



# LAND AND CONFLICT IN JUBALAND: ROOT CAUSE ANALYSIS AND RECOMMENDATIONS

*SECURING LAND AND PROPERTY RIGHTS FOR ALL*

LAND AND CONFLICT IN JUBALAND:  
Root cause analysis and recommendations

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Cover photo: A Somali girl walks down a road at sunset in a camp for internally displaced persons (IDPs) near the town of Jowhar, Somalia. UN Photo/Tobin Jones

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# LIST OF ABBREVIATIONS

AMISOM:	African Union Mission in Somalia
DDG:	Danish Demining Group
HLP:	Housing, Land and Property
IDP:	Internally Displaced Person
JRIAC:	Jubaland Refugees and IDP Affairs Commission
KPC:	Kismayo Peace Committee
NGO:	Non-governmental organization
UN:	United Nations
UNHCR:	United Nations High Commission for Refugees
UNDPA:	United Nations Department for Political Affairs
UNDP:	United Nations Development Programme
UNEP:	United Nations Environment Programme
UNICEF:	United Nations Children's Fund
UNOCHA:	United Nations Office for the Co-ordination of Humanitarian Affairs
UNSOM:	United Nations Assistance Mission in Somalia

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## A. INTRODUCTION

### **Aims and objectives of the study**

The study investigates the land-related causes of conflict in the Jubaland State of Somalia. The study findings are expected to guide the work of the United Nations in peace building and land conflicts management, and to inform land policy processes and other land governance interventions in Jubaland and Somalia as a whole. The study has three specific objectives:

**Assessment of the land governance systems** - The study investigates the mandates and capacities of key land institutions, including the institutions involved in the mediation and management of land disputes mechanisms; the legal frameworks supporting land governance; and the views and perceptions of key stakeholders pertaining to the performance of the land sector.

**Investigation of land tenure, land-use patterns, and land conflicts** - The study investigates the status of the land rights regimes, how the housing, land and property rights are protected and what the main land tenure disputes are. The study looks at the nature and extent of land conflicts in the study area, how land

rights of minority groups are protected and how these groups are affected by land conflicts.

**Documentation of the patterns of land disputes involving pastoralist communities** – The study investigates the land needs and claims of pastoralist and sedentary communities, including conflicts over land use among farmers and other groups, such as urban residents and charcoal producers.

### **Research methods and study limitations**

Information was compiled through a combination of primary and secondary methods of data collection: key informant interviews, focus group discussions, direct observations and a detailed literature review. The study met several challenges related to the prevailing security conditions in Jubaland and to the scarcity of literature on land governance in the state and more generally in Somalia. The study findings are therefore the result of direct data collection in Kismayo only, with interviews and focus group discussions including people able to travel to Kismayo. In addition, the sensitivity of land issues and the fear of retaliation made it impossible to undertake detailed mapping of the conflicts documented and, in some cases, lack of cooperation from key informants was encountered.

## B. ANALYSIS OF THE LAND-RELATED ROOT CAUSES OF CONFLICT IN JUBALAND

The root cause analysis presented in this study has been developed using the Root Cause Analysis of Land and Conflict for Peacebuilding tool developed by the Global Land Tool Network. The research work identifies three root causes of conflicts: environmental, socio-economic and governance related. It also identified the land-related proximate factors and the most common triggers that lead to violent conflicts in the Jubaland state.

### **ENVIRONMENTAL ROOT CAUSES OF CONFLICT**

Scarce natural resources, including land and water, and natural resources exploitation represent the two environmental root causes of conflict found in the Jubaland state.

**Land-related proximate factors of conflict** include the scarcity of land for pastures; the unsustainable increase of livestock; unrecognized and undefined land rights of pastoralist communities; the breakdown of governance systems controlling the use of natural resources; the increasing inadequacy of the Xeer law and of its implementation mechanisms related

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to use of land and water; the use of land perceived as communal for private pasture enclosures; environmental degradation and destruction of the environment by charcoal production.

The most common **triggers** that lead to violent conflict are droughts; destruction of farms by livestock; excessive consumption of water or pasture by a group to the detriment of another; and destruction of grazing land by charcoal producers.

### **SOCIO-ECONOMIC ROOT CAUSES OF CONFLICT**

Population growth, poverty, criminality and terrorism, and exploitative and unregulated investments represent the socio-economic **root causes** of conflict. Each of the socio-economic root causes can be associated with specific land-related proximate factors and triggers of violent conflict.

**Population growth** - The land-related **proximate factors** of conflict associated with population growth include youth bulge without secure land rights; landless poor and minorities; settlement of returnees and displaced people in their areas of origin or in alternative locations. Migration and displacement to areas already occupied by other groups and famine have been identified as the main triggers of conflict.

**Poverty** - The land-related proximate factors of conflict associated with poverty include inadequate housing and basic services; mushrooming of under-serviced neighbourhoods and IDP settlements; discrimination against the poor with regard to access to land and housing; and limited access to land for farming and livelihoods. The main **triggers** of violent conflict identified are: disease outbreaks; forced evictions or exclusion of the poor from urban or rural land; grabbing of land on which the poor are settled by powerful groups or individuals; social unrest; poor forced to join criminal/terrorist groups to earn a living.

**Criminality** - The land-related **proximate factors** of conflict associated with criminality and terrorism are: illicit activities linked to a particular land use (pastoralism); revenues from land and natural resources used to fuel terrorist groups; parallel land management and dispute-resolution systems run by terrorist groups as a way to claim legitimacy; land grabbing by organized criminals. The main **triggers** of violent conflict include escalation of land-use conflicts because of high arms prevalence; acquisition of resources by terrorist groups to challenge and attack state institutions or opposing groups; confrontation around clan land grabbing.

**Exploitative and unregulated investment** - The land-related **proximate factors** of conflict associated with exploitative or unregulated investment include illegal or irregular land acquisitions; land grabbing; corruption of land professionals and institutions dealing with land; increased pressure on valuable land; disproportionate pressure on land by the lack of banking and alternative investment systems; lack of protection for landowners and occupants. Forced evictions; acquisition of land by investors to the detriment of vulnerable people; inequalities in terms of land access and corruption have been identified as the main **triggers** of violent conflict.

### **GOVERNANCE-RELATED ROOT CAUSES OF CONFLICT**

The governance-related root causes of conflict include weak governance; weak land administration; politics of exclusion; capture of state instruments and chaotic urbanisation.

**Weak governance** - The land-related **proximate factors** of conflict associated with weak governance are weak land-related institutions; a fragmented legally pluralistic system; common land governance practices that do not follow the laws; unclear land rights;

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limited legitimacy of government administrations dealing with land governance; no adequate policy or legal, administrative and institutional frameworks. The main **triggers** of conflict are large inflow of population due to returns; further displacement; migration; inflow of external capital and large interventions; conflicts over land ownership or land occupation; and elections or coups.

**Weak administration** - The land-related **proximate factors** of conflict associated with weak administration include unregistered land; the non-functioning land registration system; the impossibility to acquire land ownership legally; the widespread practice of land grabbing; the dysfunctional land markets; the limitation of the customary land disputes-resolution system; the only partially functioning formal land dispute-resolution system (courts); and the disconnection between formal and customary land-dispute resolution system. Conflicts over land ownership or land occupation, forced evictions, and politicization or manipulation of land disputes represent the main **triggers** of violent conflict.

**Politics of exclusion** - The land-related **proximate factors** of conflict associated with this root cause include land dispossession to the detriment of smallholder farmers and weaker rural communities; the marginalization and blockages in accessing land for minority clans and other minority groups; the exclusion of 'IDP communities' and returnees from accessing the full range of land rights; the marginalization in 'IDP settlements'; the spatial, social and economic segregation of vulnerable communities. Forced eviction of IDP households/communities at the hand of 'host communities' or more powerful groups, elections or coups, radicalization and violent extremism represent the most common triggers of violent conflict.

**Capture of state instruments** - The **proximate factors** associated with the capture of state instruments include armed and terrorist groups taking up government's functions, the capture of state instruments by clans or groups to the advantage of their group. Confrontations are the main **triggers** that lead to violent conflicts.

**Chaotic urbanisation** - The land-related **proximate factors** of conflict associated with chaotic

urbanisation include dysfunctional land registration; contested land claims on a large scale; grabbed open spaces and vacant land; conflictual land dynamics; land-use conflicts between pastoralists and urban residents; haphazard spatial urban development; unplanned urban expansion; spatial, social and economic segregation of vulnerable groups and especially 'IDP communities'. The main **triggers** that lead to violent conflict are: conflicts over land ownership, occupation and use; land grabbing; spatial, social and economic segregation; social unrest; violent demonstrations or attacks to individuals, groups or institutions; radicalization and violent extremism.

## C. RECOMMENDATIONS

The recommendations resulting from the root cause analysis are intended to guide strategic discussions and interventions by a broad group of actors from different levels of government, non-state actors, and development and humanitarian organizations, including the United Nations. They address different domains, from security to economic development. Although they are presented by theme, the root causes and land related recommendations are interconnected.

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The recommendations are based on the analysis done of the context in 2017. However, when preparing to implement the recommendations it would be important to also assess the most likely scenarios ahead. The Jubaland situation is still very volatile and different political and security scenarios could unfold. The recommendations are based on the assumption that the security situation would either remain stable or improve, with Al-Shabaab being fully defeated and forced to cede areas under their control to government. This will likely increase land-based conflicts as some displaced people might move back to areas of origin to find them occupied by other families. The recommendations are also based on the assumption that the inflow of returnees, especially from the Dadaab refugee camp in Kenya and belonging to minority clans, will keep increasing and most of them will settle in Kismayo. This will lead to a progressive escalation of the current challenges and likelihood of the conflicts described.

A complete list of recommendations related to the analysis of root causes, proximate factors and triggers is included in the report and summarized here as 'overall recommendations', but further attention is given to key land-related recommendations.

### **Overall recommendations**

**Environmental root causes of conflict** – To prevent conflicts over the use, control and exploitation of natural resource it's necessary to mitigate the impact of land degradation, including droughts, especially in conflict-prone areas and to assess the capacity of the territory and its resources to sustain the main land uses. Regulatory mechanisms, and related enforcement mechanisms, should be put in place or strengthened to manage the use of land, water and other natural resources. Livestock and farming activities should be regulated by agreeing on or demarcating migratory routes in a participatory manner. Charcoal production should be regulated, and dispute-resolution mechanisms strengthened.

**Socio-economic root causes of conflict** – To mitigate and prevent the conflicts arising from population growth, youth's access to land and livelihood should be improved. Suitable land and tenure security for refugees, displaced population and landless poor should be provided. Strategies aimed at a sustainable and adequately distributed population growth, including area-wide spatial plans, should be put in place to accommodate population growth and their land needs. To mitigate and

prevent the conflict arising from poverty, it is not only necessary to promote sustainable economic growth and employment but also combat land grabbing and exclusion of the poor from the land; monitor and prevent forced evictions and plan for adequate human settlements both in rural and urban areas (healthy, close to livelihood opportunities, accessible to all, etc.). To mitigate and prevent the conflict arising from criminal actions and terrorisms, it is crucial to develop the capacities of state institutions and traditional structures to deal with land management and dispute resolution (mandate, technical knowledge, resources, etc.) and combat land grabbing. Finally, to mitigate and prevent the conflict arising from exploitative or unregulated investments, it is necessary to combat land grabbing and forced evictions while promoting transparency in land transactions, fighting corruption, and ensuring that land can be legally transacted. Fit-for-purpose land administration and land governance systems should be put in place. The banking system should be developed.

**Governance-related root causes of conflict** - To mitigate and prevent the conflicts arising from weak governance and weak land administration, land rights system and the related land tenure categories should be analysed and reformed to increase the

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protection of HLP rights for all. The capacity of land institutions (mandate, technical and client-orientation capacity, resources) should be strengthened and the coordination among statutory, traditional and religious institutions, with particular focus on their land governance and dispute-resolution functions, should be harmonized and aligned. Adequate policy, legal and administrative frameworks should be developed. Land tenure categories and their attributes should be revised to establish fit-for-purpose land administration, including incremental approaches to improve what is already in place. The capacities of the different actors involved in land administration and land-disputes resolution should be developed and dispute-resolution mechanisms strengthened. To mitigate and prevent the conflict arising from politics of exclusion, it is crucial to ensure that minorities and displaced people are included in the governance systems and their rights are protected. The definition of “IDP” should be revised to better reflect the complexities on the ground and to redefine the HLP rights of marginalized communities. The segregation of vulnerable need to be prevented and reverted. To mitigate and prevent the conflict arising from the capturing of state instruments, it is necessary to increase the legitimacy and capacity of state institutions while combating

armed and terrorist groups. Finally, to mitigate and prevent the conflict arising from chaotic urbanisation, it is necessary to plan city growth and extension to address current and future problems (lack of services, spatial and socio-economic segregation, unsustainable land use, etc.) while promoting compact and integrated urban development that features mix land use and mixed social composition. Community-based fit-for-purpose land administration need to be established. Land markets need to be well regulated and functioning, dispute-resolution mechanisms need to be strengthened and land grabbing prevented.

## **Key land-related recommendations**

### **Reconceptualize the fundamental concepts related to land rights**

– To ensure that land and land-based resources become drivers of social and economic development and foster peace rather than conflicts, there is a need to reconceptualize the way the land rights system is set up and the related land tenure categories embracing the concept of the continuum of land rights. It is recommended that Somalia and Jubaland authorities – formal and traditional – reflect on this issue through a participatory approach that involves all key stakeholders. This will lead to the identification

of the most common types of land tenure which will then inform decisions about which ones to be recognized and regulated by the policy, legal and institutional frameworks. The attributes of each type of tenure should be defined: who can access it, under which conditions, for how long, what rights and responsibilities are associated with it, which institutions administer it, etc.

### **Development of adequate policy, legal and administrative frameworks**

- Frameworks need to be based on and aligned with policies and laws established at the federal level. Integral to the constitutions – federal and Jubaland’s – a comprehensive land policy for the State of Jubaland will have to be developed and translated into appropriate legislation that addresses the core land issues in an incremental way: land use management, physical planning, land administration, land disputes’ resolution, land rights for all, including those of minority groups, youth, women and displaced people (IDPs, returnees, refugees, migrants, etc.) and the landless. The policy will have to address both rural and urban areas (or separate but harmonised policies will have to be developed) and technical as well as human rights challenges. Such process will take time and it is important that adequate time and resources

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are allocated to it. Constitutions, policies and laws will have to define how Jubaland will deal with the prevailing legal pluralism.

**Strengthen land institutions** - It is necessary to clarify how the nexus between the Jubaland and the federal government is expected to function and how this will impact the respective institutions, in order to harmonize, align and ensure coordination among statutory, traditional and religious institutions, with a particular focus on their land governance functions. The mandate of traditional authorities should be clarified, their practices assessed and improved, and their interactions with statutory authorities clarified and formalized. Capacities of both statutory and traditional land administrators should be developed.

**Manage the use of natural resources** - Livestock activities, charcoal production and farming activities need to be regulated on the basis of an analysis of the capacity of the territory to sustain such activities. Enforcement mechanisms should accompany any regulations, and technical interventions should facilitate the transition in a peaceful way. Grazing and crop farming should be managed through land-use planning and appropriate regulations, negotiation and renewed definition of the rules to share land and

natural resources between different land users. While such initiatives should be progressively scaled up to cover the whole of Jubaland, interventions can be established in locations that are particularly prone to conflicts.

**Strengthen dispute resolution mechanisms** - Coherence needs to be brought to the statutory, religious and customary systems of dispute resolution mechanisms in Jubaland. Legal procedures need to be streamlined so that they cannot be manipulated to exclude weak individuals or groups. A hierarchy between the different dispute-resolution mechanisms needs to be established and the way they interface with each other needs to be clarified. Although the formal court system should remain as the overarching mechanism, checks and balances need to be put in place to rigorously assess the validity, strengths and weaknesses of traditional and religious dispute-resolution mechanisms, so that measures for improvement can be introduced. Traditional and religious mechanisms should not perpetrate and legitimize customs that are against the law and discriminatory towards women and other vulnerable groups. A comprehensive range of interventions have to accompany formal and non-formal courts systems, including accessible and affordable legal aid,

legal information and counselling, legal assistance, representation and mediation, etc. Legal accessibility needs to be improved through the simplification and popularization of laws and decrees, and vulnerable people need to be supported in accessing justice. Different types of practical support need to be provided to women to improve their access to justice. Legal professionals such as judges, prosecutors and lawyers and religious and customary justice authorities must be trained on key aspects related to their profession, including dealing with specific land issues, gender and human rights.

**Fit-for-purpose land administration** - Jubaland needs to shift towards a system where land rights are managed along the continuum of land rights by a range of stakeholders, with clear rules and regulations. This includes statutory and traditional authorities and communities themselves, especially in rural areas. A fit-for-purpose land administration system needs to be designed, piloted and implemented. The key land administration functions needed in the short/medium term should be identified and the possible available options assessed, so that a concrete and feasible proposal for the way forward can be formulated. Particular focus needs to be put on the land records system, design, set up of the offices and functions,

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and identification and training of the personnel. Jubaland needs support to implement a simplified land registration system that is cost effective, quickly implementable with the resources and capacities available, but sufficient to ensure peace and stability in society. Once a fit-for-purpose land administration system is established, a systematic verification of the existing records should be done in collaboration with the Jubaland administration at different levels as well as the federal government.

**Area-wide spatial plans and planned urban growth** - Area-wide spatial plans to manage land use, accommodate population growth and address people's land needs will have to be put in place in the medium to long term, starting with the most conflict-prone communities. At a smaller scale, plans for adequate human settlements both in rural and urban areas need to be made, to ensure that neighbourhoods promote spatial, social and economic integration, are close to livelihood opportunities, are accessible, and are not established in areas prone to natural hazards, etc. The segregation of vulnerable communities needs to be addressed and prevented. Compact and serviced urban extensions have to be promoted to address current and future problems (lack of services, segregation, unsustainable land use,

etc.). Mixed land use and mixed social composition also needs to be pushed for while the mobilization of people based on clan affiliations needs to be prevented, as it can lead to the rapid spread of conflicts along clan lines.

### **Combat land grabbing and forced evictions -**

From a political economy perspective, land grabbing is deeply rooted in the power dynamics of the society. The enabling factors of land grabbing are clan structures, common business practices, disproportionate power in the hands of former fighters and other influential personalities in the government or other sectors, the wide availability of weapons from criminal elements of society, and the overall absence of rule of law. Land grabbing is also based on the complete failure of the formal land administration system, which makes it impossible for people to access land legally. It will take time for the appropriate physical planning and development control functions of local authorities to evolve. In the meantime, interim measures should be put in place to contain the situation with regard to land grabbing, including the issuing of a moratorium on the construction of landmarks and the enforcement of prevention measures.

### **Provide suitable land and tenure security for refugees, displaced people and landless poor -**

To provide tenure security to the different categories of displaced people: IDPs, returnees and refugees, and to the landless poor, it's necessary to reconceptualize and define the characteristics of these different categories of displaced people and the type of land rights that they can access. To adequately address their needs, a multifaceted approach is required: the development of constitutional, policy and legal frameworks; the reform of the land administration system; and the development of inclusive spatial/ urban plans, etc. While long-term interventions are worked on, a set of transitional measures have to be put in place, to address the short-term needs of the displaced in terms of land for housing and livelihoods (e.g. small-scale farming or workshops, keeping some animals, etc.). Suitable areas for temporary or permanent settlement need to be identified and the related tenure security documents developed. The latter can be at the household or community level and have to define their tenure rights to the land, which can be full ownership, or lease/tenancy agreements with private landlords or the government, if on public land. To be sustainable, such measures need to clarify the rights and duties of the parties, the type of land

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uses that are allowed and the timeframe of the agreement, to ensure that common understanding is fostered. Further tenure options can be explored and encouraged. Individual rental agreements between displaced households and host communities could be regulated and incentivized. Jubaland institutions could develop model rental agreements that can be used to formalize tenancy-landlord relationships and define rights and obligations; such contracts could be also registered with the government's institutions to give an additional layer of protection to both signatories.

**Improve youth and women's access to land and livelihood** - Youth and women's access to land, housing and livelihood needs to be the specifically addressed. Both young people and women need to be

part of decision-making processes that involve access to land and housing. Displaced women, women heads of household, illiterate and disable women are key vulnerable categories that need particular attention. Legal and administrative blockages that prevent the women from renting land or housing should be removed and specific, targeted support for women should be put in place. This can include: establishing information and support centres to help women to identify the best way to access land and housing; supporting the issuing of civil documentation, when they do not have it (identity cards, marriage certificates, etc.); supporting women in accessing justice; and monitoring and ensuring that land and HLP processes do not discriminate against women.

### **The role of the United Nations system**

The United Nations system will have a crucial role to play if it intends to meaningfully contribute to conflict prevention and resolution, and to the peacebuilding process in Jubaland. The recommendations will have to be tabled and discussed with key stakeholders, including the government, to refine them, identify which are most pressing and to develop a consolidated road map for land interventions. A few rounds of internal United Nations consultations with key United Nations agencies active in Jubaland will be required to define a common vision on the way forward and to prioritize the actions to be taken. Alignment and coordination will be crucial.



# INTRODUCTION

# INTRODUCTION

## 1.1 AIMS AND OBJECTIVES OF THE STUDY

The aim of the study is to investigate the land-related causes of conflict in the Jubaland state of Somalia. The study findings are expected to guide the work of the United Nations in peace building and land conflicts management, and to inform land policy processes and other land governance interventions in Jubaland and Somalia as a whole. The study has three specific objectives:

### **Assessment of the land governance systems -**

The study investigates the type of land institutions, their mandates and capacities; the legal frameworks supporting land governance and the views and perceptions of key stakeholders pertaining to the performance of the land sector. The study also analyses the key institutions involved in the mediation and management of the land disputes, and it gives insights on the functioning of traditional land dispute-resolution approaches and their linkages with the formal land governance systems.

