

A Case study of Qasim Abad, Ningarhar Jalalabad City



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*Jalalabad's
"Grab-Town"*

***A Difficult Case of
Illegal Settlement and
Land Dispute***

Qasimabad is located in Behsud District, five kilometers north of Jalalabad city. This site was first selected as a potential satellite township as part of a master-plan developed during the 1970s, while Daoud Khan was prime minister. The site was marked as a reserve space for future urbanization. If population pressure on Jalalabad city rose too much, this town would be developed to increase residential capacity and thus help city residents avoid problems caused by high population densities.



About Author

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About Badloon (2BCS)

Badloon Consultancy Services and Civil Society (2BCS) ® are non-governmental organizations formed by a group of highly motivated experienced professionals with many years of expertise in working with international and non-governmental organizations, and also policy think tanks. Though formally established in 2012 and 2008 respectively, 2BCS traces its origins to 2005, when a group of highly motivated young people came together to serve their communities on a small scale. Since their establishment, both Badloon Consultancy Services and Badloon Civil Society have undertaken research activities and surveys, helped build capacity and contributed to community development initiatives.

Acknowledgement

This case study is the result of a field investigation compiled during comprehensive research conducted by AREU in Jalalabad City in 2011. Mentioned research was stopped due to some constrains, but author continued data collection personally and the report is published by 2BCS now.

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Acronyms

AREU	Afghanistan Research and Evaluation Unit
BCS	Badloon Consultancy and Civil Society
CSO	Central Statistics Organization
IDLG	Independent Directorate of Local Governance
MAIL	Ministry of Agriculture, Irrigation and Livestock
MoUDA	Ministry of Urban Development Affairs
NGO	nongovernmental organization
UN-HABITAT	United Nations Human Settlements Program

Glossary

<i>benaqsha</i>	Land developed with no prior planning authorization (contrasts with <i>zorabad</i>)
<i>biswa</i>	Unit of land measurement equivalent to around 100 square meters
<i>nahia</i>	Precinct
<i>sahawy</i>	Detailed site plan
<i>tafsily</i>	Detailed area plan
<i>wakil-i-gozar</i>	Head of urban ward
<i>wasita</i>	patronage network; relations to those with power or influence
<i>zorabad</i>	Land abusively seized, generally with recourse to violence or the threat of violence (contrasts with <i>benaqsha</i>)
<i>Masahat</i>	Coverage Area / space
<i>Shaffa</i>	Land located in neighborhood of other land

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Introduction

In 2011 AREU initiated urban governance research. The research was piloted in Charikar (Parwan) and after pilot phase was complete, research was conducted in Jalalabad (Ningarhar). The aim of the study was to examine current urban development and urban governance issues in the city of Jalalabad. Out of the broad research theme of urban governance, the experience of field work in *Charikar* led the research team to focus on the formal and informal mechanisms that regulate land use, city planning and urban economic development. Arrangements for land use, city planning and urban economic development often highlight democratic deficits in the concrete management of cities¹.

Historical Context

Jalalabad is more than 2500 years old; some historians estimate it to be even older. Afghanistan's urbanization is one of the oldest civilizations of the world. Historical urbanization of Afghanistan includes the cities of Ghazni, Hirat, Balkh, Kandahar and Jalalabad. Despite having such a historical background of urbanization, today only 25% people are living in urban areas while 75% still live in rural sites. This illustrates the fact that Afghanistan's urban civilization and urban governance have not been developed in alignment with its historical period.

Many factors contribute to Jalalabad being one of Afghanistan's historic cities: its strategic geographical location, its location on a transit road which was the passing way of conquerors and its entrance to the sub-continent all played significant roles in its urban development; despite all these factors, Jalalabad hasn't developed as much as it should have.

After World War II, much of the world's urban centers have undergone modernization and vast development; in contrast, Afghanistan has had a minimum level of urbanization. Jalalabad was faced with similar problems of other cities in Afghanistan when Sadar Mohammad Daud Khan initiated modernization in urban development and introduced a Master Plan for the major cities of Afghanistan including Jalalabad in the 1970s.

According to the old master plan of Jalalabad - this city was designed for 40,000 dwellers and its MASAHTA (area/space) were estimated to be 4 km square. There was only one Nahia (precinct) established by the Jalalabad Municipality in 1958 (1336). Presently, its population is more than 1 million and its MASAHTA (area/space) is more than 27 km square and the number of Nahias (precincts) has increased from 1 to 6.

