Equity and Taxes
in Puntland And Jubaland

STATUS STUDY ON TAXATION, BUDGETING, LAND AND PROPERTY RIGHTS IN PUNTLAND AND JUBALAND
THE SOMALIA RIGHTS PROGRAMME – DIAKONIA SOMALIA COUNTRY PROGRAMME

REPORT BY
ABDULKADIR SH. MOHAMOUD SALAH

DESIGN AND LAYOUT BY
ALI ZAIDI

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Diakonia was established in 1966 under the name of Swedish Free Church Aid. Ever since, its focus has been on people exposed to injustice and their opportunities to change their situation. In 1984 the name of the organization was changed to Diakonia. The word “diakonia” is Greek, meaning care and service.
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1. Introduction

1.1 The programme

Diakonia is a Swedish international development organization that aims to alleviate poverty in order that peoples of the world live in a dignified and just life. The overall vision of Diakonia is expressed as: ‘to help people to live in dignified circumstances where all the elements that hold back the development of a free and fair social environment, i.e. political oppression, economic deprivation and social injustices, are removed.’

To achieve its objective, Diakonia intervenes in the five thematic areas of Human Rights, Democracy, Peace and Reconciliation, Gender Equality and Social and Economic Justice – with HIV and AIDS, Gender and Environment, as mainstreamed themes.

With funds mainly from SIDA, Diakonia has operated in Somalia from 1994, in Puntland and parts of south-central Somalia on the ‘Somalia Country Programme’. The programme targeted strengthening civil society and local authorities in education, democracy and human rights. While the Somalia Country Programme exclusively received funding from SIDA, Diakonia also during that periods intermittently received additional funds from the EU and UN agencies to address other areas such as developing the technical vocational education training (TVET) sector.

For 2014-2018, after conducting consultations with key stakeholders of civil society organizations, local authorities, the private sector and peer international organizations, Diakonia finalized a new programme, ‘The Somalia Rights Programme’.

The design of the new programme has benefited from previous evaluations and analyses on conflict dynamics in the geographical area where the programme will be implemented.

The programme’s overall goal is ‘Women and men of all ages in Puntland and Jubaland should be able to participate in the development of their societies in a manner in which their rights are respected, they are able to earn their living and are able to withstand future crises’.

With a duration of 4.5 years, the programme seeks to promote human rights through civil society in Puntland and Jubaland. The programme’s implementation focuses on three main strategies: awareness raising, strengthening civil society, and policy dialogues, through accountability forums and advocacy.

More specifically, the programme addresses three thematic areas: Governance and Accountability, Human Rights and Resilience, and Human Security.

The programme’s specific objectives are:

- The level of participation and accountability on local and national levels has increased in Puntland and Jubaland;
- The respect for human rights has improved in Puntland and Jubaland;
- The human security of the population and the resilience of local societies have improved in Puntland and Jubaland.

1.2 Purpose and scope of the study

Prior to implementation of the new programme, Diakonia engaged a baseline survey covering the programme’s geographical area of Puntland and Jubaland, in order to gauge the prevailing status in these regions of the selected thematic areas. Thus, this report pursues an analysis of the status of taxation and budgeting as well as land and property rights, which are included in the main theme of the Governance and Accountability.

The ultimate objective of the analysis is to produce viable recommendations regarding taxation, budgeting, land and property rights, for Diakonia and other agencies involved in advocacy, support in resource mobilization, and governance and accountability.

In order to identify gaps, and to establish benchmarks for measuring impact related to governance and accountability, this study examines...
the status of taxation, budgeting, land and property rights. Among the areas under exploration are:

- The current status of the taxation regime, laws and regulations and practices in the two administrations.
- The current status of the budgeting process in the two administrations. This will include an analysis of the funding flows, resource mobilization, and reporting on expenditure. It will also include an assessment of the accountability mechanisms – if any – and the extent and quality of citizens’ participation (including women, youth and marginalized groups) in the budgeting and reporting process.
- The land and property rights, rules and regulations; the practice and the key actors in the administration of land and property rights. This includes an assessment of access to land and property and related resources, for women, youth, IDPs and marginalized groups in the two administrations.
- An assessment of the land and property rights, NRM and, in particular, as they are related to climate change.
- An analysis of the role played by international agencies, human rights groups and other CSOs, in the administration and access to land and property.

The examination of the status of taxation, budgeting, land and property rights, can be approached from manifold perspectives or studied in multiple dimensions.

However, this analysis will specifically focus on the effects that the theme exerts in the overall governance and accountability domains in Puntland and Jubaland.

It will ultimately target guiding reform in taxation, budgeting and access to land and property,
as well as producing relevant recommendations in the areas of advocacy, mobilization of agencies involved in governance and accountability, in supporting the reform of taxation, budgeting and access to property ownership.

While the two regions of Puntland and Jubaland share many of the challenges and constraints related to taxation, budgeting and land and property ownership, yet they are not comparable, as the Puntland administration has been operating over 16 years and therefore has gone a long way towards realization of effective taxation, budgeting and land management.

Conversely, the Jubaland administration has existed for only two years, and it continues to be occupied in fighting the al-Shabab insurgency, which is still active in Kismayo town and effectively operates in its hinterland. Thus, so far, the Jubaland administration has had no chance to concentrate on laying firm institutional foundations to discharge public responsibilities, or to levy taxes or carry out proper land management strategies.

Up until now, it charges customs duties on import and export commodities passing through the Kismayo port, employing solely the previous Somali governments’ customs duties.1 The administration has yet to enforce inland taxation or municipal taxation on the ground.

1.3 Context

Eight years after the collapse of the Somalia state in January 1991, and with the civil war in the southern parts of the country seemingly not abating, the traditional and political leadership of the regions now comprising Puntland convened in Garowe an all-inclusive Community Conference. The objective was to reflect on the prevailing situation and establish a local administration that would strengthen the fragile peace that existed in those regions at the time.

Consequently, on 1 August 1998, the Community Conference declared the formation of the Puntland State of Somalia, with a three-year Transitional Charter; after which time the formulation of a publicly endorsed constitution was envisaged.

In contrast to Somaliland, which seeks secession, Puntland aspires to membership of a federal structure of Somalia. It maintains that it governs eight regions, with a population estimated at three million, which constitutes one-third of the Somali Republic’s population of 10.2 million.2

While bordering Galmudug in the south, where a fragile peace agreement signed in 1993 maintains the status quo, Puntland’s western regions of Sool and Eastern Sanaag are contested by Somaliland and Khatumo Administrations, each of which claims to have sovereignty over them.

When the Charter expired in 2003, the Puntland Parliament approved a transitional constitution to fill in the gap. Having gone through a number of stages of reform and review, a Puntland Constitution was formally adopted on 18 April 2012 by a 480-member representative community conference held in Garowe. The new constitution establishes the state to comprise three independent organs with a 66-member parliament, which directly elects a president and vice-president who form a cabinet that is approved by the parliament.

Despite the fact that parliamentarians are not directly elected through a popular vote, yet they are nominated by clan leaders, who together can be said to represent the voice of the population as argued by Joakim Gundel and A. Omar, who described the system as giving homegrown legitimacy to the political process.3

In 2013, the first planned popular elections backfired and were subsequently cancelled as a result of violence and conflict set off by disagreements between the organizing government of President Abdirahman Farole and the opposition over the timing and modalities of conducting elections.

Despite this, Puntland has succeeded in holding four presidential elections, in 1998, 2005,
Inadequate resource mobilization, poor budgeting, and absence of tax justice, lack of spending on social sectors, absence of transparency and accountability, characterize Puntland’s governance.

2. Taxation

Technically, taxation is defined as the process of collecting revenue for the state in order to enable it to dispense its responsibilities towards its citizens as well as, sometimes, to protect local production from foreign competition. To conduct and legitimize taxation, the state promulgates tax laws, which specify rules and regulations that define charges to be levied on property, estates, transactions, income, licencies, and duties on imports and exports.

Various levels of governance structures enforce taxation by law. These range from local governments, federal states, national governments, to broader regional entities.

In Puntland, Chapter II, Article 17 of the Financial and Accounting Regulations of 1961 defines revenue as: ‘all sums that the state has a right to collect, by virtue of law, decree, regulation or otherwise. All revenue received shall be receipted and deposited into an appropriate bank account determined by the State.’ Government revenue means funds collected by government authorities according to laws and regulations.