### **Investigation of land tenure, land-use patterns and land conflicts -**

The study investigates the status of the land rights regimes, how the housing, land and property rights are protected and what the main land

tenure disputes are. The study looks at the nature and extent of land conflicts in the study area, how land rights of minority groups are protected and how these groups are affected by land conflicts.

### **Documentation of the patterns of land disputes involving pastoralist communities –**

The land needs and claims of pastoralist and sedentary communities are investigated, including conflicts over land use with farmers and other groups, such as urban residents and charcoal producers. The study also looks at how droughts and insecurity contribute to the scarcity of pastures, thereby leading to more conflicts. The study revisits the dominant and minority clan narrative with a view to establishing its implications for pastoralist-related land conflicts.

## 1.2 RESEARCH METHODS

The study used a combination of primary and secondary methods of data collection. Three methods of primary data collection were used. These were key informant interviews, focus group discussions and direct observations. Primary data collection generated qualitative data, as the focus was on capturing the narratives on the causes, consequences and spatial dimensions of the land conflicts. In Kismayo, a port

city where access and security issues were not that challenging, a comprehensive physical observation exercise was undertaken in order to generate a visual impact of some of the land conflict dimensions. Where possible and appropriate, secondary methods of data collection generated secondary data. A team of four people - three Somali researchers with extensive knowledge of Jubaland and Somalia, and an international expert - undertook the study under the overall supervision of staff from the Land and GLTN Unit of UN-Habitat.

**Key informant interviews** were concentrated in and around Kismayo, targeting state and non-state actors. Initially, ministers of key ministries were targeted for interviewing. A total of five ministers were interviewed: Minister of Public Works and Housing, Minister of Interior, Minister of Agriculture, Minister of Fisheries and Marine Resources and the Minister of Justice. Other key government stakeholders were also interviewed including the police, the judiciary and the Kismayo Local Government/Municipality. The inputs from the Jubaland Refugee and IDPs Affairs Commission (JRIAC) were particularly useful in terms of understanding IDPs and returnees in the context of land conflicts in Jubaland and Kismayo.

# INTRODUCTION

Non-state actors targeted in the study were United Nations agencies, national and international civil society organizations working on land, private sectors and communities. The Kismayo Peace Committee was particularly useful in the identification of land and dynamics related to the nature and extent of land conflicts, location of the conflict sites, parties to the conflict and the efforts invested in the resolution of the conflicts. The chairman and deputy chairman of the Guurti Committee and a group of elders involved in dispute resolution were also interviewed. The discussion with the Guurti Committee provided insights on the type of land conflicts managed through the traditional mechanism and its interactions with the government-led institutions.

Interviews were also held with informed members of society, members of minority clans and their representatives (a Member of Parliament representing the minority groups, the chairman of the Somali Bantu Community and the chairman of the Bajuni Community, another minority group) and some members of the diaspora community.

Where the situation permitted, **focused group discussions** were used to gather data on land conflicts. This helped to build stories on land conflicts

from a community perspective. Over 80 people participated in the focus group discussions, allowing the study to capture rich material on community perspectives on the land conflicts.

**Direct observation** - The relatively stable and peaceful conditions that characterize Kismayo allowed the study team to travel and physically observe some of the key sites of land conflicts in the town. The study team was able to visit IDP camps, peri-urban settlements, some of the high-profile land conflicts sites and the lucrative coastal zone along the Indian Ocean. A more in-depth understanding of the situation in Kismayo was gained by direct observation as a research technique. Observable data included the set-up in IDP settlements and demonstration of some of the land conflict sites, land-use conflicts in urban contexts - especially between pasture demands and urban functions such as residential uses and road transport - and the widespread land grabbing practices. In the town, the study team visited important premises such as the local government offices, the courts and the Notary Public offices to witness the long queues of people with land-related complaints.

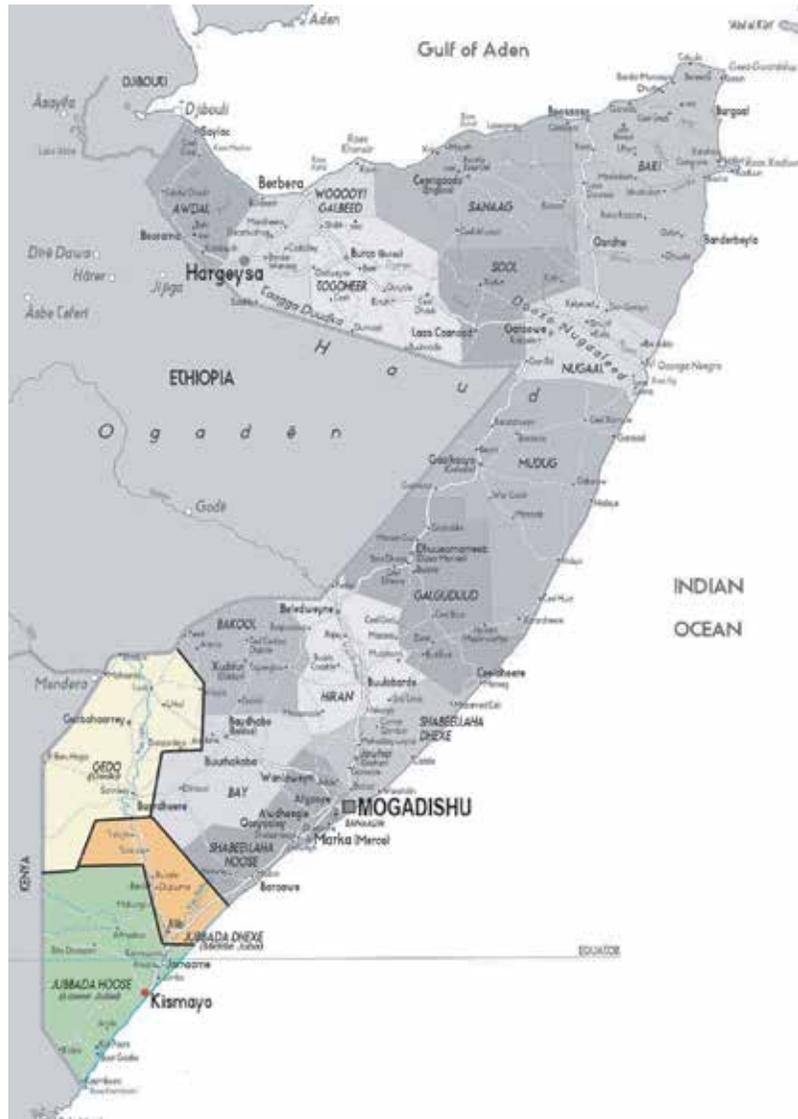
**Literature review** - A detailed literature review was undertaken to complement the primary data collection, despite the scarcity of literature on Somalia and Jubaland. Civil society organizations working on conflicts and peace building provided some important documentation for review, however, it was not possible to locate the old land legislation that is still operational in Jubaland and Kismayo.

## 1.3 THE STUDY AREA

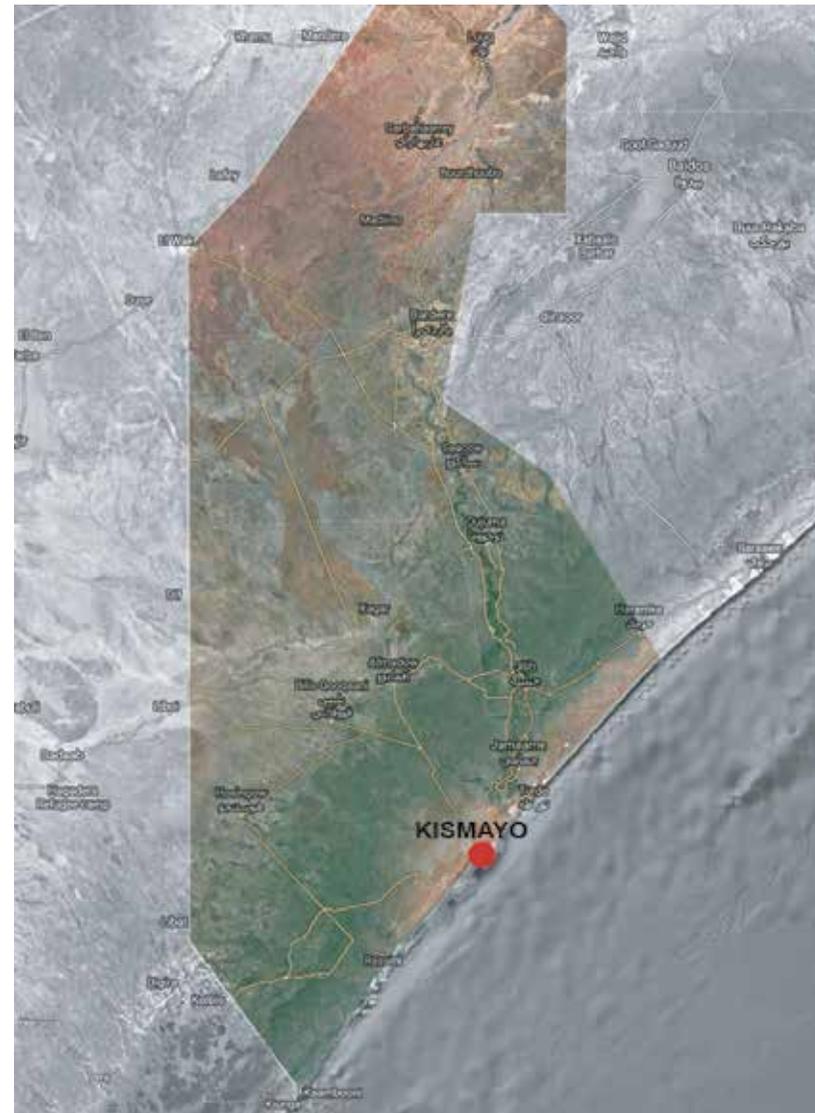
The study area is the state of Jubaland, one of the six states of Somalia. Jubaland has three regions: Lower Juba, Middle Juba and Gedo, each of which is divided into districts.

Located in southern Somalia, Jubaland borders Kenya to the west and Ethiopia to the north. Jubaland also borders the south-west state of Somalia to the north-east and the Indian Ocean to the south-east. Its area is estimated at 87,000 km<sup>2</sup>. The region has two major rivers: the Dawa and the Juba, the latter being one of two perennial rivers in the country and one that flows through the country. The Lower Juba Valley has rich agricultural potential, with huge forests, an expansive

# INTRODUCTION

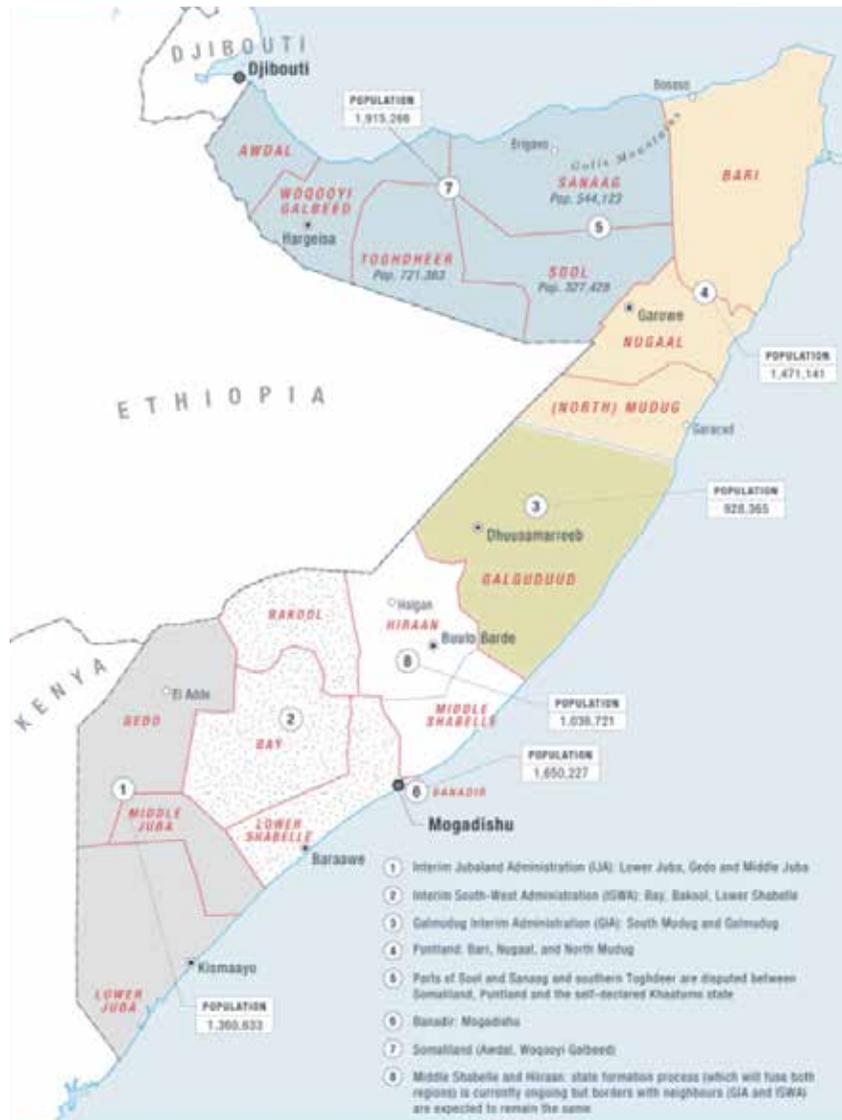


Administrative map of Jubaland



Physical map of Jubaland

# INTRODUCTION



Map of the Federal Republic of Somalia: federal and state administrative levels

coastline and fertile farming lands along both sides of the valley. For decades, its resources have been its curse, as armed groups have fought to control the rich territory.

Large parts of rural Jubaland are currently under the control of the Al-Shabaab terrorist organization. “The Gedo region has been and remains particularly prone to armed conflicts. The region has experienced the worst armed conflicts during the Somali civil war and the subsequent inter-clan conflicts, and between Islamist groups and pro-government militias backed by neighbouring countries (such as Ethiopia and Kenya) under the name of AMISOM. Today, there are a number of armed factions in the region that do not coordinate and have no central command. Political tensions and militia fighting are common in the region. Still, the movement of trade and business are restricted by Al-Shabaab in the region where they control most of the rural areas and the roads that connect all Gedo districts.” At the time of the writing, Al-Shabaab also fully controlled the Middle Juba region, home to predominantly Somali Bantus who are largely agro-pastoralists who survive on rain-fed crops and livestock production, especially cattle and goats. Prolonged dry spells and intense conflicts are major factors affecting their livelihoods.

## 1.4 STUDY LIMITATIONS

The study met several challenges related to the prevailing security conditions in Jubaland. The research team could not travel to the Juba Valley for field data collection because of security restrictions in Al-Shabaab-controlled areas. This narrowed the examination of conflicts between pastoralist and farmers in rural settlements. Ultimately, it was not possible to travel to rural Jubaland and to access other towns outside Kismayo. The study findings are therefore the result of direct data collection for Kismayo only.

# INTRODUCTION

The sensitivity of land issues and the fear of retaliation made it impossible to undertake detailed mapping of the conflicts documented. In some cases, there was evidence of a lack of cooperation from key government officials.

There was little literature on land governance in Jubaland (and more generally Somalia). The old legislation and other land policies that originate from the Siad Barre era were not available. Some of the available literature could not provide explicit answers to vital conceptual issues relevant for the study. The published literature was not easily available or comprehensive enough. Some of the more relevant work is limited in terms of its focus on rural settlement of the Juba valley area. Further, the few major existing studies do not adequately explain the triggers, dynamics and development of land conflict issues in urban settings.

A systematic analysis of court cases was not possible as courts do not keep written records. The same applied to conflicts mediated by traditional institutions. Despite the challenges, the study successfully collected a large amount of credible and sensitive data under difficult situations, including the inaccessible and Al-Shabaab-controlled Juba Valley.

## 1.5 OVERVIEW OF THE CONTEXT

Jubaland is a melting pot of different people, clans and ethnic groups. Middle and Lower Juba have been home to Somali ethnic minorities and dominant groups and has assimilated waves of migrants of different origins.

**The formation of the Jubaland state** - Jubaland is a young state with a provisional constitution that recognizes it as a member state of the Federal Government of Somalia. The Interim Jubaland Administration was created in 2013 after local elections and the Jubaland President, Ahmed Madobe, established a cabinet with a very broad clan representation; a total of 17 cabinet ministers representing different communities to promote reconciliation and legitimacy. Clan representation in the government is also intended to help minority clans to present their land grievances to the ministers originating from their clans. However, political governance at the state level is problematic because of opposition along clan lines and insurgency from terrorist groups. In practical terms, the state of Jubaland is still at the formative stage and the functional relationships between Jubaland and the Federal Government of Somalia, especially in as far as

they relate to land governance, are not yet defined. This situation puts in evidence the reasons for the importance of the significant role that traditional customary authorities play in many areas related to governance, land governance and land management in particular.

**Social and economic factors** - Jubalanders can be broadly categorized as pastoralists, farmers, fishermen, charcoal producers and urban residents engaged in a variety of predominantly urban economic sectors. Economic stagnation and poverty still prevail in the Jubaland state, where a mainly youthful population often finds few or no employment opportunities and is forced to turn to armed conflict or other illegal practices to earn a living.

The three regions of Gedo, Lower Juba and Middle Juba have not had large-scale major commercial activities in recent decades due to prolonged insecurity in the region. A large section of the population is supported by the informal sector, thriving on activities such as charcoal burning and the qat trade. The population of the largely arid Gedo region is made up of a majority of nomadic pastoralists, riverine farmers and a small percentage of urban residents. In the last decades of the twentieth century, small-scale

# INTRODUCTION



irrigation supporting the production of cash crops, government expropriations and land speculation related to the construction of the Baardheere Dam resulted in tensions over land that are still not resolved. The farming communities of the Lower Juba Valley lost land at the hands of both the colonial and post-colonial state. Vulnerable minority groups resident in the area - the Gosha people – lost land to the powerful interests of the dominant ethnic Somalis who controlled the post-colonial state, and smallholder subsistence farmers lost the best farmland to the internationally financed commercial and

parastatal agriculture. Such pressures also negatively affected pastoralists, forcing many of them to embrace crop farming to support pastoralism. Trends towards the enclosure of pastures have intensified.

In spite of the overall economic difficulties faced by Jubaland, the city of Kismayo has recently experienced a period of economic development due to the improved security, trade and inflow of humanitarian assistance. Companies, diaspora and the international community are at the heart of this improvement. Kismayo is the third largest city of Somalia and an important trade hub for Jubaland. Despite the devastating effects that it has on the environment, the charcoal industry is of primary economic importance for the whole country and it is the largest natural resource used for export. Construction, retail commerce, communications and the hospitality sectors are the most important economic pull factors of the economy. Rural to urban migration is a constant, also encouraged by the positive economic signs seen.

**Conflict and population movement** - Conflict has kept Somalia and the emerging state of Jubaland chronically unstable for decades and a large wave of involuntary population movement and displacement added to the voluntary movements of

the many pastoralist communities. The dominance of pastoralism entrenches migration as a key feature of the population's livelihood pathways and land conflict dynamics.

**Environmental pressures**, especially droughts and other climate-change induced challenges such as scarcity of pastures and water, also act as drivers of population movements, often leading to escalating land and natural resources-based conflicts.

## The stakeholders

The different levels of **government** and the **traditional authorities** have a leading role to play in land and conflict, largely described in section 2.3 of this report. Other actors with key roles are civil society, the private sector, development organizations and the United Nations.

**Civil society actors** - There are several civil society organizations – national and international - working in the land sector in Jubaland. Their activities cover the areas of provision of shelter for IDPs and returnees, land conflicts mediation and dispute resolution at the micro-level, peace building and livelihoods promotion and the promotion of land rights for minority groups. So far, there is not sufficient documentation on

# INTRODUCTION

the impact of the civil society's work and how it is coordinated and made sustainable; however, there is the potential to make their work more structured, coordinated and regulated to better contribute to different aspects of the land and conflict work, especially in the management of land conflicts and peace building.

**Private sector** - The key private sector players with a role in land in Kismayo are money transfer companies (hawalas), telecommunication companies, import-export traders (food and non-food items), charcoal traders, companies involved in the provision of water, and hotel operators (the hospitality sector). Other important categories are private land-related service providers such as lawyers and notaries. The Notary Public, for instance, is a private legal office based in Kismayo that deals with land transactions. The work of the Notary Public entails scrutinizing all appropriate registration and documentation related to the land transactions, such as checking details of buyers and sellers, property documents (land location, size etc.) and ensuring the authenticity of the witnesses to the transactions. The procedure adopted will depend on whether the land transacted is registered (where documents are verified) or unregistered (where three witnesses are required). However, the public perception

## Summary of the analysis of stakeholders in the land sector

Institution	Main observations and areas for improvement
State ministries dealing with land issues	<p>Their mandates need further refinement. Also, the mandates should neatly fit into the established framework and functions of land governance institutions, focusing on physical planning (urban planning), land administration (land surveying &amp; land registration) and land-disputes resolution.</p> <p>State institutions require tools to support their functionality. Such tools include written mandates, written job descriptions of key staff &amp; clear legislation guiding their work.</p> <p>State capacities to deliver in physical planning and development control, land administration (land surveying &amp; land registration) and land disputes are generally non-existent.</p> <p>At the time of undertaking the study, no state institutions were involved in land disputes resolution outside the courts.</p> <p>A key point of strength is UN-Habitat Somalia Programme's intervention in helping in the development of the land law.</p>
United Nations agencies & civil society organizations	<p>The provision of shelter to IDPs has no close supervision on the ground. Some structures in IDP settlements have collapsed before they are occupied.</p> <p>In the absence of appropriate state capacities to guide physical planning and undertake development control functions, some IDP sites have had to be shifted from one site to the other due to non-suitability of selected sites.</p> <p>Linked to the above, the application of physical planning standards has generally been missing or inadequate inside IDP camps.</p> <p>Non-state institutions also need to be mindful of how land acquisition for IDP settlement contributes to land conflicts through land claims by host communities on the same land.</p> <p>The progress and impacts of civil society organizations' peace building and conflict management work is largely not documented.</p>
Private institutions (Notary Public)	<p>There are allegations that the office of the Notary Public is not staffed by lawyers as is required by law.</p> <p>The functionality of the Notary Public is generally compromised, with allegations of corruption levelled against the institution</p>
Private developers	<p>In the absence of formal channels of land allocation for investment; private sector players have been acquiring land without following proper procedure.</p>
Traditional mechanisms of disputes resolution	<p>The major strength is that the structures have deep historical knowledge of land conflicts and have experience in land-disputes resolution</p> <p>The main weakness is that clan elders tend to favour their clan members in dispute resolution</p> <p>There is no documentation of impacts and key decisions on land conflicts handled by the structure</p>

Source: Field Survey, August – October 2017

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is that the Notary Public is not a trusted player and the office has been accused of limited technical capacity, corruption and of avoiding taking on transactions that involve powerful members of the society. A major limitation is that the Notary Public functions on the basis of profit-making and does not provide an official reference in land disputes between transacting parties, which is usually one of the key functions of a notary.

