeisa got the title deeds for their lands. Alternatively, returnees from the refugee camps grabbed large patches of public and private land due to the absence of strong government and governing laws. As a result, the land in Hargeisa went into the hands of very few people.

Land can also be provided by the local government and thus ownership is obtained. Currently, land in Hargeisa is administered by the local government that manages the land allocated for public purposes. This land is given to certain individuals in three forms: as a gift: this is very rare and specific to a few persons. The reason for giving is considered as personal relationship with the Mayor and one of the local councils. Since the person is legally given the land, and the land consequently transformed for his ownership, the land becomes his property. The second method is that land is given as a compensation for debt to a business person who made transactions with the local government. Thirdly, the land is given by the local government when resettling Internally Displaced Persons (returnees from the refugee camps who occupied public land and roads) to new settlements where they can live and stay. When relocated, IDP families are given plots of land and title documents stating their ownership.

CAUSES OF LAND CONFLICTS IN HARGEISA

Conflict caused by unclear boundary between two adjacent plots of land is the prime cause of land disputes in Hargeisa. The city has huge agricultural lands which are recently planned to be new settlements. Since these farms cover large areas and have different boundaries to different adjacent farms, it always causes boundary disputes between the land owners. On the other hand, conflicts can arise from messy plans caused by the local government geometers who craft different maps and surveys regarding directions and sizes of roads as well as borders to two adjacent plots/lands. This causes conflict between the landlords who disagree over the directions of the roads or the border of their lands.

Mismanagement of inherited land is the second highest cause of land conflicts in Hargeisa. In Islam, inheritance is a means of transferring property ownership from the deceased to a close relative. Land is one of the properties common for inheritance. Inheritance has a

comprehensive guideline under the Islamic jurisprudence and it is applied in the Somaliland courts. Conflict over inheritance occurs, as stated by the research participants, if the assets are not divided according to Sharia law or delayed in several years due to the unwillingness of the successors or the absence of some of them. This is one of the most difficult conflicts to be solved as stated by one respondent: “If land properties are not divided on time for the successors, it will cause suspicion between them; thinking that one or several persons among them are taking larger shares or benefiting from it. I have seen that such conflicts continue for longer periods and the conflicted property extends to disputants’ own property because parties might argue it originated from the original assets”.

It is also noted that women suffer most of the time when it comes to land inheritance because of the culturally rooted belief that women belong to their husbands’ families, and thus, lose their identity as a member of the family. Although the Article 8 of the Constitution of Somaliland (Equality of Citizens) states that, “All citizens of Somaliland shall enjoy equal rights and obligations before the law, and shall not be accorded precedence on grounds of color, clan, birth, language, gender, property, status, opinion, etc.”¹² This research shows that women are victims of robbery and mostly lose their right to inherit due to these principles. When asked why women do not go to the courts to claim their rights, it was shared that most of the time women try to preserve a family relationship or lack financial means to proceed formal litigation which entails expenditures of opening a case in the court, advocate fees, transportation etc.

Conflict caused by multiple sales of the same land is also ranked as the third highest cause of the disputes. This occurs when two or more persons claim to be legal owners of the same piece of land, since they bought it from the original owner. This happens when the landlords who own the new settlements illegally sell their lands to different people. If one of the owners’ questions why his/her land was sold to another person, the landlord will compensate and give another plot which may still belong to another individual. This complicates the issue further, long time and endless conflict between multiple parties who are demanding the ownership of the same land. The illegal sellers also end up imprisoned or their properties sold by the court to compensate to the buyers.

The absence of land ownership documents was cited as the fourth cause of the conflicts. Lack of documentation happens when two parties dispute over the ownership of land without any proof of ownership. The disputants only claim that they own the land and that they lost their title deeds during the civil war. Sometimes, one or both sides of the conflicting groups forge documents to prove their ownership. The local government, which was supposed to have all the documentation had lost archives during the civil war and could not retrieve any document. Conflicts of this kind are settled through swearing or witnesses. But, most of the time, it ends up in a prolonged court cases.

ACTORS IN LAND CONFLICT

Since land conflict is rampant and the persons involved are diverse with different roles, there are different categories of people who play an active role in the conflicts. In general, motivation of these actors to involve in land conflicts are due to economic reasons; investment, bribes or creating the property.

¹² NAGAAD (2007). *Assessing Somaliland Women’s Status in the critical areas of Education, Health*. Hargeisa: NAGAAD.

Geometers in the local government are crucial actors when it comes to land conflict. The geometers/surveyors have the mandate to plan, check and advice ownership of the land. They are responsible to confirm the size as stated in the ownership document of the land and if it corresponds to the master plan of the area. They are also required to check the roads and directions of the land or plots. What happens is that they misappropriate communal land intentionally, giving out the land allocated for roads to specific persons, thus, causing the resistance of the neighboring inhabitants because roads are common property to the community. Likewise, geometers are the mastermind of authorizing ownership documents of the same plot of land to several persons which ultimately causes conflict. This is common because all the disputants may have legal documents.