Until late 1978, all urban development in Jalalabad city was carried out according to the master plan but unfortunately due to regime changes and three decades of war,

¹ Democratic Governance in the Growing Cities of Afghanistan, Tommaso Giovacchini, AREU 2011

Jalalabad's master plan has not been executed as planned. During the last three decades, violence, civil war, interpersonal clashes and the role of informal power holders have combined to derail the Master Plan thus negatively affecting the legal urban development of Jalalabad.

The Population of Afghanistan in 2000 – 2015 is estimated 14million where almost 7million will be dweller in cities; it means a rapid increase in city dwellers from 25% to 50%. Based on this estimation Jalalabad urban dweller have increased from 40,000 to 1 million and will continue its rapid growth until 2015 which is key policy question for local government and all other stakeholders involved in urban development.

According to UN-HABITATE, in 2000 the urban population in Afghanistan has increased 6% per annum², while the World Bank estimates this increment to be 4.2%³.The question of which figure to accept is not import but the important issue is the rapid settlement of people in cities.

This rapid increase in Afghanistan's urban populations correlates with some cities of developed countries. In stark contrast with Afghanistan, these developed countries have managed the situation with urban planning and development. The destruction of Afghanistan's infrastructure coupled with a lack of proper urban planning and development have exacerbated the plight of people living in cities.

Jalalabad's local governmental authorities and other stakeholders involved in urban development have encountered the same problems of other cities experiencing this population explosion. Local authorities involved in urban governance such as the Jalalabad municipality, the Directorate of Urban Development (DoUD/MoUD) and other local governance departments have failed to manage this situation and as a result people have found other alternatives such as informal settlements and land grabbing or Zoor Aabad.

Research Objectives

- To understand the effects of land grabbing on Jalalabad's urban governance
- To acknowledge the efforts of local governments on the subject of land grabbing
- To recognize the necessary challenges in order to overcome land grabbing, will help formal and informal stakeholders, donors and policymakers in reviewing their strategies and policies regarding land grabbing and put good urban governance into practice.

At the beginning of the research in Jalalabad it was decided to identify foremost illegal or informal cites for case study.

² UN-HABITAT

³ The World Bank (WB)

Research Questions

Due to the lack of a proper urban governance mechanism, the implementation of a city master plan and the failure to manage rapid urbanization encountered by local governments, policymakers and donors must address the following questions;

- What is the plan of urban governance stakeholders for rapid urbanization?
- What strategies or plans does local governance have to tackle land grabbing or informal settlements?
- To what extent, have Laws, by-laws and decrees been implemented or been useful in land management?
- How can the economic development of the Jalalabad municipality, the municipality council elections and mayoral elections help the decline in land grabbing and contribute to better urban governance?

Based on gathered information a list of the most significant informal settlements and grabbed lands have been prepared and Qasim Abad was chosen for a case study in order to explore the consequence of land grabbing on urban governance. Foremost a list of grabbed lands and informal settlements was prepared during the research period (including Baz-i-Ekmalati (opposite of Qul-i-Urdu, army headquarters, Nahia 5), Kampona/Kampha (close to Pul-i-Behsud, Nahia 1), Sherzai Khargoti (Sherzai town, on the way to Torkham, 15 km away from Jalalabad city), Afghan Mina, Toop Ghundi (close to Gumruk mosque) , Omaid Abad (close to Pul-i-Behsud Nahia 1) and Qasim Abad (Behsud district, 5km away from jalalabad city). Information about Qasim Abad has been gathered throughout the three months research phase in Jalalabad.



A view of Qasim Abad Township

QASIMABAD

Qasimabad has been chosen for Case Study, and the findings from research there shed light on many issues related to informal settlements in urban contexts.

There are more than 4,000 plots of land in Qasimabad, which is roughly 1.5 square kilometers. Since the fall of the Taliban, this once-empty area has changed significantly, with a lot of informal settlement and development. A plot there initially cost US\$80-160 but now they go for more than \$2000.

Qasimabad is located in Behsud District, five kilometers north of Jalalabad city. This site was first selected as a potential satellite township as part of a master-plan developed during the 1970s, while Daoud Khan was prime minister. The site was marked as a reserve space for future urbanization. If population pressure on Jalalabad city rose too much, this town would be developed to increase residential capacity and thus help city residents avoid problems caused by high population densities.