The Ministry of Finance is the principle revenue collector for the government, mainly in the form of taxes. In accordance with the law, the main types of revenue include:

- Taxes: Pay-as-you-earn (PAYE), customs duty;
- Fees: aviation fees, registration fees, and court fines and penalties, grazing fees;
- Grants and donations;
- Property income;
- Sale of goods or services;
- Port charges;
- Social contributions;
- Loans: from internal and external sources.

This study analysis does not target all of the above sources of revenue but focuses only on examining taxation. In general terms, taxes divide into direct and indirect. Characteristically, direct taxes imply those taxes paid by the citizen directly to government and usually charged on income, real estate, or personal property.

Indirect taxes relate to those taxes charged on products consumed and services offered, but indirectly paid by the citizen through intermediaries; for example, when you buy a cup of tea from a restaurant, the retailer charges a tax above the actual price of the tea and later passes it on to government.

2.1 Central government revenue

Interviewed respondents stated that Puntland commonly applies the tax laws and establishes the implementing institutions that the previous Somali Governments had laid out. However, after its establishment, Puntland decreed the Puntland Financial and Accounting Procedure Law, derived from the Somali Law of Financial and Accounting Procedures of the State, Decree No. 2, 29 December 1961, as well as the Puntland Government Taxation Framework, which guides the financial management and the taxation system and policy of the state. Both are also based on the previous Somali government’s laws on tax administration:

- Law No. 5/1966 of 5th November 1966 on direct taxes on income;
- Law of 5th November 1966 on indirect taxes (inland and customs revenue).

In early 2014, the new government of President Abdiweli formulated Puntland’s priorities
for 2014-2016, committing to revenue and public financial management reform.

Following this, the government reviewed the existing Puntland Government Taxation Framework and produced a new version in April 2014 – but this has yet to be translated into English. This last Somali version described Puntland’s taxation structure as in the diagram below.

As a matter of fact, Puntland currently acknowledges the use of 27 different items consisting of laws, policies and procedures mostly derived from previous governments’ tax laws and procedures, as shown in Annex 4. Some of these are in full operation; some are partially used, while others are not active.

Osman H. Mire, a consultant for the MoF on taxation stressed that, despite the above, both the central government and the local governments, although they have increased their revenue base during the last 7-8 years, demonstrated inadequate collection capacity.

He concluded that, in effect, the central government’s main revenue relies on import/export duties and a small percentage of inland taxes. Statistically, the Puntland Central Government earns 71% of its revenue from Bossaso Port, and 29% from inland taxation.

Another challenge in revenue collection is the lack of trained personnel. The capacitated employees of former governments have either aged or migrated outside the country due to the civil war. What we have now are inexperienced young employees. We need to train them and this needs both technical and financial capacity, which the Puntland government cannot provide.’ Osman H. Mire

Key informants highlighted that customs duties and inland taxation constitute the two main pillars of Puntland’s central government revenue. They stated that the implementation of customs duties encountered few constraints, in contrast to inland taxation, because all export and import commodities pass through one point, the Bossaso Port. They agreed that the major standing challenge in execution of customs duties is that the system is neither applying the ad valorem strategy or the specific-item levying strategy. Although it is argued that the specific-item taxation model is in use, nevertheless, they pointed out that this is not accurately or wholly conformed to. In addition to that, Osman H. Mire, the MoF consultant, explained that customs officials are using obsolete laws, which need review and updating, namely:

- Customs Law No.1 of 31 May 1961;
- Tariff Law No.5 of 1968;
- Customs’ Clearance Procedure Law No. 2049 of 1938, established by the Italian colonialists.

Furthermore, the Puntland Strategic Development Plan identifies five areas that the new Abdiweli government is aiming to focus on. These are: Governance, Security, Justice, Economic Foundations, and Revenue and Public Financial Management Systems.

The last theme, which is relevant to this analysis, recognizes the low capacity of the Puntland Government’s tax collection and it, therefore, pledges during this period to target strengthening of the technical and regulatory capacity of public sector institutions tasked with revenue collection. It calls for urgent improvement of public financial management in order to earn public trust and encourage citizens to pay taxes.
use in a transparent and accountable manner; while strengthening the budget process, establishing a chart of accounts, and improving public procurement systems.

Specifically, to upgrade tax collection, the Development Plan urges the achievement of the following milestones:

- Planning and statistics system improved;
- Government institutions right-sized;
- Parliament capacity improved;
- Civil service reformed endorsed;
- Merit-based recruitment system adopted.

2.2 Inland taxation

Ali Jama Gashan, the Head of the General Directorate of Inland Revenue in the MoF, confirmed that inland taxation experiences greater constraints compared with customs duties. He said that most of the different types of inland taxes are nominally charged but not to the full extent required. He argued, in the first place, the levied amounts are not commensurate with today’s standards because these are simple extrapolations from the estimates of the previous Somali governments’ ratings and, on the other hand, the due amounts are not uniformly collected.

The old laws governing practice comprise:

- Stamp Tax Law No.6 of 7 November 1966;
- Registration Tax Law No.4 of 1985;
- Road Tax Law No.4 of 28 December 1965;
- Production Tax Law No.3 of 23 May 1985;
- Sales Tax Law No.2 of 7 January 1984;
- Court fees Laws No. 109 of 14 November 1975.

Taxation experts who were interviewed also warned that there is an absence of a fair and equitable taxation system in Puntland. They attested that the inland taxation burden falls primarily on the poor. While hawkers, petty traders, women tea sellers and the like, pay daily levies, the big companies pay token amounts of tax, the bigger businesses, export/import corporations, telecommunication giants, money trans-
fer banks, all do not pay sales tax or profit tax because they are politically powerful. They refuse to declare their profits or to use transparent financial systems that reveal their annual profits.

Mahdi Muse Abdirahman, Head of Bari Region Inland Taxation Office reiterated that the tax burden falls on the poor while the rich are basically left alone. He admitted that, while they use police to force the poor to pay taxes, they cannot do that with the big businesses, because these companies either have private armed guards or can organize loyal militias within a short time, which may result in unfavourable consequences.

From the above statement, it can be concluded that the Puntland Government is not strong enough to enforce taxation and is, unfortunately, at the mercy of the big companies and/or clans.

‘The big companies chase away our tax collectors and we cannot take action against them. When we report to our head offices, they just instruct us to wait.’ Mahdi, Head of Bari Inland Taxation Office

The Head of Bari Inland Taxation Office also highlighted another issue of great consequence: the public are resistant to paying taxes because they believe collected revenue is not spent in their interest or for their benefit. He reported that when the tax collectors ask people to pay the due taxes, people often ask: ‘But what do you do with our money? We do not see anything coming back to us’.

The officer agreed that the people have a right to ask for accountability, but it is not the tax collectors who should answer their queries. Due to this, the officer stressed the need for conducting public awareness campaigns about the necessity of paying taxes as well as demonstrating the benefits accrued from paying tax.

Mahdi stated that the collection of inland tax involves many employees operating over vast areas and with many collection points. For example, each of the seven types of inland tax is administered by an independent office and staff. Therefore, without strict and coordinated control, the risk of embezzlement remains high.

To respond to the situation Mahdi said that he had introduced a database system and had secured approval from the former Ministry of Finance. The new system cost USD 2,000, and it was installed by a local company, Smart Engineering. It entailed establishing a database system, which unites the inland revenue points in Bossaso City with a central computer installed in the Bossaso Inland Taxation Office.

Each and every entry made at each revenue collection point is automatically transmitted to the central computer. From there, the controlling officer monitors daily income.

Mahdi stated that the system has proved effective, but its extension to the rest of Puntland needs relatively large amounts of funds that the Puntland Government cannot afford to pay. He requested external assistance for establishing this system, which will eliminate misappropriation of revenue and dramatically increase government income.

2.3 Local government revenue

In 2003, the Puntland Government formulated the Local Government Law No.7, which was amended in 2009. This law was part of a decentralization process that the Puntland Government engaged in.

The law devolved considerable power and authority from the central level to the local government level.