## **United Nations agencies**

The United Nations agencies' involvement on land and conflict in Jubaland and Somalia is potentially a key game changer, if an alignment of vision and actions could take place.

A recent global assessment carried out by UN-Habitat and the Global Land Tool Network "reveals a United Nations system engaging on land and conflict in a piecemeal fashion without an overall strategy that is key to any successful country-level land sector interventions. The United Nations system is fragmented in terms of functions on land and conflict, and information sharing

and cooperation between pillars and entities is often ad hoc. [...] The United Nations system lacks some important elements: a common understanding and analysis of land as a root cause and driver of conflict and bottleneck to recovery and a theory of change and strategic framework for a common engagement". Such a scenario is also found in Jubaland.

However, significant efforts are being done by the United Nations to improve its alignment and coordination in several areas of work, including land, some at the federal level that also impacts Jubaland and some at the state level. A large number of joint programmes are being implemented, including on issues that have land implications (e.g. displacement).

Nevertheless, the United Nations has still not been able to develop a joint vision on land governance overall, or on key specific components of it, such as land registration or land rights of displaced communities. Once the constitutional review currently

ongoing at the federal level is completed and there is more clarity on the different levels of government and ministerial functions and mandates, there will be more favourable conditions to meaningfully engage in land-related discussions with the Somalia and Jubaland governments.

While recommendations address the wide spectrum of land conflicts in Jubaland, there are higher-level land conflicts that urgently require significant political negotiation to allow for peace in rural and urban areas. Key United Nations agencies, including UNSOM and AMISOM, can play a special role in such high-profile, land-related political and peace-building interventions. In the words of a member of the Guurti, "after Al-Shabaab, land is the next major issue that requires urgent attention".

The table gives an overview of United Nations engagement in Jubaland and Somalia overall as of the end of 2017.

# INTRODUCTION

	Jubaland	Overall Somalia
Agency	Main Land Functions	Land Functions
UN-Habitat	Peacebuilding through youth empowerment, shelter and tenure security provision for IDPs, returnees and host communities Technical support to the development of the land legislation in Jubaland Spatial and urban planning Promotion of local governance and service delivery	Shelter and tenure security for IDPs, returnees and host communities Spatial planning Local governance and service delivery
UN-OCHA	Provision of maps Coordination of humanitarian actors	ditto
UNDP	Local governance and effective service delivery Addressing land disputes through rule of law programmes	Land governance Rule of law
IOM	Displacement issues Camp coordination and management Role of land reform in peacebuilding (through partnership with UN-Habitat)	ditto
UNHCR	Displacement issues Land reform in peacebuilding (through partnership with UN-Habitat) Housing land and property rights	ditto
FAO	Land as an underlying element for food security Land and natural resources Land degradation Resilience work	ditto
UNSOM	Addressing land disputes through rule of law programmes	ditto

# INTRODUCTION

## Clan dynamics in land and conflict

### The clans

The official discourse presents the Somali people as falling into four major clans - namely the Dir, Darod, Digil & Mirif and Hawiye – split themselves into sub-clans, sub-sub-clans, etc. A fifth group, comprising of several minority clans, completes the set. Such a setup, formalized by the new Federal constitution, has implications for how positions of power in key government institutions are shared amongst different clans. This clan-based approach – that only time will tell if it is successful - is a new political and governance model in the making, yet to mature and where there is space for continuous review and upgrading.

Evidence from literature demonstrates that clan politics is a pervasive phenomenon that manifests itself in many facets of life, including types of past and present land conflicts. Undoubtedly, the ubiquitous nature of clan issues are reflected in both urban and rural contexts. Clan issues often determine how settlements are organized in urban areas, with people opting to settle in clan-based neighbourhoods. "Groups claim that a town or area is historically their domain, and that they therefore possess special rights to political authority and economic resources in the face of competing claims."

The collapse of the state institutions and the years of conflict led to a situation where the state authority gradually declined to a point where the clan substituted the government as the most influential authority among citizens. In this context, clan identities and related politics have assumed more and more importance and are continually manipulated, fostering clan-based fragmentation and a strong clan-based narrative in both development and humanitarian communities. Clan dynamics are critical in the land conflicts landscape and hence assume a central role in peace building and conflict management.

### Beyond the clans

Some scholars have noted that the 'clan card' has been overplayed. "The situational and flexible nature of Somali social structure continue to elude outside mediators, as well as social scientists who seek rigid classifications. [...] Proliferation, fragmentation and in some cases consolidation of clan identities were strongly influenced by the presence of outside, resource-rich groups such as the United Nations and Western development agencies."

There is need for caution in terms of interpreting issues and events through the clan-lens all the times. There are diverse dimensions on the significance of clan issues in land conflicts. Whereas there are clear cases where land conflicts are fuelled by clan-based tensions, the study also shows evidence of collaboration across clan lines with reference to specific types of land conflicts, a case in point being the operations of land gangs in the land grabbing business (see 2.2.3). Whilst pastoralists and crop farmers may be associated with specific clans, the conflict between them is mainly founded on the conflicting nature between pastoralism and crop farming as forms of land-use. Responses and solutions to the conflict may not make the necessary breakthroughs if they are conceptualized as responses to social and political rivalry fronted as clan issues. Rather, it may be more productive to approach the conflict from the root cause perspective, thereby allowing technical responses.

## Youth and gender dynamics in land conflicts

### Youth

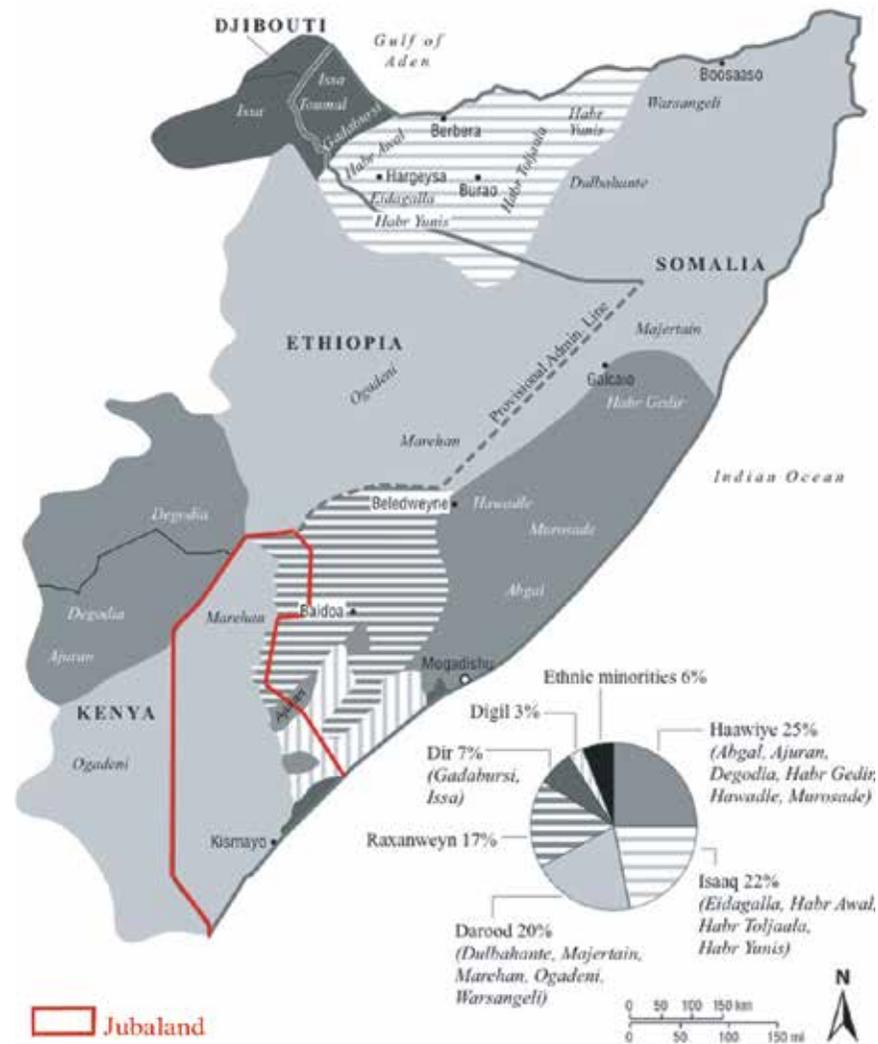
Focus group discussions revealed that youth are key actors in land conflicts precisely for reasons associated with lack of livelihood opportunities and the lack of education. Youth are particularly involved in most conflicts associated with land grabbing and pastoralists. The common view is that youth are exploited and used by others who want to grab land for business purposes. The motivation for financial gain is clearly a major factor that drives youth into land conflicts. Various studies have also shown that youth join violent and armed conflict by Al-Shabaab, partly as a result of frustration and a feeling of exclusion that results from the lack of employment opportunities in Jubaland and Somalia as a whole.

### Women

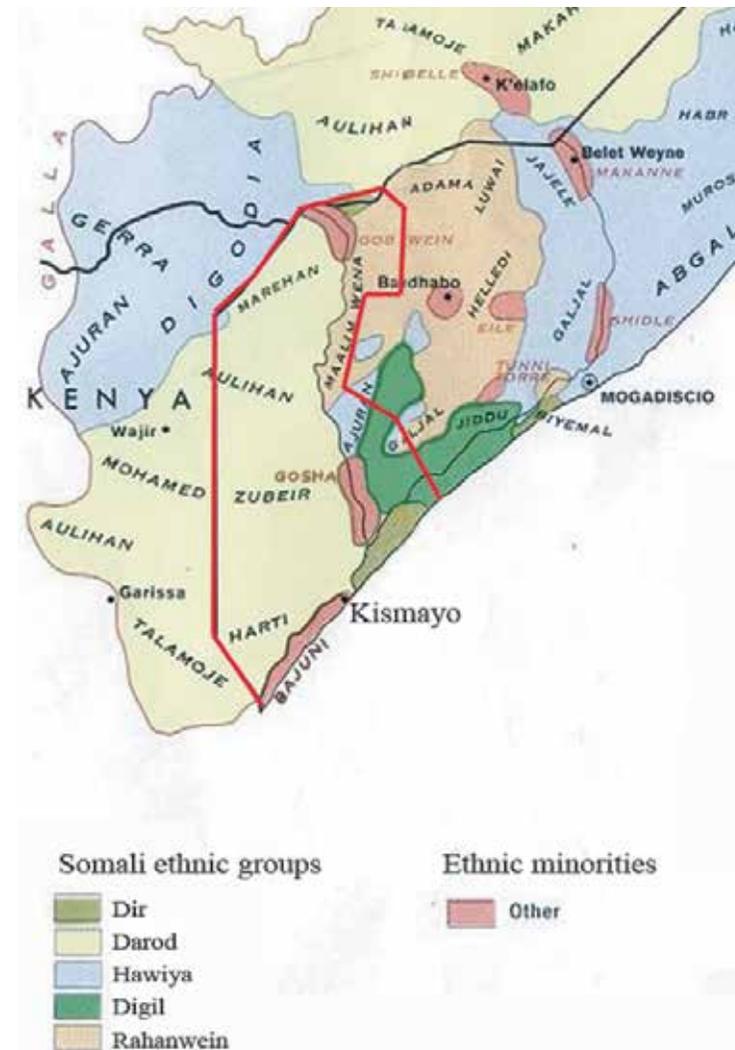
From discussions also emerged that women are disproportionately negatively impacted by land conflicts, perhaps because of their physical weakness or their inferior status within the society. On the other hand, wealthy women are also involved in land grabbing for business opportunities, either directly or through their male relatives. Key informants reported on women who – just like men - had grabbed land from vulnerable groups, exploiting their 'clan's power and dominance'. The study did not, however, carry out an in-depth gender analysis of the Jubaland land sector.

Source: Field Survey, June–October 2017

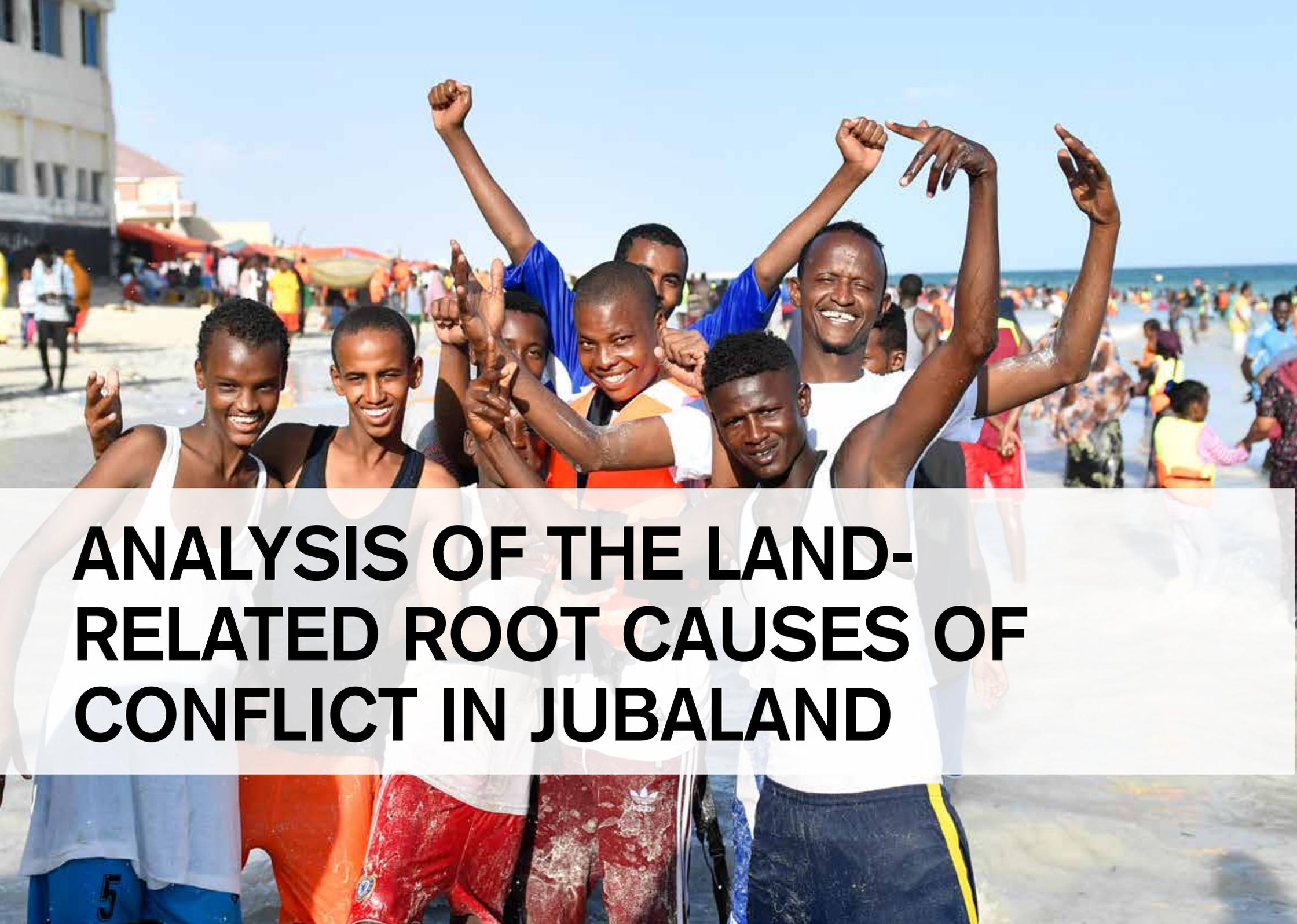
# INTRODUCTION



Clan composition in the Somali region



Clan composition in Jubaland, highlighting ethnic minorities



# **ANALYSIS OF THE LAND-RELATED ROOT CAUSES OF CONFLICT IN JUBALAND**

# ANALYSIS OF THE LAND-RELATED ROOT CAUSES OF CONFLICT IN JUBALAND

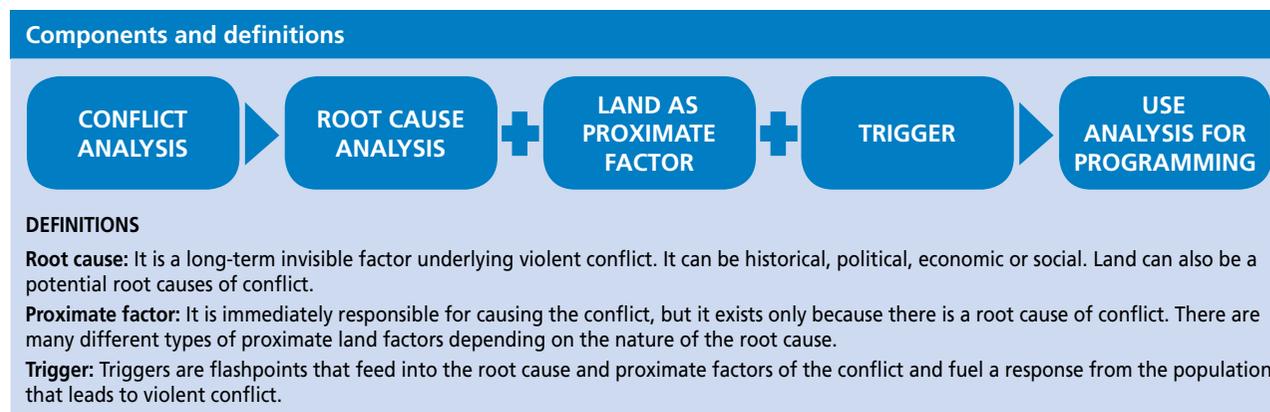
The root cause analysis presented in this study has been developed using the **Root Cause Analysis of Land and Conflict for Peacebuilding tool** developed by the Global Land Tool Network in 2017.

The tool is an **interdisciplinary framework** aimed at building a common understanding and thinking strategically about how to address land conflicts. Programming often addresses symptoms or triggers of conflicts, while the focus should be on targeting root causes and their proximate factors. The root cause analysis tool developed by GLTN makes it possible to ask the right questions for programming in a country or an area where land is part of the conflict and to distinguish root causes, proximate factors and triggers.

Out of the 15 generic root causes of conflict included in the tool, the research work carried out in Jubaland identified 11 that are present in the state. The study categorized the root causes as environmental, socio-economic and governance related.

## 2.1 ENVIRONMENTAL CAUSES

This chapter illustrates the environmental root causes of conflicts, the land-related proximate factors and the most common triggers that lead to violent conflicts in Jubaland.



	Root causes of conflict in jubaland	Section of the report
<b>ENVIRONMENTAL</b>		
1	Scarce natural resources including land and water	2.1.1
2	Natural resources exploitation	2.1.2
<b>SOCIO ECONOMIC</b>		
3	Population pressure	2.2.1
4	Poverty	2.2.2
5	Criminality and terrorism	2.2.3
6	Unregulated and exploitative investment	2.2.4
<b>GOVERNANCE-RELATED</b>		
7	Weak governance	2.3.1
8	Weak land administration	2.3.2
9	Politics of exclusion	2.3.3
10	Capture of state instruments	2.3.4
11	Chaotic urbanization	2.3.5

# ANALYSIS OF THE LAND-RELATED ROOT CAUSES OF CONFLICT IN JUBALAND

## Outline of the environmental root causes of conflicts, the land-related proximate factors and the most common triggers of violent conflict

Root causes of conflict	Land-related proximate factors	Triggers of violent conflicts
<p>Scarce natural resources, including land and water</p> <p>Natural resources exploitation</p>	<ul style="list-style-type: none"> <li>• Scarcity of land for pastures</li> <li>• Unrecognized and undefined land rights of pastoralist communities</li> <li>• Environmental degradation</li> <li>• Breakdown of legislative controls governing use and access to natural resources</li> <li>• Increasing inadequacy of xeer law and its implementation mechanisms related to use and access to land and water</li> <li>• Private livestock enclosures and exclusion of others from using land perceived as communal</li> <li>• Unsustainable increase of livestock</li> <li>• Destruction of the environment by charcoal production</li> </ul>	<ul style="list-style-type: none"> <li>• Droughts</li> <li>• Destruction of farms by livestock</li> <li>• Excessive consumption of water or pasture by a group to the detriment of another</li> <li>• Destruction of grazing land and livestock environment by charcoal producers</li> </ul>

### 2.1.1. Scarce natural resources including land and water

Data collected during the study shows that a **major cause of land-related conflicts is the scarcity - and resulting competition over the use of - land and land-based resources**. These conflicts occur among pastoralists, crop farmers and other natural resources users, such as charcoal producers. In some situations, the conflicts assume violent dimensions and turn fatal.

