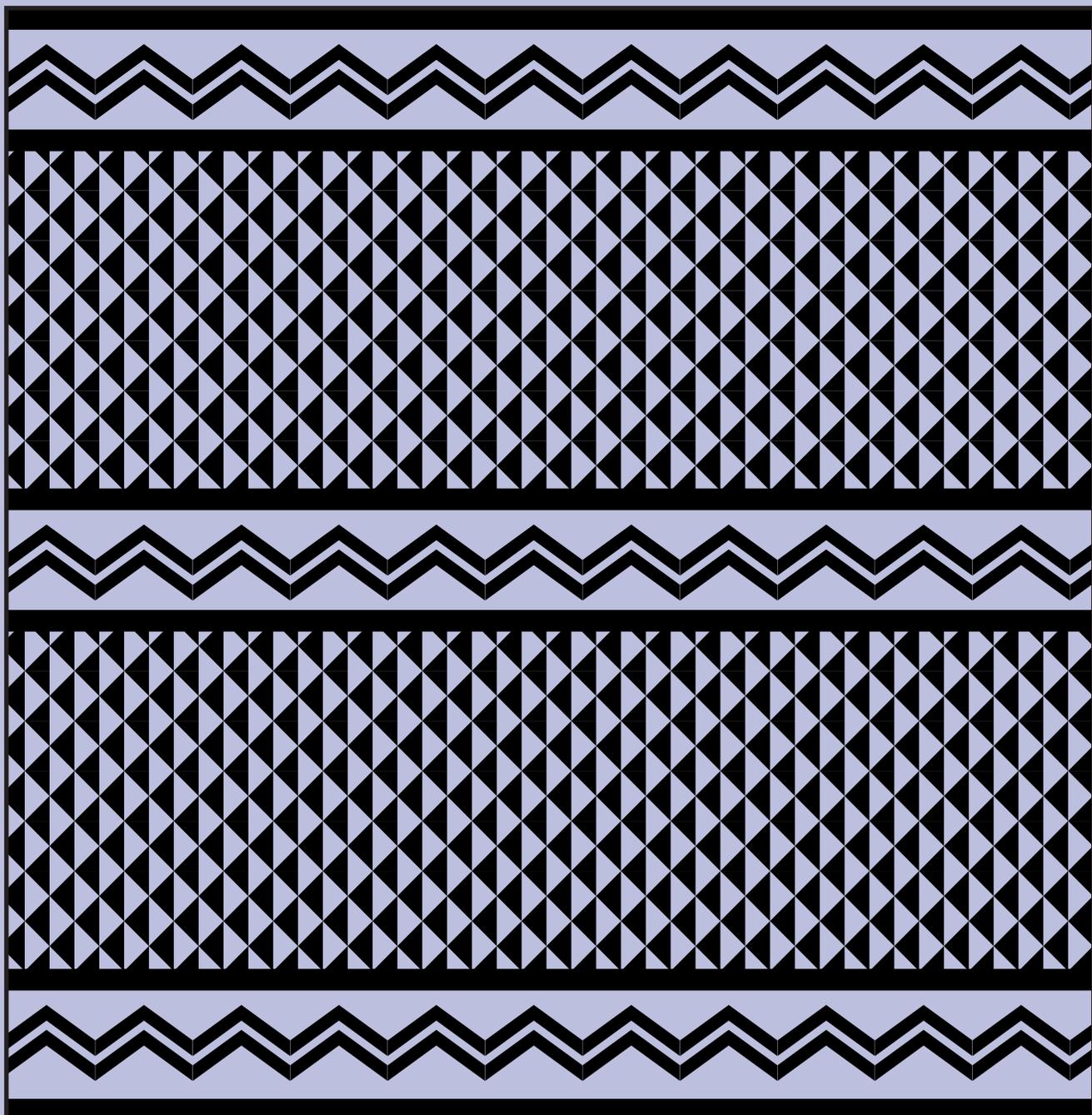




KEY ISSUES AND CHALLENGES FOR
TRANSFORMATION

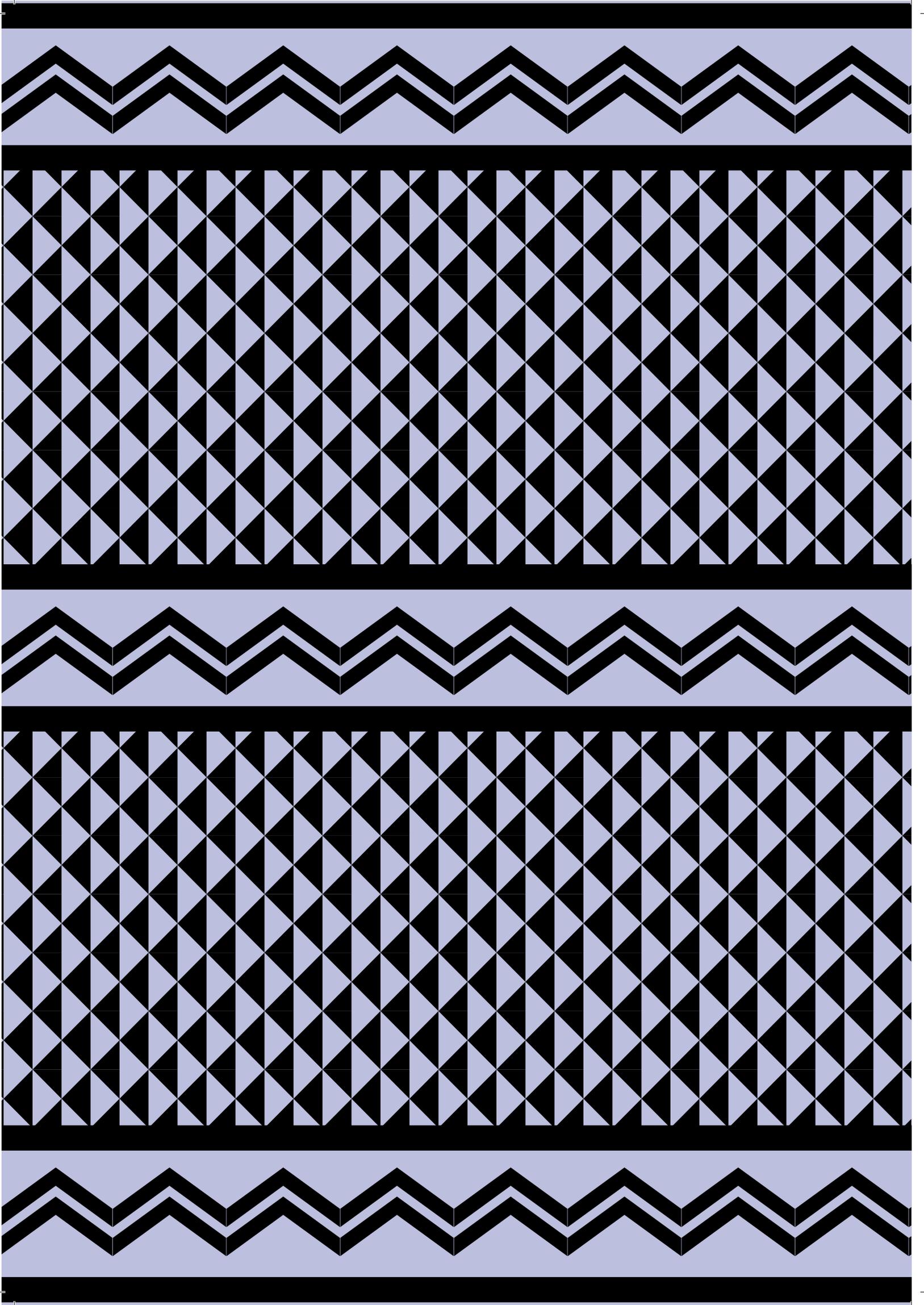
LAND CONFLICT IN SOMALIA

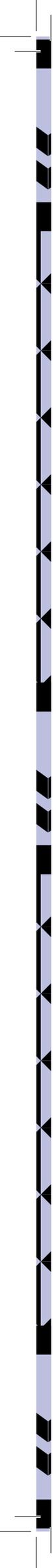


LAND CONFLICT IN SOMALIA - DECEMBER 2021

IMPLEMENTED BY ADAM SMITH INTERNATIONAL

DELIVERING PEACE & STABILITY IN SOMALIA





'THE BEST BED THAT A MAN
CAN SLEEP ON IS PEACE'

SOMALI PROVERB

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ACRONYMS

ACCORD	Austrian Centre for County of Origin & Asylum Research and Documentation
ACTS	African Centre for Technology Studies
ADR	Alternative Dispute Resolution
AJS	Alternative Justice System
AU	African Union
CEWARN	Conflict Early Warning Mechanism
CFS	Committee on World Food Security
DDG	Danish Demining Group
FAO	Food and Agriculture Organisation of the United Nations
F&G	Framework and Guidelines on Land Policy in Africa
FGS	Federal Government of Somalia
FMS	Federal Member State
HIPS	Heritage Institute for Policy Studies
ICPAC	IGAD Climate Prediction and Application Centre
ICPALD	IGAD Centre for Pastoral Areas and Livestock Development
IDP	Internally Displaced Person
IDDRSI	IGAD Drought Disaster Risk and Sustainability Initiative
IGAD	Intergovernmental Authority on Development
IGADD	Intergovernmental Authority on Drought and Development
IIED	International Institute for Environment and Development
ISS	Institute for Security Studies
MRG	Minority Rights Group
NGOS	Non-Governmental Organisations
NRC	Norwegian Refugee Council

OECD	Organisation for Economic Co-operation and Development
OTI	Office of Transition Initiatives
PDCS	Peace and Development Committees
PDRC	Peace and Development Research Center
PDRMS	Popular Dispute Resolution Mechanisms
REDSS	Regional Durable Solutions Secretariat
RVI	Rift Valley Institute
SDGS	Sustainable Development Goals
SNM	Somali National Movement
SSF	Somalia Stability Fund
SWS	South West State
SUDP	Urban Development Programme for the Somali Region
UN	United Nations
UNEP	United Nations Environment Programme
UNFPA	United Nations Population Fund
UNGA	United Nations General Assembly
UN-HABITAT	United Nations Human Settlements Programme
UNSOM	United Nations Assistance Mission in Somalia
USAID	United States Agency for International Development
USC	United Somali Congress
VGGT	Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security

EXECUTIVE SUMMARY

This report by the Rift Valley Institute (RVI) was commissioned by the Somalia Stability Fund (SSF) with the aim of conducting a comprehensive literature review on land conflict in Somalia. Given the large quantity of material available and the relatively short timeframe, it was impossible to capture all the literature on land conflict in Somalia. Therefore, priority was given to analysing gaps in existing research and providing recommendations for future research that will guide the design and implementation of appropriate frameworks for land conflict management and dispute resolution.

Land conflict in Somalia is shaped by—and has shaped—the historical trajectory of the country. In particular, the land management and agricultural development policies of the Siad Barre regime continue to influence some of the current dynamics of land conflict in Somalia. Not only did the policies disrupt the functioning of traditional frameworks for land governance, they have also planted the seeds for the political mobilisation of clan-based land contestation that is evident in Somalia today. This history and the intervening civil war and political dynamics of the past thirty years determine the practice, policy, and institutional options available to the Somali people in designing appropriate frameworks and mechanisms for land conflict transformation.

A critical challenge in designing an appropriate framework for land conflict transformation in Somalia is the system of legal pluralism that currently characterises land governance and management. While most published research prioritises the role of formal institutions and mechanisms, this research also confirms the continued relevance of traditional and religious frameworks, while noting that their effectiveness is weakened by the power imbalance borne of long-term violent conflict.

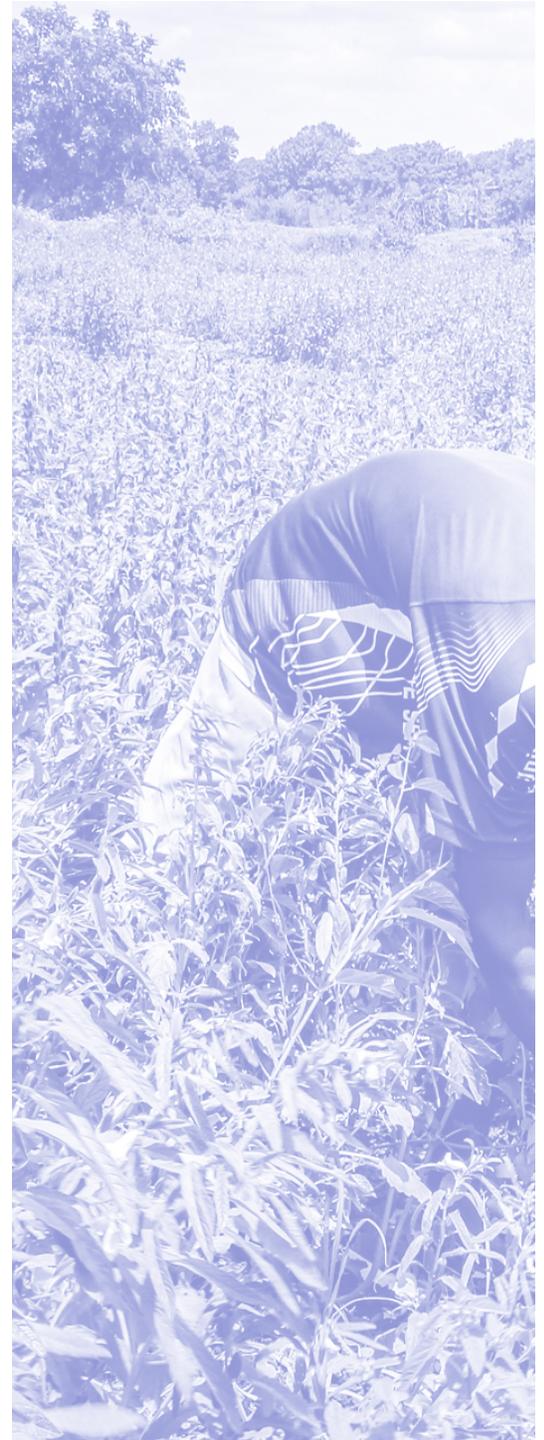
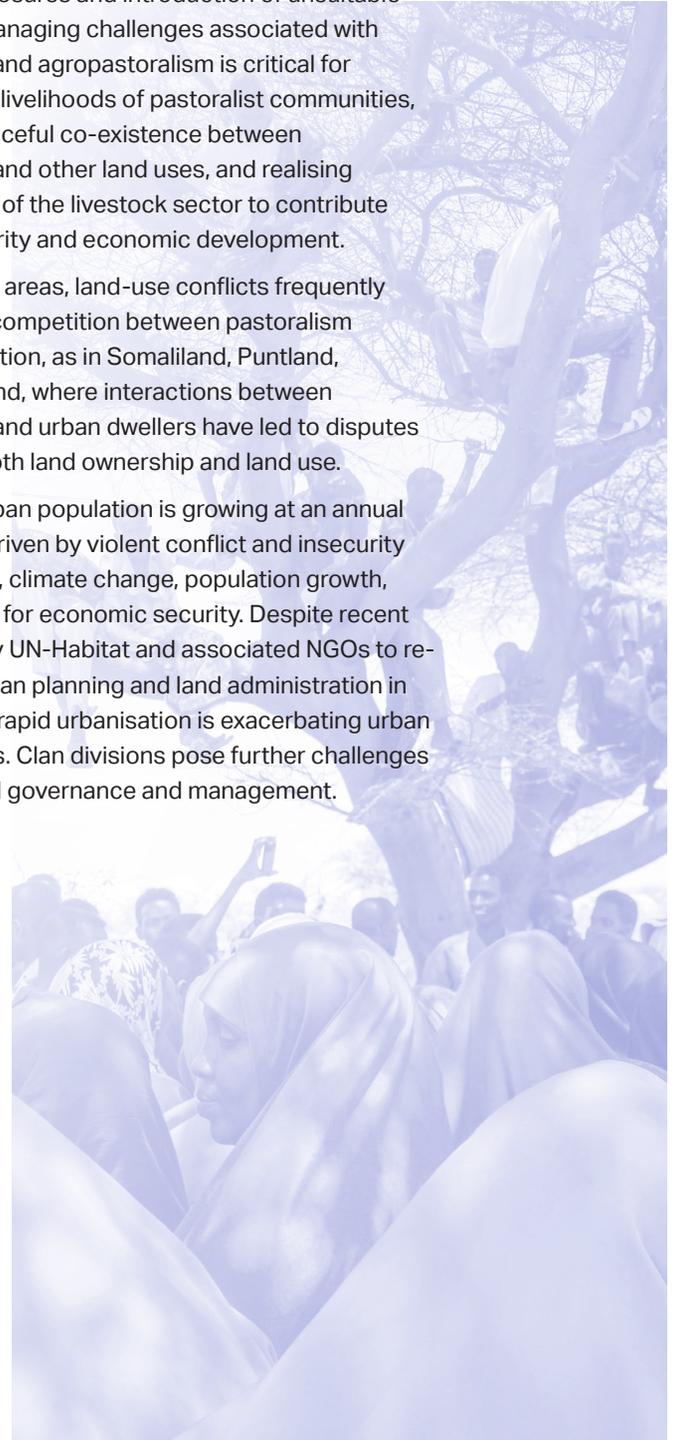


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KEY FINDINGS

- Competition over land is a primary driver of conflict in Somalia. For example, land grabbing in southern Somalia has the interdependent effects of dispossessing powerless groups from their holdings, creating animosity, and engendering poverty. These processes, which were historically enabled by a combination of corrupt governments and a dysfunctional land tenure system, have been key factors in shaping the way that the civil war and the ensuing conflict evolved in rural southern and central Somalia.
- Challenges to resolving land conflict arise from the incapacity of traditional institutions to manage conflicts involving interests that derive their power outside of community systems. Moreover, changing demographics and population movement, as well as the demand for investing in land and land-based resources by members of the Somali diaspora and foreign investors, are undermining the ability of communities, systems, and institutions to manage land conflicts.
- Although the reality of land and conflict in Somalia is defined by the unique circumstances of the country, the need for policies and institutional responses to land and conflict are not unique to Somalia or to post-conflict societies, as is evident in the prioritisation of land and conflict in the agenda of the UN, the AU, and IGAD, as well as their Member States.
- In addition to the legacy of the Siad Barre regime, the civil war, and the prolonged conflict, other factors that have shaped the interface between land and conflict in Somalia include large-scale displacement and resettlement; competition for natural resources that support livelihoods in a context of population growth, climate change, and environmental degradation; economic interest in land-based investments; political positioning and power asymmetry between clans; and weakness of institutions of governance generally and those of land administration and dispute resolution specifically.
- Land conflicts in Somalia can be categorised by reference to their location—i.e., rural and urban land conflicts—with the former driven largely by competition for access to resources, and the latter driven largely by large-scale and rapid urbanisation underpinned by weak legal and institutional frameworks and limited economic opportunities.
- Environmental factors are at the centre of pastoral land conflicts. The growth of both human and livestock populations (and changes in herd and species composition) and socio-economic changes have increased pressure on rangelands, including through enclosures and introduction of unsuitable land uses. Managing challenges associated with pastoralism and agropastoralism is critical for securing the livelihoods of pastoralist communities, ensuring peaceful co-existence between pastoralism and other land uses, and realising the potential of the livestock sector to contribute to food security and economic development.
- In peri-urban areas, land-use conflicts frequently derive from competition between pastoralism and urbanisation, as in Somaliland, Puntland, and Jubbaland, where interactions between pastoralists and urban dwellers have led to disputes relating to both land ownership and land use.
- Somalia's urban population is growing at an annual rate of 4%, driven by violent conflict and insecurity in rural areas, climate change, population growth, and a search for economic security. Despite recent efforts led by UN-Habitat and associated NGOs to re-establish urban planning and land administration in major cities, rapid urbanisation is exacerbating urban land conflicts. Clan divisions pose further challenges to urban land governance and management.