With regard to taxation, it transferred a wide range of revenues to local government fiscal budgets. These include:

- Taxes and fees on land, houses, animals, business licences, building permits, parking, registration of births, electricity and telephones, etc;
- Profit from municipal own business ventures;
- Revenue from service delivery to people.

The local governments accrue earnings mainly from businesses in the district capital towns. However, most local governments established in rural districts exist in name only, and they actually do not collect taxes from their constituencies (villages and communities).

The municipalities in the main towns of Bossaso, Garo, Garowe and Galkayo, Eil, Galdogob
and Jarriban, are among the few that collect from some of their potential taxation bases.

A UN-HABITAT report described the Puntland municipalities’ tax collection practices as limited to raising enough funds to balance the budget, which mainly covers staff salaries and administrative costs. It discovered that more than 70% of expenditure is earmarked for salaries and administrative expenditure in the municipalities’ budgets. This meant that municipalities were incapable of providing any meaningful basic services to the public, which eventually led them to lose public trust. Lack of public trust in turn instigated tax evasion and general public reluctance to pay taxes. The report plainly depicted the resultant equation as indicated in the figure below:

The report suggested that two things need to be done in order to achieve a surplus to spend in the provision of public basic services and thus earn the trust of the people, prior to attempting to increase ad valorem or lump-sum taxes:

- Fighting the squandering of funds, particularly reducing the sum allocated in the category of ‘administrative expenditures’ in the budget, and
- Increasing the collection capacity of the municipality in the already existing tax system.

The report points out that considerable revenue is lost in tax evasion practices and poor tax collection mechanisms.

Additionally, in order to increase tax collection and enhance the technical collection capacity at municipal levels, the UN-Habitat report found the following:

- Local politicians (the Mayor and the Councillors) have to be truly committed to the goal of collecting the revenue potential of their territorial jurisdiction.
- The local community has to be involved in the collection for two reasons – first, the tax is to be credibly ‘sold’ to the elders as the ‘price’ for services that the public sector commits to provide; second, for some types of levies, municipalities should evaluate the feasibility of outsourcing, prior to the establishment of clear regulatory framework, the tax collection function, either to private companies or to trustworthy clan members. The current door-to-door collection system is to be gradually phased out, since it entails inefficiency if not misappropriation and corruption.
- The municipality should look for mechanisms which give incentives for timely payment of the already existing taxes (e.g. declaring null and void any transactions having as their object a piece of real estate on which the original owner has not paid the due tax during the last year).
- A credible system of fines is to be implemented, although the enforcement, via security guards, has to remain the very last resort since it could trigger harmful side effects as proved by the 2010 turmoil experienced in North Galkayo.
- Local residents and businesses need to be convinced to pay their taxes, and this process can be facilitated by improved service levels and the perception that taxes are being administered fairly. In short, people are more willing to pay taxes if they feel they are getting something for them.
- The leading principle should be taxes match the benefits actually received from local services.

The report also identifies another negative characteristic of the LG Puntland taxation system: the lack of a development-oriented long-
term vision in taxation policy. This phenomenon is expressed as:

- Lack of social equity in taxation. It is reported that low-income hawkers pay a daily tax that contributes to the municipality budget more than the wealthy large-scale traders, who pay a symbolic periodic tax just for renewal of their licences.
- Absence of promotion strategies to specific valuable economic sectors such as fisheries, frankincense production, etc.
- Non-existence of urban development taxation strategies, which regulate zonal planning by introducing differential property taxation: in levying high taxes, for example, at congested areas to encourage people to settle in low-density areas with lower taxes.
- A practice of not charging on land dispute settlement (e.g. considering the regular payment of land-related taxes over a relatively long period of time as evidence of a consolidated possession).

Recommendations

In conclusion, to improve revenue collection and the taxation system in Puntland, this study recommends the following steps to be urgently taken:

- Review and update tax laws. Most operational tax laws were decreed over 30 years ago. Particular emphasis should be put on the value rating of taxes and duties, which seem to be low.
- Improve the collection capacity of revenue in the already operating tax system. By overhauling the collection and recording system, the Puntland Government will accrue significant amounts of revenue that is either not currently recorded or is missed.
- Provide technical capacity building to managers, computer operators, revenue collectors, engineers, etc.
- Introduce modern and computerized revenue collection, recording and control systems.
- Furnish revenue collection offices with appropriate equipment. (The study visited the revenue offices at ministerial, regional and municipal levels, and found them lacking vital equipment. This includes: computers, printers, photocopiers, chairs, tables, filing cabinets.)
- Fully enforce the operational specific-item levying system at the Bossaso Port. (Experts informed that the system is not wholly applied.)
- Involve the community in revenue collection. This can be done in various ways. First, the community needs to be consulted on valuation of taxes; second, community members can accompany the revenue collectors and convince people to pay taxes; third, the community has to be informed about revenue expenditure.
- Provide basic services to the public with collected revenue to earn their trust and as a result encourage voluntary payment of taxes by the public.
- Support the database system, which has been introduced by the Bossaso Inland Taxation Office, and extend it to the rest of Puntland State.
- Apply equity in taxation. (As explained in this chapter, the wealthy and/or big companies are not properly taxed, while the poor are heavily taxed. The Puntland Government should urgently resolve this inequity.)
- Conduct widespread public awareness raising campaigns on the need to pay taxes, putting emphasis on the importance and benefits of tax payment – using various methods such as radio and TV programmes, installation of billboards, posters, etc. at public points.

3. Budgeting

Governments formulate budgets at both national and local government levels to determine their expected revenue and expenditure at annual and multi-year periods. The budget is a very important document because, if properly prepared, it eliminates unnecessary expenditures, increases efficiency in the methods of collecting revenues, and preserves the credit rating of the municipality. It also ensures control of expenditure and
forecasts revenue income. Thus, it facilitates effective management and proper planning as well as accountability and transparency, which together eliminate possible venues for mismanagement and corruption.17

The national governments and local municipalities usually produce two budgets: annual operating budgets, which demonstrate revenue and expenditure of the current year; a capital budget, which defines a developmental long-term purpose and identifies projects of about 4-5 years, projecting revenue and expenditures. Capital budgets differ from current annual budgets in that revenue for these projects could include local revenue, borrowing, grants or other sources. Typically, the budget preparation processes pass through five stages18 (Kitchen, 2003).

3.1 Central government budgeting

In Puntland, the central government follows its annual budgets processes, which are defined in the state’s financial and accounting laws.19 The Financial and Accounting Procedures of Puntland regulate the formation, approval and reporting on the annual budgets. They define the budget cycle of the government from the planning to the implementation stage. It spells out that the financial year starts on the 1st January of each year and closes on 31st of December.

At the start of its budget preparation stage, the central government derives directives and policies from the Puntland Macroeconomic Framework of 2012-2021 and the Five-Year Development Plan of 2012-2017, as well as the relevant guidelines from the Ministry of Planning and International Cooperation and Ministry of Finance. The aforementioned financial and accounting law describes the specific steps followed during preparation of the Puntland Government’s budgets as:20

1. A request is sent to the ministries, departments and agencies (MDA) to submit their budget estimates for the financial year. The request has to be approved by the Minister of Finance.
2. The Director General of each ministry, department or agency receives a request from the Ministry of Finance requesting for the budget estimates for that financial year.
3. The Director Generals circulates the budget circular to the planning/budgeting department of their ministries, departments and agencies. The planning/budgeting department is responsible for budget estimation and formulation.
4. Each Director General reviews the budget estimates to ensure alignment to MoPIC’s strategic priorities.
5. The ministries, departments and agencies submit their annual estimates to the Director of Budgeting before the 15th of August for review and consolidation.
6. The Minister of Finance convenes a Committee composed of Heads of Departments to discuss the technical aspects of the budget in terms of revenue and expenditure.
7. The Economic Committee discusses the fiscal and monetary implications of the budget estimates. The Economic Committee comprises economic experts, ministers and community development partners. The Committee reallocates the budget estimates based on national priorities.
8. The Minister of Finance presents the budget estimates to the Council of Ministers for review and approval.
9. Upon approval by the Council of Ministers, the budget estimates are presented to the Parliament on a date not later than 15th of December by the Minister of Finance for discussion and approval. If the budget estimates are not approved by Parliament, they are returned back to the Council of Ministers for amendments.
10. Once the budget estimates are approved by the Parliament, they are sent to the President for enactment into law.
11. The Minister of Finance circulates the approved budget to all the ministries, departments and agencies for budget execution. Ministries, departments and agencies are expected to spend within the limits set in the approved budget. Where during a financial year it is necessary to make variations consisting of new expenditures, all
the virement of sums to one head or sub-head to another; the said variations is approved by the Minister of Finance.