The United Nations Economic Commission for Africa notes that in Africa pastoral communities have a long history of conflict, traditionally related to land alienation and encroachment on rangeland for

agriculture and urban expansion. In current times, the intensity of such conflicts is increasing as the competition over scarce resources is on the rise, aggravated by climate change and environmental degradation. This analysis well describes the Jubaland scenario.

Of Somalia's estimated 11.1 million, some 6.7 million people, representing 60 per cent of the population, are pastoralists, with livestock contributing 40 per cent of Somalia's GDP (while about 60 per cent is agriculture based). Of this GDP, 14 per cent is from exports, mainly livestock and fresh vegetables. Pastoralism is an important source of livelihood for

the population and a key base national economic development for the state.

While the importance of pastoralism is recognized by the Federal State of Somalia and by the Jubaland state, no equivalent recognition is given to the **land rights of pastoralist communities**. The 1975 Land Law officially transferred control of land tenure from customary authorities to the state. The impact of the law was felt in both urban and rural contexts.

Increased tenure insecurity for landholders without registered rights was one of the results, with pastoralists being among the worst affected.

Both primary and secondary sources of data confirm that environmental factors, especially **droughts**, are a major driver of pastoralist-related conflicts. The Federal Government of Somalia's Strategic Plan 2017-2019 notes that "pastoralists face continuous natural and climactic shocks (droughts, floods, range degradation and low rainfall) and livestock diseases, including trans-boundary threats". This also resonates in the fact that conflicts associated with pastoralists mostly happen in the dry season and escalate in the years of drought.

# ANALYSIS OF THE LAND-RELATED ROOT CAUSES OF CONFLICT IN JUBALAND

Human and natural factors have fuelled **environmental degradation** in Somalia, described by UNEP as characterized by deforestation, desertification, soil erosion, an inadequate and dysfunctional system of protected areas, which are the effects of political and economic mismanagement of land tenure, and “an almost complete **breakdown of legislative and traditional controls governing use and access to natural resources**”. The resultant effect of such negative environmental factors is scarcity of pastures and water, which causes tensions and conflicts over access to such resources.

The growing practice of **private livestock enclosures**, which emerged as a response to protracted droughts that forced pastoralists to look for alternative methods to access pastures, contributes to the loss of grazing lands and grass harvesting on communal land is increasingly problematic as “enclosures are shrinking communal rangeland to the benefit of only a minority. Deforestation and grass harvesting have reduced vegetation cover, especially of palatable plants”.

Conflicts for **water and pastures** also arise among different pastoralists groups and evidence shows there is a relationship between the type of livestock

that pastoralists keep and the conflicts that can arise. Camels and cattle have different pasture needs and their water requirements are also very different. From field interviews, friction between camel herders and other pastoralists are based on the fact that camels drink lots of water and can finish water in dams and water reservoirs with no consideration for other animals. Camel herders also reportedly have an aggressive attitude towards other pastoralists and often ignore the needs and proposals from cattle, goat and sheep herders in negotiations.

Despite the existence of the **xeer law** that regulates the sharing of pastures, the conditions attached to the resource sharing arrangements may be disrespected or broken, sparking conflict; for example, after being granted access to pastures, the visiting pastoralist groups may overstay in an area, thereby creating conditions that generate misunderstandings that erupt into a conflict. It seems evident that, in spite of providing useful entry points and mechanisms for conflict prevention, mitigation and resolution, the xeer law alone and the work of the traditional actors that implement it are no longer sufficient to prevent and contain the conflicts. There can be scope for a call for the re-examination of long-standing local



practices and their implementation mechanisms. New forms of regulations or management practices (e.g. demarcation of migratory routes, land-use planning, etc.) may be required to keep the peace among Jubaland’s pastoralist communities.

**The increasing number of livestock** for internal consumption and export – particularly to Gulf countries – is also increasing the pressure on land-based resources such as water and pasture, making it even more difficult to maintain the fine balance between different communities.

# ANALYSIS OF THE LAND-RELATED ROOT CAUSES OF CONFLICT IN JUBALAND

**Conflicts between pastoralists and farmers** are also prevalent in Jubaland, creating the most common type of land-related conflict in rural areas. Moving herds of cattle, often with large numbers of animals, are not easy to control and they encroach on farms when fences are not strong enough to deter them and destroy crops. In situations of scarcity, water use sparks fierce conflicts between the two groups which arise both along the migratory routes or at points of destination. It is worth noting that the migration routes of pastoralists are both within and across national borders. Pastoralists in Jubaland migrate to Kenya, which brings additional complexities in terms of land-related conflicts, cross-border dynamics and interactions with criminal activities (see section 2.2.3).

**Conflicts between pastoralists and urban residents** in peri-urban areas also arise and are aggravated by the expansion of urban areas into surrounding rural areas. The unplanned nature of urban expansion is a major contributor to conflicts, and this is explained in further detail in section 2.3.5 of this report.

## 2.1.2 *Natural resources exploitation*

**Charcoal production** is one of the main natural resource exploitation practices contributing to violent conflicts in Jubaland. Charcoal production leads to deforestation and environmental degradation, with thousands of hectares of forest land lost to charcoal production every year. It is a lucrative trade that

### Interview with Abdelrahman: a charcoal producer

Abdelrahman (not real name) originally comes from the Hudur district in the south-western state of Somalia and belongs to the Rahaweyn clan. He has worked in the charcoal business for three years in partnership with a local charcoal dealer who lives in Kismayo and his work entails cutting trees down and burning them to make charcoal. He works closely with the clan elders, particularly those with power in the community. Such leaders are known as the Suldan Dureed (chiefs of forest) and 'own' large tracts of land which are used for the charcoal business. In this case, the Suldan Dureed rented a large piece of land (15 km x 3 km) from a man from the Abgaal clan based in Mogadishu in order to go into the charcoal business with individuals like Abdelrahman. This is not without risks, though.

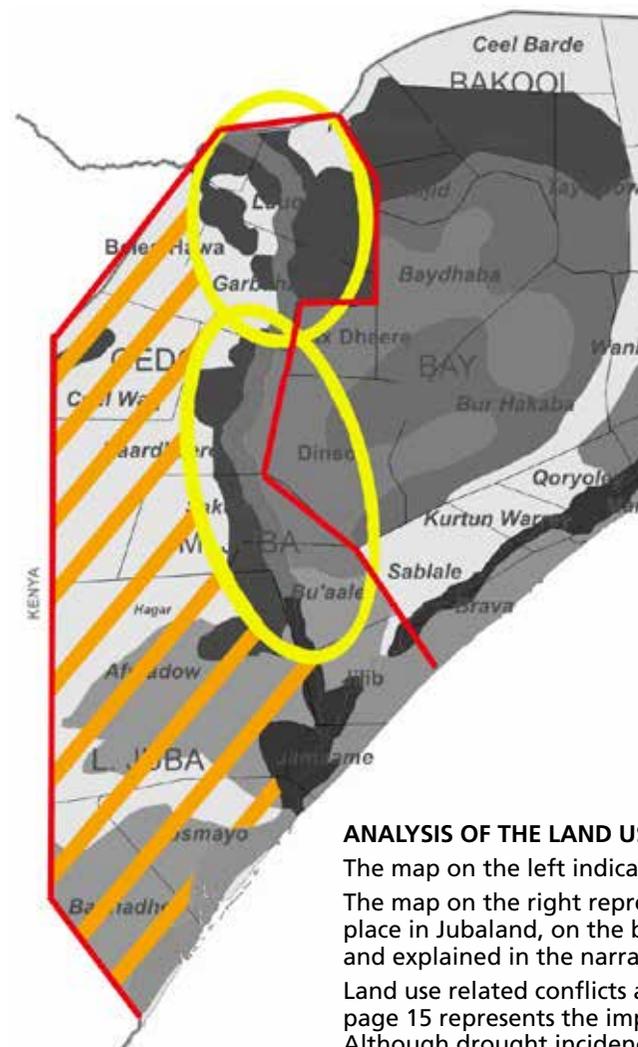
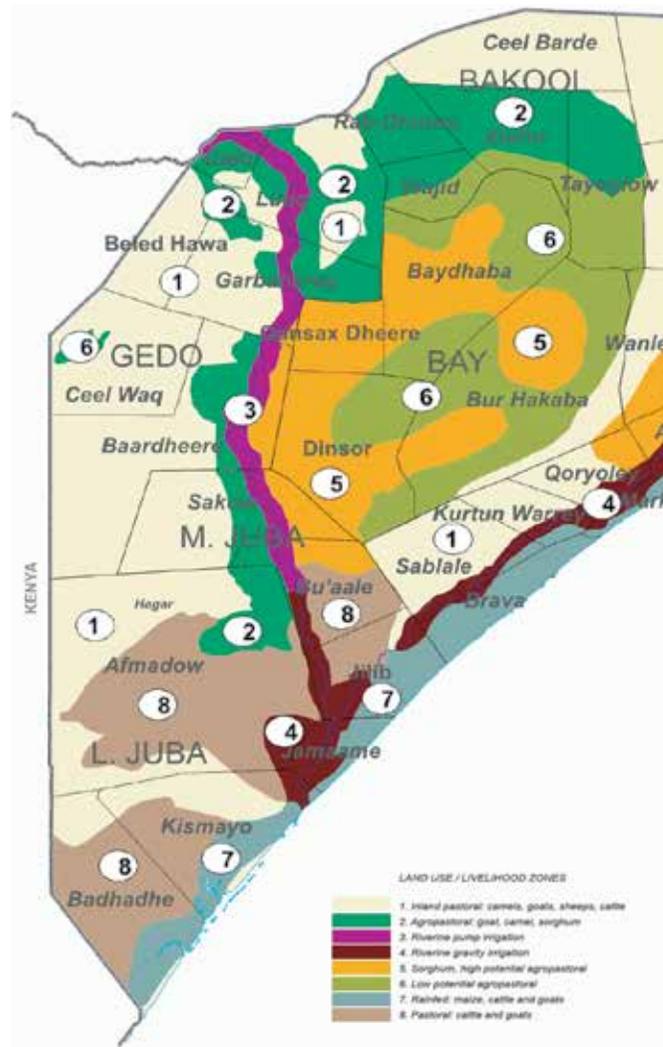
Abdelrahman explains that "the biggest challenge charcoal businessmen face is death threats from Al-Shabaab, who considers the charcoal trade to be illegal. If we are found collecting charcoal, we are asked to pay a 'fine' of USD 1,800 per vehicle or USD 1,000 per person to avoid being killed. Most of the time we need to hide in the forest because, if we fail to pay the requested amount, we would be killed".

Source: Field Data, Focus Group Discussions, July-October 2017

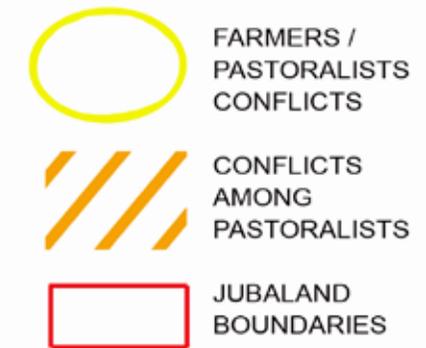


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# ANALYSIS OF THE LAND-RELATED ROOT CAUSES OF CONFLICT IN JUBALAND



## CONFLICTS IN RURAL AREAS



## LAND USE / LIVELIHOOD ZONES

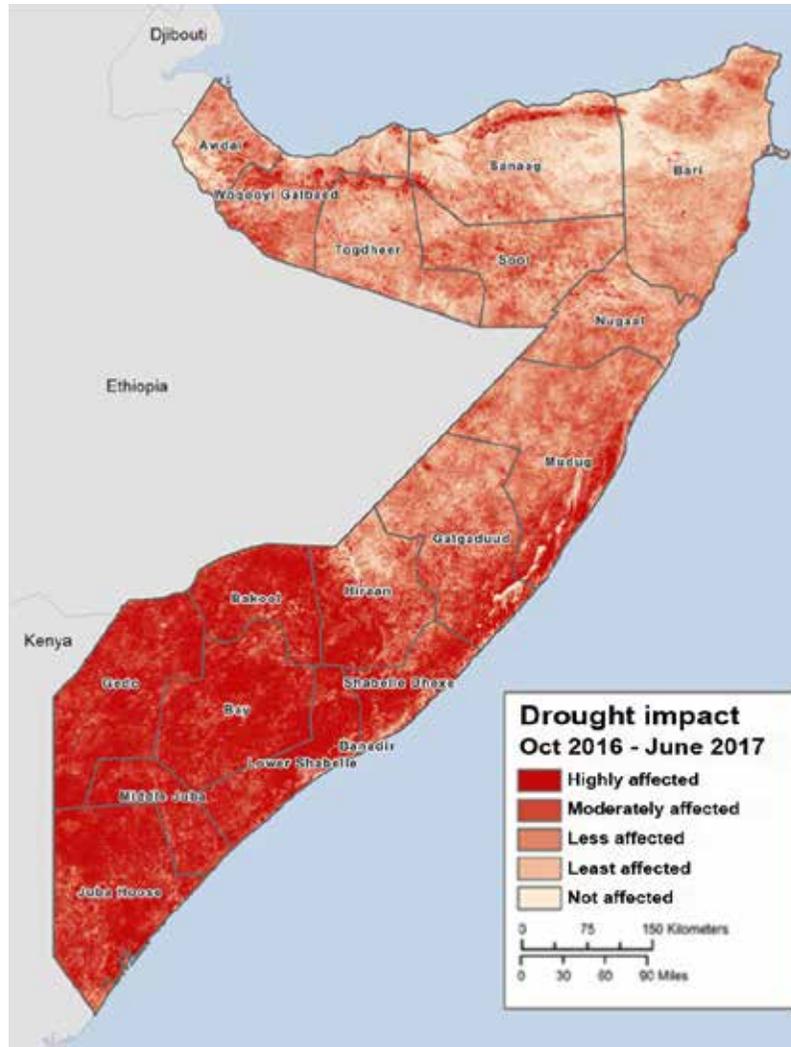


## ANALYSIS OF THE LAND USE-RELATED CONFLICTS IN RURAL JUBALAND

The map on the left indicates the livelihood and land use areas of Jubaland. The map on the right represents the primary types of land conflicts taking place in Jubaland, on the basis of the evidence collected during the study and explained in the narrative parts of the report.

Land use related conflicts are aggravated during droughts. The map on page 15 represents the impact of the October 2016-June 2017 drought. Although drought incidence varies across the seasons, the map gives an impression of the level of acuteness that conflicts can reach in such periods.

# ANALYSIS OF THE LAND-RELATED ROOT CAUSES OF CONFLICT IN JUBALAND



The impact of evere nationwide drought in Somalia in 2016-2017

## Main pastoralist clans and their livestock

Main Clan	Type of livestock	Main clan	Type of livestock
Marehaan	Camels, cows and goats	Gaaljecel	Goats, sheep, camels
Majeerten	Camels, cows and goats	Ogaden	Goats, camels, sheep
Ogaden	No data	Majeerteen	Cows, camels, sheep, goats
Sheqaal	Cows	Dagodiye	Camels and goats
Bartire	Camels, sheep	Bartire and Abasguul	Sheep, camels

Source: Field Data, Focus Group Discussions, July-October 2017

## Conflict between camel and cattle, sheep and goat herders in the Jilib area in the Middle Juba

Goat, sheep and cattle herders are often referred to as Nugul herders, a term that refers to the livestock they keep being unable to go for more than 48 hours without water; camels can go without water for more than three months. In 2011, southern Somalia experienced one of its most severe droughts ever, which had disastrous consequences for herders of all livestock and led to an historic conflict, with goat, sheep and cattle herders pitted against camel herders over access to pasture and water resources. The river valleys around Juba were the only places with water and trees with green leaves. In the Jilib area, there was only one place with water and this forced the Rahanweyn camel herders' sub-clan of the Leysan to leave their areas and go to the Jilib area in search of water and pasture for the camels. Al-Shabaab, whom they were loyal to, supported them.

Faced with shortages for their own livestock, the goat, sheep and cattle herders fenced their pastures and water, but when the camel herders arrived they tried to remove the fences to allow their camels to graze. Conflict erupted between the two groups of livestock herders. The conflict was not so much about the water, but the fact that camels trampled over and destroyed the pasture, causing the cattle, sheep and goats to be deprived of food. No peaceful solutions could be reached between the Nugul herder's and camel herders, leading to a violent conflict that left many injured and some dead.

Source: Field Data, Focus Group Discussions, July-October 2017

# ANALYSIS OF THE LAND-RELATED ROOT CAUSES OF CONFLICT IN JUBALAND

## Examples of land-related conflicts involving pastoralists

Name of place	General location	Type of land use	Description of the conflict
1. Bardhere	Gedo region, Jubaland 2012	Land used for farming and grazing in rural areas	The dispute was between pastoralists and farmers over public irrigation land. Pastoralists used the land for feeding their animals while croppers used it for farming. Droughts are the main triggers of conflict between farmers and pastoralist in this region.
2. Gosha (Juba valley)	Jamame, Lower Juba/Jilib, Middle Juba.	Farming in rural settlements (farmers versus pastoralists)	The dispute arose between pastoralists & croppers in the Gobwein area (rural settlement) and was triggered by pastoralists entering the farming area. The farmers fought them to defend their land after animals trespassed into the farming area. In Gobwein areas, pastoralists, farmers and fishers live alongside each other. The conflict normally occurs between pastoralists and crop farmers..
3. Anjeel	Road connecting Kismayo to Afmado 2016	Road connecting Kismayo to Afmado	The dispute was in 2016 between two different clans – the Gaaljecel and Ormale clans - over access to land for borehole provision. The Ormale clan wanted to dig a borehole but residents in the area, mainly from the Gaaljecel clan, refused to give access as they thought Ormale would take over all the land in the future.
4. Birole village	Kismayo, Lower Juba. 1999	Residential areas located alongside pastoral communities, outskirts of Kismayo	The dispute was between a charcoal producer & pastoralists. A returnee from Dadaab who settled in Birole had a charcoal business. He started collecting charcoal and traded with urban residents in Kismayo town. Pastoralist communities in the area viewed the charcoal business as a threat affecting the ability of animals to feed on pastures. People from the pastoralist community killed the man as they felt he contravened their right of access to pastures.
5. Sa'moja Farjano	Village in Kismayo farming land 2016	Rural farmland (croppers vs pastoralists)	The conflict involved two different clans. The conflict happened in 2016 between Marehan and Gaaljeel. People from Geeljecel used the land for farming and thereafter people from Marehan clan entered the farmland and grabbed the land to use it for land for feeding their animals.
6. Saa Moja	Kismayo – rural farming land	Rural farming (peri-urban expansion into rural land)	Due to increased number of people coming to Kismayo – the town has expanded to rural farming areas in Saa Moja (outskirt of Kismayo approximately 10 kms), people have continually expanded their occupation of the rural farming land, with most making false ownership claims.
7. Wamo	Farming areas on outskirts of Kismayo 2017	Rural farmland (croppers vs pastoralists)	The conflict was between pastoralists and farmers. The conflict started when pastoralist entered into the farming land in the outskirts of Kismayo.

Source: Field Survey June–October 2017

## Selected movements/routes of specific clans and groups during the dry season

Clan	Routes followed in the dry season
Oormale	Bangal/Kenya
Sheeqaal	Lower Juba and Middle Juba
Majeerten	Lower Juba such as Abdalla Biroole
Marehaan	Afmadow, Dhoobley, Diif
Bartire	Dhoobley, Afmadow, Taabdo and Diif
Sheeqaal and Ogaden	Move to Hosingo in Badaade district, sharing dry season
Ogaden and Marehan	The two clans share Afmadow district, especially when the Marehan shift to Afmadow from the Gedo region Fafahduun

Source: Field Data, Focus Group Discussions, July–October 2017

**“Whenever there are problems between farmers and pastoralists, it is pastoralists who are the cause of the problem. The farm and the crops do not move, but it is the pastoralist and his livestock that move to the farm.”**

*Interview with a Member of Parliament representing the minority clans who hails from the Gosha farming area in the Juba Valley, 20 August, 2017, Kismayo*

**“If you want to cultivate crops, you must be armed to protect yourself from the pastoralists.”**

*Interview with local leader of minority clans, 24 August, 2017, Kismayo*

# ANALYSIS OF THE LAND-RELATED ROOT CAUSES OF CONFLICT IN JUBALAND

provides employment for a considerable number of people in rural areas. The charcoal produced supplies the population of Somalia but is also exported. This has accelerated the loss of traditional grazing lands, along with other contributing factors such as overgrazing due to **increasing numbers of livestock**.

While it is an important source of income in the depressed economy, charcoal production is directly against the interests of pastoralists and is therefore disapproved of by these communities, with conflicts between charcoal producers and pastoralists prevalent in Jubaland. Key informant interviews with pastoralist communities and elders confirmed that the scarcity of pastures frequently leads to land conflicts. At times, charcoal traders are forced to suspend their business for fear of violent attacks and killings by pastoralists. The Al-Shabaab group adds to the complexity of the issue as it opposes the charcoal business and considers its practices to be punishable with death.

## 2.2 SOCIO ECONOMIC CAUSES

This chapter illustrates the social and economic root causes of conflicts, the land related proximate factors and the most common triggers that lead to violent conflicts in Jubaland.