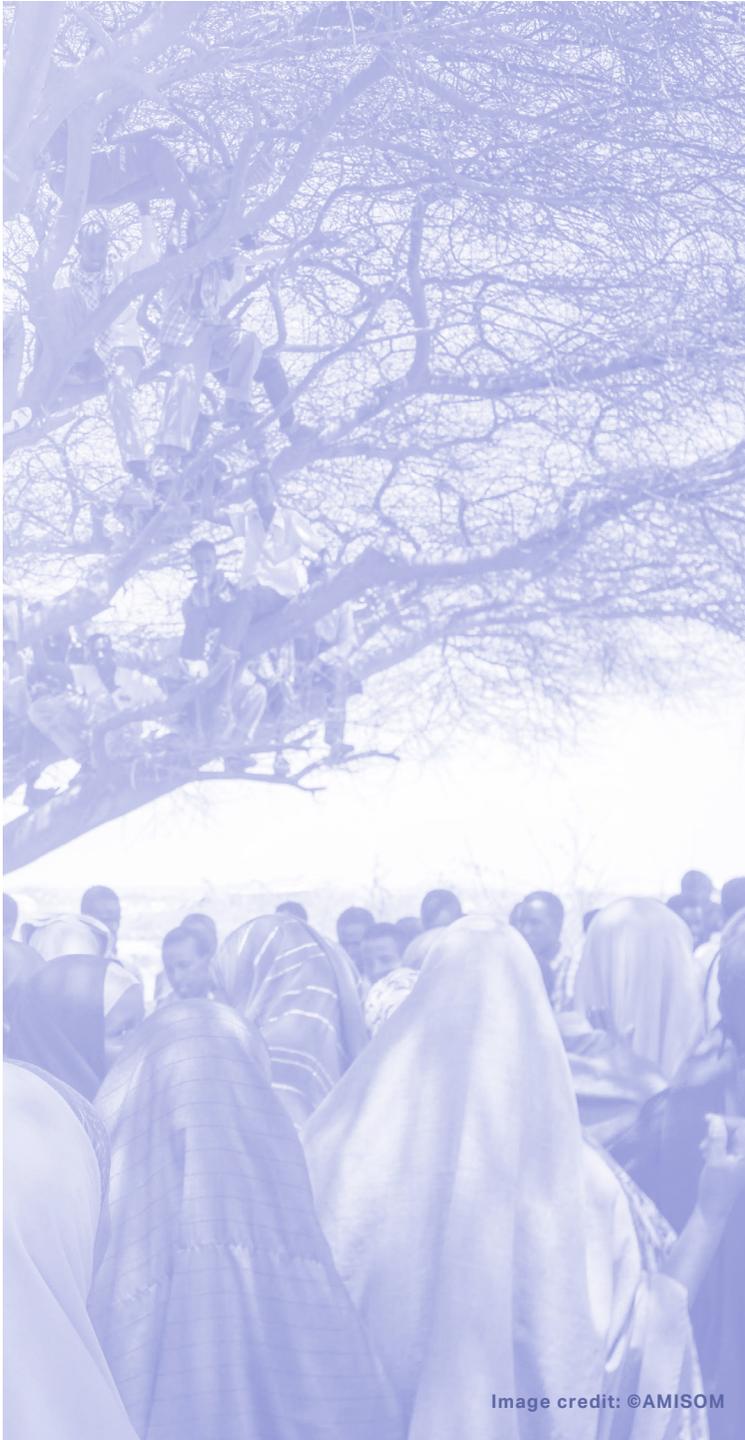


Image credit: ©AMISOM

- The status of land governance and tenure security in Somalia is defined by legal pluralism, whereby multiple legal orders or systems coexist. These include formal systems of the state enacted in legislation, Somali customary law (*Xeer*), and local adaptations of Islamic *Shari'a*. The three systems are not mutually exclusive, but have been shaped interdependently through interactions between customary law; Islamic law; colonial history; the socialist regime of Siad Barre; the collapse of the state following the overthrow of the regime; and subsequent years of conflict and insecurity. These factors have created challenges as well as opportunities for land management and should be taken into account in reforms aimed at establishing a comprehensive legal framework for land administration.
- The interface between land governance and tenure security is most evident in the way that the weak land governance system in Somalia has impacted land rights of minorities and women. In particular, gender inequality in the traditional dispute-resolution structures, whereby women are excluded as key actors due to the expectation that elders lead community activities, affects women's land tenure security.
- In many rural areas, Al-Shabab has established governance systems that manage land transactions and disputes. This has raised challenges to land dispute management, as Al-Shabab has forcibly been involved with land grabbing and imposing heavy taxes on farm produce—actions which have created disaffection among Somalia's population. Moreover, Al-Shabab is reported to be selective in their interpretation and application of religious law, thwarting collaboration between Somalia's three legal systems and exacerbating competition over land.
- The peaceful management and resolution of land disputes and conflicts is central to state building and peacebuilding in Somalia. Yet, although the importance of addressing the land question as a basis for sustainable political settlement "has been acknowledged in successive peace agreements in Somalia" (RVI and HIPS, 2017:53), little progress has been made in mainstreaming it in political settlement negotiations due to its political sensitivity and complexity.

1 INTRODUCTION

The Somalia Stability Fund (SSF) is a multi-donor programme that promotes peace, security, and stability in Somalia by providing funding for initiatives that respond to local needs and opportunities. As part of this endeavour, SSF commissioned the Rift Valley Institute (RVI) to undertake a comprehensive review of the literature on land and conflict in Somalia, with a focus on analysing gaps in knowledge and understanding and making recommendations for future research and analysis that will guide the design and implementation of appropriate frameworks for effective interventions on land conflict transformation. This report presents the findings of the literature review.

The review covers the entire spectrum of research that has been undertaken on the nature of, drivers of, and key parties to land conflict in Somalia, its socio-economic impacts on communities, and mechanisms for land conflict transformation. It focuses on eight issues specified in the Terms of Reference (ToR) (see Box 1).

1.1 THE LITERATURE REVIEW

Using the listed themes as entry points to establish the state of knowledge on land and conflict in Somalia, the review examines what the literature says about:

- i. Individual and communal perceptions of land ownership, territoriality, and political contestation;
- ii. How displacement, movement, and resettlement of populations triggered by ecological, economic, and conflict factors impact on land claims and engender land conflict;
- iii. The mechanisms used to manage conflicts and resolve disputes over land and natural resources in Somalia;
- iv. Variations in the dynamics of land conflicts between rural and peri-urban areas;
- v. How competition for access to land and natural resources shapes conflict in a context of climate change and environmental degradation;
- vi. Urbanisation, commercialisation of land, exploration for oil, minerals and hydrocarbons, and diaspora investments as factors driving and shaping conflict; and
- vii. Tenure dimensions of land conflict.

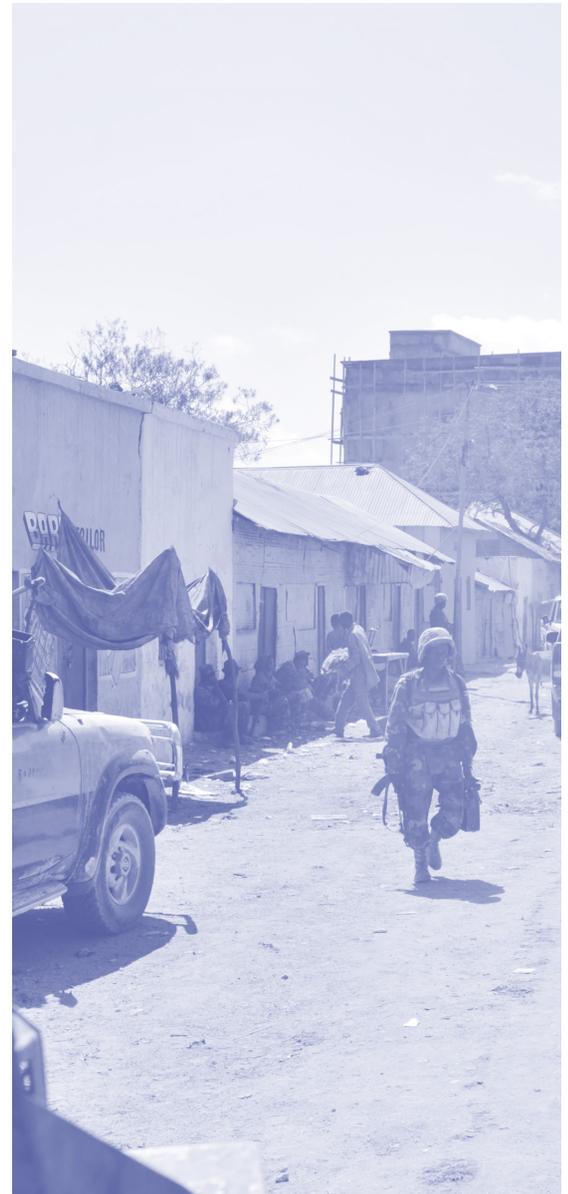
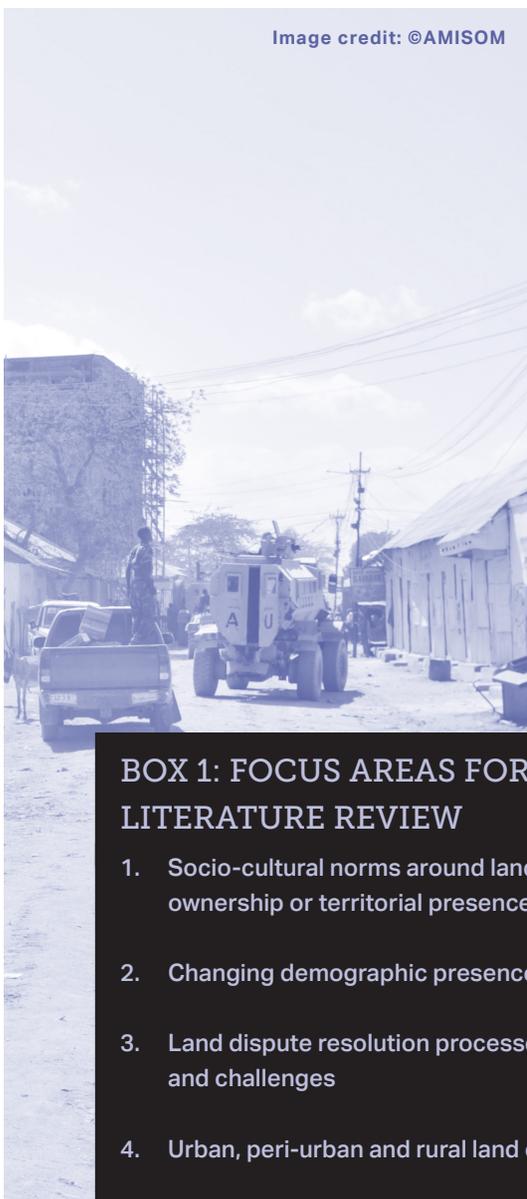


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BOX 1: FOCUS AREAS FOR LITERATURE REVIEW

1. Socio-cultural norms around land ownership or territorial presence
2. Changing demographic presence
3. Land dispute resolution processes and challenges
4. Urban, peri-urban and rural land conflict
5. Environment and land
6. Economic drivers of land conflict
7. Tenure dimensions of land conflict
8. Regional and global comparative experiences, practices and approaches to land conflict transformation, of relevance to Somalia

On each of these issues, the existing literature is reviewed with reference to major conclusions and recommendations and to identify gaps that need to be addressed through further research and analysis. Gender dimensions are considered to capture the differential experiences of women, youth, and marginal communities with respect to each of the issues.

As the main motivation for the literature review is to inform the design of appropriate mechanisms for land conflict transformation, special attention is paid to processes and challenges related to resolution of land disputes. In this connection, the review examines the literature on traditional, religious, and statutory systems, as well as institutions and procedures for land conflict management and dispute resolution and how they interact. The implications of legal and institutional pluralism for effective transformation of land conflicts are considered, particularly with a view to understanding the nature and potential of *Shari'a* in this regard, including through the limited and largely anecdotal references regarding the way Al-Shabab has used it in resolving land disputes.

The literature indicates that the experiences and challenges of land conflict in Somalia are defined and shaped by the country's specific historical, socio-cultural, ecological, economic, and political past, in particular the civil war and state collapse since 1988. But it also notes that there are other countries in Africa and beyond that share with Somalia some of the characteristics that have shaped the context of land conflict, and which have engaged in similar efforts to design appropriate mechanisms for land conflict transformation. For this reason, the review has also looked at comparative experiences of land conflict transformation in northern Kenya, eastern Ethiopia, and Afghanistan. Northern Kenya and eastern Ethiopia are inhabited largely by members of the Somali community, while Afghanistan is, like Somalia, characterised by post-conflict state fragility. The comparative experiences have been reviewed to identify good practice, lessons learned, tools, and approaches to land conflict transformation that could be adapted to the reality and context of Somalia.

The report is divided into six sections. Following this introduction, section 2 outlines the methodology and highlights key challenges thereto. Section 3 reviews the background and context of land conflict in Somalia and explains how this is important for understanding the evolution of such conflicts and the challenges and opportunities in designing appropriate mechanisms for their transformation. Section 4 constitutes the main part of this report, in which the major themes covered by the literature on land conflict in Somalia are presented and analysed. This section reviews the literature on typologies of land conflicts, land governance frameworks, and land conflict management and dispute-resolution mechanisms, and identifies the major gaps in the literature. Section 5 examines comparative regional and global experiences of land conflict management and dispute resolution of relevance to Somalia. Section 6 presents the main conclusion and recommendations of the review.

1.2 CONCEPTUAL FRAMEWORK: THE LAND-CONFLICT INTERFACE

Conflict, it has been observed, is “A universal part of the way that humans organise and mediate individual and group relations, and is therefore part of our everyday experience” (Bradbury, 1994:2). Somalia is primarily a pastoral society, in which access to land-based natural resources is a key factor in individual and group relations, and defines and shapes social, cultural, political, and economic organisation. In such societies, competition for access to land and natural resources, which unless properly managed leads to land conflicts, is part of everyday experience. Although reports indicate that the number of Somalis practising agriculture or pastoralism is declining, well over half of the population still lives in rural areas and derive their livelihoods directly from land and land-based natural resources, meaning that competition for access to land persists.¹

‘Land conflict’ is here used to describe the whole range of struggles, contestations, and violence in which land is a factor. The term captures the interface between ‘land’ and ‘conflict’, describing a state of relation with respect to land in which at least two identifiable groups are in conscious opposition to each other as they pursue incompatible goals (Huho, 2012). A distinction is made in this report between conflicts and disputes, understanding the former to be longer-term disagreements with deeply rooted issues that the conflicting sides tend to consider non-negotiable; while the latter are short-term disagreements over issues that are often negotiable and amenable to resolution. Although not always the case, conflicts tend to pit larger social and political formations against each other, while parties to disputes tend to be individuals, households, or small interest groups.

Land conflict arises when different individuals or groups assert competing claims over land or resources on it. Land conflict thus describes “A social fact in which at least two parties are involved, the roots of which are different interests over the property rights to land: the right to use the land, to manage the land, to generate an income from the land, to exclude others from the land, to transfer it and the right to compensation for it” (Wehrmann, 2008). The way that land conflict manifests itself and the degree of aggravation involved will depend on the power dynamics between the contending parties.

A ‘land conflict’ in the strict sense is a conflict in which land is the object of contestation, with each party seeking to appropriate it to the exclusion of the other. But land can also be a major factor in different forms of conflict. In this report, land conflict is understood to encompass conflicts over land as well as conflicts over resources on it, under it, or generated on it. Although a distinction can be made between conflicts in which land is the subject of contestation and land-related conflicts, meaning conflicts underpinned by grievances about land, the terms are often used interchangeably in the literature (Bob, 2020; GIZ, 2017). Some commentators also use the terms ‘conflict’ and ‘dispute’ interchangeably in discussing contestations over land.² However, on the whole, land conflict is often associated with violence, while land disputes tend to refer to disagreements capable of being resolved without resort to violence.

The distinction between land conflicts and land disputes is particularly pertinent with respect to approaches and institutional arrangements for their management. Land conflicts are often structural, manifesting unequal power relations, and their resolution involves negotiating the balance of power. Land disputes on the other hand are a normal occurrence in the course of transactions involving the transfer of rights over land, and settlement of land disputes is an integral part of modern land administration.

Yet there exists a close correlation between land conflicts and land disputes. Land disputes that remain unresolved over time can escalate into land conflicts, drawing in more people on either side of the dispute. This is particularly the case in contexts such as Somalia where land tenure and use is communal and claims to rights over land are often expressed in communal terms. It is for this reason that having in place effective mechanisms that can resolve disputes when they arise to the satisfaction of all the parties is key to managing land conflicts.

The context of Somalia also gives a specific connotation to the idea of land conflict due to the distinct way in which pastoralist Somalis relate to land. Where farmers’ exercise of property rights over land entails ownership of the physical solus, pastoralists’ claims are focused on access to resources on land that support livestock production.





The idea of exclusive ownership is at the heart of Western property rights jurisprudence, and is expressed in the Latin maxims '*cuius est solum, eius et usque ad coelum et ad inferos*' (trans.: 'he who owns soil owns also up as far as the sky and down to the depths') and '*quicquid plantatur solo solo cedit*' (trans.: 'whatever is attached to the soil becomes part of the soil') (Okoth-Ogendo, 1989, 1991).

For pastoralists, it is access rather than ownership that is the defining principle of land relations. Thus, while for farmers land conflicts are in effect struggles over land as a resource; for pastoralists, they are over access, use, and control of resources on land—mainly pastures, water and salt lick. The focus for pastoralists in land conflict is therefore the control of territory in order to guarantee access to these resources, and to secure routes for passage between locations where the resources are found. It is for this reason that pastoralists engage in land conflicts as communities, making their claims collectively as sub-clans or clans.

As populations grow and rangelands diminish due to competing uses that are incompatible with nomadic pastoralism, as well as climate change, competition over ownership and control of specific resources such as water points and dry season grazing areas are increasing.

The different perceptions of land rights and land relations between pastoralists and farmers have significant implications in cases where land conflict pits farmers against pastoralists, as in southern Somalia. They also have a direct bearing on the design of frameworks for managing land conflicts and resolving land disputes, as such frameworks can only be useful if they accommodate the property rights perspectives of both pastoralists and farmers. The situation is different in riverine areas where some form of agropastoralism is practiced, as well as in urban and peri-urban areas where land markets mirror farmers' paradigm of property rights to land.

2 METHODOLOGY

This report is based primarily on a review of published and grey literature on land conflict in Somalia, supplemented with insights from interviews with a small number of researchers and resource persons, identified on the basis of their proven expertise and record of engagement with research on land conflict in Somalia and other post-conflict and fragile states. The literature was sourced from the internet, the RVI library and database on Somalia, and through research networks of the research team. In addition to the comprehensive bibliography at the end of the report, a list of the publications and reports reviewed for purposes of the report has been tabulated and submitted as a separate output.

The review focused on identifying the major findings and conclusions in the literature related to land conflict typologies, trends, causes and manifestations, opportunities, challenges, and good practice experiences of land conflict transformation and dispute resolution in Somalia. The literature was analysed to identify the strategies and investments needed for managing conflicts and resolving disputes over land and natural resources. A major focus of the literature review was to identify mechanisms and approaches for land conflict management, whether customary, religious, or statutory (or combinations thereof) that have worked in Somalia, and to assess their potential for replication and upscaling of good practices. The review also sought to identify gaps in the analysis of successful or promising approaches to land conflict transformation with a view to defining priorities for research and programming.

Although the underlying concern is to understand the reality and challenges of land conflict in Somalia and to recommend principles, approaches, and further research to inform design of national frameworks, the review proceeded on the understanding that there are regional variations in experiences of land conflict management across Somalia. Moreover, the reality of conflict, insecurity, and the collapse of state institutions have shaped the scope of and opportunities for research in Somalia over the past three decades. Most research over the period has, by necessity, been conducted within specific localities and regions, with data collected mostly within urban and peri-urban areas as insecurity has limited researchers' access to most

rural locations, particularly in southern areas where Al-Shabab is strong. Thus, one of the concerns for the review is to establish which of the findings and conclusions of such research are of relevance only to specific locations and which can be generalised to the whole country.

In addition to the literature specific to Somalia, the review has also covered literature on frameworks and experiences of land conflict transformation in other contexts underpinned by long-term conflict and state fragility, in order to identify general principles and good practice that may, with appropriate adaptation, be applicable to Somalia. Case studies of Uganda and Afghanistan have been elaborated for this purpose, while case studies from Kenya have been reviewed for comparative experiences of land conflict transformation among Somali communities living outside of Somalia.



CHALLENGES AND LIMITATIONS

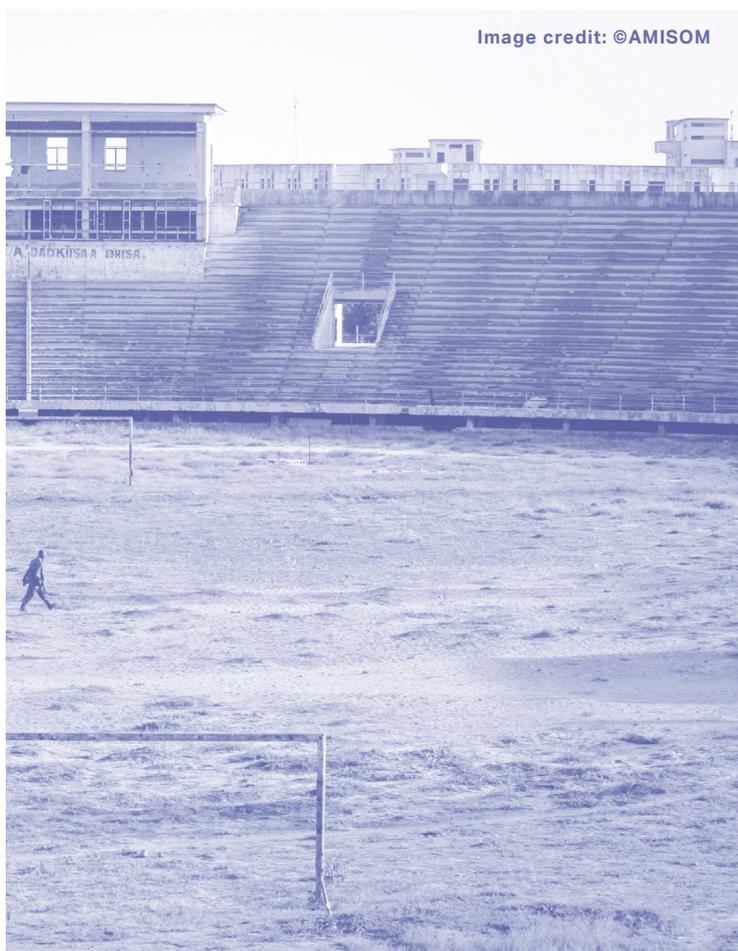
There is no shortage of literature on land conflict in Somalia; indeed, a huge amount of research has been conducted and published on the subject. However, three major challenges were experienced in the conduct of this literature review:

- First, most of the available literature on land conflict is focused more on describing and analysing the challenges, including the shortcomings of institutional frameworks and processes for conflict management and dispute resolution, and less on explaining what works in terms of mechanisms and approaches for effective land conflict transformation.
- Second, much of the research on land and property in Somalia over the period since the breakout of the civil war has been generated by humanitarian agencies, often focused on specific locations to serve specific project needs (Harris, 2015), which raises questions about the extent to which their findings and conclusions can be generalised beyond these specific geographies.
- Finally, the absence of functional state systems in Somalia means that there is no framework for tracking research conducted in the country and no public repository of research outputs. Thus, the

internet has been the primary source of the literature reviewed. While there is a wealth of material on the internet, there is always the chance that some relevant research is missed because it has not been uploaded. It was in order to guard against this possibility that the research methodology included select key informant interviews (KIIs) with researchers and resource persons to fill any gaps in the internet literature search.