12. Monthly, quarterly and annual budget utilization reports are prepared by the Office of the Accountant General and submitted to Parliament before the 30th June of each calendar year.

Following the above steps, the chart below summarizes the flow of the Puntland budgeting process:

**Overall Puntland Budget Cycle**

- **Preparation**
  - MoF/MDAs
- **Authorization**
  - Council of Ministers
- **Implementation**
  - MoF
- **Review/Audit Oversight**
  - OAG
- **Reporting and Monitoring**
  - Ministries, Departments and Agencies (MDAs)

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### 3.2 Financial reporting

With regard to reporting requirements, the law prescribes that all ministries, departments and agencies should submit to the Regional Accountants monthly, quarterly and annual financial reports. The Financial Regulation of the State requires that financial statements should have the following ideal qualities:

- Accurate, for meaningful decisions and steps to be taken;
- Timely;
- Reliable;
- Clear and unambiguous;
- Economically justified, and avoiding the production of unnecessary data;
- Flexible, and easy to adjust as needs change;
- Comparable, to ensure that decisions have a baseline; and
- Relevant to each particular manager’s area of responsibility.

**Monthly financial reports**

Regional Accountants are charged with producing regional reports at the end of each month and forwarding them to the Accountant General in the Ministry of Finance no later than the 5th of the following month. According to the law, the monthly reports should comprise:

- A Trial Balance for the month showing, in separate columns, the totals of debit and credit entries in the General Ledger;
- A cumulative Statement of Income and Expenditure;
- A Budget Execution Report with a comparison report;

Furthermore, the financial statement should be accompanied by the following summaries and schedules:

- Income summary;
- Expenditure summary;
- Schedules of imprests and advances;
- Schedule of accounts receivables and payables;
- Petty cash count certificates;
- Bank statements and certificates of balances of all MDAs accounts from the bank(s), and
- Bank reconciliation statements.

The Regional Accountants should prepare draft statements (regional reports) for submission to the Accountant General for review, approval and consolidation. The Accountant General will review the financial statements and provide comments to the Regional Accountants who will incorporate the comments and re-submit the report back to the Accountant General for purposes of preparing the consolidated financial statements of the Puntland State of Somalia.

The Accountant General is also tasked to produce and submit consolidated financial reports to the Office of the Auditor General (OAG) not later than the 30th of April of the following year. Similarly, the constitution requires the OAG to
report on the closing of the accounts for the previous fiscal year and submit it to the Parliament on a date not later than the 30th of June of the following year.

**Expenditure**
The financial law obliges that when Parliament approves the budget, each ministry, department or agency, is authorized to expend within its budgets limits.

However, the law necessitates that the Office of the Accountant General should execute ground work for budget implementation before commencement of payments in order to affirm a rigorous accounting system for the new year. If a need arises for making payments outside the allocated budget, then that agency should seek approval from the Ministry of Finance.

The law also institutes the commitments identified below for government expenditure:

- An expenditure commitment occurs when an MDA enters into a legal obligation that requires it to pay for goods or services either immediately or sometime in the future.
- An MDA enters into financial commitments whenever it enters into an agreement which involves future financial payments. It is very important that MDAs make commitments within their approved budget estimate limits.
- Commitment of funds should be in conformity with the existing legal provision such as the Organic Budget Law on state finances and property, etc.

Chapter III Article III of the Financial Regulation of the State provides that Ministers may make commitments and incur expenditure within the limits established in the budget. Commitments may normally be entered into for the current financial year. However, where a commitment extends for more than one year, payments relating thereto should be limited to the amounts provided in the budget for the current financial year.

When interviewed, the Director of the Budgeting Department of the MoF, Omar H. Said, elaborated that, regardless of the fact that they prepare and control the government budget at the end of the day, his department is not technically sound and effective. He reported that they lack trained personnel, proper equipment, and use of modern systems of financial management. Therefore, they need assistance in:

- Introduction of modern systems for accounting and control;
- Capacity building of personnel in relation to new systems;
- Support in provision of equipment such as database system, networking within the Puntland State financial systems.

‘If I had a computerized database and networking, I would have observed from the central database, in my office here in Bossaso, that at the Galkayo Airport, $500 of revenue was collected at 10 am. This will have enabled me to scrutinize the overall income and expenditure process, and no one would have spent without my authorization’. Omar H. Said, Director of Budget Department, MoF

### 3.3 Basic services and infrastructure

As explained in Chapter Two on Taxation, the public is reluctant to pay taxes to government because of the fact that the government is not spending on urgent community needs such as the provision of basic services and infrastructure. Independent observers have criticised the Puntland Government for disregarding investing in basic services and development of infrastructure but lavishly spending on security. (See the data below).

Analyzing the track record of Puntland State budgets, it can be noted that the budget continued to increase year after year. For example, the budgets rose from US$11.7 million in 2008, US$17.6 million in 2009, US$30.158 in 2011, to US$30.679 in 2014.

However, in each budget, the government allocated a minimum provision for basic needs such as education, health, water, and infrastructure. Although all agree that the security sector is vital, nevertheless, the amount earmarked for security each year seems to be excessive. As an example, in the fiscal year of 2014, an amount
of US$10,642,104 was allocated for security, which was 34.7% of the total annual budget.

In contrast, the same budget allocated for education and health estimated amounts of US$1,061,196 (3.46%), and US$679,260 (2.2%), respectively.

Despite the repeated requests from local communities and experts on prioritizing social services and increasing their budget allocations, it seems that public calls are falling on deaf ears. The recent Puntland Priority Document adopted by the new government of Professor Abdiweli, had mentioned social services as its fifth theme of ‘Revenue and Public Financial Management Systems’.

While the government has committed itself to improvement of livelihoods, access to water, promotion of gender mainstreaming, and equitable access to social services, it does not promise any budget increases for the social services sector in particular or provision of basic services in general.

The Puntland Priority Document classified ‘strengthening of public finance management’ as one of its top priorities. To achieve this it set out the following milestones:

- Accounting, auditing and reporting systems improved;
- Budget preparation and execution enhanced;
- Procurement system established;
- Taxation system reviewed and updated;
- Banking system strengthened.

3.4 Local government budgeting

Local governments, during preparation of their budgets, derive their policy directives from their local councils, which, while putting more emphasis on localized urgent priorities, still attempt to follow the objectives set out in national development plans.

It is also assumed that the local governments’ budget preparation cycle follows the general pattern of the central government as stipulated in the law on Financial and Accounting Procedures. Furthermore, the Local Government Law No7 of 2003 stipulates that the local government...
budget should be based on a three-step decision making process:26

1. The Permanent Committee of the Municipal Council prepares a list of projected revenues and expenditures for the coming year;
2. The Executive Committee is consulted;
3. The Permanent Committee presents the budget to the Municipal Council for deliberation and approval.

Notwithstanding, the UN-Habitat report identified that, despite the above laid out procedure, in actual terms local governments do not conform to the above requirement. Instead, the Executive Officer (EO) of local government independently prepares the annual budgets by typically copying the allocations of the previous year’s budget with little additions or reductions in line-items.

Since the EO is designated by the central government, independent preparation of the budget by the EO actually construes that the Permanent Committee, and eventually the District Council, merely act as rubber stamps to budget decision making and formulation, and thus limits their ability to represent the local communities, as well their ability to reflect the communities’ priority needs.

Additionally, the UN-Habitat report found a number of shortfalls in the local government budgeting. These include:

- The budget does not distinguish between current and capital revenues or expenditures, which means there is no link between taxes and services provided to community;
- Currently, there is no functional Chart of Accounts and clear-cut definition of what a given heading/sub-heading should contain in all the municipalities;
- A splitting of the personnel-related costs (salaries, clothes/uniform, milk, medicines, trainings, incentives, DSA, special allowances for mayors, councillors, executive officers, etc) across the entire list of expenditures (e.g. under ‘administrative costs’, ‘other expenses’, ‘grants’);
- Notwithstanding the requirements of the 2003 law, the budget spreadsheet is not accompanied by a financial statement, which would provide a background for the revenues and a justification for the expenditures, and an explanation of how revenues and expenses are directly related to the municipality’s performance vis-à-vis its official mandate as local service provider.