Unfortunately, due to three decades of war, the plan to urbanize and expand Jalalabad city as envisioned in the 1970s was never implemented. However, after the collapse of the Taliban regime a large number of refugees returned from Pakistan and Iran; they had many employment opportunities due to the investments and donor funds following the ISAF/NATO's intervention. At this time, the price of land suddenly shot up. As a result, people who had the support of some influential local commanders quickly took over land in the vicinity of Jalalabad.

This phenomenon was common all over Afghanistan. In response, in June 2002 a decree was sent by the transitional administration to all provinces, declaring:

“The distribution of vacant and non-cultivated lands, which are government property, to people as construction plots for residential and other purposes should be strictly avoided” (Article 1).

Fear of government action initially kept the process slow, but people soon realized that government's attention was not focused on the issue, and settlement activity became more rapid. People from other districts and provinces, as well as from the local area, started constructing houses without any legal consent but with the support of local commanders and tribal leaders. The Ministry of Justice gazetted another law on land affairs in 2008 in an attempt to get a handle on such issues, but it had little effect in Qasimabad.

Meanwhile, the local government made a plan for the distribution of land to disabled people, teachers, ulema and other government employees, without considering the issue of land grabbing and informal construction. It changed the name from Qasimabad to Hajji Qadeer Town. Those who paid up received legal documents from Jalalabad municipality. Last year the municipality received 33 million Afs from Qasimabad and will probably make another 30 million (approximately \$650,000) this year.

An acute problem soon arose with many plots having two claimants—one informal settler and another with the legal document. The local government has proven very interested in selling land and generating revenue, but the issue of legal ownership and informal occupation remains unsolved. Today, the residents of Qasimabad city can be categorized into four main groups:

1. A group of people from Kunar Province who bought the land from a local commander

2. A group of people allied with a local Nangarhari commander

3. Settlers from the same Behsud District and nearby Daman Village

4. A limited number of legal owners
People have demonstrated and met with officials from the governor down to try to solve their problems, but to no avail. The governor promised some petitioners that alternative plots would be provided to them, but these pledges have amounted to nothing—like words carved in ice and put under the sun.

Some legal owners started negotiations with settlers on their own and managed to take control of their land by giving them some money. However, only a few pursued this method successfully. Meanwhile, conflict among residents of Qasimabad for control of more space has caused the killing of several people and many injuries.

It will be very difficult for the local government to evict the settlers and give the plots to the legal owners. Currently, demonstrations have become a fashion in Afghanistan, and there are also international human rights groups and local power-holders to contend with. Knowing this, it seems impossible that the government could use force to take control of Qasimabad.

It would be best if the government negotiates with the people already residing in Qasimabad and officially allocates their plots to them for the fixed price. At the same time, the government must find acceptable alternative sites for those people who have already paid for a piece of land.

In a township where more than 80 percent of residents are informal settlers, “land-grabbers,” I wonder if this town would be better known as Zoorabad – “Grab-Town.”

During data collection in Qasimabad, one respondent said, “Legal owners are like uninvited guests at a party, who don’t have the courage to eat.” Another said, “I paid the price three years ago but still I’m living in a rented house.”

Findings

1. Political Control of Mother City (Jalalabad):

During the civil war (1990s) Jalalabad City and its surrounding areas were controlled by different political Mujahideen groups, in order to secure their control these political groups continued their efforts after fall of the Taliban regime as well. After the collapse of the Taliban regime, political groups encouraged their allies and members to occupy as much land as possible. Based on this scenario different group started settlements in grabbed land or informal settlements in order to secure their political influence around the mother city (Jalalabad). There are a lot of examples of political control around Jalalabad city such as the Khalis Family (Khalis Town, now Nahia 6) which was occupied by one of the Mujahideen's political parties and distributed land to its allies and members in the 1990s. Another good example of political control is Qasim Abad where three local commanders allied with two opposing political groups; both groups were encouraged their people to take control of Qasim Abad in order to ensure their political control and influence in and around Jalalabad city.