Apart from the limitations arising from the location-specific nature of much of the research done in the country over the past three decades, the history of Somalia over this period and the way in which the conflict has evolved call for caution against analytical generalisations. The situation in the north of the country differs in fundamental ways from that of the south and central parts of Somalia. The relative stability of Somaliland and Puntland in the north has ensured more progress on governance, while the southern and central parts of the country have borne the brunt of the conflict and violence and experienced fragile security conditions for much longer (FGS, 2016).

Moreover, Somaliland and Puntland have made serious attempts at establishing policy, legal, and institutional frameworks for land governance. With the support of UN-Habitat, the two governments were able to develop and adopt legal frameworks for urban land administration and to strengthen institutional and technical capacity. In both regions, rural land continues to be governed largely through traditional mechanisms using customary land laws.



3 BACKGROUND AND CONTEXT

Although Somalia is among the most rapidly urbanising countries in the world (Aubrey and Cardoso, 2019), it is estimated that about half of its population still lives in rural areas, deriving livelihoods directly from land and land-based resources. This means that for the foreseeable future, land will continue to play a critical role in livelihood security and overall economic well-being (World Bank, 2020; UNFPA, 2014).

Gathering accurate data is notoriously difficult in Somalia. However, according to the World Bank and FAO, about 46% of employed people work in agriculture, and the sector contributes 75% to the country's GDP, 49% of its employment, and 93% of its exports, with the livestock and crop subsectors constituting the country's main sources of economic activity, employment, and exports. More than half of the rural population are nomadic pastoralists, slightly less than half are crop farmers, and a small proportion are fisherfolk. Importantly, the half of the country's population that lives in urban areas or in refugee and internally displaced persons' (IDP) camps are heavily dependent on these same activities, either as consumers or traders (World Bank and FAO, 2018).

Agriculture remains the mainstay of the Somali economy, even with the disruptions caused to the sector by conflict, and notwithstanding the increasing importance of diaspora remittances as a lifeline for large segments of the population. At 75%, agriculture's share of the national GDP is more than twice that of remittances, which are estimated to be equivalent to 23–38% of the GDP (FAO and World Bank, 2018). Although important for cushioning household economies against shocks, remittances are mostly spent on consumption, and concerns have been expressed that in the absence of robust domestic regulation in the sector, benefits of remittances to households and economies are at risk. In effect, access to and usage of land continue to be critical to livelihood security and economic development.

Somalia has experienced three decades of violent conflict that has left a legacy of communal and political violence and violent extremism.

While politics and competition for political power have been the main drivers of conflict in Somalia, an intricate link exists between conflict and land ownership and usage in at least three major ways:

- Firstly, "Competition over the control and ownership of land has long been acknowledged as a driving force behind violent conflict",³ either as direct cause or driver thereof.
- Secondly, conflict can lead to loss or erosion of access and ownership rights to land.
- And finally, the context of conflict, particularly when it extends over such a long period undermines the functioning of systems and institutions for land governance and management, thereby complicating these processes, exacerbating existing disputes and conflicts and engendering new ones.

Land can be a cause of conflict, and in Somalia it has been identified as one of the main causes of conflict (Besteman and Cassanelli, 1996). In general, however, although it plays a critical role in livelihoods, land as such only becomes a cause or driver of conflict in situations where systems and institutions for conflict management are unable to function optimally. Indeed, competition over access to and usage of land is a normal part of life in societies where land forms the basis of livelihoods, making its management an integral part of governance and social organisation. When such competition escalates into conflict, it is often because the effectiveness of conflict management systems and institutions have been undermined or they are overwhelmed due to the existence of other factors. This is the case in Somalia, where many commentators argue that the failed land policies of Siad Barre which undermined land governance frameworks became one of the major contributing factors to the many years of war, escalating grievance particularly among the farming communities in the riverine areas of south-central Somalia (Besteman and Cassanelli, 1996).

The specific role that competition for access to land played in Somalia's civil war is well analysed in Besteman and Cassanelli (1996); the authors identify two stages in the grabbing of land in southern Somalia, the combined effect of which was the

dispossession of powerless peasants from their holdings, creating animosity and engendering poverty. Firstly, in the 1980s, the political elites and powerful commercial interests used their connections to the ruling regime to grab fertile land in the riverine areas, then, following the outbreak of war, powerful armed clans forcibly occupied and settled on valuable land and real estate at the expense of weaker social groups. Besteman and Cassanelli argue that these processes, which were enabled by a combination of corrupt government and a dysfunctional land tenure system, would ultimately be key factors in shaping the way that the civil war evolved in southern and central Somalia.

Although the effectiveness of land governance and management institutions was already weakened by the corruption that characterised the final years of the Siad Barre regime, the subsequent three decades of conflict would lead to their total collapse, in common with other elements of the state bureaucracy. But even though state institutions were the ones whose collapse was most directly and immediately engendered by the conflict, in the long run, the prevalence of insecurity also impacted adversely on traditional institutions.

In any case, traditional institutions are by their nature ill-equipped to deal with conflicts involving interests that derive their power from outside of community systems, and their effectiveness is limited where a significant power imbalance exists between the warring groups. In the case of Somalia, other factors have combined with the legacy of conflict to complicate the situation, undermining the capacity of communities, systems, and institutions to manage and drive land conflicts. Key factors among these are changing demographics and population movement and increasing interest in land and land-based resources as targets for investment by members of the Somali diaspora and foreign investors.

The federal state formation process that has been ongoing since 2012 has introduced a new dimension to land conflict in Somalia, as clan expansionist tendencies are linked to strategic positioning to bargain for a share of political power at the regional or federal level. This new imperative merges with elite bargains that characterise competition for political power in Somalia, which some commentators have identified as “a major factor in the de facto clan partitioning of the country into autonomous regional states, each of which enjoys its own ‘rent’ in the form of seaport customs and other opportunities” (Menkhaus, 2018).

This combination of factors—particularly the breakdown of policy and law and the collapse of state institutions that govern access to and use and ownership of land and resources—has had adverse impacts on the security of property rights, creating a situation where groups and even individuals with access to arms or military power are able to expand their claims to land at the expense of weaker groups. In this context, institutions that would ordinarily arbitrate competing claims over land and land-based resources are rendered ineffective, and as a result, even ordinary disputes cannot be resolved and may escalate into violent conflict.

Notwithstanding the shared history of conflict and crisis, the three regions of Somalia—Somaliland, Puntland, and South Central—have different histories and contexts that affect the ways in which these challenges manifest themselves. Somaliland and Puntland have been fairly stable over the past two decades—the former functioning as a self-proclaimed state, albeit without international recognition, and the latter functioning autonomously but as a region within the state of Somalia. South Central comprises of regions that have been most unstable since the breakout of the civil war in 1991 (Aero, 2021).

4 MAJOR FACTORS THAT UNDERPIN AND SHAPE LAND CONFLICTS IN SOMALIA

Five major factors have been identified in the literature as underpinning the context for land conflicts in Somalia and shaping how they manifest:

- Internal displacement and resettlement
- Competition for access to resources in rural settings
- Rise in land-based investments
- Political positioning by communities related to ongoing state-building processes
- Climate and environmental change

These factors are also used in the literature to define types of land conflicts.

Due to agro-ecological and environmental changes in the wake of the climate crisis, as well as economic and conflict factors, large numbers of Somalis have been forced to relocate from their homes in rural areas into urban centres, particularly in southern and central Somalia. However, even though the rural population is decreasing, competition for access to natural resources among and between pastoralists and farmers persists due to a combination of climate change and other ecological and economic factors—including rangeland enclosures and increased interest in land-based investments—which engender resource scarcity, forcing settled communities and herders to compete for fewer and fewer productive resources to support cultivation and grazing (Yaw Tichie, 2021).

These issues are interconnected, feed into each other, and have been shaped by the historical evolution of the country and its political structures, including ongoing state-building processes. Although they may not be direct causes of land conflict (apart from the territorial claims for political positioning), a clear understanding of how the factors manifest at different scales, in different places, and the major actors involved in each is critical to the design of appropriate frameworks and mechanisms for addressing land conflict in Somalia.

DISPLACEMENT AND RESETTLEMENT

Mobility is an integral part of the practice of pastoralism, and movement of populations (entailing migration, conquest, and assimilation) is an integral part of the history of Somalia (Farah et al., 2002). As Hoehne observes, from the pre-colonial and into the early colonial period, fixed territories were not important for nomadic pastoralists who until recently comprised the majority of the population of Somalia (Hoehne, 2015). However, the prolonged humanitarian crisis of the last 30 years, widespread conflicts, and climate shocks—exacerbated by widespread poverty and limited governance—have seen an upsurge in large-scale forced displacement of populations, mostly from rural to urban areas in search of employment, security, and humanitarian aid (Kirubi, undated; FGS, 2016; World Bank, 2014; RVI and HIPS, 2017).

Forced displacement and voluntary migration of populations are not the same thing, and the levels of vulnerability of those affected vary considerably. Those who are forced into displacement often have no choice as to their destinations and are likely to be more vulnerable, while voluntary migrants may choose where to move to and have assets or access to support systems that mitigate their vulnerability. Nevertheless, large-scale population movements and resettlements have had direct impact on land use and land cover (LULC), which in turn have a direct bearing on livelihood opportunities for both pastoralists and farmers, and thus the potential to engender new land conflicts or exacerbate existing ones (Hamud et al., 2021).

Forced displacement has a direct correlation with land conflict as it results in loss of land rights, leaving in its wake feelings of deep grievance that can extend across generations. In the specific context of Somalia, where displacement is linked to conflict extending over a long period, where land rights claims are closely linked to communal identity, and in the absence of a mechanism that offers any hope of redress for such grievances, displacement can feed inter-communal animosities that may in turn trigger conflict. An illustration of this can be seen in the way

camp settlements in Mogadishu became entangled in land disputes that tend to be articulated in clan terms, such that although the city is populated by people from all clans, particular districts, neighbourhoods, and even IDP camps are associated with and dominated by particular clans (Bakonyi et al., 2019; RVI and HIPS, 2017; ReDSS, 2019).

Both historical and contemporary large-scale population movements bear on notions of homeland and residency. Hoehne asserts that “Convergence between descent groups and territory grew stronger all over Somalia in the course of the civil war”, with descent groups moving into territories they considered their degaan (clan homelands) in search of security from the violent conflict (Hoehne, 2015). Just as the voluntary union of the former British Somaliland and the former Italian Somali territories to form the Somali Republic at independence signaled a vision of a united Somalia based on political inclusion, the declaration of an independent Somaliland State in 1991 marked the collapse of that vision. Thus, questions about whether one resides in home or adopted territory are becoming relevant to claims of political entitlements, notwithstanding the long history of demographic movement in the country.

In Somali cities, the term “displaced person” has significant connotations and implications for land rights. According to the World Bank’s ‘Somalia Urbanization Review’, a displaced person has limited rights as a citizen in the site of relocation and is not perceived as a full citizen of a city—regardless of how long they may have been displaced and lived there for. There are displaced persons who “move back and forth between a city and the rural area they come from without establishing a permanent presence in either”,⁴ but even when they decide to settle permanently in an urban area, the host communities continue to label them as “displaced persons” to distinguish them from residents and to deny them equal rights to land (World Bank, 2020). When it comes to land rights, Somalis make a clear distinction between ‘hosts’ and ‘guests’; a distinction that, in addition to being a key factor in the persistence of land conflicts and their management, has a direct bearing on political inclusion, as those perceived to be guests have limited political rights (Cassanelli, 2015; RVI and HIPS, 2017).

This is a serious human rights issue in a context where movement of displaced populations into urban areas has engendered such rapid urbanisation that an estimated 47% of the country’s population live

in urban centres, with the rate of urban population growth standing at 4.3% per annum, and predictions showing that this population will triple by 2050 (The World Bank, 2020). Displacement of populations from rural areas into cities leads to spontaneous settlement on private or public land, exposing the displaced to the risk of secondary and tertiary displacements through forced evictions, which in turn leads to further expansion of cities as the displaced establish new informal settlements in peri-urban areas (Kirubi, undated). The rapid urbanisation resulting from mass displacement drives land conflict at different levels—not just in urban but also in peri-urban areas (see text box for an example from Mogadishu).

In Mogadishu, for example, some residents who fled the city in the 1990s are now struggling to reclaim their property rights. Rural residents displaced to cities are taking over vacant lands, both public and private, further clouding tenure status. Because district and municipal bodies have been unable to reassert control over land administration, land grabbing is constant, and comes at the expense of displaced persons and the urban poor. As urban populations increase, competition over land is spreading to peri-urban areas, where land tenure is even more insecure and formal institutions have even more limited reach. (World Bank, 2020:103)

The context of Somalia creates an integral link between the humanitarian issue of displacement and the development issue of urbanisation, generating unique challenges for both. Urbanisation is occurring at an accelerated pace and in a chaotic manner with little regulation, and is putting huge strains on fledgling urban authorities already overwhelmed by challenges associated with conflict and collapse of governance institutions. Individuals and groups are pushed from rural areas by a combination of protracted conflict and insecurity and cyclical climatic shocks, and pulled to urban centres with the hope of security and service provision (Kirubi, undated). Many such people have lived in the urban centres to which they were displaced for long periods and have no intention of returning to their areas of origin. As Alex de Waal asserts, they are no longer IDPs but rather long-term urban settlers, which means that they have legitimate claims to secure land tenure to support both their settlement and production needs (de Waal, 2009).

COMPETITION FOR ACCESS TO NATURAL RESOURCES

A combination of economic and ecological factors make competition for access to natural resources inevitable in Somalia. Natural resources are the basis of livelihoods and the economy of Somalia, providing food, sustenance, and income for its population of pastoralists and agropastoralists, and feed for livestock that dominate exports (World Bank and FAO, 2018). Ecologically, save for high elevations to the north, most of the country is arid to semi-arid, hot and dry throughout the year, and with low and erratic precipitation. The country suffers periodic droughts that are often followed by equally devastating floods, making environmental degradation a major challenge and engendering competition for access to water and pasture.

The context of population growth, increased impacts of climate change, and conflict and state fragility spreading over three decades has undermined both natural resource management and institutional capacities for managing competition for access to natural resources, creating incentives for the escalation of conflicts. Conflict and state fragility have been particularly devastating in their impacts, undermining the capacity of society to plan for and address the challenges of population growth and climate change.

Ordinarily, competition for access to resources as a cause or driver of conflict arises in the context of communities pursuing competing livelihood

demands on the same natural resources. There are indeed instances of such competition in Somalia, where “Clashes occur between clans or between sub-clans over ownership of land, such as farmlands, competition over scarce pasture and water during drought” in the Jubba and Shebelle River valleys, or between pastoralists and agropastoralists farming along the seasonal rivers to the north of the country (Sheikh, 2017:7). Such conflicts are ‘normal occurrences’ in contexts where access to land and natural resources defines livelihood security, and while they may flare up every so often, traditional mechanisms exist for containing them within limits that do not threaten livelihoods.

One critical factor that shapes, exacerbates, and even extends such resource-based conflicts is the way in which elites—taking advantage of the absence of functional state structures—ride on the shoulders of inter-communal conflicts to appropriate resources for personal enrichment. Menkhaus observes that “Political elites are often direct beneficiaries of land grabs, especially when their clan gains control of a lucrative seaport, airstrip, or commercial artery”.⁵ He also acknowledges that “on this issue the political elite is beholden to and constrained by the interests of their clans”,⁶ which require that they defend and advance the territorial claims of their clans (Menkhaus, 2018). This interface between communal competition for access to resources and elite interests has to be taken into account in any programming to address such conflicts.

Webersik contends that the reason the southern part of Somalia, which is better endowed with resources, experienced continuous insecurity—even when the relatively arid northern regions were becoming stable—was because clan factions that overthrew the Barre regime “used their military strength against one another to gain control over fertile land, cash crops, commercial centers, and valuable infrastructure” (Webersik, 2008:50). This resonates with what Cassanelli asserts about warlords: that they “were not simply clan leaders intent on destroying their rivals, but competitors using weapons, alliances, and propaganda to gain access to productive land, port facilities, and urban real estate, which in turn could be used to sustain networks of patronage and support” (Cassanelli, 1996:222). That such competition feeds into inter-communal rivalries is a function of the way Somali society is organised, and does not equate these to the standard competition for access to resources informed by livelihood demands on the

natural resource base. This means that policies and institutions for managing land conflict have to take into account not only the dynamics of inter-communal competition for access to resources, but also the dynamics of competition for power and influence among elites within these communities.

Most commentators attribute the scale and severity of competition over resources in Somalia and associated conflicts today to the policies of the Siad Barre regime. His policies had a particularly pernicious effect on land rights of the minority Bantu farming communities of the Jubba and Shabelle River valleys. A land registration campaign launched shortly after he took power “enabled urban-based political and business elites to claim titles to Jubba Valley land that they did not actually own” (Besteman and Lehman, 2018:302). The complicated procedures and costs for acquiring and registering leaseholds disadvantaged the poor rural farmers in favour of the urban elite, most of them from the north of the country (Roth, 1988). In 1974, in response to the devastating drought, the government settled large numbers of pastoralists from northern Somalia in the two river valleys and in the coastal areas of southern and central Somalia. Although the move was consistent with the collective farming policies being pursued by the government, it is seen by many commentators as having planted the seeds for pervasive land conflict in the two valleys (Roth, 1988; Besteman and Cassanelli, 1996; Menkhaus, 1996).

Both the resettlement and land registration initiatives were backed by land, agricultural, and rural development policies; laws and programs of the socialist-leaning government passed in the 1970s to promote the establishment of state farms; cooperatives; and large private plantations under state leasehold tenure (World Bank and FAO, 2018). The overall impact of these ostensibly progressive policies was to concentrate land ownership, displace small landholders, and decrease tenure security for those without leasehold rights (Farah et al., 2002). The policies effectively facilitated a land grab by the political elite, dispossessing the local farmers, fisherfolk, and minorities who had little or no influence in the government of the day (Besteman and Cassanelli, 1996; Hoehne, 2015).

The combined effects of the land policies of the Barre regime and the destabilisation caused by the civil war and ensuing conflict were to undermine community mechanisms that mediated access to resources and managed competition for land in rural areas. The traditional resource-sharing mechanisms were based on historical ties borne out of inter-marriage arrangements between groups and solidified through agreements negotiated under customary law (*Xeer*) to end occasional feuds. According to Hoehne, “The concept of territorial boundaries was weak...borders between clans were not usually clearly defined; intermarriage and changes in the control of land and resources through conflict and/or migration were the norm” (Hoehne, 2015:34). This statement, though made with reference to northern Somalia, applies equally to the rest of the country.

Elsewhere, Hoehne analyses a different type of resource-based conflict which has arisen in recent times—pitting communities against the state as the latter seeks to exploit natural resources based on land owned by communities—using a case study of the conflict that erupted in 2006 in the Golis Mountains west of Bossaso, northern Somalia, pitting the government of Puntland against clan militias and militant Islamists. He concludes that although the government was projecting the conflict in ‘global war against terror’ terms after the clan militia aligned itself with Al-Shabab, it was essentially a conflict over resources, driven by the community resisting plans to exploit oil and mineral resources found in the area on the grounds of lack of consultation and public participation in the planning of the investment, inadequate provision for benefit sharing, and the potential for environmental degradation with negative impacts on local livelihoods (Hoehne, 2014; Omer and Hersi, 2018).

Omer and Hersi (2018) report on a similar conflict pitting the Somaliland Ministry of Mineral Resources and Energy against the local community in Awdal region over a concession granted by the former to a Chinese company to exploit non-renewable resources in the region. The conflict became further complicated when it reignited inter-clan conflict between the main Reer Mohamed community and the neighbouring Reer Nour sub-clan as each of the two communities sought to be the primary beneficiary of the mining.