Finally, the report discovered the local government budgets are characterized by ‘irrational’ budgetary classifications (see the diagram below),27 which are neither financially transparent nor supportive of rigorous performance evaluation. This, reciprocally, resulted in a lack of public trust and its unwillingness to pay taxes.

**Recommendations**

- Train personnel on budget formulation, implementation, control and monitoring.
- Provide equipment to the budget departments of MoF and municipalities: computers, printers, photocopies, chairs, tables and filing cabinets.
- Install modern electronic budgeting and financial management systems in the budget department of MoF.
- Consult the public during budget preparation and before submission for approval, in order to enable stakeholders to scrutinize the budget and ascertain whether it is spent on community priorities.
- Engage district councils in budget preparation and identification of priorities. (The
study has found that the Executive Secretary of the municipalities independently prepare and allocate budget and submit a finalized budget to the district council for approval.

• To build the public confidence, MoF and municipalities should be transparent with their expenditures and regularly publicize their annual expenditures.

4. Land and property rights

4.1 Property rights

The Somali society does not differentiate or discriminate with regard to property ownership between men, women, youths, the elderly, or marginalized groups. The Federal and Puntland Constitutions, unequivocally declare that women, men, and youths have equal rights to property ownership. The secular penal and civil codes advocate for equal rights in property ownership irrespective of gender, race, age, religion. The Islamic jurisprudence demands equal rights in relation to property ownership.

Only in the case of inheritance rights, does the female get half of the male’s share, and this is justified from the Islamic point of view. Equally, the Somali customary law, Xeer, which on occasions deviates from Sharia and secular laws, conforms to Sharia when it comes to issues relating to property rights.

No one is restricted in owning property but it is a matter of opportunity, when women and men demonstrate disparity in wealth or property. Disparities between women and men in wealth or property are not something characteristic of Somali society but a worldwide trend.

Poverty and domestic responsibilities often hamper women or girls from getting equal opportunities with men and boys in education or going out to jobs to accomplish successful careers and earn wealth.

Somali women have no problems in owning buildings, opening businesses, or acquiring land deeds if they can afford to. However, it is a known
fact that women are discriminated against in multiple other areas which are not the subject of this analysis.

The largest women's umbrella NGO in Somaliland, NAGAAD, supports the above views. It notes, ‘Women are not facing any discrimination concerning access to land. Women and men are equally treated in relation to buying and selling plots. From NAGAAD's own point of view, since land is only a question of money, there is no discrimination compared to what exists in employment, education and politics.’

### 4.2 Land ownership history

In traditional terms, and in accordance with Somali customary norms, land and any resource bestowed in it constitutes the exclusive ownership of the clan or the primary lineage that permanently resides in that locality. It is important to note here that this particular customary law prevails in the Puntland regions and probably in other lands inhabited by nomadic pastoralist communities.

However, the agricultural lands in the south and in some parts of north Somalia have different traditional norms relating to land ownership. Having said that, customary law prohibits pasture usage or grazing from being exclusive ownership by the clan. It rules that pasture is a shared resource for all, irrespective of clan ownership, in a time of need such as drought. This general pattern of loose land ownership prevailed in the Horn of Africa Region prior to the advent of the colonialists.

As soon as they arrived, the British and Italian colonialists forcibly revoked clan land ownership and imposed western land ownership practices. The Italians confiscated the fertile agricultural land at and around the Shabelle and Jubba rivers in and around the Shabelle and Jubba rivers in the southern parts of the country and transferred it to Italian plantation settlers.

In the face of a subsequent reaction from the expropriated indigenous land owners, the Italians quelled the resistance by introducing in 1926 a 50-year lease agreement on agricultural land and individual land ownership at urban centres, and they coerced the aggrieved community elders to sign it.

Subsequently, Somalia got independence from Italy and Britain in June and July 1960, and the first constitution, adopted by a referendum in 1961, ordained that all land belonged to the state and citizens had equal rights to land with respect to residence or cultivation. The constitution conferred to government the right of administering land and land dispensation. Thus, the new Somali elite adopted the colonialists’ outlook by abolishing clan land ownership for the second time.

In October 1969, the military government that took over power, for the third time alienated clan land ownership by initiating a number of laws. Initially, it nationalized and re-distributed large agricultural lands owned by Italian plantation owners and Somali high officials and businessmen. Next, the government passed Law No.67 of 1 November 1970, which abolished 'all forms of tribal association, rights and privileges, including rights over land and water sources and institutionalized state land ownership'.

Again, in 1975, the government promulgated the 1975 Land Law regulating the state ownership of land and water sources. This latter law prohibited private ownership of rangeland, on the one hand, and required that all agricultural land be state owned, on the other hand. It stated that government should grant a fifty-year land lease to applicant citizens, with the government having ultimate authority to revoke ownership of such land when in the public interest.

Most of the above land laws targeted and subsequently impacted on the agricultural land areas and urban centres, often alienating the indigenous people, as privileged elites appropriated the fertile land through state power.

Similarly, in the pastoral settings, the law on state ownership of land and water sources replaced the clan monopolization of land and water sources.
It, on the one hand, constituted a positive step and a decisive element in facilitating equal access to land and water sources demanded by the constitution, and in effect dramatically reduced pastoralists’ conflicts over land and water.

On the other hand, the law brought considerable geographic displacement with regard to clan settlement patterns, which fuelled conflict in the end, when the iron hand of the military government weakened in the 1980s, rekindling clan wars over land and water sources’ ownership.

In Puntland, the constitution states that, as a general rule, previous governments’ policies, laws and procedures remain in effect unless these otherwise contradict the Puntland Constitution or any laws promulgated by the state. That means all laws relating to land and property ownership, which were decreed by the Somali governments, are valid and in effect unless revoked by the Puntland Government.

For example, the Puntland Constitution legitimizes, in accordance with previous Somali governments’ laws, the proposition that land belongs to the state and the government has the authority to distribute land.

The Ministry of Local Government is responsible for land management and, since decentralization of authority to local levels has taken place, respective local governments are ultimately empowered to take on land management.

While the mayor, on the powers of the municipality council, issues urban land title deeds, this authority can also be delegated to a committee appointed by the mayor.30

The committee often advises on the general town plan, construction layout, and land settlement policies.31

In an interview, the Director General of the Ministry of Public Works, Abdulkadir Sh. Mohamoud, stated that the Puntland Government did not pass laws on land and property ownership and, practically, the former government’s laws prevail.

However, he highlighted that efforts in this regard have been under process for a number of years. He affirmed that his ministry, with technical assistance from UN-HABITAT, is processing two bills on land. The first one, which has been finalized and named ‘Urban Regulatory Frame-work Puntland’, addresses laws on urban planning, roads, recreations, residential and commercial areas, schools and hospitals. The ministry planned to pass this bill at the end of 2014 and forward to the Council of Ministers for approval, from whence it will proceed to parliament.

The other bill, which relates to land policies and laws, has been in preparation for the last three years. The bill targets formulating of regulations that govern the allocation of land in relation to grazing, farming, tourism, reserves, and urban dwelling.

The DG noted that, although UN-HABITAT is supporting the initiative, it has not provided adequate funds, and the document is therefore still unfinished for lack of funds. The DG requested all concerned international agencies to participate in this programme and provide funds to finalise the scheme.

Interviewed informants clarified that land management relates to both the Ministry of Public Works (MoPW) and municipalities, but each has its mandate. While they collaborate on many land issues, the MoPW deals with general urban planning and rural land management. This is evidenced by the two bills noted in the preceding paragraphs.

On their part, municipalities are authorized to regulate urban land plots and participate in urban planning with the MoPW.

4.3 Structure of land management

In urban centres, municipalities are charged with land dispensation through their Land Department Offices, which operate under the former Somali governments’ laws. The department comprises the land section, planning section, and land monitoring section (see diagram).