### Outline of the socio-economic root causes of conflicts, the land-related proximate factors and the most common triggers of violent conflict

Root causes of conflict	Land-related proximate factors	Triggers of violent conflicts
Population growth	<ul style="list-style-type: none"> <li>Youth bulge without secure land rights</li> <li>Landless poor and minorities</li> <li>Return of refugee and displaced families to areas of origin or alternative locations</li> </ul>	<ul style="list-style-type: none"> <li>Migration and displacement to areas already occupied by other groups</li> <li>Famine</li> </ul>
Poverty	<ul style="list-style-type: none"> <li>Inadequate housing and basic services</li> <li>Mushrooming of under-serviced neighbourhoods (IDP settlements)</li> <li>Discrimination against the poor with regard to access to land and housing</li> <li>Food insecurity as result of limited access to land for farming and livelihoods</li> </ul>	<ul style="list-style-type: none"> <li>Disease outbreaks</li> <li>Forced evictions or exclusion of the poor from urban or rural land</li> <li>Grabbing of land on which the poor are settled, by powerful groups or individuals</li> <li>Social unrest</li> <li>Poor forced to join criminal/terrorist groups to earn a living</li> </ul>
Criminality and terrorism	<ul style="list-style-type: none"> <li>Illicit activities (illegal migration, human trafficking, trade of arms and drugs) linked to a particular land use (pastoralism)</li> <li>Revenues from land and natural resources used to fuel terrorist groups</li> <li>Parallel land management and dispute-resolution systems run by terrorist groups as a way to claim legitimacy</li> <li>Land grabbing by organized criminals</li> </ul>	<ul style="list-style-type: none"> <li>Escalation of land-use conflicts because of high arms prevalence</li> <li>Terrorist groups acquire the necessary resources and support to challenge and attack state institutions or opposing groups</li> <li>Confrontation around land grabbing leads to violent conflicts that may escalate along clan lines</li> </ul>
Exploitative or unregulated investment	<ul style="list-style-type: none"> <li>Illegal or irregular land acquisitions</li> <li>Land grabbing</li> <li>Corruption of land professionals and institutions dealing with land</li> <li>Increased pressure on valuable land</li> <li>Disproportionate pressure on land by the lack of banking and alternative investment systems</li> <li>Lack of protection for landowners and occupants</li> </ul>	<ul style="list-style-type: none"> <li>Forced evictions</li> <li>Investors acquiring land to the detriment of vulnerable people</li> <li>Very visible inequalities in terms of land access</li> <li>Corruption results in land-related decisions that are widely considered to be unjust</li> </ul>

# ANALYSIS OF THE LAND-RELATED ROOT CAUSES OF CONFLICT IN JUBALAND

## 2.2.1 Population pressure

The population growth witnessed in current Jubaland is an important root cause of conflict. This affects the overall per capita ration of land and has a disproportionately negative effect on the youth, which constitute over 75 per cent of the Jubaland population.

## 2.2.2 Poverty

**Poverty and lack of economic opportunities** are major sources of conflict. The situation in Somalia has reached the point where “poverty is not only caused by conflict, but it also fuels conflict, where violence is perpetuated as a survival strategy to gain access to scarce resources”. Extreme poverty entrenched in and driven by the political economy has become a major factor in the generation and sustenance of conflict. The prevailing land grabbing practices described in the next section show how access to land, especially in urban contexts, is being used by land gangs as a livelihood and income-generating activity. The broader discussion on the typology of land conflicts can be interpreted as a struggle routed in a non-performing economy. The incidence of conflicts and the way

the conflicts continue to be reproduced cannot be divorced from the non-performing nature of the economy. Poverty is one of the main root causes of conflicts, and any meaningful work on peace building and conflict prevention will have to be linked to economic recovery to remove the risk, especially among the youth, of resorting to use illegal land transactions and land grabbing as a source of livelihood or – worse – joining terrorist groups’ militia to earn an income.

## 2.2.3 Criminality and terrorism

### New fringe pastoralism

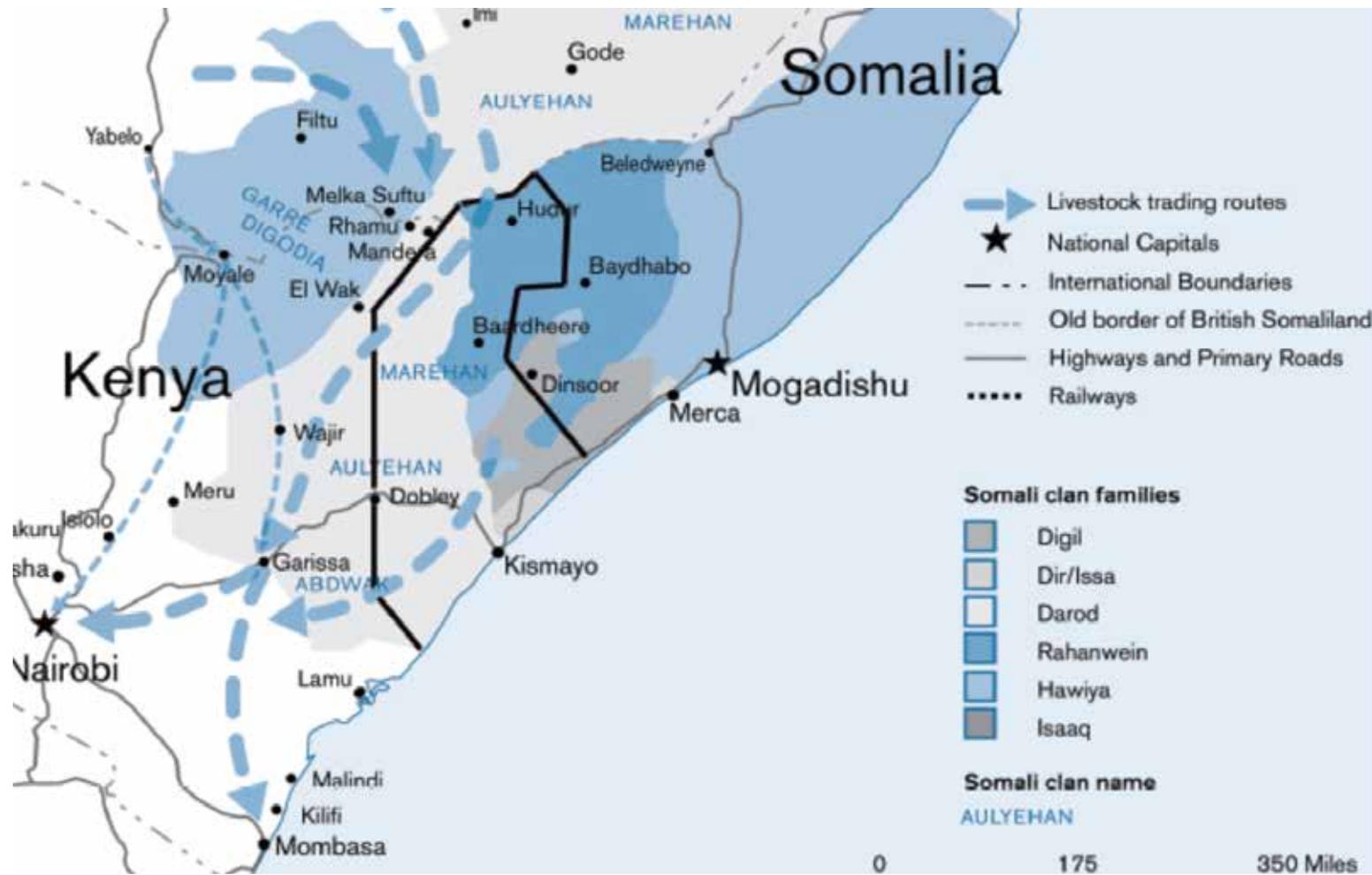
Different types of land-related criminality can be witnessed in Jubaland. One is known as **new fringe pastoralism** and it adds a layer of complexity to land-related conflicts involving pastoralist communities. This phenomenon is not confined to Jubaland. As the African Union notes, insecurity and small arms proliferation among pastoralists are important drivers of the escalation of land conflicts involving pastoralist communities in Africa. All major African pastoralists belong to cross-border communities that are found in two or more countries. Trans-boundary movements are a key feature of

pastoralist societies, which often fuels further conflicts among communities and frictions with state institutions that are often designed to manage sedentary communities.

All these dynamics are present in Jubaland. Born out of the trans-boundary movement of pastoralists is what is now known as new fringe pastoralism: “new fringe pastoralism refers to the activities of a small number of pastoralists who have become increasingly involved in both transnational licit and illicit activities; the illicit activities include facilitating **illegal international migration, human trafficking and trading in arms, drugs and contraband**”. The trans-boundary movement of pastoralists in Jubaland has been taken advantage of by criminal elements, a feature that adds a different dimension to pastoralist activities and conflicts.

Smuggling and other criminal behaviour brings pastoralists into conflict with the state, in particular the law enforcement agencies. Given the trans-boundary nature of the activities, the conflict with state structures also assumes an international scale and controlling such activities is extremely challenging for individual states.

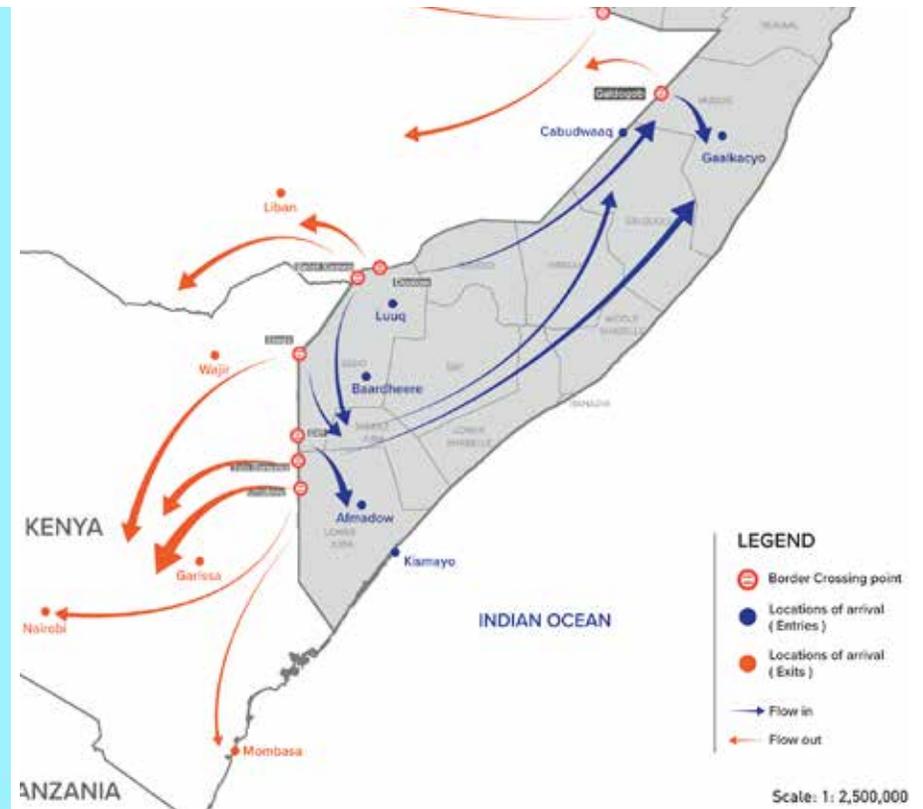
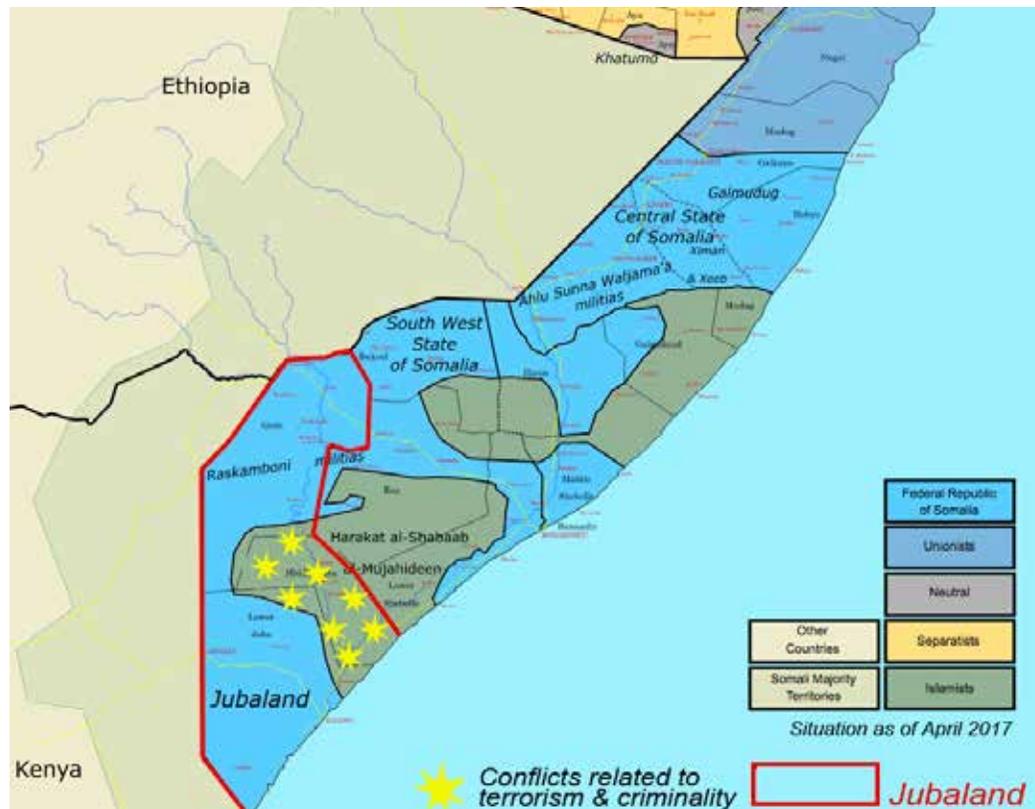
# ANALYSIS OF THE LAND-RELATED ROOT CAUSES OF CONFLICT IN JUBALAND



## Illustration of other land-related proximate factors of conflict in Jubaland

This shows the main livestock trading routes. As indicated in the narrative part of the report, pastoralist movements are at time linked with legal and illegal activities. As the prevalence of arms among pastoralists is common, armed conflicts often break out along such routes. Land use related conflicts are also happening along such routes

# ANALYSIS OF THE LAND-RELATED ROOT CAUSES OF CONFLICT IN JUBALAND



## Illustration of other land-related proximate factors of conflict in Jubaland

The map on the left side illustrates cross border population movements that can lead to land use conflicts over land for settlements and other related land uses.

The map on the right side shows the incidence of land conflicts resulting from the Al-Shabaab presence in eastern Jubaland, resulting in displacement of people and **force evictions**.

# ANALYSIS OF THE LAND-RELATED ROOT CAUSES OF CONFLICT IN JUBALAND

## Trans-boundary movement of pastoralists and criminality

Information from the immigration office in Tog Wajale, a town straddling the border of Ethiopia and Somalia, and from migrants who have returned after being intercepted by the police, indicates that Somali pastoralists, who live on both sides of the Ethiopia-Somaliland border and including those in Puntland, are involved in the migrant smuggling operation along two sub-routes. Smuggling networks operate at different levels, as members of Somali criminal groups, who belong mainly to Gedabursi and Isaaq clans, are networked with smuggling groups in the Somali region of Ethiopia and groups in the states of Somaliland and Puntland in Somalia.

Members of the Somali criminal groups on the Ethiopian side of Tog Wajale act as local brokers, tracking and receiving the migrants who are on their way to the border area, and giving them a temporary place to stay. After arranging transport, the local brokers hand the migrants over to more organized smuggling syndicates in the Somali side of Tog Wajale and further away, up to Bosaso. Members of the criminal groups along the migrant sub-routes operate on the basis of family, clan or close friendship links within specific territories in which the migrants repeatedly change hands on their journey.

Some of the Somali pastoralists involved in the migrant smuggling are traders who own or hire transport vehicles for their side business. Others are even better-off, former pastoralists who have their own large trucks and pickup vans. These well-connected Somali, on both sides of the border, are able to transport the migrants past the towns along the smuggling sub-routes, exploiting their kinship and clan ties as well as paying bribes to anti-smuggling agents. As returned migrants told the research team, local police and immigration officers in Ethiopian Tog Wajale release migrants they have detained on the receipt of bribes from Somali brokers who work with organized smugglers. The released migrants must pay the local brokers additional fees in order to continue their journey across the border.

The Somali pastoralists are engaged in migrant smuggling operations at different levels. They receive substantial financial benefits for their part in smuggling migrants across the border and up to Bosaso, Somalia. The services they provide to the migrants include renting their houses as temporary residences for the travellers, supplying vehicles for transport, guiding migrants on foot around police checkpoints, facilitating communication on their mobile phones and connecting migrants to the next group of smugglers. They get paid for their role as members of the smuggling networks, calculating the costs from the beginning to the end of the journey to the desired destination (for example, to Europe, Saudi Arabia, South Africa or the United Arab Emirates).

Source: Extracted from Economic Commission for Africa (2017), p. 36

## Al-Shabaab

At the time of undertaking the study, the Juba Valley was largely controlled by Al-Shabaab, except areas in the Lower Juba region (Gobwein). New arrivals of IDPs in Kismayo are largely due to the insecurity caused by Al-Shabaab in rural areas, which makes the terrorist group one of the main causes of forced displacement.

Paradoxically, Al-Shabaab also has an important role in relation to **dispute resolution in rural contexts**. Reports were received about rural communities that owe allegiance to Al-Shabaab as a way of protecting their land rights. Al-Shabaab represents a **form of alternative land authority** that is active predominantly in rural areas where it resolves land disputes and collects some form of **land tax**. The

tax is paid by farmers regardless of the level of farm production and “local farmers are abandoning their farms due to heavy tax and frequent rule changes”. Given that pastoralism constitutes the dominant land use in rural Jubaland, it is inevitable that interactions with Al-Shabaab affect mainly pastoralists, although farming and urban communities were also affected at the times when Al-Shabaab controlled Kismayo.

Key informant interviews with people with knowledge of Al-Shabaab-controlled areas revealed that land governance and land issues in those areas assumed a different dimension altogether. One narrative is that when the Al-Shabaab fighters conquered the Juba Valley, large sections of the population fled the area as they were not loyal to them. A smaller section stayed in the area with access to all the land. According to this narrative, there is currently no scarcity of land and there are no significant land conflicts in those areas. In fact, the logical conclusion is that conflicts will escalate in the region only when Al-Shabaab is dethroned from the area, a move that will force displaced citizens to move back to claim their land.

Regarding the **management of land conflicts** that erupt in the areas under Al-Shabaab’s jurisdiction, public perceptions on how the terrorist group

# ANALYSIS OF THE LAND-RELATED ROOT CAUSES OF CONFLICT IN JUBALAND

## The gangs of land grabbers

Land gangs are organized into three groups, each with a specialized function. The first group, known in Somali as *indha indheeyayaal ama dhegadhegeyayaal* (identifying and gathering information), is located in different places and villages in Kismayo. The group's main task is to identify vacant plots of land which it then gathers information. This information is then passed on to the second group, which typically consists of people with military experience and includes retired police and army officers. The group spearheads the operations to seize targeted parcels of land.

Once the land is seized, the third group - *ili ma aragto* (the unseen group) – emerges. This group never shows up in any form of public contestation over the said land and their task is to finance the activities of the first and second groups. It typically comprises of businessmen, qat sellers - particularly women - and some high-ranking officials from government bodies and the military. The financing group is responsible for paying the cost for developing the plot of land, including building a corrugated iron sheet house, a perimeter wall or landmarks, and the costs of preparing fraudulent land documents. The slogan by the land gangs is "*dhul ninkii dhistaa leh*": the land belongs to the one who invests in it or physically develops it.

Most of the time, these groups grab land which is unregistered (*obosibo*). It is often the case that members of such gangs become witnesses for their own position when the land dispute is arbitrated. For fear of armed revenge, members of the public are often not willing to provide evidence against land gangs. In most cases, the grabbed land belongs to women, minority groups and absentee owners not resident in Kismayo or who live abroad. Claiming the land back is complicated by the widely accepted notion that the "land belongs to the one who develops it".

Source: Field Survey, June-October 2017

compares with state authorities are varied. Some informants claim that Al-Shabaab is "fairer when handling land conflicts, with no biases along clan

lines". In the view of others, "some minority groups owed their allegiance to Al-Shabaab simply to ensure that their land rights are protected against the interests of the dominant clans". Other narratives see Al-Shabaab as being selective in the interpretation and application of religious laws related to land, such as inheritance, ; the terrorist group is known for being opposed to individuals owning large pieces of land and often **forces the sharing of such land**. That the group focuses on land dispute-resolution and the protection of its affiliates' land rights shows how crucial it is for a government administration to secure the land rights of the people to strengthen the social pact that creates legitimacy and trust in state institutions, which are key components of state building and peacebuilding.

## Land gangs and land grabbing

Some types of criminal activities are specific to urban areas. Key informant interviews with residents of Kismayo and law enforcement agencies revealed the existence of "**land gangs**" made up of groups of 15 to 20 individuals from different clans who engineer land grabbing. These gangs collude with other structures of society such as clan elders and community dispute resolution structures to facilitate

## Liya, a victim of land grabbing

Liya (not her real name) is a widow aged 38 years with eight children. She is a member of the Ormale clan. Her husband was killed by Al-Shabaab in 2013 and she and her family live in Bulo Haji, in Dalcadda Allanley Village, some 45 km to the west of Kismayo. She inherited a plot of land from her father, who was born and lived in Kismayo. Her late father had two families, her mother's and her stepmother's. Her mother lived in Bulo Haji, keeping cattle and goats. The stepmother and her children resided in Kismayo, as their father worked in the Somali Government. The father died in 2003 leaving a total of 12 children. Liya's original/inherited land was subsequently acquired and used for urban development. In return, she was allocated two plots measuring 40 m x 40 m. Due to financial difficulties, she was not able to build on any of the two plots. However, the land is registered and she has the property documents.