RISE IN LAND-BASED INVESTMENTS

The demand for land for purposes of investment is a major driver of land conflict in both rural and urban areas of Somalia. In the absence of appropriate legal and institutional frameworks for land administration, the demands trigger land grabs in which the powerful are able to appropriate interests in land at the expense of the weak and poor. In rural areas, this is manifest in enclosures of rangelands and appropriation of valuable farmland, as well as land known to hold mining or hydrocarbon potential and land that is strategically located near ports. Clan leaders keen on expanding sources of tax revenue have also targeted land that constitutes critical components of trade networks, such as seaports and airfields (Webersik, 2008).

In urban and peri-urban areas, investors seek land for the construction of residential areas and offices. The transition to peace and stability has triggered the return of members of the Somali diaspora to cities, raising land values due to increased demand for real estate. The rise in land values in cities like Mogadishu is also said to be driven by the use of prime real estate as a channel for laundering corruption money (World Bank, 2020). The increasing demands for land in urban areas has resulted in a surge in land-related disputes, with up to 80% of court cases heard in the Supreme Court in Mogadishu in 2014 relating to land disputes, and up to 95% of unregistered land on the periphery of Kismayo being contested (RVI and HIPs, 2017; World Bank, 2020).

With security improving in the country following the re-establishment of government at federal and state levels, many members of the diaspora are actively involved in land acquisitions in urban areas, and their interest has become a major factor in urban land conflicts. Whether they are Somalis coming back to reclaim land that was previously owned by them or their families, or those coming back to invest in the country, members of the diaspora are active enablers of the informal urban land market and land administration (UN-Habitat, 2017).

The first category of diaspora land claims raises complex issues for land governance touching on customary land rights, the efficacy of registered land titles, and conflict-related forceful land appropriations.

In the absence of a structured framework for post-conflict land administration, such disputes end up being a strain on a judicial system still struggling to find a foothold after decades of neglect. The situation creates incentives for parties to use extra-legal means to assert their claims, thereby further engendering conflict.

LAND, CLAN, IDENTITY, AND POLITICAL POSITIONING: THE INTERFACE

To properly understand the dynamics of land and conflict in Somalia, it is important to appreciate that the link between land, clan identity, and the balance of political power are such that land is more than just an economic resource. Rather, land relations are closely tied to concepts and norms around clan homeland and the role of the clan as guarantor of security in the absence of a functioning state. This intimate interaction explains the strategic moves that communities make with regards to claims to land and territory in order to influence the distribution of positions, power, and resources within the context of ongoing state-building processes.

Communities seek to carve out enough territory to justify their claims to be identified as political constituencies for purposes of representation in governance structures. This happens in a context underpinned by power asymmetry between clans, meaning that certain clans, for historical, demographic, and other reasons, are stronger than others and use their leverage to subordinate the weaker ones, including through the use of violence to appropriate land and natural resources.

The relationship between access to and control of land on the one hand and political power and resource allocation on the other complicates not just the management of land conflict but also the negotiation of the political settlement in the context of the ongoing transition. As Farah et al. (2002) assert, the central roles that the control of land and resources play in politics "create a powerful disincentive to negotiate on the part of some clans who find themselves in possession of other lands which are not theirs, but which they hold to help bargain for a bigger share from the future national cake".⁷

Political positioning and power asymmetry between clans are linked to an abiding discourse on Somali history regarding competing normative claims relative to identity—i.e., whether Somali loyalty and belonging is based on blood relations (family/clan) or territory. The matter has featured prominently in efforts to explain why the Somali people, with a common cultural and religious heritage and identity, are unable to live in peace with each other. Cedric Barnes analyses the implications of this discourse in his 2006 article '*U dhashay – Ku dhashay*':⁸ Genealogical and Territorial Discourse in Somali History'. He identifies Lewis and Besteman as the respective lead protagonists in this discourse, referencing the 1990s debate between the two (Besteman, 1996; Lewis, 1998; Besteman, 1998) in the journal *Cultural Anthropology*.

Lewis saw the Somali crisis as a projection of segmentary politics, while Besteman saw it as more complex, involving issues of race and class. Barnes, for his part, argued that the two paradigms played out in the unravelling of the Somali state, noting that "The dual identification with lineage and territory is what has marked the Somali-speaking areas after the collapse of the Somali state in the early 1990s, and the '*u dhashay – ku dhashay*' formula has characterised the conflict ever since" (2006:489). Barnes' position seems to be realised in the ongoing push by clans to expand territory to leverage themselves in claims for political power and resources.

Closely linked to '*u dhashay – ku dhashay*' is the idea of *deegan*⁹ (Samantar, 1995). Farah et al. (2002) explain that *deegan* "connotes exclusive control by a group sharing similar language, identity or clan affiliation of a land area and the natural resources found there",¹⁰ and contend that control of *deegan* is central to the onset and continuation of conflict in Jubbaland and Somalia more widely. The rich ecological conditions of the Jubbaland region make it an appropriate target for different clans to want to establish their *deegan*. The context of ongoing state formation has incentivised communities to seek to expand their *deegan* as a strategy for claiming political rights through district and local government formation processes.

Territorial claims and the push to expand territories among clans are driven by the widely held belief that controlling more land improves a community's bargaining power in the allocation of political positions and state resources at all levels. Conflict assessments confirm the prevalence of inter-

clan conflicts across Somalia, all of them linked to disagreements over borders between clans as each seeks to expand the size of territory under its control as a means of achieving political influence (Sheikh, 2017; Sheikh et al., 2019). As Farah et al. (2002) assert, "Local competition to access and control land and resources articulate with national level conflict to control the state".¹¹

The collapse of the state and degeneration of the civil war into clan rivalries led to a breakdown of the moral economy, undermining clan-based forms of conflict prevention and the operation of customary law and institutions (Webersik, 2004; Sheikh, 2017). As a result, violence became the main organising principle for social relations, and clan affiliation became the only guarantee of protection and support for Somalis. In the absence of a functional state that could provide them with physical, legal, and economic protection, weaker clans were placed at the mercy of dominant clan groups (Hagmann and Seid, 2018).

Clan affiliation and loyalty was solidified in the face of clan-based killings and expulsions perpetrated during 1991–92 by "former leaders of the United Somali Congress (USC) and Somali National Movement (SNM)...in order to cover up their past complicity with the military regime" (Kapteijns, 2018). The legacy of that violence eroded trust between communities to the extent that even with the return of peace, neighbourhoods in Mogadishu, Kismayo, and other cities are still clustered along clan lines, with many preferring to buy or rent houses in districts dominated by their clan (Somali Public Agenda, 2019; UN-Habitat/GLTN, 2017). As a result of this practice, the dominance of one clan in a particular area strengthens the land rights of that particular clan in the area, while weakening the land rights of those who do not belong to the clan (UN-Habitat/GLTN, 2017).

Clan affiliation and loyalty has direct implications for land conflict as they escalate disputes between individuals into communal conflicts. Sheikh et al. report that in Galmudug, they found that disagreements between individuals can easily escalate to the clan level when respective kinsmen intervene in support of the parties. Support to a clan member is considered the responsibility of every clan member and a means of asserting clan supremacy. Escalation of a conflict to the clan level brings with it the involvement of clan militia groups, which are maintained by financial and material contributions from clan members.

The control of territory (*deegan*) is closely linked to the security of land rights, clan identity, livelihoods, and security. As a result, no dispute over land or land-based resources can be personal to the parties involved, and every dispute—whether between individuals or households—has the potential to escalate into an inter-clan or inter-communal conflict—a fact that seriously complicates the resolution of land disputes. It is also this link between contestations over land and clan identity, collective power, and sovereignty over homeland that makes land conflicts more significant and often more violent than, say, politically motivated conflicts (Sheikh et al., 2019). The intersection between land/*deegan* and contemporary state formation only serves to further exacerbate the situation.

In this context where control of territory is key to continued survival, small and weak clans are forced to affiliate themselves to large clans in order to ensure their own security and survival. Clan affiliation is a traditional practice within Somali society through which weak and scattered clans gain protection from the more powerful clans. It is an established practice, the logic of which is captured in the proverb '*Ama buur ahaw ama buur ku tirso*' (trans.: 'Either be a mountain or attach yourself to one'). When a small clan affiliates itself to a large clan, it attaches itself and is adopted and incorporated within its lineage. Degrees of adoption and incorporation vary, with small affiliated clans identified variously as dependents (*deris*), appendages (*saar*), followers (*soo raac*), or even pretenders (*sheegad*). The large clan to which the small clan is affiliated protects it from other clans and is responsible for any harm inflicted on it (ACCORD, 2009).

Clan affiliation works for the benefit of both large and small clans—the former enlarging their influence and territorial claims, and the latter securing access to key resources and gaining political leverage at the national level (Farah et al., 2002). A number of commentators have however noted how clan affiliation disadvantages minority Somali Bantu farmers, subjecting them to exploitation, violence, and enslavement (Webersik, 2008; Besteman and Lehman, 2018; Gundel, 2018).

Research by Besteman and Lehman reveals how Al-Shabab have not only continued the trend dating back to the civil war of militias from outside vying to exert control over the Jubba Valley to extort land and labour from the minority farming community, but they also discriminate against the community by applying to them more severe sanctions and penalties than

are applied against Somalis from major clans for violation of religious, governance, and economic rules. Those who cannot pay the discriminatory and extortionist fines "have their farms confiscated by Al-Shabab, which then sells them to neighbouring non-minority Somali newcomers" (Besteman and Lehman, 2018:307) thereby perpetuating historical land grievances and creating new ones.

While the reference to political positioning here relates to the way that clans are strategising in order to leverage their chances in the apportionment of political power within the new federal system established since 2012, the discussion can be extended to include border disputes between Somali regions (Webersik, 2008).

WEAKNESS OF INSTITUTIONAL CAPACITY

Weakness of institutional capacity is a pervasive reality in Somalia after the collapse of state institutions in the aftermath of the civil war. The collapse had a pernicious effect on governance generally and land administration in particular, with significant implications for land disputes resolution.

A conflict assessment by Ken Menkhaus for Danish Demining Group (DDG) in 2017 captures the challenge of weak institutional capacity for land governance and management most succinctly, stating that:

...land title governance is a broken system. Government registration records of urban land titles are either lost or in private Somali hands and kept abroad, where those in possession of the records charge fees to verify claims¹². Occupation, sale, and resale of property since 1991 has made it difficult to provide original ownership. Deaths of original land owners in the diaspora lead to multiple competing claims by their surviving kin. False documentation is ubiquitous, so possession of a deed is no guarantee of ownership. False claims on real estate are very common, especially during sale of the property, and forces the buyer to pay out costly compensation that is really a disguised form of a nuisance tax. Corrupt local courts cannot be counted on to resolve disputes fairly. And serious land disputes can and do result in violence ... The importance of threats of violence in resolving land disputes has benefited stronger clans at the expense of weaker clans unable to mount a credible threat.¹³

Following the re-establishment of the Federal Government and permanent political institutions, efforts have been made to re-establish land

governance institutions with a focus on survey, allocation, and registration of urban land, particularly in Mogadishu, Hargeisa, Kismayo, and Baidoa (ReDSS, 2019). These efforts have so far had limited impact on the ground due to lack of technical and institutional capacity. As a result, many of the challenges identified by Menkhaus still exist all over Somalia.

Weakness of governance institutions, the limited reach of formal government institutions outside boundaries of major urban areas, and the persistence of conflict and insecurity in the countryside continue to undermine effective land governance.

However, there are emerging examples of good practice that can constitute the building blocks for re-establishing land administration in the country, as discussed in more detail below.

The weakness of institutions is in effect a political problem that can only be effectively addressed through political settlement at the macro-level, with the re-establishment of functional state structures including institutions for law enforcement and the administration of justice. Such a settlement will have to integrate traditional institutions, which have proved resilient and filled the gap by providing dispute-resolution services, albeit with limited effectiveness in the absence of formal law and order institutions (World Bank and FAO, 2018).

4.1 MAJOR TYPES OF LAND CONFLICT IN SOMALIA

In this report, we categorise land conflicts according to whether they occur in rural or urban areas. Land conflicts in rural areas are primarily a function of competition for access to natural resources that communities depend on for their livelihoods, and they occur among and between pastoralists, agropastoralists, farmers, and even coastal fishing communities. There are also land conflicts in rural areas that are caused by economic interests in land and land-based resources for investment purposes. This category of conflicts is a function of changes in economy and land use from a focus on subsistence to investment. It is accompanied by changes in land tenure from communal to individual holdings. A final category of land conflicts in rural areas relates to boundary disputes between clans and is largely a legacy of the civil war and the collapse of the state. The context of ongoing state building in Somalia has fueled and revived conflicts over regional boundaries and land use, e.g., between Galmudug and Hirshabelle, Galmudug and Puntland, and Somaliland and Puntland (Mushtaq, 2018).

Land conflicts in urban areas are essentially a function of competition for access to space for residence and economic pursuits. The conflicts, which are primarily driven by demands for security of tenure over urban space, are exacerbated by the inadequate or total absence of planning and regulation of urban space compounded by the weakness of urban land administration and management institutions.

The absence (or where they exist, weakness) of urban land administration enables land grabbing by powerful individuals to the disadvantage of the large population of urban poor, a majority of whom have been displaced from their rural homes and livelihoods due to conflict and insecurity. That communities cluster along clan and sub-clan lines even in urban centres means that the land conflicts tend to escalate as they feed into inter-clan rivalries. It also means that regardless of where conflicts start (urban or rural), they have the potential to escalate as clan loyalties and identities are mobilised on either side of the conflict (PDRC, 2018:86). Moreover, once conflicts escalate to the level of clans, they end up triggering revenge killings, fueling an unending cycle of violence.

Because it is the basis of material wealth in both rural and urban areas, competition for access to land is intense, particularly in the fertile north-west regions (Somaliland), along the Jubba and Shabelle Rivers, and in the inter-riverine areas of south-west Somalia (Farah et al., 2002; FGS, 2016). However, historically such competition has been managed by a combination of traditional and statutory, formal and informal institutions of governance that channeled the competition into symbiotic food-security arrangements between farmers and neighbouring pastoralist communities in places like the Jubba Valley (Besteman and Lehman, 2018).

Subsequently, however, due to the civil war and many years of conflict, these frameworks broke down, undermining age-old arrangements for managing access to water sources, grazing areas, and trees on

the rangelands. Collapse of governance institutions, persistent insecurity in the southern regions, and climate-related ecological stresses have fostered uncontrolled exploitation of natural resources and changes in land-use patterns leading to the spread of private enclosures, expansion of cultivation in the rangelands, and overgrazing (World Bank and FAO, 2018). These circumstances combine with the general context of conflict and insecurity to drive land conflicts in rural areas.

PASTORALISM, AGROPASTORALISM AND FARMING: COMPETING DEMANDS ON RURAL LAND

The most widespread land-use and production systems in Somalia are pastoralism and agropastoralism, with 46–56% of the country being permanent pastureland dominated by natural vegetation that includes savannah woodlands (IUCN, 2006). Pastoralism and agropastoralism dominate the agricultural sector. Livestock is the source of livelihoods, food, employment, and incomes to an estimated 70% of the population and contributes 40% of the GDP and 80% of foreign currency earnings (FGS, 2016).

The dominance of livestock production in the livelihoods and economy of Somalia—and the correlation between it and land—puts pastoralists at the centre of the discourse on land rights. The dynamics bearing on the practice of pastoralism and issues around access to pastoral resources, particularly pasture and water, are central to interactions between clans, including clan-based conflicts (Deherez, 2009). Land-use conflicts even pit pastoralism against urbanisation, as UN-Habitat noted in Somaliland, Puntland, and Jubbaland, where interactions between pastoralists and urban dwellers in peri-urban and urban areas have led to an increase in disputes relating to both land ownership and land use (UN-Habitat, 2017).

Pastoral resources are sparsely distributed among different ecological zones in Somalia. As a result, movement with livestock across wide landscapes that may even traverse national borders, following a calendar dictated by the weather, is a key management strategy (Samantar, 1995).

Such movement has the potential to engender tensions or overt conflicts over scarce resources among pastoralists and between them and other land users (Pavanello, 2009). But conflict can also hinder the practice of mobility and undermine the practice of pastoralism by restricting movement of livestock across territories embroiled in conflict. Either way, periodic conflicts are an inherent feature of pastoralism for which pastoralists and neighbouring communities have developed coping strategies, systems, and institutions. These include resource-sharing agreements negotiated among different communities, inter-marriages, and sanctions such as compensation.

However, the growth of both human and livestock populations and socio-economic changes have increased pressure on rangelands, including through enclosures and introduction of unsuitable land uses. This places environmental factors at the centre of pastoral land conflicts. A State of Environment Report on Somalia by the United Nations Environment Programme (UNEP) profiles environmental degradation as a major cause of conflict on account of its impact on the availability of pasture. While noting the role of climate change and the increasingly frequent droughts, the report asserts that the situation is compounded by, among other things, unregulated cutting of trees to feed the lucrative charcoal trade; the breakdown of legislative and traditional mechanisms that controlled use of and access to natural resources; and political and economic mismanagement of land tenure (UNEP, 2005). The combined effect of these factors and changes is diminished productivity of the rangelands and increase in the scale and incidence of conflicts (PDRC, 2018).¹⁴ Within pastoral communities, these changes are increasingly eroding the imperatives of interdependence, coordination, and cooperation that guaranteed peaceful sharing of common pool resources (Samantar, 1995).

Managing challenges associated with pastoralism and agropastoralism is critical for securing the livelihoods of pastoralist communities, ensuring peaceful co-existence between pastoralism and other land uses, and realising the potential of the livestock sector to contribute to food security and economic development. It also offers the possibility of taking advantage of pastoralist mobility to manage and conserve rangelands' biodiversity and contribute to climate change adaptation (FAO and IUCN, 2018).

The practice of nomadic pastoralism was also adversely impacted upon by the land and agricultural development policies of the Siad Barre regime. Much has been written about the way that the Land Law of 1975 affected rights of smallholder producers, particularly in southern and central Somalia (Besteman and Cassanelli, 1996; Norton, 2008; Besteman and Lehman, 2018). While the focus of much of the literature is on the impacts on smallholder farming, most of those affected by the law were agropastoralists, combining farming with livestock production, and they were among the poor who were dispossessed of their land, creating the basis for land conflicts in present-day Jubbaland and the rest of the Somalia (Helander, 1996; Deherez, 2009; UN-Habitat/GLTN, 2017).

The regime's agriculture and rural development policies aimed to promote large scale commercial agriculture, and for this purpose the government established parastatal farms and sought to attract international finance to support irrigation agriculture in the Jubba Valley. On the authority of the Land Law of 1975, which vested all rural land in the State, the government appropriated land that comprised the terrain in which pastoralists moved seasonally in search of water and pasture, thereby putting pressure on the practice of nomadic pastoralism, undermining livelihoods, and engendering conflicts. These policies combined with struggles between dominant and minority clans to make the Jubba Valley a site of land and resource conflicts that persist to date (Hoben, 1988; Menkhaus, 1996; Menkhaus and Craven, 2000; UN-Habitat/GLTN, 2017).

The prolonged conflict following the collapse of the Barre regime has equally impacted negatively on pastoralism and rangelands management. The breakdown of central authority has made possible the unregulated installation of new water sources in the rangelands, creating a situation where "Land which would formerly have been used only seasonally and shared among clans was now sometimes occupied year around by the same group of people" (Burman et al., 2014:9). There has been increased privatisation of rangelands through fencing and other forms of enclosures. Clan rivalries that have characterised the conflict have undermined traditional mechanisms for the sharing of resources within the framework of Somali customary law (*Xeer*).

URBAN LAND CONFLICTS

It is estimated that about 42% of the total population of Somalia live in urban areas and that the urban population is growing at an annual rate of 4%, meaning that the number of Somalis living in urban areas is poised to reach 10 million by 2030.¹⁵ Violent conflict and insecurity in rural areas, climate change, population growth, and lack of economic opportunities are among the push factors driving Somalis from rural to urban areas. The major pull factor is the hope for security, social services, and opportunities for livelihood security and economic advancement.

Availability of land for settlement and production is one of the key challenges faced by populations in urban areas. Planning authorities lack technical and institutional capacity to manage these challenges, while the policy and institutional context is characterised by inadequate clarity regarding mandates for land administration, compounded by the existence of multiple legal and normative frameworks for land governance and absence of a comprehensive policy and regulatory framework for land governance and management.

Before the civil war and collapse of the state, public land was in the hands of the Somali national government, which regulated access to and use of urban space. With the collapse of the state, land grabbing became rampant, especially in major towns and cities, fueled by population growth and the influx of IDPs.¹⁶ The huge demand for land in a context underpinned by lack of planning and regulation has inflated the cost of real estate in urban centres beyond the reach of many, forcing the urban poor to illegally occupy public and private land, thereby exposing themselves to the constant threat of eviction.

Although it is planning and regulation that distinguish urban areas from rural areas (Scott, 1998), these functions are absent in urban areas of Somalia as a result of the prolonged conflict and the collapse of state institutions, fostering an enabling environment for land conflicts. For nearly two decades, there existed no framework in urban areas for physical planning, development control, land administration, and land dispute resolution (UN-Habitat/GLTN, 2017). In recent years, significant efforts have been made with the assistance of development partners to re-establish urban planning and land administration in major cities.