The land section is responsible for land allocation, registration and record keeping, while the planning section is charged with urban planning and mapping with the help of its surveyors.

The monitoring section oversees the performance of the other two sections in order to ensure compliance with established laws and procedures.33
Structure of Puntland Municipal Land Departments

Theoretically, for someone to own land, they have to apply to the municipalities to grant them this land and provide a title deed.

The municipality upon receipt of the application consults its maps and land allocation patterns and sends a commission (including surveyors and other specialists) to the applied for land to ascertain whether the land/plot is real, not owned by someone else, and can be granted in accordance with established rules and regulations.

When the commission awards clearance and endorses the request, the mayor grants the land to the applicant, who then takes the letter of approval to the land department, which registers the ownership of the land after the applicant has paid the due fees.

A UN-HABITAT report found a number of weaknesses in the municipal land department’s performance. These include:

- Deficiency in computers, printers, mapping equipment and office stationary;
- Various offices registering land do not share information pertaining to land between them;
- Low accuracy in registration of rights and parcels;
- Absence of updating procedures.

4.4 Land grabbing

After the collapse of the Somali State and the subsequent absence of law enforcing bodies and legal systems, many residents of the major Puntland urban centres have exploited the opportunity to grab, demarcate or illegally occupy un-owned or publicly-owned land at the peripheries of these centres in the 1990s. Accordingly, after the establishment of local government, access to land by the municipality and landless people demanding titles became a formidable problem. As the Puntland Government (both central and local) remained weak in regard to eviction, the municipalities were obliged to legalize land for those unlawful settlers.

‘In real terms, the municipalities in the main urban centres, like Bossaso, Gardo, Garowe, Galkayo, have no land to manage. Already all the land has been grabbed and nothing is left for the municipalities to handle. Our task became limited to legalization of land that had been annexed.’ Awad Dirie, Director of Bossaso Land Department

The Director of the Land Department in Bossaso Municipality, Awad Mohamoud Dirie, stated that, in relation to land tenure and registration, municipalities authorize two avenues of regularization for grabbed land:

In the first procedure, the claimant approaches the municipality and submits a request for a title. In this case, he/she defines the specific land/plot, its location, size and how long he/she has occupied that land. This option does not appeal to claimants because, if they cannot pay the due taxes, the municipality has the right to appropriate the land and evict the occupant.

The other avenue for grabbed land legalization is to apply to the Islamic courts, which prove more favourable to the claimants.

A number of research studies conducted on the issue have confirmed that land grabbing continues to constitute a major source of conflict in Puntland today. Currently, the Islamic courts and the municipalities are the main
agents of conflict resolution. As earlier mentioned, both conduct land registration and provide titles. Therefore, in the event of conflict, contestants naturally turn to them for authentication of titles and final adjudication.

The municipalities engage the Land Conflict Committee, which consists of five members, including the Director of the Land Department, the Head of the Land Monitoring Section, and the Municipality Engineer. The Committee looks into the case and reaches an appropriate decision.

However, the Islamic courts not only hear the case for authentication of documents, but also judge on compliance with the fundamental Islamic principles of land tenure, which among other things stipulate that land can be owned by adding value to or developing it, such as by erecting buildings, digging wells or berkeds, farming, etc.

**Recommendations**

1. To eliminate duplication, the central government should enact a law that mandates municipalities with the responsibility of authorizing title deeds. (Currently, the Islamic courts also legitimize land titles, which creates confusion.)
2. The Ministry of Public Works and municipalities should cooperate in ensuring that proper urban planning is accomplished and should not hesitate in confiscating any grabbed land that is needed for public amenities, such as roads, schools, hospitals, recreation centres.
3. Provide technical capacity building to the land department and the department of public works of local governments as well as the land department of the MoPW.
4. Equip the land and public work departments of the municipalities with appropriate equipment.
5. General recommendations

5.1 Taxation

- Review and update tax laws. Most operational tax laws were decreed over 30 years ago. Particular emphasis should be put on the value rating of taxes and duties, which seem to be low.
- Improve the collection capacity of revenue in the already operating tax system. By overhauling the collection and recording system, the Puntland Government will accrue significant amounts of revenue that is either not currently recorded or is missed.
- Provide technical capacity building to managers, computer operators, revenue collectors, engineers, etc.
- Introduce modern and computerized revenue collection, recording and control systems.
- Furnish revenue collection offices with appropriate equipment: computers, printers, photocopiers, chairs, tables, filing cabinets.
- Fully enforce the operational specific-item levying system at the Bossaso Port.
- Involve the community in revenue collection. This can be done in various ways: first, communities need to be consulted on the valuation of taxes; second, community members can accompany the revenue collectors and convince people to pay taxes; third, communities have to be informed about revenue expenditure.
- Provide basic services to the public with collected revenue to earn their trust and, as a result, encourage voluntary payment of taxes by the public.
- Support the database system, which has been introduced by the Bossaso Inland Taxation Office, and extend it to the rest of Puntland State.
- Review the taxation system, especially with regard to existing inequalities.
- Conduct wide public awareness raising
campaigns on the need to pay taxes, using various methods, such as radio and TV programmes, installation of billboards, posters, etc. at public points.

5.2 Budgeting

- Train personnel on budget formulation, implementation, control and monitoring.
- Provide equipment to the budget departments of MoF and municipalities: computers, printers, photocopies, chairs, tables and filing cabinets.
- Install modern electronic budgeting and financial management systems in the budget department of MoF.
- Consult the public during budget preparation and before submission for approval, in order to enable stakeholders to scrutinize the budget and ascertain whether it is being spent on community priorities.
- Engage district councils in budget preparation and identification of priorities.
- MoF and municipalities should regularly publicize their annual expenditures.

5.3 Land and property ownership

- To eliminate duplication, the central government should enact a law that mandates municipalities with the responsibility of authorizing title deeds, and remove this responsibility from the Islamic courts.
- The Ministry of Public Works and municipalities should cooperate on ensuring that proper urban planning is accomplished and they should not hesitate in confiscating any ‘grabbed’ land that is needed for public amenities, such as roads, schools, hospitals, recreation centres, etc.
- Provide technical capacity building to the land department and the departments of public works of local governments, as well as the land department of MoPW.
- Equip the land and public work departments of the municipalities with computers, printers, photocopiers, and filing cabinets.
Annex 1: References

2. The predicament of the ‘Oday’; The role of traditional structures in security, rights, law and development in Somalia, DRC – Oxfam – Novib, 2006
4. Funding the Future, PDRC, 2006
5. Municipal Finance and Public Service Delivery In the Puntland State of Somalia, UN-Habitat, 2010
9. 2014 Puntland Budget Document
Annex 2: Checklist on Taxation, Budgeting Land and Property Rights in Puntland and Jubaland

**Taxation**
1. Which types of taxes and duties are levied in Puntland? Which are for central government and which are for local municipalities?
2. Can you produce a copy of the Accounting and Financial Procedures Law?
3. When was Puntland Taxation Framework reviewed? Do you have a copy?
4. What is the number of 2003 Local Government Law? How does it allocate taxes between local and central?
5. Which districts/municipalities levy taxes and which are not?
6. What effect does taxation have on overall governance and accountability in Puntland?
7. What support do you need in tax collection? Which are the prevailing challenges? What reform is needed?

**Budgeting**
1. How do local municipalities prepare their budgets? Which cycle do they take? Who has the decision making and who prepares budgets?
2. Do you involve public in your budget preparation or seek citizen participation/views before approval?
3. What effect does budgeting have on governance and accountability?
4. What support do you need in budgeting? Which are the standing problems? What reform is needed?