Not only were political parties and commanders involved in this power control game but also some local government authorities or governors as well. They too were taking advantage of informal settlements or land grabbing for their political aims. A good example of such a case is Sherzai Khargoti (Sherzai Town), the near police academy and 15 km away from Jalalabad city towards Torkham. This township was designed to be distributed among the police and was approved by MoUD. The Township was initiated by the governor of Ningarhar in 2007-2008 and initial plots were distributed to police, but later on, for his own political aims, the governor also gave shares to people who were not eligible to have plots in this town. Issuance of these plots to non- police stimulated the local tribes of Rodat District who claimed that this land belonged to the local tribes not to the governor and they demanded their share of the plots. The local tribes of Rodat District then demonstrated against the governor's decisions. Later on, when negotiations failed between the governor and the tribes, tribal leaders called upon people to grab the land. During the land grab, the police tried to stop the local tribes and two people were killed but tribal leaders succeeded in grabbing the land; they then changed the name of town from Sherzai to Shahidano Mena (Town of Martyrs). The police and others who paid the municipality and who have legal document for the plots are still waiting.

Although the governor and local authorities gave assurances that they would allocate plots of another township to these legal owners, nothing has happened yet. There are many such examples where political groups have grabbed land for their own political power and control thus causing serious detriment to urban development and urban governance.

2. Economic Aspect of Land Grabbing:

After the fall of the Taliban regime land prices shot up suddenly in Jalalabad; as a result, the land grabbing mafia became more active. Poor people and returnees from other countries who were not in the position to pay high rents, showed their interest in these grabbed sites and informal settlements. This encouraged land grabbing which became a good business for those who were involved. On the other hand, the local government and Karzai's new regime was neither strong enough nor well-organized enough to stop them. All these factors contributed to increased land grabbing and small scale commanders and power holders were grabbing land for profit. Some people were investing money in grabbed sites because they knew that land prices would rise in the future; and so they bought many plots and as soon as prices increased they sold their plots to others.

There are five significant economic groups involved in this business:

- 2.1 Small scale commanders with the support of their parties or big commanders and these small scale commanders are just interested for economic benefit (re-write)
- 2.2 Some provincial authorities are also involved and receive their share of money from Kamishan Kars (agents)
- 2.3 Kamishan Kars who work as middle men (agents) between the people and the state
- 2.4 Real estate agencies which deals in informal settlements; to some extent they are seen as legal agents
- 2.5 Businessmen who bought a huge amount of land in grabbed areas and then sold after prices went up

The aforementioned groups of people are involved in almost all informal or grabbed land and now it has a shape of land mafia which effected urban development and urban governance very much.

3. Failure of Laws, By-Laws and Decrees Regarding Land Management:

A case study of Qasim Abad land grabbing as well as a study of the laws and decrees' effectiveness regarding land management is under review. In 2002 President Karzai issued a decree⁴ to stop land grabbing as follows:

distribution of public vacant and non-cultivated lands

All the ministries and government organizations are strictly directed that:

Article No.1

The distribution of vacant and non-cultivated lands, which are the government property strictly avoided.

⁴ Decree No: 99, Decree date: 04/02/1381 [Official Gazette No.802 dated 28/3/1381]

According to Afghanistan's Constitution "Protection, management and mode of proper utilization of public properties shall be regulated by law."⁵ Based on this article the government of Afghanistan passed a law "law on managing of land affairs"⁶ in 2008. Unfortunately such national laws and decrees have failed and have no significant impact on land grabbing especially in the case of Jalalabad City. So policy documents such as strategies, laws and by-laws have been seen as useless vis-a-vie the land grabbing issue of Jalalabad City.

4. Land Grabbing and Shaffa (land neighborhood):

In the customary law of Afghanistan regarding land management Shaffa plays an important role. Shaffa is a private land located in a specific neighborhood. According to customary law, a person who wants to sell his/her land must first offer it to his/her neighbor who has the right of first refusal. If the neighbor does not want to buy the land in question then and only then can the landowner sell to others.

Part of Qasim Abad was grabbed by local residents located in the neighborhood of this township. When local people of the Beshud District noticed that commanders, powerholders and other people were involved in land grabbing, they also captured a significant land size based on the claim of Shaffa. Qasim Abad is not the only example of Shaffa land grabbing; land in Sherzai Township was also grabbed by local tribes on claiming Shaffa and a recent conflict of land grabbing between two tribes in Shinwar area of Ningarhar Province is in dispute based on the same issue of claims of public land based on traditional Shaffa concept.