The Urban Development Programme for the Somali Region (SUDP), led by UN-Habitat and supported by a consortium of NGOs and UN agencies, provided support to a whole range of activities to strengthen urban governance and management, including land administration in major Somali cities through participatory processes with city officials and residents that involved city profiling and consultations, as well as development of spatial analysis of the city by UN-Habitat (UN-Habitat, 2007, 2008, 2008a, 2008b, 2008c, 2009). However, the full potential of these interventions is yet to be realised as the structures put in place are weak in technical capacity and resources and their functioning is undermined by the absence of enabling policy frameworks; although some cities such as Baidoa are reported to be functioning fairly effectively, albeit with challenges (ReDSS, 2019).

In the absence of functional urban land administration, 'unofficial' frameworks—ranging from legitimate brokers, public notaries, real estate agents, and gatekeepers to what are essentially criminal gangs—have emerged to mediate land relations in urban centres. IIED and Tana (2019) observe that these informal systems exist not in parallel but in lieu of formal systems. The ReDSS study confirms the important role they play in facilitating land transactions in Mogadishu, Kismayo, and Baidoa, while the UN-Habitat survey highlights activities of land gangs in Kismayo who seize and occupy unregistered land which they then sell to purchasers keen on acquiring land in urban and peri-urban areas. As further elaborated in the discussion of land governance in the next section, the prevalence of 'unofficial' frameworks can be explained by the absence of effective formal land administration systems (or the weakness of those that exist), but the fact of their existence also frustrates efforts to establish appropriate frameworks.

Clan issues pose a major challenge to urban land governance and management and are critical factors defining and shaping conflicts over land in urban areas. Clans that are indigenous to the localities where towns and cities are situated claim that they have special rights to political authority and economic resources in opposition and contrast to other clans (Norton, 2008). Even the way in which settlements are organised in urban centres is determined by clan dynamics, with different clans living in different neighbourhoods and individuals preferring to stay among members of their clans (RVI and HIPS, 2017; ReDSS, 2019). Even IDPs cluster their settlements along clan lines, creating a huge challenge for actors supporting their permanent settlement. For instance, an IDP humanitarian agency reported being unable to attract IDPs from other clans to an IDP camp established in Barwaaqo Village in eastern Baidoa, which is an area dominated by the Sideed group of sub-clans¹⁷ (ReDSS, 2019).

In the absence of an effective centralised state authority, these clan divisions tend to both engender conflicts over land and complicate the management of such conflicts. Moreover, clan affiliation hinders the integration of the different clans into an urban community with a shared vision for the development of the urban area. The UN-Habitat survey of land rights in Kismayo and Jubbaland revealed many instances where disputes between individuals assume a clan dimension, becoming more complicated and feeding into higher-level conflicts associated with competition for political supremacy within the State (UN-Habitat/GLTN, 2017).

4.2 LAND GOVERNANCE–TENURE–CONFLICT INTERFACE

“Land governance” has been defined as “the processes by which decisions regarding access to, and use of land are made, the manner in which those decisions are implemented, and the way in which conflicting interests in land are resolved or reconciled” (AUC-ECA-AfDB Consortium, 2010: xiii). A major concern of land governance is to ensure security of land tenure, which is a term that refers to the relationship, whether legally or customarily defined, among people, as individuals or groups, with respect to land and natural resources. Land tenure encompasses rules that define how property rights (i.e., the right to use, control, and transfer land) are to be allocated, and responsibilities and restraints associated with the exercise of such rights. In sum, “Land tenure systems determine who can use what resources for how long, and under what conditions” (FAO, 2002:7).

There exists a close correlation between land governance, tenure (in)security, and conflict. Effective governance of land which guarantees and protects security of tenure will also integrate effective mechanisms for managing land conflicts. Conversely, where land conflicts are prevalent, tenure is insecure and the situation indicates failure of land governance.

Land tenure in Somalia is underpinned by legal pluralism, which is defined as a situation in which two or more legal orders or systems coexist in the same social field (Merry, 1988). Thus, the rules that determine land relations are drawn from formal systems of the state enacted in legislation, Somali customary law (*Xeer*), and local adaptations of Islamic *Shari'a*. The three systems are not mutually exclusive, as over time the norms have been integrated into what is effectively a hybrid system which draws from all the three legal orders (Burman et al., 2014).

Evolution of the land tenure system has been informed by interactions between the three legal systems, the socialist regime of Siad Barre, the collapse of the state following overthrow of the regime, and the many years of conflict and insecurity. All of these factors have shaped what is in place and define its challenges and prospects, and have to be taken into account in any reforms aimed at putting in place a comprehensive legal framework for land administration (Cassanelli, 2015).

The reality of legal pluralism in Somalia is testimony to the diversity of land and natural resource-management strategies that apply across different communities and localities in Somalia. According to Farah et al., these strategies “are highly specific to local social, political and ecological contexts” as “different clans and groups formulate and enforce their own, informal policies for managing natural resources” (2002:335). This situation has been solidified by the crisis of governance that effectively left communities to their own devices following the collapse of state systems. It is critical that this reality is taken into account when thinking about the design of appropriate frameworks for land governance and conflict management, as we discuss in more detail in section 6 below.

As a result of the troubled history of Somalia, the question ‘what is the land tenure system of Somalia?’ has two possible answers—one de facto and the other de jure. The first possible answer is that the de facto land tenure system of Somalia—the one that actually prevails on the ground—is communal land tenure, in which land is owned by communities and its use regulated by community institutions. In this connection, even the land that the state holds and uses for public utilities and allocates to individuals as private land in urban centres is land that the community surrenders to it for such purposes.

On the other hand, through a series of legal enactments, the Siad Barre regime effectively transferred control of all land to the state, so that as a matter of law (de jure), all land in Somalia vests in the state. Law No. 67 of 1st November 1970 abolished all forms of tribal association, rights, and privileges, and vested rights over land and water in the state. Law No. 41 of 1973 on urban land stipulated that all land in Somalia, regardless of who uses it, is public property. Finally, the Land Law of 1975 abolished customary ownership in rural areas, transferred ownership of all land to the state, and provided a comprehensive framework for land administration (Roth and Bruce, 1988).

In practice however, communities continue to own and use their land, notwithstanding the legal enactments. What UN-Habitat found in Jubbaland is true across the entire country: namely, that post-conflict governments seek to continue with the land rights regime inherited from the Siad Barre era, even though communities have never totally accepted to cede ownership of their land to government. This reality has been manifest in situations where government purports to acquire and allocate land for public functions, including for settlement of IDPs, and host communities rise up to lay claim to the same land (UN-Habitat/GLTN, 2017).

Thus, the true position is that rural land is owned communally, while urban land is vested in the state, which allocates and regulates its use. In communally owned land, user and access rights to different resources (water, pasture, trees, herbs, etc.) are exercised by different groups on the basis of mutually agreed terms, while the resources are held in common (Samantar, 1995).

A major characteristic of legal pluralism that has implications for effective land governance and management of land conflict is the existence of multiple institutions which share mandates over land issues. In the case of Somalia, each of the three legal systems has an accompanying institutional framework. Furthermore, the formal system has multiple institutions dealing with different aspects of land administration. Municipal authorities share land administration responsibilities with the Ministry of Public Works in urban areas, and the lines of responsibility are not always clear.

The Provisional Constitution of the Federal Republic of Somalia affirms the supremacy of *Shari'a* and stipulates that no law which is not compliant with its general principles and objectives can be enacted¹⁸. Article 4(1) further provides that after *Shari'a*, the Constitution is the supreme law, binding the government and guiding its policy initiatives and decisions. Thus, *Shari'a* and the Constitution (in that order) sit at the top the hierarchy of norms.

The Provisional Constitution mandates the federal government to develop a national land policy that shall, among other things, ensure equity in land allocation and use of resources; the guarantee of land ownership and registration; sustainable land use; and prompt and satisfactory resolution of land disputes. The policy has not been adopted. In the circumstances, and due to the impacts of the prolonged conflict and collapse of state institutions, there is no functional mechanism for managing the interactions between the three legal systems with regards to land relations. Therefore the need for the kind of harmonisation recommended by UN-Habitat (2015) to create a truly hybrid system for land dispute resolution in Somaliland and Puntland exists across Somalia.

Federal Member States (FMSs) have also adopted constitutional provisions on land similar to those in the Provisional Federal Constitution, and some have gone further still to draft legislation on land administration. A case in point is the Provisional Constitution of Jubbaland, which provides for the establishment of a Land Use and Dispute Resolution Commission “which shall encourage the development of policies on land use and tenure systems in Jubbaland to ensure its fair and equitable use”;¹⁹ and “foster reconciliation, unity, healing and ensure that the matters relating to property disputes are addressed through a legal and state directed process”.²⁰ Although efforts have been made—including with the support of SSF—to implement this provision, not much progress has been made—mainly on account of the challenges of managing competing interests and reconciling competing institutional mandates around land administration. Similarly, the cabinet of South West State approved what is by all accounts a very progressive draft land law in 2018, but it remains in limbo as it has yet to be approved by the State Assembly (ReDSS, 2019).

The inability to make progress on establishing appropriate frameworks for land governance in Somalia is unfortunate, as policy, legal, and institutional frameworks carried over from the pre-conflict period are outdated and fragmented, and their continued application is a key source of land conflicts.

In this connection, the following conclusion in the 'Somalia Urbanization Review' is true for the entire land sector, including rural land:

There is little coherence or complementarity in land administration due to competition between institutions, unclear and overlapping mandates, institutional fragmentation and limited integration of formal and informal systems. Formal institutions face considerable obstacles reasserting their mandate over land administration services due to their absence in service delivery and the takeover of services by the private sector and non-state actors. They also need to re-establish trust in local communities given the government has proven mostly ineffective in protecting land rights.²¹

In some cases, the land administration system has effectively been privatised. The World Bank's 'Analysis of Displacement in Somalia' reports how a cadastre registration database for Mogadishu was removed from the city to Djibouti, "where entrepreneurial individuals provide non-authorized land registration for citizens of Mogadishu, based on the stolen cadastre".²² Even in Somaliland and Puntland, where urban land registration has been more effectively formalised, challenges remain in view of the multiplicity of formal and informal authorities involved in the process.

The need to address this problem is clearly appreciated—as evidenced by the provisions of the Provisional Constitutions and efforts to enact legislation in several FMSs. The literature also shows that actors generally know what needs to be done. Specific recommendations made in numerous studies and reports over the years include the need to;

- Streamline land administration to remove the prevailing confusion over mandates
- Strengthen institutions of land governance, including land dispute resolution frameworks
- Rationalise interactions between the three legal systems
- Address historical land grievances

However, progress on addressing land governance in a meaningful and sustainable manner is constrained by the absence of political will, particularly at the federal level, to reform the land laws and land administration system due to the sensitivity around discussions of land rights, and the place of land in the political agenda surrounding the state-building initiative (RVI and HIPS, 2017).

The situation is different at the regional level where some regional governments and FMSs have taken steps to develop land policies and laws. Ideally, the FGS should take the lead in developing a framework policy that is then adapted by the different FMSs.

It is important to appreciate that while the context of Somalia may define how it manifests, the political sensitivity of land is not unique to Somalia (see the quote from the F&G at the beginning of this section). Mohamed Salih puts it well when he states that "The articulation of demands governing the use of natural resources inevitably means the exercise of power, and resistance to it" (Salih, 2001:6). This is especially true in Somalia given its ecology, history, and the livelihoods of its population.

A brief published jointly by Tana Copenhagen and the International Institute for Environment and Development (IIED) reports that research undertaken in Mogadishu "revealed that, for many Somalis, land ownership is entwined with a sense of belonging and identity"; that because of the way land was (mis) used by the Barre regime, it remains an explosive topic; and that repossessing grabbed land "would need careful negotiations with the local chieftaincies and could lead to conflict" (IIED and Tana, 2019:2). Thus, the 'elephant in the room' when it comes to developing and implementing a comprehensive land governance framework is how to redress historical land grievances.

While the crisis characterising Somalia's institutional framework for land governance is rightly blamed on the prolonged conflict and the collapse of state structures, there are striking parallels of institutional failure in other African countries struggling to integrate customary and modern systems for governance of, particularly, rural land. Although it is 20 years old, the analysis in Salih et al. (2001) remains relevant today. It argues that both formal and informal institutions of land governance have failed, especially with regards to managing land conflicts involving pastoralists: "One as a result of the mismatch between local peoples' organizational culture and that of the state and other as a result excessive state intrusion and marginalization of local institutions".²³ State institutions have undermined traditional and other local governance institutions without providing a viable alternative, leading to the "accumulation of local crises which often develop into regional conflicts, with wider repercussions than ever before".²⁴

Thus, in considering the design of appropriate institutions, Somalia needs to learn from the experiences of other countries facing similar challenges and not repeat their mistakes. It is to this end that we have included the discussion about comparative experiences (section 5 below).

The interface between land governance and tenure security is most evident in the way that the weak land governance in Somalia has impacted on land rights of minorities and women. The struggles, exclusion, and marginalisation suffered by Somali minorities—particularly in the southern part of the country—is well documented in the report by Martin Hill for Minority Rights Group (MRG) (Hill, 2010). The report documents victimisation and enslavement of minorities who are farmers by warring pastoralist clans that are intent on exploiting the fertile agricultural land. According to Gundel, the legitimate land rights grievances of these communities have been exploited by Al-Shabab with offers of protecting their land rights and providing them with security (Gundel, 2018).²⁵

The land rights of women are equally if not even more insecure. Although the Provisional Federal Constitution guarantees the right of every person to own, use, enjoy, sell, and transfer property; in practice, women's land rights are governed by *Xeer* and *Shari'a*, which predicate the protection that they enjoy on their association with male relatives. Although *Shari'a* is generally more positive towards women's land rights than *Xeer* and even statutory laws—providing them with more protection to acquire, hold, use, administer, and dispose of property—the protection tends in practice to be watered down by imperatives from *Xeer* propagated by the male-dominated customary leadership (Aero, 2021).

4.3 LAND CONFLICT MANAGEMENT AND DISPUTE RESOLUTION MECHANISMS

This section discusses mechanisms for management of land conflicts and resolution of land disputes. We alluded in section 1.1 to the link between land disputes and land conflicts, and specifically to the fact that disputes have the potential to escalate into conflicts unless resolved speedily and justly. It is for that reason that we make reference here to both conflict management and dispute resolution. We cover these topics in a separate section because this constitutes the focus of this report, but we recognise that frameworks for land dispute resolution and their effectiveness in delivering justice cannot be considered in isolation from the overall land governance framework, and as such the discussion in the previous section is relevant to the issues canvassed in this section.

The legal pluralism that characterises land governance frameworks in Somalia is evident in the arena of land dispute resolution, where three systems based on customary, religious, and statutory norms operate. Each normative system has its institutional frameworks, although in practice there is cross-fertilisation of principles and values

among the three systems in the manner that they deal with land disputes and the remedies that they provide.

A chart published by NRC in February 2018 gives a visual presentation of the dispute structures found in different cities across Somalia (NRC, 2018). The dispute resolution structures are courts, identified by reference to the three normative frameworks, namely: traditional courts, religious courts, and formal courts.²⁶ The chart shows that all the three types of courts are found in all of the regions across the country. Traditional courts are listed separately from *Shari'a* courts, except in Galguduud, Middle Shabelle, Benadir, Lower Shabelle, and Hiraan where there is a category referred to as a Traditional Court and *Shari'a* Court, suggesting the existence of hybrid courts that integrate and apply customary and religious law. All regions have *Shari'a* Courts, while Bari, Nugaal, Mudug, Lower Jubba, and Gedo also have Khadhi Courts. The statutory (so-called 'modern') courts consist primarily of District and Regional Courts, which are found in all regions. Only Somaliland is listed as having an Appellate Court and a Supreme Court.

Traditional and *Shari'a* courts are the most popular and are accessible to most of the citizenry. Traditional courts apply Somali customary law (*Xeer*), which is essentially "A set of rules and obligations developed between traditional elders to mediate peaceful relations between Somalia's competitive clans and sub-clans including over access to land and natural resources" (Andre Le Sage 2005: 32). *Shari'a* courts apply Islamic law with certain adaptations that integrate traditional norms. Traditional courts and *Shari'a* courts appeal to most Somalis because the procedures and values are familiar to them, they provide speedy justice with remedies such as compensation that appease complainants, and they are not costly. Traditional courts resolve disputes through negotiation, mediation, and arbitration, with a view to arriving at settlements that promote harmony and coexistence. This approach is particularly useful in dealing with land disputes that involve neighbours who have to continue living together even after the end of the case. *Shari'a* courts use both arbitration and adjudication—but based on religious norms and values that all parties ascribe to. Formal courts are part of the judicial system established by law and derive their mandate primarily from statutory law. Formal courts use procedures that are strange to ordinary citizens, and appearance before them requires engagement of lawyers, which disadvantages poor people who cannot afford to pay lawyers' fees.

The majority of Somalis access justice through traditional and *Shari'a* courts, and in many rural areas they are the only mechanisms available. But while these courts are deemed to be more accessible and user-friendly compared to statutory courts, a report by Saferworld found that even though they appreciate the role of elders in decision-making and dispute resolution, the public in Jubbaland preferred to have their disputes adjudicated by formal state authorities of the regional and federal governments (Saferworld, 2016). The challenge going forward is to establish frameworks that build on the strengths of all the three systems of dispute resolution and to ensure effective coordination and enforcement.

The collaborative dispute resolution approach being implemented in Puntland to address land rights of IDPs provides a good example of how a new and more effective dispute resolution system can be built which integrates the best of each of the three systems, and could be used as the basis for

establishing a more integrated dispute resolution framework that applies to all disputes and for all categories of citizens. As reported by NRC (2015):

Collaborative dispute resolution method is a potentially enabling and transformative one that could help strengthen the role of customary and Shari'a courts in resolving IDP land related disputes. These seek to integrate traditional court mechanisms with religious jurisprudence underpinned by municipal documentation and secular law. When approached as a community-based process of negotiated settlement these models seek to replace traditional win-lose adversarial approaches with the possibility for more equitable outcomes. At the same time, they aim to retain and combine the wisdom, popular acceptance and safeguards of the existing legal plurality.²⁷

The importance of customary and religious norms and structures for land disputes in Somalia cannot be questioned, nor is there any doubt that they will continue to play critical roles in land governance. However, to effectively accommodate the socio-political, economic, and environmental opportunities and challenges of the 21st century, these systems require to be formalised and properly integrated into the statutory framework for governance and administration of justice. Only thereafter can there be guarantees for enforcement of their decisions to ensure their continued effectiveness (PDRC, 2019).

CHALLENGES TO EFFECTIVE LAND DISPUTE RESOLUTION

The fact that all three systems of courts have jurisdiction to determine land cases creates incentives for forum shopping, in which disputants choose institutions before which to present their cases "not because of appropriate mandate, but for social pressure or likelihood of a favorable outcome" (Expanding Access to Justice Program, 2020:20). Furthermore, this creates incentives for those who have resources to move their cases across the three systems endlessly, to the disadvantage of those who do not have the resources to do this.

Each of the three systems face challenges that constrain effective delivery of justice, particularly in land-related disputes. Traditional courts are reported to exhibit bias towards the more powerful clans; to have difficulties in enforcing outcomes, particularly in minor cases; and to be ineffective in dealing with powerful interests that bear the capacity to mobilise the threat of violence. They are effective in dealing with conflicts between sub-clans but are not

equipped to resolve conflicts between wider clans or to deal with complex private property disputes. The *Xeer* justice system emphasises the mitigation of further violence rather than the pursuit of fairness or justice—its procedures underpinned by the idea expressed in the Somali saying: "It's not justice but a solution". Furthermore, as all customary laws and principles are oral, they are open to different interpretations across generations and between different clans (Sheikh et al., 2019).

Shari'a courts are generally well regarded, but in some areas are seen to have become politicised and in other areas are often accused of making arbitrary rulings, in part due to the fact that many *Shari'a* judges are not trained in secular law.

Formal courts face even more challenges than traditional and *Shari'a* courts, with endemic corruption and political interference often cited as the greatest obstacles to their delivery of justice (Expanding Access to Justice Program, 2020a). Other challenges include low salaries for magistrates, judges, and other court staff; lack of expertise and training; lack of protection; and lack of funds to reform the judiciary. With regards to their work with land disputes, the formal courts are further constrained by the weak and outdated legal framework for land administration. Even in Puntland, Somaliland, and Jubbaland where substantial efforts have been made to update land legal frameworks, the work is incomplete and its impact undermined by the absence of comprehensive land policies to manage competing imperatives and demands on the land sector.

Gender dimensions of land dispute resolution are a challenge across the three systems, but particularly in the traditional system. Sheikh et al. (2019) point out that even though women and youth are actively engaged in land conflict resolution, they are not integrated as key actors in traditional dispute resolution structures where elders are the main stakeholders. The expectation within the traditional system is that elders "lead the activities while all other groups are there to assist them where needed—mainly through awareness raising (youth and women) or funding (business community)".²⁸

But the most critical challenges to effective land dispute resolution are systemic, and a product of the troubled history of Somalia and its impact on institutions of governance.

As Somalia's National Development Plan for 2017–2019 acknowledges: "What currently operates in the judicial realm is a patchwork of statutory, *Xeer*, and *Shari'a* law that needs to be coordinated and fully codified".²⁹ While the reality of legal pluralism is good and has ensured a level of access to justice for the people of Somalia that would not otherwise have been possible following the collapse of the state, the absence of a coordination mechanism for the governance and justice system to ensure a shared vision and common standards results in what one report has termed "uncoordinated institutional pluralism with an insurgent alternative" (Expanding Access to Justice, 2020:20). This undermines the utility of legal pluralism in enabling access to justice.