Three months after the death of her father, the town was captured by warlord Bare of the Marihan clan and two men of the Bare clan grabbed her land. She made several attempts to meet their clan elders at the time the land was grabbed, but they turned a deaf ear. Later, the two men sold the land to a diaspora man from their clan who immediately built a perimeter wall. The woman alerted him to the situation, noting that she was the rightful owner of the land and that she had sufficient witnesses to prove her case. The man refused her claims and argued that he had bought the land and was therefore the rightful owner. The woman has no close relatives to help her fight her cause, with her children still young. She is a bread winner of the family and runs a small shop in Bulo Haji. On several occasions she has travelled to Kismayo, hoping to get assistance from the court. At the time of the interview, she had travelled to Kismayo to pursue her case, having made an appointment with Deputy Mayor of Kismayo. However, the official was not there to meet her and hence she planned to come back in another two weeks' time.

Source: Field Survey, June-October 2017

# ANALYSIS OF THE LAND-RELATED ROOT CAUSES OF CONFLICT IN JUBALAND

criminal transactions. In other cases, criminal transactions involve businesspeople from abroad (diaspora) who want land for business and investment. The practice of **land grabbing** has intensified in Kismayo over the last couple of years. In general, the lack of economic opportunities and employment coupled with the high demand for land in situations where land markets are not functional has resulted in the criminal activities that involve land transactions flourishing. Land market transactions are, by and large, conducted to sustain livelihoods in urban areas.

Land gangs normally target and grab land which is unregistered and without landmarks. Initially, the gangs do their own “intelligence surveillance” and collect background information on targeted land parcels: whether or not there is someone living on the land, size of the land, any available documentation about the land, details about neighbours living in the area, etc. When the required information is in place, the gangs physically make a claim to the land by erecting landmarks and are known to use excessive force, especially guns, to deter people from intervening. Land gangs are known to be organized across clan lines. In other words, gangs can be made up of people from different clans working together for financial gain by violently seizing land.

The existence of land gangs and cartels was widely confirmed by all stakeholders interviewed in the context of this study. The general perception was that land as an economic resource attracted the interests of both minority and majority clans to use it for business through unlawful/illegal land grabbing practices. In an interview with an official working for a local NGO, examples were cited where land grabbing targeted families/people who were all from the same clan. In the view of those interviewed, cases of land grabbing engineered by people from the majority clans (or people with links with the government) might not be solved easily, largely due to favouritism in existing government systems such as the courts and the police etc. In practice, it means some elements within government could potentially be part of the land grabbing gangs.

The **gender dimension** of land grabbing is not that straight forward. In many instances, women are victims, but there was also evidence that women who have power and money are involved in the land grabbing business. However, the norm is that ordinary women are less likely than men to engage in the land grabbing business.

The Police Commissioner estimates that 15 land related cases are reported per day in Kismayo alone - approximately 450 cases per month – and of these, many are related to land grabbing. The main areas where land grabbing is prevalent include Kibora, Gulwade, Saa Mojaa, Shakhala and Alanleey (along the beach) where the focus is mainly unregistered land. Violent confrontations are known to occur once the land grabbers are confronted by people knowledgeable about who owns what parcel of land in the area.

## 2.2.4 *Unregulated and exploitative investment*

The combined **weakness of state institutions, lack of sound administrative processes and rule of law** lead to an investment scenario that is highly unregulated and exploitative. In many cases, the **absence of a functioning land administration system** is such that it is virtually impossible to carry out any land-related investment “legally”. According to the Somalia National Development Plan 2017-2019, a 2014 World Bank Group Survey of 500 firms in Somaliland concluded that the main obstacles to private sector development included inadequate land titling systems. A similar, if not worse situation, is found in Kismayo. On the other hand, groups and

# ANALYSIS OF THE LAND-RELATED ROOT CAUSES OF CONFLICT IN JUBALAND

individuals take advantage of the current situation to appropriate valuable tracts of urban, peri-urban and rural land to their advantage.

The relative peace and stability that prevails in Kismayo is a major attraction for investment. Evidence shows that private sector players and individuals, especially those from the diaspora, need land for investment purposes but there are no clear, formal channels to access it, which forced investors to acquire land through “informal channels”. This has fuelled conflicts as some of the land offered for sale has disputed ownership records.

The absence of transparent land markets to facilitate access to land for investment has created complexities. For instance, the idea of Kuqabso Kuqadii Meheysithe (you can just grab land and at the end of the day you will get something in return) has fuelled much disorder and many conflicts. In the words of one official: “In Somalia, there are people whose only business is that of land grabbing. Even if they were not there at the time of site planning and drilling, they can still come to you several days after, claiming ownership of the land. We normally give them some small money and they will go. At times when one group goes, another comes to claim ownership as well.” Such a situation

impedes investment and causes the slowing down of the much-needed economic growth.

## Examples of how land investors deal with land conflicts

A private company that provides water services to residents described the difficulties and problems associated with land acquisition. For that company, conflict occurred during the process of acquiring land to drill boreholes and install pipes. Company officials said that the organization normally purchases unregistered land (obosivo) as it is more convenient to acquire land from individuals who are willing to sell unregistered land, which is cheaper and entails less complicated acquisition processes. The Chief Executive Officer said that “to avoid land disputes/confrontations associated with the land market transactions, the organization pays money to all people claiming ownership of the land in the areas of operation”.

Another company involved in the provision of water services had a similar experience. The company accessed two separate plots. The first was government land with old buildings which they rehabilitated in 2014, and which are currently being used as offices. The second plot was unregistered land on the outskirts of Kismayo that was purchased from individuals to be used for drilling boreholes. After the purchase, different claims on the land emerged as more people came forward saying it was their land. According to company officials, an agreement was made with the people who claimed ownership of the land, allowing the company to start drilling boreholes before payment of compensation. Upon completion, all the individuals claiming ownership of the land were paid. At the company’s request, the transaction went through the office of the Notary Public, with witnesses being called to confirm the transactions. Since then, the company has not had further challenges relating to ownership of the land.

Source: Field Survey, June-October 2017

Further, existing **practices of managing land conflicts** can breed more conflicts. The practice by some private sector players to pay off anyone and everyone who makes a claim on land acquired by them encourages “criminal members” to make claims in situations where they do not own the land claimed. The arrangement appears “too loose” and open to abuse by criminal elements.

## The diaspora and their land needs

Members of the diaspora are also actively involved in the accessing of land. These people can be classified into two main groups: Somalis who owned land and property before they left the country and who are returning to claim their land rights; and Somalis who are returning to invest in the country and who seek to access land through informal land markets.

Overall, the **non-availability of formal land markets** costs Jubaland the much-needed investment and also denies ordinary citizens their rights to access land for investment and development. With little or no employment opportunities, people, especially youth, are tempted to engage in illegal practices such as land grabbing, while the prospective of joining armed groups is a reality, further contributing to violence and armed conflict.

# ANALYSIS OF THE LAND-RELATED ROOT CAUSES OF CONFLICT IN JUBALAND

## Land transactions and the diaspora community

A member of the diaspora community purchased a 10 x 10 m plot for USD 800 in Khudbiga Hajiga, Sinay village. The land was bought from land grabbers and was destined for residential use. The land ownership documents were prepared by the office of the Notary Public and no complications have arisen from the sale.

A second member of the diaspora community bought a 40 x 40 m plot from land grabbers in Kibora village for about USD 10,000. The transaction went through the Notary Public's office. The land is to be used for residential development and a perimeter wall has since been erected. No complications have arisen as a result of the sale.

It is not uncommon that members of the diaspora who come back to Jubaland or Kismayo find their land occupied, especially if the land is not developed. The study came across a case of a diaspora woman who owned a 20 x 20 m vacant plot in the Fanole area that she bought in the 1980s and had original property documents to prove ownership. When the war started in the early 1990s, she left the country for the United States and only returned in 2014 when the Jubaland Peace Agreement was signed. Once back, she discovered that somebody else was claiming ownership of her plot although the plot was still undeveloped. She approached the courts and produced her original documents whereupon the courts asked for a payment of USD 5,000 to judge in her favour. The woman refused to pay this money but the other claimant did pay the amount and was awarded ownership. The two people were from different clans, both of them majority clans. The woman has since died and her son has restarted the court battle to get the land back.

Source: Interview with members of the diaspora, 21 October 2017

## The remittances and the banking system

Section 2.3.2 describes the consequences of weak land administration systems in Jubaland. Other important factors leading to land-related conflicts are the significant flow of **remittances** into the Somali's economy, amounting to an estimated 25 per cent of the country's GDP. Remittances are often used to cover the basic costs of living and education, but also to purchase land and build properties. In a context where the land registration system has collapsed, purchasing land "legally" is de facto impossible and the incidence of land conflicts related to multiple and disputed ownerships is extremely high.

Further, Jubaland does **not have a fully functioning banking system** and securing one's future through saving or investment plans in the country is virtually impossible. The **land sector is the economic safety net** and purchasing or illegally taking over land is often seen to be the safest and best investment for the future. The establishment of a functioning banking system would take away some of the pressure on land-based investments, resulting in a more productive and efficient use of land, in both urban and rural areas.

## 2.3 GOVERNANCE-RELATED CAUSES

This chapter illustrates root causes of conflicts related to governance, the land-related proximate factors and the most common triggers that lead to violent conflicts in Jubaland.

### 2.3.1 Weak governance

Weak governance – in terms of **state institutions and traditional and religious authorities** - is a major problem for Somalia and Jubaland. Jubaland is a state in the making and its institutions, their role and mandates, and their way of interacting and collaborating still have to work out and build on the current strengths, improve partially functioning institutions to make them more effective, transparent and accountable, and radically modify some aspects that do not work. This is a crucial aspect of tackling the issues of land and conflict in Jubaland. This report does not analyse overall governance aspects, but rather focuses on land governance and land governance institutions (see below), although those are clearly linked to the overall governance frameworks.

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## Outline of the governance-related root causes of conflicts, the land-related proximate factors and the most common triggers of violent conflict

Root causes of conflict	Land-related proximate factors	Triggers of violent conflicts
Weak governance	<ul style="list-style-type: none"> <li>Weak institutional governance</li> <li>Weak land-related institutions lacking legitimacy, with no clear roles or mandate, little capacity and resources</li> <li>Legally pluralistic system (statutory, customary and religious laws)</li> <li>Established common land governance practices that do not follow the laws</li> <li>Unclear land rights (ownership, customary and use rights)</li> <li>Lack of/limited legitimacy of government administrations dealing with land governance</li> <li>No adequate policy, legal, administrative and institutional frameworks</li> </ul>	<ul style="list-style-type: none"> <li>Large inflow of population due to returns, further displacement, migration</li> <li>Inflow of external capital and interventions requiring large portions of land (for agriculture, humanitarian interventions, infrastructure, etc.)</li> <li>Conflicts over land ownership or land occupation escalate into violence and killings (and potentially assume community/clan dimensions)</li> <li>Elections (or coups)</li> </ul>
Weak land administration	<ul style="list-style-type: none"> <li>Majority of land is unregistered</li> <li>No functioning land registration system and impossibility to acquire land ownership legally</li> <li>Widespread land grabbing</li> <li>Highly dysfunctional land markets</li> <li>Customary land disputes-resolution system functioning but with important limitations</li> <li>Formal land dispute-resolution system (courts) partially functioning and only in urban areas</li> <li>Disconnect between formal and customary land-dispute resolution system</li> </ul>	<ul style="list-style-type: none"> <li>Conflicts over land ownership or land occupation escalate into violence and killings (and potentially assume community/clan dimensions)</li> <li>Forced evictions</li> <li>Politicization or manipulation of land disputes</li> <li>Reforms introduced change the power balance of groups and clans</li> </ul>
Politics of exclusion	<ul style="list-style-type: none"> <li>Land dispossession to the detriment of smallholder farmers and weaker rural communities</li> <li>Marginalization and blockages in accessing land for minority clans and other minority groups</li> <li>Exclusion of 'IDP communities' and returnees from accessing the full range of land rights and marginalization in 'IDP settlements'</li> <li>Spatial, social and economic segregation of vulnerable communities</li> </ul>	<ul style="list-style-type: none"> <li>Forced eviction of 'IDP households/communities' at the hand of 'host communities' or more powerful groups</li> <li>Elections or coups</li> <li>Radicalization and violent extremism</li> </ul>
Capture of state instruments	<ul style="list-style-type: none"> <li>Armed and terrorist groups take up government's functions;</li> <li>Clans or groups capture state instruments to the advantage of their particular group</li> </ul>	<ul style="list-style-type: none"> <li>Confrontations escalate into violent conflicts</li> </ul>
Chaotic urbanisation	<ul style="list-style-type: none"> <li>Dysfunctional land registration</li> <li>Contested land claims on a large scale</li> <li>Grabbed open spaces and vacant land</li> <li>Conflictual land dynamics render urban land management and dispute resolution challenging</li> <li>Land-use conflicts between pastoralists and urban residents</li> <li>Haphazard spatial urban development</li> <li>Urban expansion taking place in an un-serviced and unsustainable manner, including in unsuitable land</li> <li>Spatial, social and economic segregation of vulnerable ('IDP communities')</li> </ul>	<ul style="list-style-type: none"> <li>Conflicts over land ownership, occupation, use or land grabbing escalate into violence and killings and potentially assume community/clan dimensions;</li> <li>Spatial, social and economic segregation leads to social unrest, violent demonstrations or attacks to individuals, groups or institutions</li> <li>Radicalization and violent extremism</li> </ul>

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## Weak land governance

Of the different root causes of conflict in Jubaland, weak land governance is one of the most important. “Land governance concerns the rules, processes and structures through which decisions are made about access to land and its use, the manner in which the decisions are implemented and enforced, and the way that competing interests in land are managed.” Land and the way it is accessed, used and controlled is a key element of sustainable social and economic development, peace and stability, and the realization of human rights. The elements presented below are the most relevant land governance weaknesses that lead to land-related conflicts.

## Plural legal system

Jubaland’s land is governed by a **legally pluralistic system** in which statutory laws, customary laws and Islamic law coexist, complement each other and overlap in a chaotic manner; the laws are often engrained in **common practices**, which appears to constitute the most solid element of such fluid land governance system.

Under the **customary law**, land is treated as a sacred collective good, a symbol of power inherited from the ancestors, and is communally owned. Individuals

have the right to use the land and these rights can be transferred from parents to children or granted by the community elders, who act as customary land administrators. Elders also have the right to resolve property-related disputes among clans and sub-clans, playing the important land administration function of customary land dispute resolution.

**Islamic (or sharia) law** is a system of religious rules derived from the Qur’an and Hadiths; it has a stronger power and is more respected than the customary law in Somalia. The laws also form and act as a guiding principle for secular legislation.

**Statutory law** is the codified law developed by formal state institutions, as described later on in this chapter.

The relationship between statutory and customary and/or religious law is determined by the **status of customary and religious law within the legal system**. This varies across countries, ranging from full or partial recognition to non-recognition of customary and/or religious law. In Jubaland, the legislative vacuum leaves this issue unaddressed, creating a large grey area for formal and traditional justice administrators. Such weakness particularly affects areas of land law that are related to personal

law and family law that deliberates on marriage, divorce and inheritance, all of which have important land implications. Several attempts have been made by international organizations and governments’ initiatives to work in an integrated manner with the legal pluralism that prevails in Somalia with varying levels of success. This is an important area that requires the attention of the current and forthcoming Somalia and Jubaland administrations.

## Unclear land rights

In spite of the prevailing legal pluralism existing in Jubaland, discussions with key informants about land rights are often restricted to the few statutory law provisions that constitute the main legal basis of the prevailing land rights.

Under the said legislation, ownership and control of land was transferred to government. The law made it compulsory for all individuals to register their landholdings within six months of the enactment of the law.

Effectively, the **1975 land law formally eradicated customary land tenure**, substituting it with state leasehold title as the only means to claiming land rights, pushing millions of Somalis into informality.

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From a legal perspective, all land in Jubaland is public property, with provision for government to issue leaseholds for private ownership. Failure to register land that one was farming meant that claims to such land were lost and registered land that was left idle could potentially be repossessed.

In practice, despite the enactment of the 1975 Land Law, **most of the land remained unregistered** because of various constraints associated with the cost and bureaucratic procedures. The land that was registered was mostly in urban centres such as Kismayo, or tracts of agricultural land used for cash-crop farming and export goods (investment driven rather than subsistence driven), a situation that is still unchanged. The registration process responded better to the needs of the urban elites or the groups closer to the Barre administration, and did encompass the criteria of inclusiveness and fairness.

“Little registration by local farmers and - unfortunately - a significant amount (of registration) by well-connected outsiders” took place. The land registration process was characterized by **corruption, lack of transparency and inadequate land administration support**. “Wealthy businessmen and government officials from the city with affiliations

to villages in the Juba would legitimately acquire a small plot by purchase or allocation and then register a much larger area with boundaries of the plots substantially exaggerated in the registration process.” Besten’s analysis of the land registry also showed that there was no general plan to support the land registration process, with some people submitting only rough maps drawn by themselves. Consequently, the flawed land registration process created the basis for the dispossession of the poor of the land, and the aftermath of the exercise was an important determinant of land conflicts in current Somalia, Jubaland included.

Such shortcomings are, however, largely undocumented and seldom count against the legitimacy of the Barre land recordation system, which is still considered to be the most reliable and authoritative source of land rights documentation.

Based on interviews with key government officials and other key informants, the Barre era land records are the key source of uncontested land documentation that prove land ownership in Jubaland. Following administrations **lacked the required uncontested legitimacy** and land documents issued then do not hold the same level of validity than the ones issued

during the Barre era. Because of the protracted conflict following the fall of the Barre Government in 1991, land records that originated from that period define what is still considered to be “registered land”. The rest is defined as “unregistered land”. Most citizens are settled on unregistered land, with no documentation to prove ownership.

Further, **communities have never “completely” assented** to that situation where all unregistered land is seen as belonging to government. Agricultural land continued to be communally owned and administered through customary practices. Similarly, in current times, when government “acquires” land and reallocates it for other functions – a typical case is land for IDP settlements in peri-urban areas - that same land is claimed by the communities and their customary administrators.

As mentioned, the failure of formal titling is more visible and more disastrous in urban contexts, but more broadly, a combination of customary and formal land registration systems has been considered by some, building on the idea of hybrid land governance systems that seem reasonably viable in conflict and post conflict countries. “Non-formal institutions are often the only ones left standing after civil conflict

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and hence play an unavoidable role in governance, including management of land disputes in urban settings; but they must not be romanticized as they are embedded in social power hierarchies that serve some interests much more effectively than others.”

Customary land governance is clearly very active in Jubaland’s rural and urban areas and “available evidence suggests that customary and informal authorities are better suited to the ad hoc

management and negotiation of chronic urban land disputes than in providing an alternative system of land tenure to formal titling”, at least in the short to medium term.

## Statutory land governance institutions

The little literature that exists on land governance in Jubaland depicts generally weak systems and multiple land governance challenges, such as “needs greater

transparency and certainty in land tenure regimes”. The Jubaland Baseline Report notes that “many state **institutions remain weak or lack legitimacy**”, including those with a role in land governance.

Some of the causes of such institutional weaknesses are linked to the **political situation** of Somalia as a whole and the Jubaland administration in particular. The control of Jubaland is divided between the Jubaland administration, in control of most urban centres with the assistance of AMISOM, and the Al-Shabaab militia group that is in control of rural areas and has a hidden presence in most urban centres. Other weaknesses are inherent to the specific institutions and include **lack of clear roles and mandates** of different public institutions at the federal, state, provincial and district levels; **weak capacity and lack of resources**. Clarity on what is decided and legislated at federal, state or district level with regard to land is yet to materialize.

In Jubaland, there are several government ministries and departments involved in the land sector, as illustrated in the table below. State institutions are new and significant work is still required to build a solid land governance system, to **define adequate policy, legal, administrative and institutional**

## The provisional Jubaland Constitution and land governance

The Provisional Constitution of Jubaland has important provisions with implications on land governance frameworks in the state. Article 1 states that the Jubaland State of Somalia covers the geographical area of Middle Juba, Lower Juba and Gedo regions. The provisional constitution embraces federalism and acknowledges the role of the Federal Government of Somalia. However, the specifics of how land governance frameworks in Jubaland will relate to the level land governance frameworks are not articulated.

Article 23 of the constitution provides for the eminent domain powers of the state: “The government may only expropriate property in a legal and transparent manner, and when justified by public interest. Any person whose property is legally expropriated has the right to just, fair and timely compensation.”

The constitution defines the Jubaland State people as the Somali citizens who inhabit the Middle Juba, Lower Juba and Gedo regions. A Jubalander is any person who has resided in the State of Jubaland for at least six consecutive months. This broadly identifies the issue of citizenship, which has implications for land rights, which are defined as: “Every person has the right to own property, and to reside, enjoy, sell and transfer such property at will.”

Chapter 5 Article 82 of the provisional constitution articulates further the envisaged setting up of the Land Use and Dispute-Resolution Commission. It is specifically mentioned that: (1) There shall be a Land Use and Dispute Resolution Commission which shall encourage the development of policies on land use and tenure systems in Jubaland to ensure its fair and equitable use; (2) The commission shall foster reconciliation, unity, healing and ensure that the matters relating to property dispute are addressed through a legal and state-directed process; (3) Members of the Land Use and Dispute-Resolution Commission shall not be more than seven members, of which at least two are women; (4) A law shall be enacted to establish the structure and the duties of the Land Use and Dispute-Resolution Commission”.

Jubaland has already started processes that lead to the establishment of the Land Use and Dispute-Resolution Commission and the enactment of the Land Law. This study illustrates the type of land conflicts that the commission will be expected to solve. However, the provisional constitution does not give details on the distribution of land governance powers to other structures such as ministries, local authorities and traditional structures, such as the elders.

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**frameworks**, and to develop the required capacities and human resources. The mandates of the key ministries are still evolving, as are the related coordination functions - no written job descriptions of key officials in the land governance ministries exist. As of December 2017, plans are being made for additional land governance institutions, such as the Land Use and Dispute-Resolution Commission.