Here it is very important to clarify that foremost reason of land grabbing is not shaffa but rather for political control and economic benefits, but once land grabbing starts then neighboring villages/districts also take part in land grabbing based on the traditionally acceptable reason of Shaffa.

Recommendations / Conclusion

1. Master Plan:

During the study period of Jalalabad urban governance (March 2011) a Master Plan for Jalalabad City was not finalized; however the MoUD and other related stakeholders are busily involved in the development of a Master Plan. Based on gathered data, it seems that there is no focus on the development of new sites for residential purposes in order to manage rapid urbanization. Same the grabbed areas of Jalalabad cities have not been touched in master plan it means lack of future planning for grabbed lands in city. It is highly recommended that they review their strategic planning and give more attention to development of new townships or residential areas to accommodate more people. At the same time, all stakeholders who are involved in urban governance and urban development should take the issue of land grabbing seriously and develop a strategy to

⁵ Chapter 1; Article 9 second paragraph of The Afghanistan Constitution; 2004

⁶ Published on 31st July 2008, issued No 958; Ministry of Justice Afghanistan

deal not only with future grabbing but also lands which have already been illegally grabbed as well. This needs a specific mechanism of law implementation and long term (40-50 years) urban development planning.

2. Independent Commission of Land Management or High Council of Land Management:

According to law on managing land affairs, provincial committees are composed of the following:

Article 20 (a)⁷ - In order to manage better the land refining affairs of area and resolve the problems caused by the implementation of it, the provinces' commission is created with the following composition:

The Governor as a director, the Director of the agriculture, irrigation and animal husbandry office as a deputy, the Director of appeal court as a member, the tax revenue accountant as a member, the Director of the energy and water as a member, the Director of geodesy and cartography office as a member and the Director of land managing affairs office as a member and secretary.

(b) The contented commission of this article paragraph (a) inaugurates the session once a month and as a necessity more than that will be inaugurated.

After almost three and a half years, this commission has failed to refine, manage or solve any significant land issues in Jalalabad City and this is why it is highly recommended that an Independent Commission of Land Management or High Council of Land management be established with more authority, power, capacity and commitment to work harder for land management which will be a very positive contribution towards urban governance and urban development.

It is also very important to know that land conflict and land grabbing are managerial issues, not political, so it will be very good that commission members not solve the issues based on political dynamics. A person such as Governors in this commission proposed has another challenge as well and that is the political role of governor. How to keep a commission clean of political contagion with the governor as head of the commission is a very big challenge in it self. The recommendation is to keep the governors away from land management business as much as possible.

3. Economic Growth and Capacity Building:

Right now a municipality's economic or funding mechanism is complicated; themunicipality is not independent in its funding due to the centralized control of IDLG and the MoF. If municipalities, especially Jalalabad municipality, can generate more revenue and have a specific, regular and direct funding system, it will become self-

⁷ Land Management Law, Page No. 34 Published on 31st July 2008, issued No 958; Ministry of Justice Afghanistan

sufficient which will be very helpful not only for urban development but also for urban governance as well.

Financial self-sufficiency without capacity building of the municipality will have no benefit. So financial competency along with high capacity will achieve the goal of sustainable and strong urban development. Capacity building as a cross-cutting issue is required not only on the municipality level but should also be addressed on a multi-sectarian base. All involved stakeholders in urban development and urban governance need to be made aware of the issue.

4. Rural Development and Service Delivery:

One of the main reasons for rural migration is the lack of basic needs, employment and service delivery. Most people migrate to Jalalabad to find jobs and have good access to services which constantly increase the population of Jalalabad City. One of the reasons people prefer informal settlement or grabbed land is that it is cheaper to buy a plot as compared to other legal sites. If local government provide good governance and provide basic services and create massive job opportunities in rural areas, it will decrease the pressure of rapid urbanization of Jalalabad City.

5. Mayor and Municipality Councils (Shuras) Elections:

One of the requirements in order to create strong urban governance institutions is to conduct elections for mayor and municipality councils. Unfortunately due to different reasons, mayoral and municipality elections were not held yet, as is outlined in the constitution. Mayoral and municipality elections will be a step toward strengthening urban governance institutions and will be very helpful for urban development in the future.

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