The effectiveness of the justice delivery system ultimately depends on the strength of the statutory system as the framework through which government administers justice, law and order. It is through the statutory system that government is able to coordinate and set standards for any other alternative justice delivery systems. The term 'alternative' in ADR signifies that these other systems are alternatives to the statutory system, which is constitutionally the primary framework for delivery of justice. Yet, in Somalia, where they function, courts are found only in regional capital cities, with the result that people living in rural areas are alienated from statutory justice mechanisms (FGS, 2016). Inadequate legal knowledge, political interference with justice delivery processes, and high costs further compound the situation and undermine public trust in and use of statutory dispute resolution mechanisms.

THE AL-SHABAB FACTOR IN LAND DISPUTE RESOLUTION

The absence of courts in rural areas partly explains the reported appeal of Al-Shabab dispute resolution mechanisms in rural southern and central Somalia. A study on land and conflict in Lower and Middle Jubba Valley commissioned by USAID Office of Transition Initiatives (OTI) found that Al-Shabab had established governance systems in the region that included management of land transactions and disputes, positioning itself as "the most trusted and fair arbiter of land disputes" (Office of Transition Initiatives/ Somalia Stabilization Initiative, 2017:8). The farming communities in the region easily bought into this narrative in view of their experiences with dispute resolution mechanisms in areas controlled by federal or regional authorities—"where the most dominant clans and powerful businesspeople prevail in land

disputes and are able to engage in land grabs”.³⁰ In comparison, the study found that “Al-Shabab–controlled areas enjoy higher levels of justice when weaker social groups face competing claims on their land”.³¹

According to Roland Marchal, the three main reasons behind the appeal of Al-Shabab for communities with regards to land dispute resolution are: firstly, that *Shari’a* is less contested among communities than customary law or statutory law; secondly, that Al-Shabab magistrates are much less corrupt than state magistrates or the elders who preside over traditional courts; and thirdly, the fact that Al-Shabab enforces the judgements of its courts (Marchal, 2018). The enforcement factor is by far the most important one and gives the Al-Shabab courts an advantage over traditional courts and even state courts—the decisions of which are routinely ignored or subverted through corruption and political interference.

The efficiency of Al-Shabab courts and the fact that parties respect and comply with their decisions draws even those who do not live under their control, including residents of Mogadishu, to present their cases in them. According to Marchal, farmers in Lower Shabelle walk 30 km to adjudicate their disputes in Al-Shabab courts, rather than go to Afgoye or Marka where they are not assured of a positive outcome. He also notes that they fear to take their cases to state courts as they would be punished by Al-Shabab for interacting with the Somali government (Marchal, 2018).

Conversely, there are also downsides to the Al-Shabab justice system. Marchal reports that the group is intent on abolishing the application of customary law as it “wants to make clear that people are ruled by the *Shari’a* and not by *Xeer*” (Marchal, 2018:352). People living in Al-Shabab–controlled areas have also complained about the group forcibly taking over their land for its own use and imposing heavy taxes on farm produce—actions which are said to create disaffection among the population (Office of Transition Initiatives/Somalia Stabilization Initiative, 2017).

It has also been reported that Al-Shabab is selective in its interpretation and application of religious law. According to a UN-Habitat/GLTN report on land conflict in Jubbaland, Al-Shabab ruled that all children who had fled a farm in Gobwein area were not entitled to inheritance—a ruling that is said not to be consistent with Islamic law. They also report that because Al-Shabab are against ownership of large pieces of land by individuals, they often force owners to subdivide such land (UN-Habitat/GLTN, 2017).

LAND DISPUTE RESOLUTION, HISTORICAL GRIEVANCES, AND POLITICAL SETTLEMENT

Resolution of land disputes and conflicts is central to state building and peacebuilding in Somalia. Besteman and Cassanelli argue that political reconciliation cannot succeed if it is “not accompanied by mechanisms for resolving competing claims to land and other productive assets” (Besteman and Cassanelli, 2000: ix). Most commentators agree with this assertion, recognising that without a satisfactory resolution of historical land claims, and in the absence of an effective framework for land administration and land dispute resolution, competition over land will continue to be a source of violent conflict and undermine any efforts to build peace and reestablish the state.

Yet, although the importance of addressing the land question as a basis for sustainable political settlement “has been acknowledged in successive peace agreements in Somalia” and there is “growing recognition that land and property disputes are potential obstacles to full reconciliation and normalization”, little progress has been made in mainstreaming it in the agenda of political settlement due to its political sensitivity and complexity (RVI and HIPS, 2017:53).

4.4 MAJOR GAPS IN THE LITERATURE ON LAND CONFLICT IN SOMALIA

A major motivation for this literature review is to identify major gaps in the literature on land conflict in Somalia, which may constitute entry points for further research and analysis and for programming. We noted from the outset that substantial research exists on the challenges to managing conflicts and disputes over land in Somalia, whereas less research appears to have been undertaken to understand what works. In this connection, we identify the following gaps in research that need to be addressed.



Image credit: ©AMISOM

1. **Nature and core elements of customary land law:** While the strength of Somali customary law is acknowledged in the literature, it is not clear what constitutes Somali customary land law; other than the fact that land is held by clans, not much detail is available in the literature about its nature and content. Indeed, it is unclear whether there exists a single customary land law for all Somali communities or a whole series of clan/sub-clan customary land laws. There is also need for deeper understanding of the interface between customary land law and *Shari'a*.
2. **Customary land law of Somali minorities:** There is need to conduct research on the customary land laws of Somali minorities, on which we were not able to trace much literature.
3. **Principles of land dispute resolution under customary and religious law:** Although the literature is replete with assertions about how customary and religious courts are effective, particularly in resolving land conflicts and disputes, we have lacked literature that identifies and analyses the principles, norms, and values that these courts use to resolve land disputes. In order to integrate the three legal systems for effective resolution of land disputes, it is important to isolate these principles, values, and norms in order to be able to determine how to reconcile them with constitutional and human rights standards. In this connection, the principles, values, and norms can be assessed against the provisions of VGGT.³²
4. **Procedures for land disputes resolution in traditional and *Shari'a* courts:** International human rights standards call for procedural safeguards as a means of guaranteeing access to justice for all persons in dispute resolution processes. There is need for research on procedural aspects of traditional and *Shari'a* courts in order to assess conformity with constitutional and international human rights standards, and to address any shortcomings in the process of building the capacity of the courts.
5. **Land governance issues and challenges within farming communities:** A defining feature of the literature on land issues and challenges of farming communities is the fact that it is almost all about the interface between them and outsiders (pastoralists, investors, the state). There is little in the literature about the land issues and challenges among the members of these communities inter se. This research is needed to inform the design of land governance and dispute resolution frameworks that will respond to the needs of all Somali communities.
6. **Legal education and its appropriateness to land conflict management and dispute resolution:** Although the literature speaks to the challenges faced in land dispute resolution that are attributed to lack of capacity on the part of those presiding over the traditional, *Shari'a*, and formal courts, we have not come across any literature on legal education and professional development that these offices undergo. This research is necessary to identify challenges and generate appropriate strategies to ensure that courts are up to the task of delivering land justice.
7. **Al-Shabab, land governance, and land dispute resolution:** Notwithstanding the challenges involved in undertaking research in Al-Shabab-controlled areas, more research is needed on the impact of the militia group on land governance in southern and central Somalia.
8. **Research on options for land reform:** There is need for research on land reform options that can be implemented in the short, medium, and long term as a means of generating an agenda for reform of land governance and land dispute resolution as part of ongoing state-building efforts.
9. **Impact assessment of urban land administration reforms in northern Somalia:** Research should be undertaken to assess the impact of the urban land administration reforms in Somaliland and Puntland to generate lessons that may inform such reforms in southern and central Somalia. Such research should clarify what works and any principles that can be replicated horizontally in other regions or scaled up to the federal level.
10. **Research on the feasibility of establishing frameworks and processes to address historical land grievances in Somalia:** Research should be conducted to gauge public opinion on the need to address historical land grievances within the framework of transitional justice and in the context of the National Reconciliation Framework. This will help to build political momentum needed for this issue to be prioritised in ongoing state-building processes.



5 LAND CONFLICT MANAGEMENT AS A REGIONAL AND GLOBAL AGENDA AND WHAT THIS MEANS FOR SOMALIA

The need for effective mechanisms to address land conflict may be urgent for Somalia in view of its history of conflict and the ongoing transition to peace and development—but the country is not alone in this. Land conflict is increasingly at the centre of the global development discourse due to increased competition for access to land livelihoods and investment in the context of growing populations and climate change. African, regional, and global frameworks are engaged in the search for appropriate policies, approaches, and institutional arrangements for managing land conflict, based on the collective experiences of UN Member States. Somalia—which is a member and participant in these frameworks—can draw on the discourses for principles, approaches, and institutional designs that can be adapted to its specific context.

At the UN, the **Sustainable Development Goals (SDGs)** agreed by the global community as a framework for realising the 2030 Agenda for Sustainable Development includes land-specific targets and indicators.³³ Furthermore, in 2019, the **UN Secretary-General issued a Guidance Note on Land and Conflict** that commits the UN system to, among other things, ensure that land is an integral part of conflict analysis; integrate land-conflict-related issues in country-level interventions; enhance system-wide capacity to address the land conflict nexus; and develop and use practical tools that address the land-conflict nexus. Major development agencies, including the Organisation for Economic Co-operation and Development (OECD)³⁴ and the United States Agency for International Development (USAID),³⁵ have also published strategy documents on how to address the land-conflict-development nexus. These guidelines and strategies provide entry points for Somalia to engage with these organisations

in partnerships to support the development of capacities and institutional frameworks for effectively addressing land conflicts in the country.

The **Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries, and Forests in the Context of National Food Security (VGGT)**—which were developed under the leadership of the Food and Agriculture Organisation of the United Nations (FAO) and endorsed by the Committee on World Food Security (CFS) in May 2012—embody global consensus on approaches to improving governance of tenure of land, fisheries, and forests, including through appropriate frameworks for resolution of conflicts and disputes, to facilitate optimal use of these natural resources to enhance food security and achieve sustainable rural development. The guidelines, which speak to issues that are of direct relevance to land conflict in Somalia, articulate international best practice that countries have the choice to domesticate as binding legal provisions through national policy and legislation. **A technical guide on applying the VGGT in pastoral contexts** identifies avoidance and management of land conflict as one of the key action areas (FAO, 2016).

Somalia has the opportunity to benefit from support being provided through a partnership between FAO and the AU to AU Member States to use the VGGT alongside the the **Framework and Guidelines on Land Policy in Africa (F&G)** to implement the **Declaration on Land Issues and Challenges in Africa**. The partnership, established following a call by the AU through the Land Policy Initiative (LPI)—now the **African Land Policy Centre (ALPC)**—for coherent and integrated implementation of the F&G and VGGT, focuses on building institutional and technical capacity for responsible governance of land and natural resources.

This includes building appropriate frameworks for effective management of land and natural resource-based conflicts.

At the continental level in Africa—and particularly within the Horn of Africa—the land, conflict, and development agenda is a major policy priority for regional integration frameworks. A publication issued by the United Nations Economic Commission for Africa (UNECA) in 2016 confirmed that land issues were central to state-based and non-state conflicts; with state-based conflicts being mainly over boundary disputes, while land conflicts between communities arise from competition over access to land-based resources, both within and across national borders, particularly among pastoral communities. The publication extensively analysed the human and economic costs of conflict, with case studies of Somalia and six other countries of the Horn of Africa. In a subsequent publication (UNECA, 2017), the Commission noted that state policies on land (or the absence thereof) are the main drivers of conflict among pastoralists, between pastoralists and farmers, and even between pastoralists and the state.

Collectively, African states have, under the umbrella of the African Union (AU), recognised the need for appropriate national policies on land governance and management which, among other things, address land conflicts. Although the AU's strategic framework for inclusive growth and sustainable development of the African continent, Agenda 2063, does not speak directly to land conflict, the achievement of its vision and aspirations is conditional on responsible governance and management of land generally—and of land conflict in particular. Not only is land central to the priorities of **Agenda 2063** for the agricultural sector, land governance is key to the promotion of peace, security, human rights, and sustainable development.

In 2009, African governments adopted the Framework and Guidelines on Land Policy in Africa (F&G) as the continental framework for strengthening land rights, enhancing productivity and securing livelihoods, and the Declaration on Land Issues and Challenges in Africa, through which they committed to adopt policies and enact laws to implement the F&G. The F&G acknowledge that land is a primary source of conflict in Africa and call for land policies that support “the prevention and effective resolution of conflicts through mutually acceptable dispute processing mechanisms”.³⁶

In recognition of the threat of land conflicts that pastoralists face in pursuing their livelihoods, the guidelines call for policies that will protect pastoral ecosystems by addressing tenure security and establishing appropriate frameworks for resolution of cross-boundary disputes, as well as policies for the protection, development, and conservation of transboundary water resources. Although the Declaration does not speak directly to land conflicts, it is relevant as it commits African governments to ensure that land laws provide for equitable access to land and related resources among all categories of land users.

To respond to the needs for pastoralist development—including securing pastoralists' access to land and managing land conflicts that involve them—the AU adopted the **Policy Framework for Pastoralism in Africa**. The twin objectives of the Policy Framework are to secure, protect and improve the lives, livelihoods, and rights of African pastoralists, and to reinforce the contribution of pastoral livestock to national, regional, and continent-wide economies. It calls for national policies that reduce the vulnerability of pastoralists to conflict, including by strengthening their access to rangelands within and across national borders.

Also of particular relevance to Somalia is the Intergovernmental Authority on Development (IGAD). Initially established as the Intergovernmental Authority on Drought and Development (IGADD), it has evolved over the years to become the foremost regional actor on land, conflict, and development in the HoA, with a mandate that covers the entire region and represents the collective voice of all the eight countries in the region, including Somalia. As a Regional Economic Community (REC), it spearheads the implementation of Agenda 2063 and other policies, decisions, and resolutions of the AU.

The work of IGAD is particularly important for Somalia's efforts to address land conflict, given its institutional focus on conflict and pastoralism. As a Member State, Somalia ascribes to IGAD's commitment articulated in its constitutive document: to strengthen land resource monitoring systems; coordinate efforts towards the sustainable management and utilisation of shared natural resources; and harmonise national plans of action for management of drylands and control of land degradation. Conflict prevention, management, and resolution is one of the three priority areas of IGAD as an institution.

As regards land, IGAD's work is defined by the **IGAD Land Governance Strategy**, the **IGAD Strategy for Mainstreaming Land Governance**, and the **IGAD Land Governance Business Plan 2019–2023**.

Noting that even where IGAD member states have developed comprehensive laws and regulations on land, conflicts continue to occur due to limited awareness and poor enforcement of such laws; the Land Governance Strategy aims to support awareness raising and capacity development to improve the implementation of policies and enforcement of laws to manage land-related conflicts.

Through the Strategy for Mainstreaming Land Governance in IGAD Policies, Strategies, and Programs, the group aims to integrate land governance imperatives into its institutional and sectoral processes and procedures, so that it is better able to provide support to Member States to mainstream land governance into their own policies and programs. The strategy aims to place land at the centre of political, cultural, economic, and social aspects of decision-making within IGAD and IGAD Member States. Through the Business Plan for IGAD Land Governance, the Authority sets out the specific activities, costs, and timelines for implementation of the two strategies, in order to guide the formulation and implementation of land governance initiatives in the region and to facilitate mobilisation of the resources required to fund them. Development of the Business Plan was informed by a baseline survey to identify the status of land governance in all IGAD member states, and to identify regional and country-specific priorities for support (IGAD, 2016). The baseline identified two priorities for Somalia, namely:

- To develop land policies and laws and reform institutions; and
- To develop post-conflict land administration.

The baseline study also identified strengthening land dispute resolution mechanisms for both statutory and customary land as a priority in all IGAD member countries. Thus, Somalia has the opportunity to draw on technical, institutional, and financial resources of IGAD (and through it, the AU and UN) to reform its frameworks for land governance and management of land conflict.

The recently established IGAD Land Unit spearheads implementation of the Land Governance Strategy and provision of support to Member States to enhance technical and institutional capacity for land governance and management. As a Member State, Somalia is already well integrated into the IGAD system, and participates in and (in theory) benefits from its institutional processes. However, it can partner with the Unit to develop targeted and bankable proposals to development partners for support to build its institutional and technical capacity for responsible land governance and management of land conflict. It has the possibility to do the same with IGAD Conflict Early Warning Mechanism (CEWARN), IGAD Centre for Pastoral Areas and Livestock Development (ICPALD), IGAD Climate Prediction and Application Centre (ICPAC), and IGAD Drought Disaster Risk and Sustainability Initiative (IDDRSI). The recommendations of this study can inform negotiations with IGAD for this purpose.

5.1 LESSONS FOR SOMALIA

The above discussion shows that Somalia is not alone in the challenges it faces with managing land conflict—even if its specific context and history may shape the way in which conflicts evolve and are manifested. In this section, we review experiences of land conflict management from other countries that offer lessons for Somalia. We focus the review first on experiences from northern Kenya and eastern Ethiopia, and then on Afghanistan—which like Somalia has experienced long-term conflict and continues to struggle with state fragility. We appreciate that the history and circumstances of Somalia are unique, but consider that there may be institutional arrangements, practices, tools, and approaches from these experiences that may be adapted to the reality of Somalia.

The experiences of Somalia with the land governance and agricultural development policies of the Barre regime—particularly in their impacts on land rights of peasants in southern and central Somalia—mirror what happened in South Kordofan and Southern Blue Nile regions of Sudan when, in 1973, the Numeiri government—much like the Barre government in Somalia—sought to turn the regions into ‘the bread baskets’ of Sudan by establishing large-scale mechanised simsim and sorghum schemes covering up to 1 million feddan (acres). The overall impact of those policies was the degradation of land and loss of livelihoods for the resident Nuba and Funj communities, as well as nomadic pastoralists who had seasonal access and use rights to the same land through agreements with those communities. The programme and its impacts would ultimately be one of the drivers behind the breakout of the Sudanese civil war. There are major lessons for Somalia in that Sudanese experience.

5.1.1 LESSONS FROM NORTHERN KENYA AND EASTERN ETHIOPIA

The regions of northern Kenya and eastern Ethiopia are largely inhabited by Somali clans; among them Degodia, Ajuran, Garre, Ogaden, and Murulle, who—like their kin in Somalia—live in regions that are remote, rural, and arid to semi-arid, and practise nomadic pastoralism, moving with their livestock within and across national borders of the two countries and Somalia. In both countries, the Somali territories are among the poorest parts of their respective countries.

Having suffered historical marginalisation, the communities live on the peripheries of both, and are poorly integrated in both governance and economy (Menkhaus, 2008; Khalif and Oba, 2013).

Land-related conflicts are as common in these Somali regions as they are in Somalia, and range from age-old inter-communal conflicts to inter-state wars to armed insurgencies. Communal conflicts occur among Somali clans, but also between them and other neighbouring communities. Northern Kenya was ravaged by the *Shifita War* immediately after Kenya attained independence following secession demands by the Somali and other ethnic groups living in the region, while eastern Ethiopia bore the brunt of interstate wars between Ethiopia and Somalia (Khalif and Oba, 2013).

The early 1990s were particularly catastrophic for these regions and communities as they were caught in the midst of conflict and insecurity occasioned by the collapse of the Derg regime in Ethiopia and the Siad Barre regime in Somalia. In northern Kenya, the spillover from the Somali civil war following the collapse of the state deluged the area with refugees and small arms that heightened local clan tensions (Menkhaus, 2008). In recent years, the rise of armed groups such as Al-Shabab has further compounded the security situation in these regions.

Traditionally, these communities had well-established systems and institutions that governed social and cultural relations and settled conflicts. Somali communities have *Xeer* while the Oromo speakers in these areas have a *Gadaa* system—both of which have established procedures and sanctions for conflict management that are binding on all members of the respective communities (Mohamed and Beyene, 2016; Tenaw, 2016). Unlike modern institutions, these indigenous mechanisms for conflict management “are less complex, save time, money and energy and give chances for parties to actively participate in the solving of problems” (Tenaw, 2016: 98). The processes and solutions offered by the institutions are consistent with the values, norms, and culture of the society. However, the influence and effectiveness of these institutions have waned over time due to various challenges arising from introduction of state institutions for conflict management and socio-cultural changes as a result of modernisation (Mohamed and Beyene, 2016; Mussa et al., 2017).