Observations of the Saferworld Report are that “the **lack of job descriptions** and clarity of roles and responsibilities had created tensions between ministries and civil servants, thus enabling the population to understand how best to relate to and engage with government will be challenging. This will inevitably lead to obstacles in holding authorities accountable for their responsibilities given that people, let alone civil servants and appointed officials, will not know who should be responsible for tasks”. Whereas the functions of key government ministries and departments complement one another, some of the **overlapping mandates can contribute to the escalation of land conflicts**.

Some reported cases of institutional conflict are, for example, when the Ministry of Agriculture allocates land for crop farming; pastoralists might feel

## State institutions working on land governance

Agency	Main functions on land	Other land related functions
Ministry of Public Works & Housing	Mandated to provide land allocation and housing to all residents living in Jubaland. Supports the municipality (Land Department) in issuing of rights to urban land.	Supports the issuing of rights to land & property to IDPs/returnees.
Jubaland Refugee & IDPs Affairs Commission (JRIAC)	Coordinating with INGOs working on shelter programmes in Jubaland Involved in mediation of land conflicts between IDPs/returnees and host communities/government agencies	Work closely with UNHCR in providing livelihood opportunities, education and health facilities to IDPs/returnees
Judiciary – court system	Providing remedies/solutions to land disputes on registered land in Kismayo/Jubaland	Referring land disputes on unregistered land to traditional mechanisms
Police Commissioner	The police department receives & refers land cases to either traditional elders or courts, depending on whether the dispute is over registered or unregistered land.	Main function is enforcement of the law. The police department is also involved in other conflict cases which might have a nexus with land matters.
Ministry of Interior	The ministry supports land allocation and the issuing of ‘title deeds,’ with municipality – land department on solving land disputes. The ministry collaborates with the Ministries of Public Works and Housing.	The ministry is responsible for policing, emergency management, national security, registration, supervision of local government, and conduct of elections, public administration and immigration matters.
Ministry of Agriculture	The ministry is responsible for maintaining food security through supporting farmers and pastoralists to produce agricultural products and thus boosting the economy.	The ministry works with other ministries whose activities interact with agricultural land.
Ministry of Fisheries/ marine resources	The ministry requires land for marine/fisheries operations along the beach area.	The ministry is responsible for the protection of fisheries/ marine resources. It is also mandated to promote business related to fisheries/marine resource extraction.
Jubaland Land Use and Dispute-Resolution Commission (yet to be established)	The commission should encourage the development of policies on land use and tenure systems in Jubaland to ensure its fair and equitable use. The commission shall foster reconciliation, unity and healing, and ensure that the matters relating to property dispute are addressed through a legal and state-directed process.	TBD

Source: Field Survey, August 2017

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aggrieved and left out as the same land is needed for the grazing of their animals. Another example refers to the acquisition and allocation of land by Jubaland Refugee & IDPs Affairs Commission (JRIA) for the settlement of IDPs and returnees; the study identified several cases where host communities contested the allocation of what they considered their land to IDPs and returnees.

Public perceptions about the **performance, transparency and accountability** of land ministries tend to vary based on individuals' or clans' points of view. The constitutional review is currently taking place at the federal level; once completed, the definition of roles and responsibilities of different institutions and levels of government will be clearer, setting up the foundation for strengthening land-related institutions as well.

## Policy and legal frameworks

There is no current land policy and land law in Jubaland. There are also no related physical planning and land administration frameworks, and the usual practice is to rely on the "remnants" of the law from the Barre era, both in rural and urban contexts. A review of available government documents makes reference to the Surveyors Act Cap 63 of 1964 and

the Physical Planners Registration Act No 3 of 1964; however, these could not be identified during the preparation of this study. In the pipeline are two pieces of legislation on land issues in Jubaland: the Land Law and the Local Government Act.

The proposed land legislation prioritizes land-conflict resolution, land registration, institutional development and urban settlements planning, as shown in more detail in the box below. The focus on the development

of a clear framework and responsibilities for key ministries working in the land sector further confirms that the mandates of such institutions are still evolving. It is notable that there is no similar ongoing process on the development of the Federal Land Policy yet, although it would have been appropriate to start with the development of the Federal Land Policy prior to the development and enactment of the land laws at the state level in Jubaland and other states of federal Somalia.

### Issues and objectives of the proposed Land Law

The Land Law under development addresses the following issues:

- Restrictions and containment of illegal land-grabbing practices
- Identification and registration of government land ownership
- Support for the government in allocating land for residential purposes
- Support for the government in allocating land for developmental projects (e.g. tourism)
- Establishment of a land commission to provide oversight/management of government land in close collaboration with the Ministry of Public Works and Housing
- Provision of a clear framework and responsibilities for key ministries working on land matters
- Support for the development of master plans for urban settlements
- Support for the documentation (provision of title deed) of all unregistered land (obosivo)
- Provision of guidelines on land market transactions

The focus of the Land Law is on the technical aspects of land governance, with less emphasis on human rights issues. A key recommendation will be for the Land Law to operationalize relevant aspects of the key land-related human rights frameworks, including the Pinheiro Principles. The massive displacements of people because of the protracted war makes it necessary to deal with issues of restitution of lost land rights, including perhaps the establishment of a cut-off date to deal with land restitution cases, the allocation of land to returnees and to address historical land injustices, etc.

Further, the Land Law can also recognize the role of traditional mechanisms in land disputes resolution, providing space for their modernization and upgrading. Also, the Land Law needs to clearly articulate the role and mandate of the Land Use and Dispute-Resolution Commission and ensure that its functions do not compete or conflict with line ministries.

Source: Draft Land Law (English version) and author analysis.

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From focus group discussions and interviews with key informants, a **worrisome range of conflicting assertions about land governance decisions made by government** emerged, with no written proof of their authenticity (or lack of it). This gives the image of an extremely fragmented land governance sector in which key informants have a very limited factual knowledge of key land governance decisions and where there are many inconsistencies and grey areas. Such factors undermine the trust of the public in the land governance sector and this creates a fertile ground for land-related conflicts to emerge. The **culture of verbal communication** within government institutions is part of this problem, together with the lack of certainty and predictability with land-governance related decisions.

## 2.3.2 Weak land administration

Weak land administration is at the core of many land-related conflicts in Jubaland and Kismayo in particular.

### Land registration system

Titles to registered land are possibly the single biggest land governance issue that heats land-related discussion of Jubalanders, so much so it is often

difficult to approach land governance from a broader perspective. Land registration is the one problem that Jubaland will have to solve in the short term for two key reasons: to unlock the social and economic potential of its urban and agriculture land and to gain the required legitimacy in the eyes of the population.

The Danish Demining Group (2017) describes the issue as follows: “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 claims. **Occupation, sale and resale of property** since 1991 has made it difficult to provide original ownership. Deaths of original landowners 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 they force 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. The returnees fall into this latter category and so will be very vulnerable to land grabs if they attempt to buy real estate.”

Such a dysfunctional land registration system causes and is aggravated by the common practice of **illegally occupying or grabbing land** by physically enclosing it with perimeter walls or landmarks, especially in urban and peri-urban areas. Land grabbers often use their alleged ownership to sell the land that is bought “legally” by third parties, creating an intricate scenario of land claims and land rights: a breeding ground for conflict.

The construction of **perimeter walls** is a significant financial investment and a particular “public announcement” on the ownership of the land. It demonstrates the confidence that people have in the informal land rights system that prevails in Jubaland and is at the heart of the tension between *de jure* and *de facto* land rights.

One key informant made the observation that “registered land is scarce and expensive, and few can afford it. The only land available is unregistered land;

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## A conflict over grabbed unregistered land

Asha (not real name), a widow in Kismayo, owned a piece of land in the Via Afmadow Village in the Shakalla section of Kismayo. The plot is on unregistered land with no formal land records to prove land ownership. The woman, who belongs to the Makubul clan, bought the land more than 20 years ago from someone from another clan but the plot remained undeveloped and the widow did not invest in any buildings or construct land marks to assert her ownership. One day, Asha discovered that her plot had been occupied by a man from the Gaal Jecel clan and he had already constructed landmarks on the land. She was powerless and could only report the issue to the elders.

Elders from both clans gathered to deliberate on the case but, as usual, they could not agree on a solution. Neither the widow nor the man have documentation to prove their ownership of the land and each had witnesses who supported them in the dispute.

The broad-based Gurti Plus Committee made up of elders from all clans in Kismayo was called to intervene and a hearing was conducted in which the committee ruled in favour of the widow. While accepting the verdict, the man made a claim of about USD 500 as expenses he had incurred at various stages of developing the land, including the construction of landmarks. The widow agreed to pay the claim and the case was closed.

Source: Field Survey, June-October 2017

yet that land is highly prone to contested ownership. The contested land ownership is difficult to solve, as parties to the conflict often have no papers to prove ownership, with both claiming to have arrived on the land first”.

## Land dispute-resolution systems

Land-dispute resolution is an important element of the land and conflict dynamics in Jubaland and a key focus for the Jubaland administration. As a demonstration of this, key informant interviews with top government officials noted that the president of the State of Jubaland has set aside two days a week, Mondays and Wednesdays, to meet with citizens and listen to their complaints which, in most cases,

are about disputes and conflicts over land. Minority groups also take advantage of such fora to present their land claims to the president; it is a streamlined procedure for which citizens only need to go through the security checks and access to the president is guaranteed.

Land disputes in Jubaland are currently handled by a **range of processes and stakeholders** that can be categorized as formal and customary or traditional.

### *The formal land dispute-resolution system*

The judiciary in Jubaland is composed of District, Regional, Appeal Courts and the Supreme Court, although the latter has not yet been established. Each court is headed by a president (Gudomiye) and

composed of judges and court clerks. Land issues are only heard in Regional and Appeals Courts as the District Courts are not mandated to hear them. It should be noted that **courts only deal with registered land**, while unregistered land disputes are addressed by traditional clan elders. This restricts the area of authority of courts to urban areas under the control of the Jubaland administration; courts do not actively operate in **Al-Shabaab controlled areas** because of security reasons. According to some key informants, Jubaland courts deal with about 10 land-related cases per week, normally filed at both the Regional and Appeals Court.

Some respondents are satisfied with the clan composition of court personnel, a guarantee of **fairness, respect and dignity**, while others think that minority clans are excluded. The recruitment of court personnel is based on merit, but fear of retaliation by unsatisfied customers is reportedly a key challenge to ensuring the high quality of personnel. The interviews carried out for this study indicate that Jubaland judges and supporting **staff are generally unskilled**, with insufficient knowledge of both basic legal principles and applicable ordinary laws, and registrars are not trained for the job. For most litigation cases handled by the courts there are **no**

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**public records** and therefore it was not possible to assess the reasoning, fairness and objectivity of land-disputes resolution through the courts. Overall, the study found the Jubaland judiciary to be ineffective.

## *The customary land dispute-resolution system*

Customary law and traditional dispute-resolution mechanisms are crucial in the management of land disputes in Jubaland. Somali customary law, also known as *bar*, represents a key instrument to manage conflicts, land disputes included. *Xeer* is constituted of **traditional norms, rules and obligations developed by traditional elders** to govern inter and intraclan relationships and mediate peaceful relations between Somalia's clans and sub-clans.

In Kismayo, for instance, the traditional dispute-resolution mechanism has at its helm the Guurti Plus Committee, composed of some 60 members from all clans in Kismayo, including majority and minority clans, and more recently women, business and religious leaders.

The Guurti Plus Committee operates through the smaller unit of 10 members and handles all types of land conflicts: boundary problems in urban contexts,

conflicts between croppers and pastoralists, contested ownership of plots, land grabbing, etc. A major factor affecting the work of traditional mechanisms in disputes is **clan bias**. To remedy the situation, it is common practice to bring in arbitrators from clans that are involved in the conflict. **The interaction of the traditional dispute-resolution system with government institutions** is generally limited to the referencing of cases. The Land Department of the Kismayo Municipality noted that a closer collaboration with traditional structures is not possible as their *modus operandi* is fundamentally different: the government must follow the laws, while the traditional mechanisms are open to negotiation on all aspects. For instance, in cases where parties fail to agree on ownership of land, the Guurti can simply divide the land into two and apportion each of the parties a piece. In situations of land grabbing by youth, it is common practice for the Guurti to ask the owner of the land to pay the youth some money to end the conflict.

Traditional dispute-resolution mechanisms are currently handling all forms of dispute that involve pastoralists, crop farmers and charcoal producers in Jubaland and, on this basis, clan elders call for more

support for such structures, with more involvement and support from the state, to enable customary land structures to better manage disputes and be better able to carry out even technical interventions such as participatory land-use planning. As for the formal dispute-resolution system, **traditional mechanisms do not document** the efforts made and the impact of their peace building and conflict management work. There is no inventory of cases handled or final verdicts reached.

According to the elders interviewed, the Guurti structure was the only functioning mechanism at the height of the conflict in the absence of a functioning government. Members of the Guurti Plus Committee have extensive knowledge and experience in land-dispute resolution. However, despite the significant role played by the traditional structures in resolving disputes, the public seems to be in favour of the formal government structures. "Elders continue to be seen as primary decision makers; however, the research indicates that much of the population want formal governance structures. They want district administration and the Jubaland administration to lead on service provision, dispute resolution and local management of resources such as land."

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There seems to be clear scope for **modernizing and improving the traditional methods** of dispute resolution and for better collaboration between government and the traditional systems of dispute resolution and land governance in general.

## 2.3.3 Politics of exclusion

The politics of exclusion are an important root cause of land-related conflicts that finds fertile ground in the weaknesses of the land governance and land administration described above. Jubaland has a long history of politics of exclusion.

### Smallholder farmers and rural communities

Without going back further in time, the **land dispossession** carried out under Barre are clear examples of politics of exclusion. The 1975 Land Law that effectively **eradicated customary tenure** and put all land under state ownership created the conditions for a land registration process that best suited the urban elites and the rural large-scale investors to the disadvantage of broader sectors of the society. “The establishment of several large state farms and the widespread practice of **land grabbing by outside speculators** manipulated land registration laws to acquire property rights in the valley.” State-led land expropriation was characterized by the establishment of parastatal agricultural projects. Three notorious state farms are known to have expropriated some of the finest riverine agricultural land in the Lower Juba.

Smallholder farmers are one of the key groups that experienced land dispossession as a result of the politics of exclusion. There is extensive literature on the contribution of agricultural development projects to the increase in land conflicts in Somalia and the related dispossession of smallholder farmers. For a long period, the Juba Valley was a neglected region

until the potential for irrigated agriculture in the area became a focus of the Barre regime. A study on Lower Juba highlights the interests of **internationally financed commercial and parastatal agriculture** to the detriment of powerless smallholder farmers. Such dispossessions was also affected by **clan dynamics**, where the minority Gosha (Bantu) clan became dispossessed by the dominant ethnic majority (Somali) clans.

### Minority clans and groups

The politics of exclusion continued following the collapse of the Siad Barre government, when the state authority gradually declined to a point where the **clan substituted the government** as the most influential authority, with very clear disadvantages for minority clans and groups. One factor lying behind the protracted nature of the conflict in Lower Juba is the complex clan composition of the area. The riverine areas of southern Somalia lack the homogeneity of the northern regions. There is a diversity of oral and material culture and a complexity of social organization not found among the more homogeneous northern pastoralists. It is an area where pastoral, agricultural and coastal traditions meet and create a cosmopolitan culture often described as a melting point.

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## The story of an elder from the Bajuni minority clan

The Bajuni are a minority clan. They are Swahili-speaking clans living in Kismayo and areas along the Juba Valley. Other marginalized clans living along-side Bajunis are Biyamal, Jareer and Tuni. The Bajuni are mainly involved in fishing and farming.

The interviewee, Abdul (not real name) was born in Majengo village in Kismayo about 72 years ago. He is illiterate and only speaks Swahili, but has some limited knowledge of Somali, Italian and Arabic languages. He earns a living as a farmer in Saa Moja area.

When the government collapsed in 1991, the assets of the Bajuni were badly looted. Farming land was confiscated by the ruling and powerful warlords representing mainly the majority clans. Bajunis were marginalized and were denied access to livelihood opportunities in both rural and urban areas.

The worry of Abdul and his community is that Kismayo is expanding and people continually grab land for residential purposes at a pace that will soon reach the Bajunis' rural farming.

Bajuni farmers are also affected by pastoralists who are mainly from the majority clans; the pastoralists often trespass and enter the farm land for pasture and water for their animals and so destroy crops and livelihoods.

Source: Field Survey, June-October 2017

Land governance and land conflict resolution are easier if conflicting parties are from the same clan and as such, individuals from minority clans have often been marginalized. The Bantu people (also known as Tima-Jereer or Gosha) are part of the minority clans found along the course of the river Juba and, alongside other minority groups, have experienced disproportionate suffering as a result of the protracted

conflict in Somalia. As the weaker clans with no significant military prowess, minority groups have suffered extreme displacement and threatened land rights. Available literature suggests that minority clans make up the majority of people in IDP settlements.

Also, minority clans are perceived to be intimidated by the majority clans sometimes, and are forced to sell their land at a very cheap price and relocate to rural farming areas. It is also evident that the minority clans living in rural farming areas of Saa Moja in the outskirts of Kismayo town, for instance, are subject to discrimination and mistreatment from the majority clans.

## Displaced people

Voluntary and involuntary migration is an entrenched feature of Somali society and Jubaland is no exception. The involuntary movements caused by war and violence resulted in problems related to access to land and tenure security of the various categories of displaced people, who can be broadly categorized as IDPs, returnees, refugees and migrants. Each of these categories has similarities and differences when it comes to challenges related to access to land and related conflicts, and which are aggravated by

poverty and relations with "host communities" or communities in a position of power.

Such movements often also have a rural-to-urban nature: "There was and continues to be a significant movement of the population from the rural to urban areas, as poor rural people, due to deteriorating security conditions, have been forced to leave their property and move to urban and other safe areas - including IDP camps - to look for safety, better living conditions and employment opportunity."

## Internally Displaced Persons (IDPs)

Social, economic and spatial integration of IDPs has largely not been possible in South Central Somalia, Jubaland included, for "reasons (that) may include the fact that they do not have security of tenure for the land on which they are living, that they are of a different ethnic or tribal group from the people amongst whom they settled and are **perceived as outsiders**, or because local authorities are prepared to offer them 'temporary sanctuary' but not permanent residency".

Minority clans constitute the dominant population in IDP settlements in Kismayo, though members of other clans are also present. Kismayo is the main location

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## Displaced communities or excluded communities?

The narrative of the government and of humanitarian and development organizations in South Central Somalia refers to a wide category of people with the generic term "IDPs", though they have very diverse displacement backgrounds and often their only common characteristics are that they are living in substandard, "temporary" settlements (commonly called IDP settlements) and they are poor.

The study findings corroborate the commonly held view that people from minority clans (or the less politically powerful groups) dominate IDP camps in Kismayo and have therefore become known as "IDPs". Some of the inhabitants of such so-called "IDP settlements" have been living there for decades, some have fled from the insecure countryside, others have left economically stagnant areas of Jubaland, and some are returnees.

This raises the question of what is legitimately an "IDP settlement" (presumably a temporary settlement, whose inhabitants will probably return to an area of origin after the situation that caused the displacement stabilizes and normalizes) and what should instead be identified as a poor and underserved neighbourhood that should be upgraded, serviced and regularized in terms of land tenure.

The study findings indicate that so-called "DPs" are, in fact, second class citizens who are discriminated against and stripped of their full rights, including land rights, by being seen as "temporary guests" in an area dominated by other clans. This seems to be caused by the dominant clans' fear that accepting a large number of IDPs (mostly belonging to minority clans) as equal citizens will overturn the current ethnic composition of cities and areas that have the highest inflow, putting them at risk in future election cycles.

A review of the concept and practices related to IDPs and IDP settlements should be undertaken by United Nations agencies and governments, as it would be possible to address some of the issues of access to land and tenure security through political solutions that guarantee protection of the weaker groups.

The Deputy Special Representative of the United Nations Secretary - General (DSRSG) for Somalia, Peter de Clercq, said: "We look at the whole range of issues that will make the IDPs become normal citizens, normal residents of the big cities. But also look at durable solutions where people can return [...] realizing that actually many of the IDPs will never go back. Even those that have lost their livelihoods are likely to be integrated into the cities."

that receives population fleeing the Al-Shabab-controlled rural areas, mostly ending up in IDP settlements.

It has been primarily the responsibility of government to provide land and security to allow for the establishment of IDP settlements. In recent times, in response to the crisis, the state, through the Ministry of Public Works, has allocated land for the returnees,

supported by appropriate land ownership rights. However, whereas government owns all unregistered land in the country, communities have claims on most of the targeted land. A common trend has been for host communities to make claims on specific parcels of land within the IDP settlements, creating land conflicts. "When combined with the already volatile security situation that is left unchecked, minor land issues and disputes have the potential to lead to

full-blown conflict" that may spark at the household level but escalate in the communities along clan lines.

There is little clarity about the status of the land that has been allocated for use by IDP settlements and it is not clear how the land rights of affected communities have been dealt with. Discussion with JRIAC showed that **no compensation** was paid for all land acquired for the settlement of IDPs and returnees, a situation possibly linked to the fact that IDP settlements were authorized to be on unregistered land. However, this is potentially inconsistent with the provisions of the constitution, which stipulate that compensation is payable if property is legally expropriated and that affected parties have a right to just, fair and timely compensation. The failure to do so fuels land conflicts.

Whereas the lack of law and order is an issue affecting the whole of Jubaland, the situation seems to be more pronounced in IDP settlements. As a result, there are ongoing discussions to relocate IDP settlements in Kismayo to new sites on a more permanent basis, which will also allow residents to get some land for farming in the proximity of their house.

Further, as a matter of policy and practice, international agencies target IDPs and returning refugees to provide them with land and shelter inside

# ANALYSIS OF THE LAND-RELATED ROOT CAUSES OF CONFLICT IN JUBALAND

the IDP settlements. This approach is seen by many respondents as **side-lining the host communities** that are often not much better off than the IDPs, creating grievances and conflicts. Discussions with civil society organizations working with IDPs showed that, in response to the perceived discrimination, host communities have been known to penetrate IDP settlements, which swells the numbers inside the settlements. To some extent, external support interventions in IDP settlements lack close supervision and often fail to capture some of the local-level land conflict dynamics.