**Land and Property Ownership**
1. Which land laws are operational in Puntland, please specify and name and date of creation?
2. Which law differentiates between temporary and permanent land ownership?
3. Who is responsible for land management? What is the role of MoPW in land management?
4. How is grabbed land dealt with?
5. How do people resolve land conflicts (through municipality, Sharia or secular courts?)
6. Can IDPs own land in Puntland?
7. What effect does land management have on governance and accountability?
8. What support is needed in land management, which are the standing problems? What reform is needed?
### Annex 3: Legal Documents Used by Puntland’s Financial Institutions

<table>
<thead>
<tr>
<th>Document/Description</th>
<th>Status</th>
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<tbody>
<tr>
<td>The Puntland Transitional Constitution</td>
<td>In use</td>
</tr>
<tr>
<td>Law of Annual Budget</td>
<td>Requires reviewing (national/ foreign expertise)</td>
</tr>
<tr>
<td>Somali Financial and Accounting Procedures Law No. 29 of 1961</td>
<td>Partially used</td>
</tr>
<tr>
<td>Law of Direct Taxation (Decree Law No. 5 of November 5th 1966)</td>
<td>Partially used</td>
</tr>
<tr>
<td>Somali Civil Code</td>
<td>Partially used</td>
</tr>
<tr>
<td>Direct Taxation (Taxation on income from lease/rents of buildings: 22.5%; see Law No. 6 of December 28th 1971 and also supply U.B. No. 1 of January 5th 1972)</td>
<td>Partially used</td>
</tr>
<tr>
<td>Decree Law No. 6 of December 7th 1966, Imposta Di Bollo (Stamp Duty)</td>
<td>Not active</td>
</tr>
<tr>
<td>Law No. 15 of November 1st 1969 (SRC Decree) on the establishment of a commission for deliberation of the Fiscal Contention</td>
<td>Not established</td>
</tr>
<tr>
<td>Law No. 7 of January 29th 1977 (Law No. 11 of February 8th 1967) of Foreign Investment (See revised version of Puntland State)</td>
<td>Not in use</td>
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<tr>
<td>Law No. 21 of January 19th 1973 – Supervision and Control of WAQF Property (U.B. No. 3 of February 28th 1973)</td>
<td>Not active</td>
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<tr>
<td>Tax on real estate rent (10%)</td>
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<tr>
<td>Indirect Taxation (Canshuurta Dadban Law No. 9 of April 14th 1999 – Canshuurta Moorka Ganacsiga, Cansh. Moorka Mush/yinka etc.)</td>
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<tr>
<td>Law No. 3 of November 29th 1998 – Administrative Law of the MOF</td>
<td>Active</td>
</tr>
<tr>
<td>Puntland Customs and Excise Duty (Law No. 16 of December 1998) – Customs duty tariffs – ad valorem on qat/khat at 20%</td>
<td>Active</td>
</tr>
<tr>
<td>Law No. 6 (December 1998) on property tax/ unmovable assets</td>
<td>Not known</td>
</tr>
<tr>
<td>Concessions and permits (Royalties and registration fees)</td>
<td>Not known</td>
</tr>
<tr>
<td>Law No. 6 – Health business licenses</td>
<td>In use</td>
</tr>
<tr>
<td>Law</td>
<td>Status</td>
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<tr>
<td>------------------------------------------</td>
<td>-----------------------------</td>
</tr>
<tr>
<td>Land Concessions Law</td>
<td>Disputed between MoF and municipalities</td>
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<tr>
<td>Trademark law</td>
<td>Not active</td>
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<tr>
<td>Export/Import License Law No. 14</td>
<td>Not active</td>
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<tr>
<td>Telecommunication Law No. 13</td>
<td>Partially used</td>
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<tr>
<td>Entertainment licenses</td>
<td>Not active</td>
</tr>
<tr>
<td>Registration Law</td>
<td>Confusion over competence – Not active</td>
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<tr>
<td>Bulletino Ufficiale, Suppl. No. 8-12, of December 31st 1961</td>
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<tr>
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Annex 4: Puntland Government Taxation Framework

(Old Version)

1. Why do we pay taxes?

The reason why we pay taxes is because one person cannot afford to fully pay for a service they use and thus it is the responsibility of governments to collect taxes in order to fund public goods and services for the benefit of the citizens.

Whatever the tax system design, the widely documented common objectives of tax systems include:

- To raise revenue to be used to fund government operations
- To assist in the redistribution of wealth and income (fairness/equity)
- To encourage or discourage certain activities such as smoking and other similar activities

2. Basic tax concepts and principles

The most commonly documented principles or characteristics that guide tax policy are:

- Adequacy – The tax system is said to be adequate
- Simplicity - The tax system has simple rules for citizens to understand
- Neutrality - The other term for neutrality is efficiency

Types of Taxes in Puntland

Taxes are the most important source of public revenue (funds) for the government. Tax is a compulsory contribution (payment) from an individual (taxpayer) to the government to cover the general expenses of the state which are incurred for the public good or in the interest of all. Taxes in Puntland can be divided into three broad categories; Inland Revenue Tax, Customs Tax and Customs/Trade Tax.

Customs /Trade Duties

Puntland State opted for specific duties at its inception in 1998, but over the last few years there have been several attempts to adopt the ad valorem system that uses total value of the goods and internationally harmonised rates from the WTO. The Puntland Administrations has shown enthusiasm to move over to the latter system.

Customs duty may be charged on goods which are brought into or taken out of the State. Article 2 of Law No. 1 dated 31 March 1961 requires that there is a dedicated customs department within the Ministry of Finance. The law allows customs duties to be specific or ad valorem and may be imposed, revoked or modified by decree. The Customs Law consists of 43 Articles.

INLAND REVENUE TAX

1. DIRECT TAXES

Direct tax: This includes personal income tax, corporate income tax, property income tax. Direct taxes can also be classified on the “base of tax,” the “base of tax” being the object upon which tax is imposed and to which the rate is applied; in accordance with these criteria, direct taxes may again be classified under the following headings:

1. Income Tax
2. Capital Gains Tax
3. Inheritance Tax
**Income Tax**

**Purpose of Income Tax:** Generally, income tax in Puntland is used for revenue mobilization and income redistribution purposes. Income tax is used to achieve equity objectives through rationalization of tax brackets and rates; in other words, tax brackets could be broadened or the number of brackets increased and the tax rates could be increased or reduced depending on the objective. The redistribution and equity purposes are more evident with personal income tax than with the other types of income tax. Evidently, the rationalization of tax brackets and rates is done so as to reduce tax burden on those with lower and fixed incomes and make the tax more equitable.

**Income tax charged upon income from building or other permanent structures:** Income from buildings is taxed at flat rate of 10% after 20% of wear and tear deductions. The tax base must be defined legally and quantified for determining the tax liability of the taxpayer. The government when deciding tax rates should consider the following parameters:
1. Cost of collection
2. Administration and effect of taxes
3. The best combination of all these factors

**Income permanently exempt from tax**

Article 16 states that Income tax shall not be charged upon the following:
- Buildings used for public worship, and their appurtenances.
- Cemeteries and their appurtenances.
- State owned buildings.
- Buildings housing foreign embassies, legacies or consulates, provided such buildings are the property of the states represented by such embassies, legacies or consulates.
- Buildings used as schools including private schools, provided such schools are organized on a non-profit basis and are authorized by the Ministry of Education.
- Rural building belonging to the owner or concessionaire of the land, provided they are used for the purpose of residence by those who personally cultivate the land, where the value of the building does not exceed Sh.so 300,000/= or for the purpose of housing animals bred on the land; or for purposes of storage and primary processing of agricultural products or safekeeping and preservation of machinery, equipment and other materials used for the cultivation of the land.
- 40% of the undistributed profit of industrial enterprises technically organized and assessable on the basis of their balance sheet, provided such profit is clearly shown in the reinvestment fund entered in the liability side of the balance sheet, and does not exceed 25% of the chargeable income. Income tax shall be charged upon any disbarment of profit undistributed and set aside in the reinvestment fund.

**Persons exempt from income tax**
- The president of the State, in respect of his annual emoluments.
- The State and local Administrations.
- International organizations, in conformity with the generally accepted rules of international law and international treaties binding on the State.
- Diplomatic agents of foreign state, in respect of their salaries and any other emolument received in connection with their function.
- Consular agents of foreign states, in respect of their salaries and any other emolument received in connection with their functions.
- Expatriate officials and employees of the United Nations and its specialized Agencies and of foreign and international organizations and bodies, in conformity with international agreements, in respect of their salaries and any other emolument received in connection with their functions.
• Members of the Armed Forces and paramilitary organizations below the rank of non-commissioned officer, on active duty, in respect of their salaries and emoluments.
• Lawfully established charitable and welfare institutions, bodies and foundations; institutes, academies and societies having exclusively cultural purposes; religious institution provided that income derived from commercial activity shall be excluded from exemption.