ADAPTING COMMUNITY INSTITUTIONS FOR EFFECTIVE CONFLICT MANAGEMENT

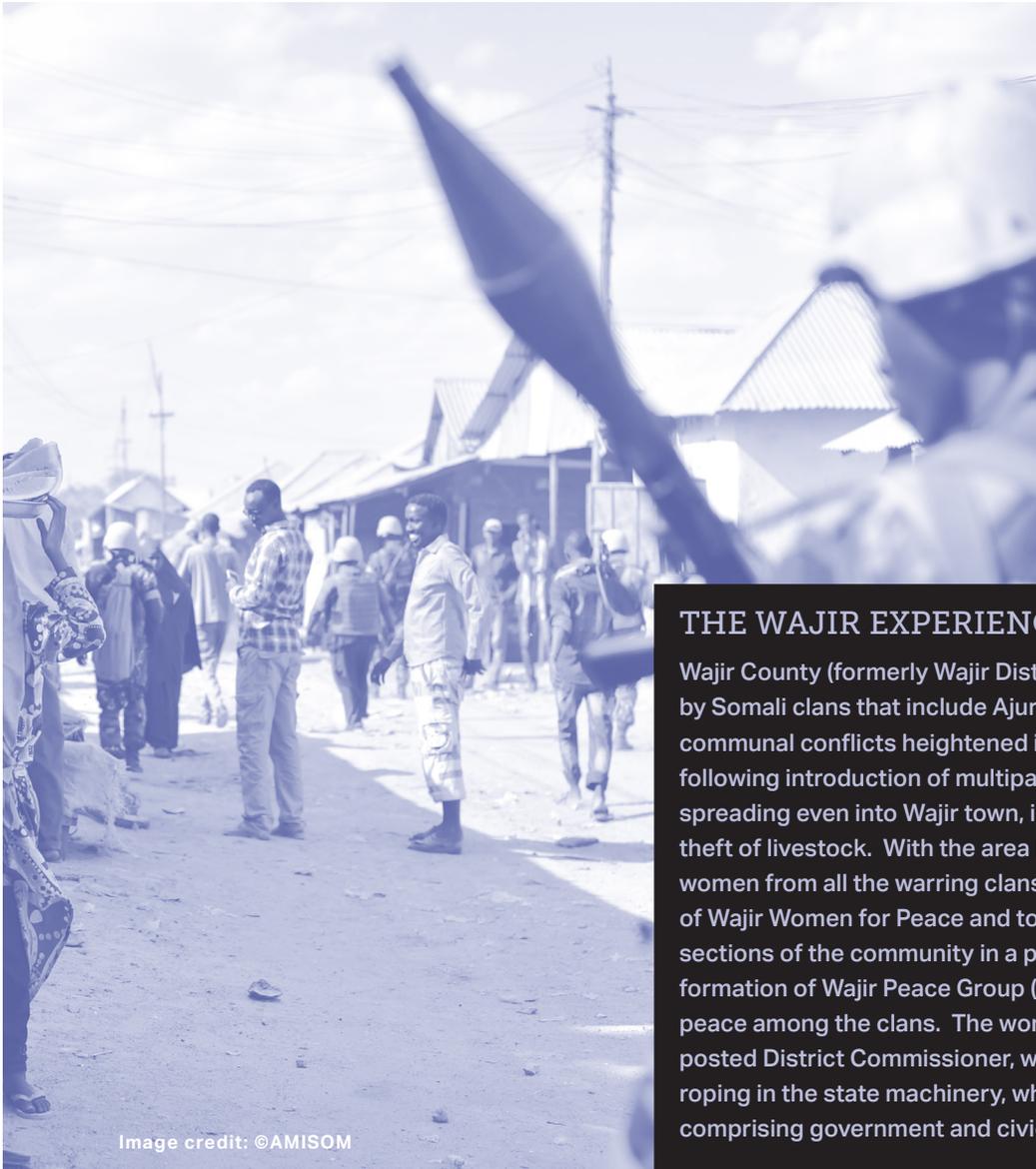
In their efforts to cope with pervasive conflict, Somali communities in northern Kenya and eastern Ethiopia have had to adopt hybrid institutional arrangements that integrated traditional, religious, and statutory mechanisms of conflict management (Menkhaus, 2008; Adan and Pkalya, 2006; Bahta 2014). These alternative institutional arrangements emerged in response to the weakening of traditional leadership and governance systems and the inadequate presence and effectiveness of state institutions (Mkutu, 2008; Chopra, 2008).

The hybrid frameworks are based on traditional approaches to conflict management which are found in all pastoral societies. The approaches address the root causes and intricacies of specific conflict incidences to restore sustainable peace (Tenaw, 2016; Watson, 2001). The resolutions reached through such processes are considered legitimate by communities and have better chances of success. In northern Kenya, this system proved quite effective and resulted in a discernible reduction in the number of crimes reported in the region (Menkhaus, 2008; Chopra, 2008).

The most significant hybrid arrangement in northern Kenya were the Peace and Development Committees (PDCs), which were backed by inter-community peace declarations and able to deliver justice in a manner that the formal Justice Sector could not (Chopra, 2008). Peace declarations provide detailed arrangements for sharing resources to reinforce conflict resolution and forestall further outbreaks of conflict (Mogodashe Declaration, 2011; Odendaal, 2010; Chopra, 2008).

The most successful Peace Committee and the one that set the pace for others was the Wajir Peace Committee (see above box). The experience of the PDCs has now been institutionalised by the Government of Kenya in Alternative Dispute Resolution (ADR) and Alternative Justice Systems (AJSs) and is fully integrated into the framework for administration of justice (Judiciary of Kenya 2020; 2020a). In eastern Ethiopia, Popular Dispute Resolution Mechanisms (PDRMs) that integrate formal and informal approaches to conflict management have also proved effective (Bahta, 2014).





THE WAJIR EXPERIENCE

Wajir County (formerly Wajir District) in northern Kenya is inhabited by Somali clans that include Ajuraan, Degodia, and Ogaden. Inter communal conflicts heightened in the district in early 1990s following introduction of multiparty politics in Kenya, with violence spreading even into Wajir town, involving looting of property and theft of livestock. With the area becoming virtually ungovernable, women from all the warring clans came together under the umbrella of Wajir Women for Peace and took the initiative to mobilize other sections of the community in a peace building effort that led to the formation of Wajir Peace Group (WPG), which succeeded in bringing peace among the clans. The women worked closely with a newly posted District Commissioner, whose support was instrumental in roping in the state machinery, which included a rapid response team comprising government and civic leaders.

What emerged from the initiative was a hybrid conflict management system that integrated the statutory justice system and Somali customary law. Blood compensation was paid for murders and collective punishment involving confiscation of livestock of clan members ensured that culprits were tracked down and stolen livestock returned. The result was a reduction in the main triggers of communal violence and revenge killings.

(Menkhaus 2008; Adan and Pkalya 2005; Dekha and Janice 1998)

Other community-based innovative approaches to conflict management in Kenya include Local Peace Committees, which emerged in the aftermath of the post-election violence that engulfed the country following the disputed 2007 General Elections (Kioko, 2017); and the 'nyumba kumi' ('ten households') initiative, which was initiated by the government to promote communities' vigilance in dealing with terror attacks which intensified in the country following Kenya's involvement in efforts to contain Al-Shabab in Somalia (Kioko, 2017; Gjelsvik, 2020; Republic of Kenya, 2017). The two approaches are related, with the 'nyumba kumi' initiative as a community policing strategy that feeds into the Local Peace Committee (LPC) efforts. Local Peace Committees have structures from the village level to the national level, coordinated by the Ministry of Interior (Kioko and Okumu, 2018; Republic of Kenya, 2014), and are now mainstreamed into the National Policy for Peacebuilding and Conflict Management.³⁷

Effective as they are in managing communal conflicts, hybrid mechanisms have been faulted for a number of reasons. Integrating customary and state laws is a challenging undertaking, particularly as some imperatives of customary systems run counter to those of statutory law and violate international human rights standards. Concerns have been raised about the fact that application of customary laws over the state laws may lead to erosion of civil liberties, as collective responsibility is privileged over individual rights in violation of constitutional provisions.

5.1.2 LESSONS FROM FURTHER AFIELD: AFGHANISTAN

There are a number of factors that make Afghanistan relevant to Somalia. It is an Islamic state, with a recent and ongoing history of radical religious-based armed insurgency. Rangelands management and pastoralism are essential elements of livelihoods and the economy. It has a huge number of refugees living outside the country and an expansive diaspora. It also has relevant and potentially useful experience in handling high rates of rural to urban migration during and after civil war.

The persisting tragedy of Afghanistan offers important lessons on the need to confront and deal with land-related root causes of conflict as a priority. Its experience confirms that it is ill-advised to imagine that land capture and malfeasance can be resolved when circumstances are more peaceful,

and that such delays merely empower and introduce additional layers to land grievances. There are also more positive lessons from Afghanistan on handling land injustices, as discussed below.

Liz Wily observed in 2013 that: "Any account of land relations and governance in Afghanistan is an account of conflict", and concluded that since 2001, the land issues at dispute had become less solvable and more flammable (Alden Wily, 2013:3). Depicting a situation that shares clear parallels with Somalia, she stated:

...land capture has become more - not less - entwined with contested relations among communities, ethnicities, political movements, insurgences, and economic classes...land grabbing and speculation to increase economic and political power...underwrites the same kind of 'politics of the belly' Africa has seen, but worse. Political, civil, ethnic and religious leaders are active parties in the rape and pillage of the lands of majority poor. It is decreasingly probable that steps needed to lessen old and new land grievances would ever be taken.



Image credit: © AMISOM

As is the case in Somalia, land conflicts in Afghanistan relate to, inter alia, conflict over pasture ownership between agropastoral communities and nomadic pastoralists; dispossession caused by land grabs by elites and warlords in cities and towns; dispossession of refugees and IDPs while absent and difficulties experienced in retrieving houses and farms; dispossession in key resource areas by those who wish to benefit from compensation for lucrative oil, gas, and mineral developments; and intra-family, inter-family, and inter-village conflicts over boundaries and water, exacerbated by declining resources.



Experiences with conflict management and land dispute resolution in Afghanistan demonstrate the potential importance of grassroots-based approaches that draw on traditional values, norms, and institutional arrangements—but also the fact that the success of such efforts cannot be sustained without being institutionalised into a reformed justice system. Furthermore, limited progress can be made in sustainable resolution of land conflicts following prolonged conflict and collapse of state institutions unless deliberate, concerted, and structured efforts are made to redress historical land grievances and institutionalise accountability and responsible governance of land and natural resources.

An important lesson for Somalia from the experience of Afghanistan is that land justice needs to be prioritised from the outset and made an integral part of the political settlement in the transition from conflict to peace. Waiting to take on the agenda of historical land grievances 'when the time is right' makes it ever more difficult to bring it to the table, as perpetrators integrate themselves into the new power structures before the window for significant redistributive reforms closes. Afghanistan demonstrates that hesitancy to open old wounds of land injustice, ostensibly in order not to threaten 'peace', is self-defeating and ultimately threatens sustainable peace.



The final lesson for Somalia from Afghanistan with regards to addressing land conflicts is that there are prohibitive constraints upon the international community to support comprehensive processes aimed at redressing historical land grievances. Land is an agenda that most donors shy away from on account of its political sensitivity, the time and resources required to deal with it, and the fear that it can disrupt the delicate post-conflict power balance and engender further conflict. This means that it is only through political will and commitment from within that land justice can be prioritised and acted upon in a post-conflict context such as Somalia.

6 CONCLUSIONS AND RECOMMENDATIONS ON THE WAY FORWARD

This report has presented the findings of literature review on land and conflict in Somalia, with the nature of land conflicts, the major factors that shape land conflicts, frameworks and mechanisms for land governance and land dispute resolution, and lessons for Somalia from experiences of countries in the Horn of Africa region and elsewhere that face similar challenges. The major conclusions and recommendations arising from the literature review are outlined below.

6.1 CONCLUSIONS

1. Land is a major factor, whether as a cause or driver of conflict in Somalia—but largely because systems and institutions for conflict management are unable to function optimally due to the impacts of prolonged conflict on institutions of land governance, conflict management, and dispute resolution.
2. Although the reality of land and conflict in Somalia is defined by the unique circumstances of the country, the need for policy and institutional responses to land and conflict are not unique to Somalia or to post-conflict societies, as is evident from the fact that land and conflict is prioritised in the agenda of the UN, the AU, and IGAD, as well as their Member States.
3. In addition to the legacy of the Siad Barre regime, the civil war, and the prolonged conflict, other factors that have shaped the interface between land and conflict in Somalia include: large-scale displacement and resettlement; competition relating to access to natural resources that support livelihoods in a context of population growth, climate change, and environmental degradation; the rise in economic interest in land-based investments; political positioning and power asymmetry between clans; and weakness of institutions of governance generally and those of land administration and dispute resolution specifically.
4. Land conflicts in Somalia can be categorised by reference to their location, i.e., urban and rural land conflicts, with the former driven largely by competition for access to resources, especially among and between pastoralists and farmers, and the latter driven largely by large-scale and rapid urbanisation underpinned by weak legal and institutional frameworks and limited economic opportunities.
5. There is a clear positive correlation between the weakness of land governance and land conflict management and dispute resolution in Somalia; the prevalence of tenure insecurity in both rural and urban areas; and the incidence of land-related conflicts.
6. The weakness of land governance and dispute resolution is underpinned by the weakness of the state generally and the weak legal and institutional framework for land administration specifically, as well as the reality of legal and institutional pluralism in the management of land relations.
7. All three systems for land conflict management and dispute resolution are constrained by challenges that undermine their effectiveness in delivering land justice, particularly for the poor, women, and minorities. Al-Shabab has taken advantage of the failure of the three systems to deliver land justice to endear itself to minority communities in the areas under its control in southern and central Somalia.
8. Historical land grievances in both rural and urban areas undermine both the governance of land, the potential for political settlement, and the establishment of lasting peace.
9. There are lessons that Somalia can draw from the experiences of other countries in the Horn of Africa and beyond on establishing appropriate frameworks for land conflict management and dispute resolution.

6.2 RECOMMENDATIONS

1. Support research to fill the gaps identified in order to generate data which will inform the design of appropriate legal and institutional frameworks for land conflict management and dispute resolution, focusing on deepening the understanding of:
 - The nature and core elements of customary land law
 - Customary land law of Somali minorities
 - Principles of land dispute resolution under customary and religious law
 - Procedures for land dispute resolution in traditional and *Shari'a* courts
 - Land governance issues and challenges within farming communities
 - Legal education and its appropriateness to land conflict management and dispute resolution
 - Al-Shabab, land governance, and land dispute resolution
 - Research on options for land reform
2. Impact assessment of urban land administration reforms in northern Somalia
3. Research on the feasibility of establishing frameworks and processes to address historical land grievances in Somalia. Mobilise key political actors and development partners to prioritise land governance and land dispute resolution in the state-building agenda and in the manifestos of the different political parties. Engage the African Land Policy Centre and the IGAD Land Governance Unit as well as FAO (within the framework of its support to mainstreaming of the VGGT and the F&G) to initiate a partnership with the FGS and governments of FMSs on structured support to development (and reform) of legal and institutional frameworks for land governance, including through peer learning exchanges with relevant countries.
4. Establish the status of the cadastre for Mogadishu that is reportedly held by an individual outside of the country, and initiate a process of reclaiming it to use as the basis for re-establishing the land registration system.
5. Invest in the development and implementation of “fit for purpose” land registration systems where this is possible in urban and rural areas, in order to pilot innovative methods for strengthening tenure security.

7 REFERENCES

- Adan, M. and R. Pkalya 2006: The Concept Peace Committee – A Snapshot Analysis of the Concept Peace Committee in Relation to Peacebuilding Initiatives in Kenya. Nairobi: Practical Action.
- Aero, E. 2021: Consolidating Gains: Displaced Women's Housing Land and Property Rights in Africa, Norwegian Refugee Council (NRC), February 2021.
- Alden Wily, L. 2013. 'The Battle over Pastures: The Hidden War in Afghanistan. In *Guerre et terre en Afghanistan* Vol. 133, No. 1, pp.95–114. UNEP, Kabul.
- Aubrey, D. and L. Cardoso 2019: Towards Sustainable Urban Development in Somalia and IDP Durable Solutions at Scale. Nairobi: UNSOM.
- AUC-ECA-AfDB Consortium 2009: Framework and Guidelines on Land Policy in Africa. Addis Ababa: AUC-ECA-AfDB Consortium.
- AUC 2010: Policy Framework for Pastoralism in Africa. October 2010. Addis Ababa: AU.
- AUC 2015: Agenda 2063: The AFRICA We Want. Framework Document. September 2015. Addis Ababa: AUC.
- AUC 2016: Declaration on the African Union Border Programme and Measures for its Consolidation, Addis Ababa, 6 October 2016.
- Bahta G. T. 2014: Popular dispute resolution mechanisms in Ethiopia: Trends, opportunities, challenges and prospects. *African Journal on Conflict Resolution (AJCR)*, 14(1), pp.99–123.
- Bakonyi, J., P. Chonka and K. Stuvoy 2019: War and city-making in Somalia: Property, power and disposable lives. *Political Geography* Vol. 73, 82–91.
- Barnes, C. 2006: U dhashay - Ku dhashay: Genealogical and Territorial Discourse in Somali History. *Social Identities*, 12:4, 487–498.
- Besteman, C. 1996: Representing violence and 'othering' Somalia. *Cultural Anthropology*, 11(1), 120–33.
- Besteman, C. 1998: Primordialist blinders: A reply to I. M. Lewis. *Cultural Anthropology*, 13(1), pp.109–20.
- Besteman, C. and D.V. Lehman 2018: 'Somalia's Southern War: The Fight Over Land and Labour' in Keating, M and M. Walden (eds.). *War and Peace in Somalia: National Grievances, Local Conflict and Al-Shabab*. New York: Oxford University Press, pp.299–306.
- Besteman, C and L.V. Cassanelli (eds.) 1996/2000/2003: *The Struggle for Land in Southern Somalia: The War Behind the War*. Boulder, CO and London: Haan Associates Publishing and Westview Press.
- Bob, U. 2010: Land-related conflicts in Sub-Saharan Africa. *African Journal on Conflict Resolution*, Volume 10 No. 2, 2010, p.49–64.
- Bradbury, M. 1994: *The Somali Conflict: Prospects for Peace*. An Oxfam Working Paper. Oxford: Oxfam UK and Ireland.
- Burman, J., A. Bowden and A. Gole 2014: *Land Tenure in Somalia: A Potential Foundation for Security and Prosperity*. February 2014. Broomfield: Shuraako.
- Cassanelli, L.V. 1996: "Explaining the Somali Crisis," in Besteman, C. and L. V. Cassanelli (eds.). *The Struggle for Land in Southern Somalia: The War Behind the War*. Boulder, CO, and London: HAAN Associates Publishing and Westview Press.
- Cassanelli, L.V. 2015: *Hosts and Guests: A historical interpretation of land conflicts in southern and central Somalia*. London and Nairobi: Rift Valley Institute (RVI).
- Chopra T. 2008: *Reconciling Society and the Judiciary in Northern Kenya*. Nairobi: Legal Resources Foundation Trust.
- Danish Demining Group 2017: *Daabab Returnee Conflict Assessment Prepared for Danish Demining Group by Ken Menkhaus*, August 2017.
- Declaration on Land Issues and Challenges in Africa. Assembly/AU/Decl. 1 (XII) Rev.1.
- Deherez, D. 2009: *The Scarcity of Land in Somalia: Natural Resources and their Role in the Somali Conflict*. Occasional Paper III. Bonn: Bonn International Centre for Conversion (BICC).

- Dekha I. and Janice J. 1998: *Breaking the Cycle of Violence in Wajir* in Herr, J.Z and R. Herr (eds.) *Transforming Violence: Linking Local and Global Peacemaking*. Scottsdale, PA: Herald Press.
- Expanding Access to Justice Program 2020: *Access to Justice Assessment Tool: Baseline Study in Somalia 2020*. Nairobi: Pact and the American Bar Association Rule of Law Initiative.
- Expanding Access to Justice Program 2020a: *Pathways and Institutions for Resolving Land Disputes in Mogadishu*. Nairobi: Pact and the American Bar Association Rule of Law Initiative.
- FAO 2007: *Good governance in land tenure and administration*. FAO Land Tenure Studies 9. Rome: FAO.
- FAO 2012: *Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security*. Rome: FAO
- FAO 2016: *Improving governance of pastoral lands: Implementing the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security*. FAO: Rome.
- Farah, I., A. Hussein and J. Lind 2002: *Deegan, Politics and War in Somalia*, in Lind, J and K. Sturman, (eds.). *Scarcity and Surfeit: The ecology of Africa's conflicts*. Pretoria: ACTS and ISS.
- Federal Government of Somalia 2016: *National Development Plan 2017–2019*.
- Gjelsvik I. M. 2020: *Police Reform and Community Policing in Kenya: The Bumpy Road from Policy to Practice*; *Journal of Human Security*, Vol. 16, Issue 2, pp 19–30.
- Gundel, J. 2018: 'Launching Reconciliation in Somalia' in Keating, M and M. Walden (eds.). *War and Peace in Somalia: National Grievances, Local Conflict and Al-Shabab*. New York: Oxford University Press, pp.191–202.
- Hagman, T. and M.M. Seid 2018: *Ending Impunity: Fostering Redress and Accountability in Somalia*, in Keating, M and M. Walden (eds.). *War and Peace in Somalia: National Grievances, Local Conflict and Al-Shabab*. New York: Oxford University Press, pp. 71–79.
- Hamud, A.M et al. 2021: *Monitoring Urban Expansion and Land Use/Land Cover Changes in Banadir, Somalia Using Google Earth Engine (GEE)*. IOP Conference Series: Earth and Environmental Science 767 012041.
- Harris, S. 2015: *Displacement and Housing, Land and Property Disputes in Puntland*. Norwegian Refugee Council (NRC), March 2015.
- Helander, B. 1996: *The Hubeer in the Land of Plenty: Land, labour and vulnerability among a Southern Somali clan*, in Besteman, C and L.V. Cassanelli (eds.). 1996. *The Struggle for Land in Southern Somalia: The War Behind the War*. Boulder, CO and London: Haan Associates Publishing and Westview Press.
- Hill, M. 2010: *No Redress: Somalia's Forgotten Minorities*. London: MRG.
- Hoben, A 1988: 'The Political Economy of Land Tenure in Somalia' in Downs, R. and S. Reyna (eds.). *Land and Society in Contemporary Africa*. Hanover: University Press of New England, pp. 193–220.
- Hoehne, M.V. 2014: *Resource conflict and militant Islamism in the Golis Mountains in northern Somalia (2006–2013)*, *Review of African Political Economy*, 41:141.
- Hoehne, M.V. 2015: *Between Somaliland and Puntland: Marginalization, Militarization and Conflicting Political Visions*. London and Nairobi: Rift Valley Institute (RVI).
- Huho, Julius M 2012: *Conflict Resolution among Pastoral Communities in West Pokot County, Kenya: A Missing Link*. *Academic Research International* Vol. 3 No. 3. November 2012, p.458–468.
- IIED and Tana 2019: *Shelter for all: towards more inclusive housing in Mogadishu*. IIED Briefing, October 2019. London: IIED.
- IGAD 1996: *Agreement Establishing the Inter-Governmental Authority on Development (IGAD)*, Nairobi, March 21 1996. Djibouti: IGAD.
- IGAD, undated. *The Land Governance Strategy, 2017–2022*. Djibouti: IGAD.
- IGAD 2017: *Mainstreaming Land Governance in IGAD Policies, Strategies and Programs: The Strategy 2017–2022*. Djibouti: IGAD.
- IGAD 2016: *The Status of Land Governance in IGAD Member Counties 2016*. Djibouti: IGAD.