The skyrocketing prices of land attracted business people and the Somaliland Diaspora who uses the land as a source of investment. These business people buy huge land from different persons, including landlords, local government staff and the Ministry of Public Works. Since most of these people are not selling lands according to the existing policies, it causes frequent conflicts. For example, the Ministry of Public Works sells the public land in Hargeisa to several big business persons without following the government bidding process. On the other hand, public property land is occupied by refugee returnees' who have been living there for the last 20 years. When the buyers try to vacate the land, the occupants start reacting with the only option available to them - violence, since they do not have the financial means to go to the court or power to pressure the government. Thus, land buyers are important actors in land conflicts.

On the other hand, since most of the landlords in Hargeisa do not have the ownership documents showing their land and the map of their property, border conflicts arise between them and the owners of the adjacent land. Landlords are also known to sell their land multiple times, causing conflict between the buyers. Landlords are also recognized to conspire with the geometers in the local government to misappropriate lands allocated for public purposes such as schools, health centers, police station, roads, playgrounds and the like.

Courts also play a crucial role in solving land conflicts. Courts are where some of the disputants seek solutions regarding the conflicted land. Although judges follow laws and policies, they are considered to lengthen the process of decision making, causing some cases to be in the court for almost a decade. Almost 50% of the research participants believe that this is due to corruption. While the other 50% believe this is due to the lack of documentation for disputing parties and the fact that the judicial system allows appeal to different levels of the courts for the same case.

Finally, occupiers of public land are the poorest and most vulnerable part of the society in Hargeisa. Most of those people are returnees' from the refugee camps in Ethiopia since the early 1990s. When they returned, they did not have a place to settle and live, and therefore, sought and occupied public places like government offices, roads, and playgrounds. They built temporary structures and huts to survive. These returnees' have been there for a long time without the approval of the government and when the government tries to reclaim ownership or give to other people, it is difficult to get rid of them. This causes violent demonstrations and clashes.

CONSEQUENCES AND CHALLENGES OF LAND CONFLICT IN HARGEISA

Land conflicts in Hargeisa have many effects on the community. This is what the respondents categorized: death, financial loss, damage of property, displacement of the conflicting parties and neighbors, social consequences, especially between the relatives, clan-based conflicts and the weakened government role due the lack of implementation of the court decision. The challenges hindering the lasting solution to conflicts over land are many, but, bribery, weak government enforcement, lack of documentation, the absence of clear laws are core elements that negatively affect progress towards resolving land disputes in Hargeisa.

Land conflicts have major consequences on the residents of Hargeisa and the overall security of the city. It causes death, financial loss, damage of properties, displacement of households and social problems and it breaks relationships and interactions of the community which come to an end. In terms of development, the conflict hampers investment at both local and international levels. When it comes to land conflict resolution, Somali customary law is seen as the most effective method of conflict resolution because it is easier and saves time. Although people involved in land conflict perceive it as a complicated, expensive and long-term assignment, courts and local councils are another alternative in resolving land conflicts in Hargeisa.

CONCLUSION

There is high demand for land in Hargeisa. The inability of the government to administer the land and to regulate prices is the driving factor of land conflicts in Hargeisa. Also, unclear boundaries between adjacent landlords, inheritance problems, lack of documentation and multiple sales of land to different persons are the causes of land conflicts in Hargeisa. Effective policies and laws, clear ownership, decrease of land demand and appropriate division of inheritance can minimize land conflict cases. Major actors of land conflict in Hargeisa who are most of the time involved in land dispute are said to be geometers (surveyors) in the local government, land buyers, landlords, the court, and occupiers of public land.

Thus, it is recommended that, due to the complex factors and the prolonged resolution of land conflict cases, strong institutions and administrative divisions should handle dispute cases responsibly. This can be a catalyst for the government to enforce legal decisions, take the overall ownership of land and to reclaim public lands in the hands of the people. To make the land dispute committees in the local governments and courts more transparent and accountable and to avoid mishandling of judgments, it is recommended that the mediators, arbitrators, and judges be adequately compensated, so that they can show strong commitment to resolve land issues and properly follow existing policies and laws. On the other hand, staff in the local government plays an important role in fueling the conflict because of lack of expertise or worst still, deliberately. Thus, it is recommended that a committee should be created to authorize and plan urban land according to the district plans. Staff should be capacitated to perform their duties in a proper manner. Although some policies of Urban Land Management exist, they have their own gaps. Clarity and description of roles and responsibilities between the different functions of the government are missing. Thus, it is important that Law No. 17 should be revised to assign clearer roles and responsibilities to the local government and the Ministry of Public Works.