2. INDIRECT TAXES
In indirect tax the impact of the tax is on one person and incidence is on another person e.g. sales tax. Indirect Taxation is the largest tax collected in Puntland and it is divided into six sections based on laws and legislation dating between the 1960s and 1980s. During the period of Puntland’s existence, the various administration have updated the tax rate to reflect inflation of the Somali Shilling and the exchange rate against the US dollar.

Sections include:
• Registration tax
• Stamp tax
• Sales tax
• Vehicle circulation licence (Road Tax)
• Excise duty (Production)
• Court fees

Registration tax
Registration Act No.4 of the Somali Democratic Republic dated 4th January 1985 was adopted in Puntland State from its inception. Registration tax is due from all agreements, contracts, invoices, transfer of assets (Fixed and Current) co-ownerships, company registration, and rental agreements regarding properties, vehicles and vessels.

Stamp Tax
Like most Puntland taxes, the stamp tax also was adopted from the Somali Democratic Republic Legislative Decree n0. 6 of December 1966. Scope and details of the stamp tax law are clarified between Article 1 and Article 44. Stamp tax is charged upon all acts referred to in the legislative degree mentioned above, existing or used in the territory of Puntland State. Stamp tax is charged on any such act issued in connection with transfer of ownership or possession of goods, sums of money, securities, stocks, or in connection with the transfer of good and securities from or into the territory of Puntland.

Sales Tax
Sales Tax law No. 2 on 7 January 1984 was introduced by the President of the Somali Democratic Republic to increase government revenue in order to fulfil its duties towards economic growth, security, defence, social and political development. Sales tax is levied on imports, wholesale businesses, invoices on hospitalities and local production. Scope and details of the sales tax are explained in the Articles between 1 and 22, Sales tax at 5% is levied on total value of imported commodities, total value of sales or invoice value of hospitality businesses. Sales Tax is excluded on stamp tax.

Road Tax
Road tax is levied on persons whose name appears on legal vehicle ownership documents; guidance can be found in Legislation No. 4 dated 28th December 1965 of the Somali Democratic Republic, further reinforced by the Puntland Administration on 1st January 2000. The Road Tax Act between Articles 1 and 28 clarifies different rates applicable to different types of vehicles. The type of vehicle determines the rate applicable as follows;
- Small vehicles
- Large vehicles
- Buses
- Tractors or all agricultural vehicles and large vehicles with lifting equipment
- Semi-Trailer Trucks
- Different types of Motor Bikes
- Tank Trucks

**Excise Duty (Production)**

Puntland excise duty is based on presidential decree No. 3 on 23 May 1985 of last Somali Democratic Republic, which ratified the Excise Tax Act. Scope and details are clarified in between Article 1 and Article 19. Article 1 defines the Excise Tax - Tax levied on; Products manufactured wholly or partly in Puntland including assembling process, bottling, canning, refining or any other process. When such goods are imported the same rate of excise tax mentioned in table below shall be imposed in addition to customs duties.

**Court Fees**

Any civil cases brought in front of the courts are charged a fee known as courts fee – Law No. 109 dated 14 November 1975 Articles between 1 - 6 clarified scope and details of cases and fee payable by person submitting the case to be heard. Cases brought by government agencies, departments and local governments are not charged a court fee in the beginning but will be charged once the case is won in their favour.

**Schedule B**

**Income Tax**

First, income tax is charged on the income earned by any person resident in Puntland. A resident is defined as an individual who has permanent residence in Puntland, and has spent any part of the working year(s) in the country; or, one without permanent residence in Puntland but who has spent 183 days or more, working in the country during the period of assessment.

**How income tax works**

Income tax is the most important direct tax in Puntland. Direct taxation including income tax is governed by the Direct Tax law no 5 of Somalia, which is the principal legislation with schedules and subsidiary legislations. More than 11 articles of the Direct Tax Law deal with direct tax.. In fact, the administration of various direct taxes, which have different rates, is undertaken by the Puntland Inland Revenue Department.

**Temporary exemptions in favour of industrial or agricultural businesses:** Article 17 clarifies temporary exemptions of industrial and agricultural business from income tax. Exemption shall also be granted where the entrepreneur proves that he will run an extraordinary risk in carrying on industrial or agricultural activities which, without involving any actual processing of goods, preserve or condition such goods thereby increasing their economic value.

Exemption shall also be granted to entrepreneurs who enlarge or radically renovate existing enterprises, provided that the conditions mentioned in paragraphs 2 and 3 of this article are fulfilled. An entrepreneur who can prove that he produces the same goods or uses the same technique as another entrepreneur to whom exemption from income tax has already granted, may be exempt from income tax under conditions not more favourable than those granted to the other entrepreneur. Such exemption shall expire on the date on which the exemption granted to the other enterprises expires.
The Ministry of Finance may, as an exceptional measure, and for a period not exceeding 10 years, wholly or partly exempt new industrial or agriculture enterprises from income tax, on the proposal of the Ministry of Industry and Commerce as regards industrial activities or on the proposal of the Minister of Agricultural and Animal Husbandry as regards agricultural activities. The exemption shall only be granted where the entrepreneur concerned proves that he will run an extraordinary risk, and that he will either produce new goods or, in producing goods, will use a more advanced technique which was not previously used.

**SCHEDULE C**

**Income from Employment**

The income from employment that is taxable includes salaries, wages, commission, bonus, allowances and compensation for termination of employment or self-employment. It is important to note that tax rates and tax brackets are subject to change from time to time and the prevailing tax brackets and tax rates since 1998 is what is captured in direct tax rate section.

Article 12 (a,b,c,d,e,f): Income tax shall be charged upon following incomes accruing or received in the territory of the state:

- Trade and professional income (profit from industrial, commercial or vocational activities)
- Interest or discounts, annuity and royalties
- Capital gains (occasional and extraordinary gains)
- Agricultural income
- Real or presumed income from buildings or from any other permanent structure
- Employment and pension income

**Corporate Income Tax**

Corporate income tax is charged on profits of companies registered as limited liability companies. Corporate tax is similar to individual income tax, but is levied on companies and does not have a graduated rate structure. Resident companies are taxable at a rate of 8%, 10% and 12% for profits from trade, industrial and professional activities respectively. Income from trade and professional activities that is taxable includes industrial, commercial, agricultural and professional income. This taxable income is levied at rates from 8% to 12%.
Annex 5: Notes in text

1. The monetary figures have just been extrapolated
3. The predicament of the ‘Oday’; the role of traditional structures in security, rights, law and development in Somalia, DRC, Oxfam, Novib, 2006. p. 67
5. See the old English version in Annex
9. Ibid, page 9
10. Ibid, page 16
11. Municipal Finance and Public Service Delivery In the Puntland State of Somalia, UN-Habitat, 2010, p.32
12. Municipal Finance and Public Service Delivery In the Puntland State of Somalia, UN-Habitat, 2010, p.32
13. Ibid, p.87
14. Municipal Finance and Public Service Delivery In the Puntland State of Somalia, UN-Habitat 2010, p.88
15. In 2010, tax collectors from North Galkayo Municipality accompanied by security guards went to levy taxes on a market, where some sellers from the community of South Galkayo operated. These sellers refused to pay tax because they believed to be part of another administration. The issue developed into an armed conflict where 15 persons were killed and many wounded.
16. Tassonyi, 2002
20. Ibid, pages 24-25
22. 2014 Puntland Budget Document (see attachment)
23. This is allocated for paramilitary forces (Daraawiish), police forces and prison guards
25. Ibid, page 16
26. Municipal Finance and Public Service Delivery In the Puntland State of Somalia, UN-Habitat 2010, p.36
27. Municipal Finance and Public Service Delivery In the Puntland State of Somalia, UN-Habitat 2010, p.37
29. Somali Customary Law, PDRC, 2003
33. Somaliland and Puntland State of Somalia, op. cit, page 25
Diakonia was established in 1966 under the name of Swedish Free Church Aid. Ever since, its focus has been on people exposed to injustice and their opportunities to change their situation. In 1984 the name of the organization was changed to Diakonia. The word “diakonia” is Greek, meaning care and service.