- IUCN 2006: Country Environmental Profile for Somalia. Nairobi: IUCN Eastern Africa Regional Office.
- Judiciary of Kenya 2020: Alternative Justice Systems Baseline Policy: traditional, informal and other mechanisms used to access justice in Kenya (alternative justice systems). Nairobi: The Judiciary of Kenya.
- Judiciary of Kenya 2020a: Alternative Justice Systems Framework Policy: traditional, informal and other mechanisms used to access justice in Kenya (alternative justice systems). Nairobi: The Judiciary of Kenya.
- Kapteijns, L. 2018: 'Remedying the Legacy of State Collapse: Thinking through and Beyond Somali Civil War Violence'. In Keating, M and M. Walden (eds.). War and Peace in Somalia: National Grievances, Local Conflict and Al-Shabab. New York: Oxford University Press, pp.61–69.
- Khalif Z. K. and G. Oba. 2013: 'Gaafa dhaabaa - the period of stop': Narrating impacts of shifta insurgency on pastoral economy in northern Kenya, c. 1963 to 2007; Pastoralism: Research, Policy and Practice 2013, 3:14.
- Kioko, E. M. 2017: Conflict Resolution and Crime Surveillance in Kenya: Local Peace Committees and *Nyumba Kumi*, in Africa Spectrum, Vol 52, Issue 1, pp. 3–32.
- Kioko E. M. and W. Okumu 2018: Appeasing the Land: Local Peace Committees and the Legitimation of Traditional Peacemaking in Kenya. Journal on African-Centred Solutions in Peace and Security (AfSol Journal) Vol. 2(1) 2018.
- Kirubi, S. undated: "I want my land. You have to go": Understanding the eviction phenomenon in Baidoa. Norwegian Refugee Council.
- Le Sage, A. 2005: Stateless Justice in Somalia: Formal and Informal Rule of Law Initiatives. Geneva: Centre for Humanitarian Dialogue.
- Lewis, I. M. 1998: Doing Violence to Ethnography: A Response to Catherine Besteman's 'Representing violence and "othering" Somalia'. Cultural Anthropology, 13(1), 100–8.
- Marchal, R. 2018: 'Rivals in Governance: Civil Activities of Al-Shabab', in Keating, M and M. Walden (eds.). War and Peace in Somalia: National Grievances, Local Conflict and Al-Shabab. New York: Oxford University Press, p. 349–357
- Menkhaus, K. 1996: "From Feast to Famine: Land and the State in Somalia's Lower Jubba Valley", in Besteman, C and L.V. Cassanelli (eds.). The Struggle for Land in Southern Somalia: The War Behind the War. Boulder, CO and London: Haan Associates Publishing and Westview Press, p.141.
- Menkhaus, K. 2008: The rise of a mediated state in northern Kenya: The Wajir story and its implications for state-building. Afrika Focus, Vol. 21, No. 2, pp. 23–38.
- Menkhaus, K. (2018: Elite Bargains and Political Deals Project: Somalia Case Study. Stabilisation Unit, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/766049/Somalia_case_study.pdf, accessed 30th November 2021.
- Menkhaus, K and K Craven 2000: 'Alienation and the Imposition of State Farms in the Lower Jubba Valley' in Besteman, C. and L Cassanelli (eds.). The Struggle for Land in Southern Somalia: The War Behind the War. London: Haan Associates, pp 155–162
- Merry, S.E. 1988: Legal Pluralism. Law and Society Review, Vol. 22 No. 5, pp. 869–896
- Mkutu, K. A. 2008: Guns and Governance in the Rift Valley: Pastoralist Conflict and Small Arms. Suffolk: James Currey.
- Mogodashe Declaration III, 8th April 2011.
- Mohammed A. and F. Beyene 2016: Social Capital and Pastoral Institutions in Conflict Management: Evidence from Eastern Ethiopia; Journal of International Development 28, 74–88.
- Mushtaq, N. 2018: 'State Rebuilding Amid Conflict: The Urgency of Reconciliation' in Keating, M and M. Walden (eds.). War and Peace in Somalia: National Grievances, Local Conflict and Al-Shabab. New York: Oxford University Press, pp.93–103.
- Mussa M., H. Teka, and A. Aliye 2017: Indigenous conflict management and resolution mechanisms on rangelands in pastoral areas, Ethiopia; Journal of African Studies and Development Vol. 10(9), pp. 112–117.

- Norton, G. 2008: *Land, Property and Housing in Somalia*. Oslo, Nairobi, Geneva: NRC, UN-Habitat, and UNHCR.
- NRC 2018: *Somalia: Dispute Resolution Structures*. NRC Somalia, February 2018.
- OECD 2003: *Land, Conflict, and Development: What Role for Donors?* Presentation at OECD–USAID Informal Expert’s Seminar. 19–20 June 2003.
- OECD 2004: *Land, Violent Conflict and Development*. OECD Development Centre Working Paper No. 233.
- Office of Transition Initiatives/Somalia Stabilization Initiative 2017: *Land and Conflict in Somalia’s Lower and Middle Jubba Valley*. November 2017.
- Okoth-Ogendo, H.W.O. 1989: *Some Issues of Theory in the Study of Tenure Relations in African Agriculture*. Africa: Journal of the International African Institute, Vol. 59, No. 1, pp. 6–17.
- Okoth-Ogendo, H.W.O. 1991: *Tenants of the Crown: Evolution of Agrarian Law and Institutions in Kenya*. Nairobi: ACTS Press.
- Omer, M.A and M.F Hersi 2018: ‘Exploitation of Natural Resources as a Driver of Conflict: Case Study on Mining in Baki District, Somaliland’ in Keating, M and M. Walden (eds.). *War and Peace in Somalia: National Grievances, Local Conflict and Al-Shabab*. New York: Oxford University Press, pp.127–136.
- Pavanello, S. 2009: *Pastoralists’ Vulnerability in the Horn of Africa: Exploring political marginalization, donors’ policies, and cross-border issues - Literature review*. London: ODI Humanitarian Policy Group (HPG), November 2009.
- PDRC 2018: ‘Achieving Local Reconciliation in Somalia’ in Keating, M and M. Walden (eds.). *War and Peace in Somalia: National Grievances, Local Conflict and Al-Shabab*. New York: Oxford University Press, pp.83–92.
- ReDSS 2019: *Contested Land: Study on Land Governance, Urbanization and Forced Displacement in Somalia – Mogadishu, Kismayo, and Baidoa*. Nairobi: ReDSS.
- Rift Valley Institute (RVI) and Heritage Institute for Peace Studies (HIPS) 2017: *Land Matters in Mogadishu: Settlement, ownership and displacement in a contested city*. London and Nairobi: Rift Valley Institute.
- Roth, M. 1988: *Somalia Land Policies and Tenure Impacts: The Case of Lower Shabelle*. http://pdf.usaid.gov/pdf_docs/PNABB822.pdf
- Roth, M. and J. Bruce 1988: *Somalia: An Overview of Land Tenure Issues and Research*. January 1988, https://pdf.usaid.gov/pdf_docs/pnabe964.pdf
- Saferworld 2016: *Forging Jubbaland: Community perspectives on federalism, governance and reconciliation*. Nairobi: Saferworld.
- Salih, M.A.M. 2001: ‘Introduction’ in Salih, M.A.M., T. Dietz and A.G.M. Ahmed (eds.). *African Pastoralism: Conflict, Institutions and Government*. London: Pluto Press, in Association with OSSREA.
- Samantar, M.S. 1995: *Theoretical and Practical Frameworks of Analysis of Pastoral Common Property Regimes in Somalia*. A Paper Presented at the Conference “Reinventing the Commons” Norway, 24–28 May 1995.
- Scott, J.C. 1998: *Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed*. New Haven and London: Yale University Press.
- Sheikh, A.S 2017: *Conflict Assessment in Hirshabelle State, Somalia*. Berlin: Berghof Foundation Operations GmbH.
- Sheikh, A.S., J.B Galvanek and P. Grimm 2019: *Conflict Assessment, Galmudug State: An Analysis of Local Perspectives*. Berlin: Berghof Foundation Operations GmbH.
- Somali Public Agenda 2019: *Land prices in Mogadishu and its impact on the urban poor and IDPs*. Mogadishu: Somali Public Agenda Governance Brief 06, November 2019.
- Tenaw Z. T. 2016: *Indigenous institutions as an alternative conflict resolution mechanism in eastern Ethiopia: The case of the Ittu Oromo and Issa Somali clans*; *African Journal on Conflict Resolution* Vol. 16, No. 2, pp.85–109.
- UNECA 2016: *Human and Economic Cost of Conflict in the Horn of Africa: Implications for Transformative and Inclusive Post-Conflict Development*. Addis Ababa: UNECA.
- UNECA 2017: *New Fringe Pastoralism: Conflict and Insecurity and Development in the Horn of Africa and the Sahel*. Addis Ababa: UNECA.
- UNEP 2005: *The State of the Environment in Somalia: A Desk Study*. Nairobi: UNEP.

- UN-Habitat 2007: Hargeisa: First Steps Towards Strategic Urban Planning. Nairobi: UN-Habitat.
- UN-Habitat 2008: UN-HABITAT in the Somali Region: 25 years of partnership in urban development. Nairobi: UN-Habitat.
- UN-Habitat 2008a: Berbera: First Steps Towards Strategic Urban Planning. Nairobi: UN-Habitat.
- UN-Habitat 2008b: Gardho: First Steps Towards Strategic Urban Planning. Nairobi: UN-Habitat.
- UN-Habitat 2008c: Garowe: First Steps Towards Strategic Urban Planning. Nairobi: UN-Habitat.
- UN-Habitat 2009: Bossaso: First Steps Towards Strategic Urban Planning. Nairobi: UN-Habitat.
- UN-Habitat 2015: Harmonization of the Legal Systems Resolving Land Disputes in Somaliland and Puntland: Report and Recommendations. Nairobi: UN-Habitat.
- UN-Habitat/GLTN 2017: Land Conflicts in Jubbaland and Kismayo. Nairobi: UN-Habitat/GLTN.
- United Nations 2019: Guidance Note of the Secretary General: The United Nations and Land and Conflict. <https://glt.n.net/download/the-united-nations-and-land-and-conflict-march-2019/>
- United Nations General Assembly (UNGA) 2015: Transforming our World: The 2030 Agenda for Sustainable Development.
- United Nations Population Fund (UNFPA) 2014: Population Estimation Survey 2014 for the 18 Pre-War Regions of Somalia. Nairobi: UNFPA.
- USAID 2004: Land and Conflict: A Toolkit for Intervention. Washington, DC: USAID.
- Watson E. 2001: Inter Institutional Alliances and Conflicts in Natural Resource Management; Preliminary Research Findings from Borana, Oromia Region, Ethiopia. Marena Research Project Working Paper No. 4. Department of Geography, University of Cambridge.
- Webersik, C. 2004: Differences that Matter: The Struggle of the Marginalized in Somalia. *Africa* 74(4).
- Webersik, C. 2008: Wars Over Resources? Evidence from Somalia, *Environment: Science and Policy for Sustainable Development*, 50:3, 46–58.
- Wehrmann, B. 2008: Land Conflicts: A practical guide to dealing with land disputes. Eschborn: Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ) GmbH.
- Wehrmann, B. 2017: Understanding, preventing and solving land conflicts: a practical guide and toolbox. Eschborn: Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ) GmbH.
- World Bank 2013. Land Governance Assessment Framework: Implementation Manual for Assessing Governance in the Land Sector. Washington, D.C: The World Bank.
- World Bank 2014: Analysis of Displacement in Somalia. Washington, D.C: The World Bank.
- World Bank 2020: Somalia Urbanization Review: Fostering Cities as Anchors of Development. Washington, D.C: The World Bank.
- World Bank and FAO 2018. Somalia County Economic Memorandum Volume 1: Rebuilding Resilient and Sustainable Agriculture in Somalia. Washington: The World Bank and FAO.
- Yaw Tichie, A.E 2021: How climate insecurity could trigger more conflict in Somalia. THE CONVERSATION, April 12, 2021, <https://theconversation.com/how-climate-insecurity-could-trigger-more-conflict-in-somalia-157696>, accessed 30th November 2021.

DATABASES

World Bank. Rural Population (% of total population) – Somalia, <https://data.worldbank.org/indicator/SP.RUR.TOTL.ZS?locations=SO>, accessed 1st December 2021.

LAWS AND POLICIES

Provisional Constitution of the Federal Republic of Somalia (adopted August 1st, 2012)

Provisional Constitution of Jubbaland State of Somalia (August 1st 2015)

Law for Social Protection (No. 67 of 1st November 1970)

Urban Land Distribution Law (No. 41 of 13th September 1973)

Agricultural Land Law (No. 73 of 21st October 1975)

Sessional Paper No, 5 of 2014 on National Policy for Peacebuilding and Conflict Management (Kenya)

ENDNOTES

- 1 World Bank data suggests that up to 54% of Somalia' population is rural, <https://data.worldbank.org/indicator/SP.RUR.TOTL.ZS?locations=SO>
- 2 For instance, Wehrmann (2008) uses both terms in the title of the publication.
- 3 RVI and HIPS, 2017:5.
- 4 p.104.
- 5 p.9.
- 6 Ibid.
- 7 p.336.
- 8 Loosely translated as 'born to (a family/clan)' and 'born in (a place/region)'.
- 9 Meaning a land base and its resources.
- 10 p.343.
- 11 p.352.
- 12 Another report (FAO and World Bank, 2018) details how an official from the Ministry of Agriculture managed to get hold of and preserve the complete registry of farms in Somalia before the offices were looted at the outbreak of the civil war, and has effectively privatised them, charging fees to provide farmers who lost their documentation with copies of their land records.
- 13 p.17–18.
- 14 See section 4.3 for more detailed discussion.
- 15 Population figures for Somalia are problematic—the last available information official population census having been conducted in 1975, and even that only published limited results. A subsequent population census was conducted from 1985 to 1986 but its results were never officially published (UNFPA, 2014).
- 16 Land grabbing in areas of Somalia is so institutionalised there is even a Somali saying used to justify it: "Ku qabso ku qaadi maaysid", meaning "If you claim it, you will not go without" (NRC, 2015:6).
- 17 The Sideed (or Siyeed, meaning "eight") is one of the two primary sub-units of the Mirifle in Baidoa. They are dominant in the east and north-east; while the other sub-unit, the Sagaal (or Sagal, meaning "nine") are dominant in the west and south-west of Baidoa.
- 18 Art. 2(3).
- 19 Art. 82(1).
- 20 Art. 82(2).
- 21 p.104.
- 22 p.32.
- 23 p.7.
- 24 Ibid.
- 25 See also UN-Habitat/GLTN, 2017.
- 26 The formal–informal distinction is misleading, and is used mostly for lack of better terminology. It is not right to suggest that traditional and *Shari'a* courts are informal frameworks with no set procedures.
- 27 p.6.
- 28 p.13.
- 29 p.24.
- 30 Ibid.
- 31 Ibid.
- 32 The VGGT principles on management and resolution of land conflicts and disputes call for access to justice and affordable and prompt enforcement of outcomes, as well as measures to prevent disputes from arising and from escalating to violent conflict.
- 33 There are land-specific targets for Goals 1, 2, 5, 11, and 15, which seek to ensure equal rights to ownership and control over land, secure and equal access to land, equal rights of access to ownership and control over land by women, access for all, to adequate, safe and affordable housing, and sustainable land management; while land is also relevant for achievement of Goals 10 and 16.
- 34 OECD (2003), (2004).
- 35 USAID (2004).
- 36 3.1.1 at p.31.
- 37 Sessional Paper No. 5 of 2014

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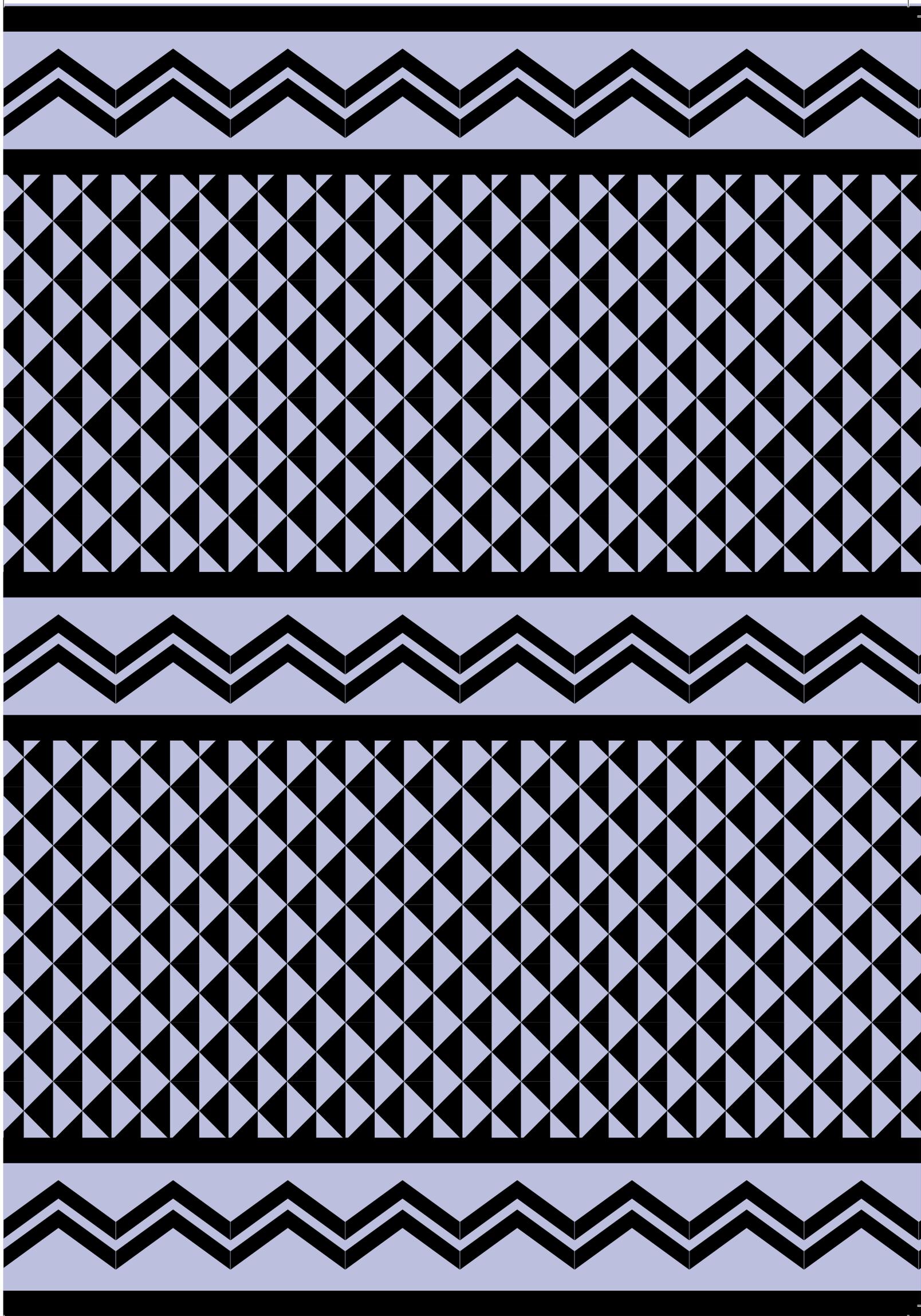
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