## Returnees

Jubaland hosts a **large number of Somali returnees** coming from outside the country. The biggest group is people from the Dadaab Refugee Camp in Kenya, the majority of whom end up in Kismayo. “More than 44,000 people were voluntarily repatriated from the Dadaab and Kakuma refugee camps in Kenya to Kismayo, from 2014 to July 2017. In only the first four months of 2017, 10,000 returnees reached the city and a similar number of people displaced into the district directly affected by drought.”

It is common for returnees to seek access to land through the markets as they seek to re-establish themselves in the country of origin and have access to the reinstallation grants and subsistence allowance

that most returnees receive in the first six months after repatriation. “In addition, some returnee families receive allowances for the construction of a house or purchase of land, and some have been eligible for

### Risks associated with the return of Dadaab refugees to Kismayo

If the political and security scenario of Jubaland remains stable, Kismayo will continue to feel the impact of returnees more than any other location, as the number of expected returnees – 80,000 to 90,000 people according to some estimates – would nearly double the city's current population and increase the demand for land, housing and services. As of June 2017, an estimated 57,000 returnees had recently arrived in the city, including 24,000 in the first half of 2017 alone.

Since the take-over of the city by the Ras Kamboni militia in 2013 and the establishment of the Jubaland state administration, the city has enjoyed improved security. The city's power equilibrium reflects a “victor's peace” by one clan, but it has been a relatively generous victor's peace, in which other clans have been allowed to reside and resume business, take positions in the local administration and enjoy representation in the regional government. Political stability in Kismayo involves a delicate political balancing act by the authorities to keep a potentially fractious group of clan constituencies minimally satisfied with the status quo. The Jubaland security forces and its intelligence agency are effective and feared, and have kept the city largely safe from Al-Shabaab terror attacks. This has come at the cost of free and open political discourse, and returnees may not be in a position to speak frankly about their situation.

While local businesses and landowners are likely to benefit from the influx of newcomers, poorer households will suffer from increased prices for land, rent and possibly basic consumer goods.

The returnees' arrival could eventually transform clan demographics in Kismayo, creating a situation in which the empowered Darood clan-family could be outnumbered by the weaker Digil-Mirifle and Bantu. Few of the returnees are original residents of Kismayo and most are from the Juba Valley, Dinsor (Bay region) or Gedo region. The mainly Digil-Mirifle and Bantu returnees will join an existing population of Digil-Mirifle and Bantu in Kismayo, which make up a large IDP population living in over 40 IDP camps, all of them crowded slums with temporary or sub-standard housing. Most are expected to stay in Kismayo permanently rather than attempt to continue on to their rural home areas.

In the long-term, the existence of a large population of Digil-Mirifle and Bantu crowded into slums and IDP camps and treated as second class citizens will be a dangerous, underlying source of conflict and an easy entry point for Al-Shabaab to recruit disgruntled youth.

Of all the authorities in Somalia, Jubaland authorities have been the most engaged in preparing for the returnees, including the allocation of a large stretch of government land on the outskirts of the city for a new “village” where at least some returnees will be provided lots of land and homes. While it can address the immediate needs of the new arrivals, this approach, will not be sustainable or advisable in the medium and long run (see also 2.3.5).

The most likely source of tensions, based on survey data, is between existing IDPs and returnees in Kismayo. Local authorities, especially clan elders, are also concerned about the possibility of communal tensions arising from what may be perceived as disproportionate assistance going to returnees in a context of considerable hardship among local IDPs and the host community.

Source: ReDSS 2016 and survey July-October 2018

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vouchers to cover costs of school fees.” Returning refugees and other Somali members from the diaspora often bring with them financial savings to purchase land for investment.

However, with a **malfunctioning land market**, such returnees often buy unregistered land prone to contested ownership. Evidence also shows that a significant proportion of the returnees settle in IDP settlements, which also are at the heart of land-related conflicts between the displaced and the host communities. In such circumstances, pressure on land resources will grow, leading to both increased prices for land and illegal land markets transactions. The land-related conflicts in Kismayo, particularly in peri-urban areas, exemplify these challenges.

Another dimension of the land-related conflicts between returnees and host communities is related to their **ethnic composition**. According to the Regional Durable Solutions Secretariat (ReDSS, 2016), returnees living in Kismayo are originally from the Juba Valley, largely from the Digil-Mirifle and Bantu minority clans, and hence are not the original inhabitants of Kismayo. Their arrival will probably destabilize the fragile governance equilibrium of the city and trigger a negative response from the dominant clans in Kismayo, especially the Darood.

## Is restitution an option for returning Somalis?

The United Nations-adopted Pinheiro Principles makes clear the rights of IDPs and refugees returning to the country of origin following a period of conflict. The principles provide for the right of all refugees and IDPs to housing, property restitution to the proper owner and reparation for losses.

However, the application of the principles is particularly challenging in situations where no comprehensive registration of land and property ownership existed prior to the conflict. Kismayo and Jubaland have numerous land administration and land rights protection challenges: the Jubaland administration will have to balance emerging priorities and strategically direct its resources to improving the land governance and the dispute-resolutions mechanisms.

Key questions to be addressed are: what emphasis is to be put on the process of restitution of housing land and property rights as opposed to investing on other tenure security pressing needs? What would be the process established for rural and urban lands, and for registered and unregistered land? What would be the ‘cut-off date’ before which land rights will be disregarded? What would be the most effective approach to address land and tenure security issues with the view to promoting peace and reconciliation and increasing the legitimacy and credibility of the Jubaland administration?

### 2.3.4 Capture of state instruments

The protracted conflict in Somalia resulted in the **substitution of the state** with various forms of armed groups in decision making in critical areas such as land governance, and political and military power, often expressed through ethnic identities, replaced the state as the centre of decision making. The land

dynamics Jubaland are often subject to change depending on who is the victor in the battles.

Changing government regimes have tended to favour their respective clans (or groups), capturing state instruments to further the interests of a particular group. The tendency has been for “governing clans” to exploit and grab registered or unregistered land, government land and other open spaces. Any subsequent change in government followed the precedent already set, displacing the defeated clans and effectively occupying the same government land. Some examples are outlined in the box on page 44.

Governing regimes normalized land-grabbing practices perpetuated by their own clans, while at the same time overturning the gains of the outgoing regimes. This contributed to the current problems associated with land conflicts in Kismayo and Jubaland in general.

The structural set-up and settlement patterns of the present-day Kismayo came out of this particular context, where clan supremacy and dominance, and the application of such power influenced who settled where at specific points in time. The settlement of the population in Kismayo along clan lines was also a result of historical land conflicts.

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## Historical excursus of capture of state instruments by clan dynamics

General Morgan's regime, representing the Majeerteen clan, governed Kismayo /Jubaland from 1993 to 1998. Taking advantage of this power/leadership, the Majeerteen clan governed all land in Kismayo Town, which included Alanlee, Marina and the Sinai area.

This was followed by the Barre Hirale administration governing from 1998 to 2006. Consequently, people from Marehan clan grabbed Gulwade village (land used as military barracks) (see discussion in Chapter 3, Box 3.2). The present-day government (led by Ahmed Mathobe) proposed demolishing the village and using this land for state's development projects. However, "gatekeepers" representing the Marehan clan (who are part of the current government) believed the project should not be implemented as it would disproportionately affect their clan. Other government officials believed this new proposal could trigger conflict and further displacements. To avoid this escalation the government even proposed providing title deeds to all landowners, thus legitimizing all the land occupation and ownership in the area.

During the Al-Shabaab /Islamic courts regime, between 2007 and 2012, there were less land conflict disputes due to their strict practice of the law / sharia law - the latter implemented through barbaric /inhumane practices. Based on key informant interviews with those with knowledge about rural Jubaland, Al-Shabaab continues such practices, using fear and extreme force to enforce land governance decisions.

The present-day Madobe regime came into power October 2012. They removed all IDPs who lived on government premises and this was subsequently allocated to government ministries, private sector firms, public schools (and other development projects which benefited the Jubaland administration). The main allegation is that the Ogaden clan, which is affiliated to current Jubaland administration, has taken over most of the unregistered land in Kismayo, key examples being Kibora village and Dalhiis in Kismayo. This highlights the issue of governance mainly through clan dispensation, that takes advantage of clan power dynamics in the respective regimes.

Source: Field Survey, June-October 2017

## 2.3.5 Chaotic urbanization

Last but not least, chaotic urbanization is an important root cause of conflict in Jubaland. This section of the study focuses largely on Kismayo, as other urban centres were inaccessible to the study team.

### Conflictual clan dynamics in Kismayo

Kismayo settlement patterns are largely influenced by clan dynamics. For historical, political and security reasons, **people tend to settle in areas where their respective clan constitutes the dominant population.** This is not a fixed rule and several social processes such as inter-clan marriages have created settlements that are to a certain extent mixed. However, the dominance of one clan in a particular area ultimately works to strengthen the land rights of that particular clan in the area, while it weakens land rights of minority groups.

Settlements organized along clan lines do not promote the organic integration of communities and hence overall peace building and conflict management becomes more challenging. "**Clan fault-lines**, based on very different narratives about who has claims on the city and seaport revenues, remain the principal danger. Those fault-lines could, in the future, be

successfully exploited, both by disgruntled political figures and by Al-Shabaab. In the past, a significant level of tactical and tacit collusion has occurred between Al-Shabaab and unhappy clan or political leaders over Kismayo."

Inter-clan conflicts are more visible and complex to solve, but arrangements where clans dominate in specific localities does not translate into conflict-free situations. Further, where land conflicts exist between individuals, they generally assume a "clan flavour" as people tend to side with and seek the protection of members of their own clan.

Although many of the land conflicts are micro in nature, putting mostly individuals or small groups of people against one another, there are higher-level land conflicts that collectively pit one clan against another; the leadership of respective clans, including elders and political leaders, becomes a key participant in the discourse, which creates unhealthy dynamics and further complicates any resolution. The cosmopolitan nature of urban communities world-wide makes the **clan a "deficient" agent in managing land governance in urban landscapes** and it would be in the interest of sustainability to divorce clan narratives from urban development approaches.

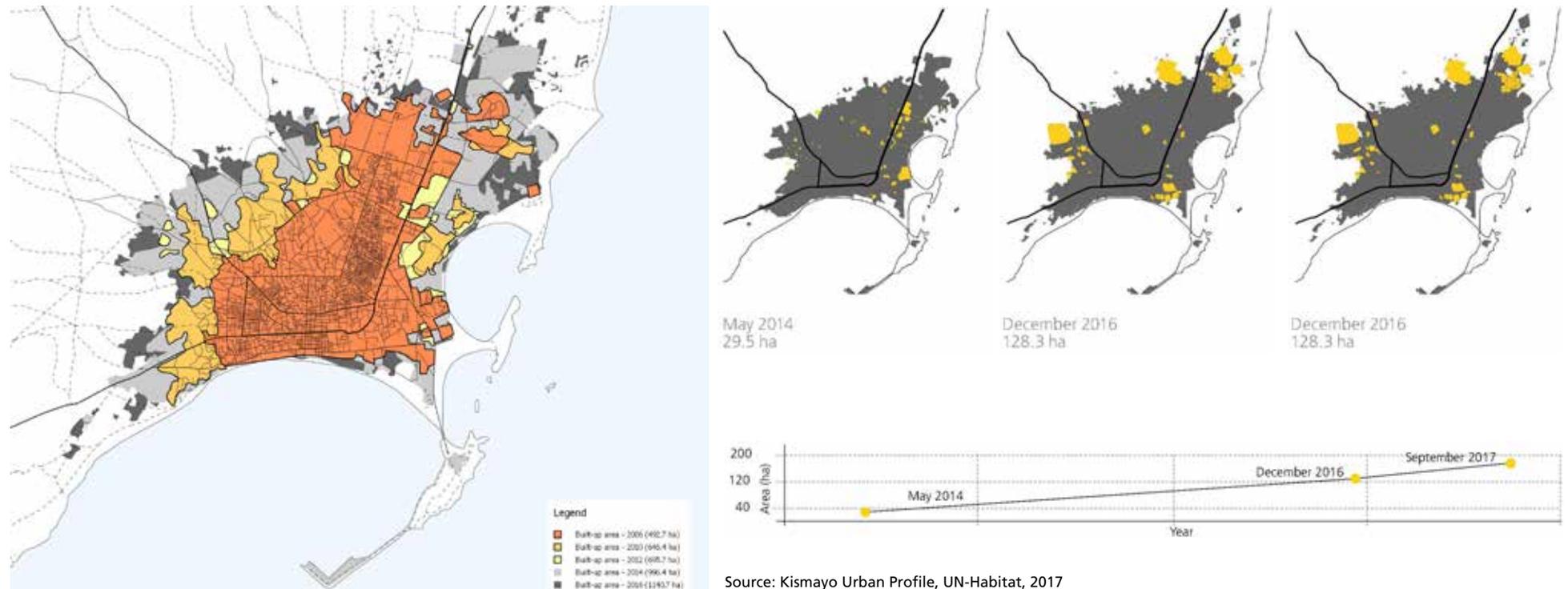
# ANALYSIS OF THE LAND-RELATED ROOT CAUSES OF CONFLICT IN JUBALAND

## Examples of land conflicts in urban contexts

Name of place	Location	Type of land use	Type of conflicts occurring in the area
1. Gulwade	Kismayo Lower Juba Year 1999 to 2000	Residential use	The land was previously used as a military barracks facility, however it is currently used for residential purposes. (i) This land is not registered as no title deed was issued and the lack of proper documentation has resulted in contested claims by different parties. (ii) Open spaces in the area further increases disputes between parties.
2. Alanleey	Kismayo: Lower Juba, Jubaland Year 2000	Residential use in urban settlement	(i) Criminal gangs who often seek to grab land illegally without holding proper documentation. (ii) Land grabbers often seek to make profits from grabbing and selling the land – this pull factor to gain money has created a platform where people resort to land grabbing to earn income.
3. Alanleey	Kismayo: Lower Juba, Jubaland Year 2000	Residential use in urban settlement	This land dispute was triggered by people claiming ownership without evidence of proper documentation. The non-performing economy and reduced employment opportunities are drivers of the land grabbing.
4. Alanleey	Village in Kismayo	Residential use in urban settlement	The case involved someone from the diaspora and people living locally in Kismayo. The conflict occurred in 2016 when a man living in London claimed ownership of a land that is currently owned by a woman from the Marexaan clan.
5. Sinai – NRC Shelter project	Kismayo, Lower Juba Jubaland	IDPs and returnees settlement	Hostilities between the locals and returnees/IDPs on provision of shelter. Host community attempted to grab the shelter houses built by NRC for the vulnerable groups.
6. Fanole	Kismayo, Lower Juba	Residential use in urban settlement	The land in dispute belonged to an Arab man who fled Kismayo due to threats and fear for his life and who had lived abroad (Yemen) for more than 25 years. He returned to Kismayo to claim back his land but was threatened by land occupiers who had lived on his land for the 25 years. The conflict in this scenario is about contested ownership of land.
7. Kibora (Shaqaalaha)	Kismayo, Lower Juba.	Residential use in Urban settlement	The land in dispute was allocated to a cooperative society by authorities during the Barre regime. The society went bankrupt and the land was sold to a private entity who then sold it to a third party. No permanent structure was built on this land, leading to another person claiming the right of ownership. The case was referred to court. The landowner opted to settle the matter out of court by paying money to the party claiming the land.
8. Kibora (Shaqaalaha)	Village in Kismayo	Residential use in urban settlement	The case occurred in 2016 and involved neighbours who lived in Kibora. One of the neighbours sought to privatize the open space which was being used for a car park.

Source: Field Survey, June-October 2017

# ANALYSIS OF THE LAND-RELATED ROOT CAUSES OF CONFLICT IN JUBALAND



Source: Kismayo Urban Profile, UN-Habitat, 2017

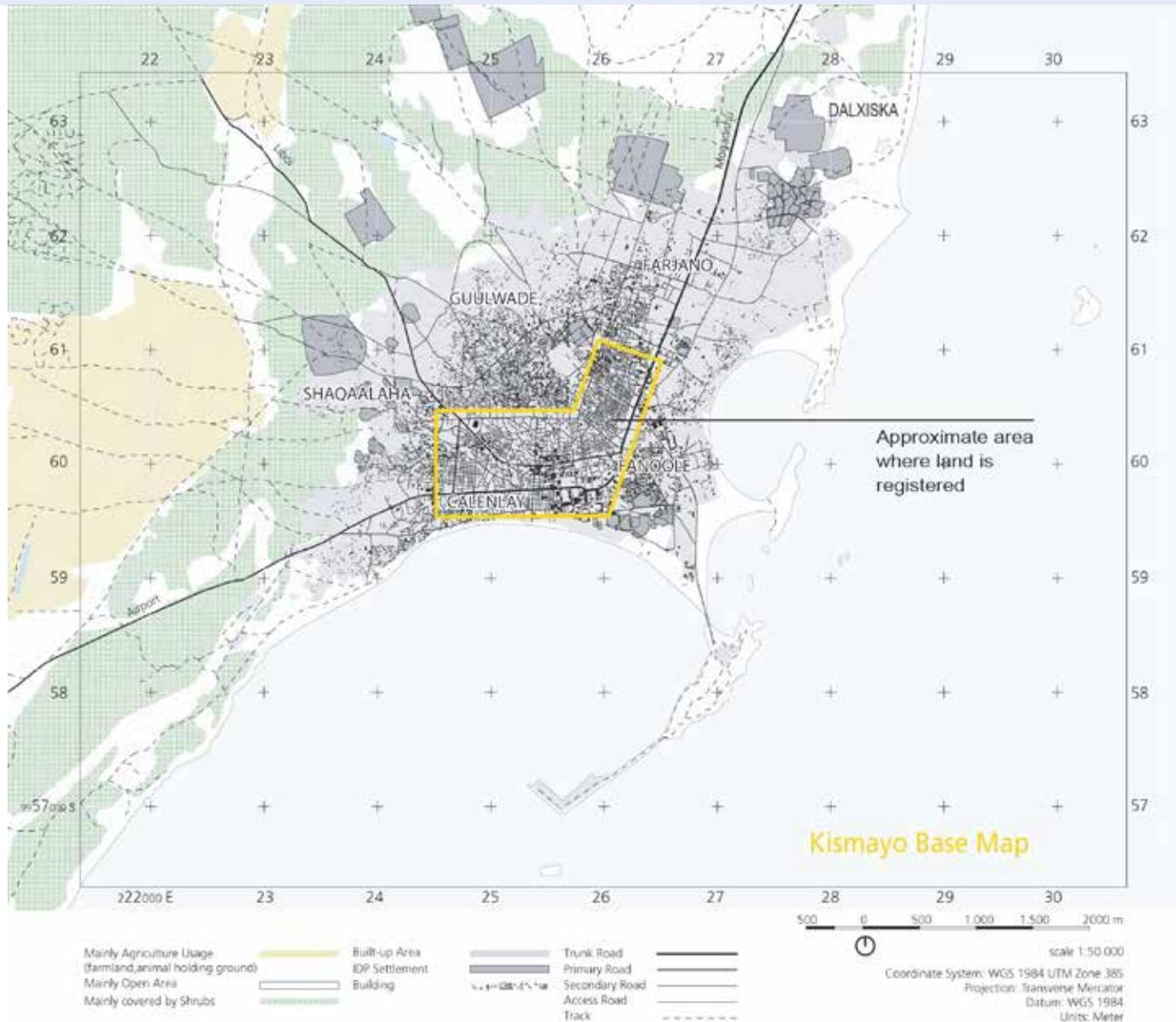
## Illustration of land-related proximate factors of conflict in kismayo

The map on the left shows the urban sprawl that has taken place in recent years on unregistered land (orange, yellow and grey areas). These areas are affected by conflicts over land ownership/occupation, land grabbing, land use and the forced eviction of vulnerable IDP communities.

The set of maps on the right show - in yellow - the mushrooming of segregated IDP settlements. Conflicts in such areas are related to tenure insecurity, frictions with host communities and forced evictions.

Peri-urban areas are expanding in an unplanned manner on unregistered, often grabbed, land. This sets the scene for future conflicts, aggravated by the lack of services, facilities and infrastructure

# ANALYSIS OF THE LAND-RELATED ROOT CAUSES OF CONFLICT IN JUBALAND



Source of the map: Kismayo Urban Profile, UN-Habitat, 2017

# ANALYSIS OF THE LAND-RELATED ROOT CAUSES OF CONFLICT IN JUBALAND

## Main groups/clans living in the area and land use

Name of place	Land use	Main groups clans in the area
Gulwade	Residential	Marehan
Alanleey	Residential	Majerteen
Shakhalah	Residential	Ogaden, with other clans as well
Shakhala (Kibora)	Residential	Ogaden
Fanole	Commercial (Central Business District) & residential	Ogaden and Dulbahante
Dalhiska	Residential – mainly IDPS	Ogaden and Somalia Bantu

Source: Field Data, July 2017

## Examples of inter-clan relationships and conflicts

Type of conflict	Clans involved in the land conflict	Brief description of how conflict manifests itself
Pastoralist conflict	Bartire and Mohamed Zuber	The conflict erupted on agro-pastoralist area near the Afmadow and Hagar area
Urban areas (Buale)	Awlihan and Bartire	There is contested ownership of Buale Town by the Bartire and the Awlihan clans
Urban areas (Kismayo)	Ogaden and Marehan	The two clans of Ogaden and Marehan claim the ownership & management of Kismayo Town
Urban areas (Dhobley)	Awlihan and Mohamed Zuber	Mohamed Zuber and the Awlihan claim ownership of the town of Dhobley and conflict erupted over this

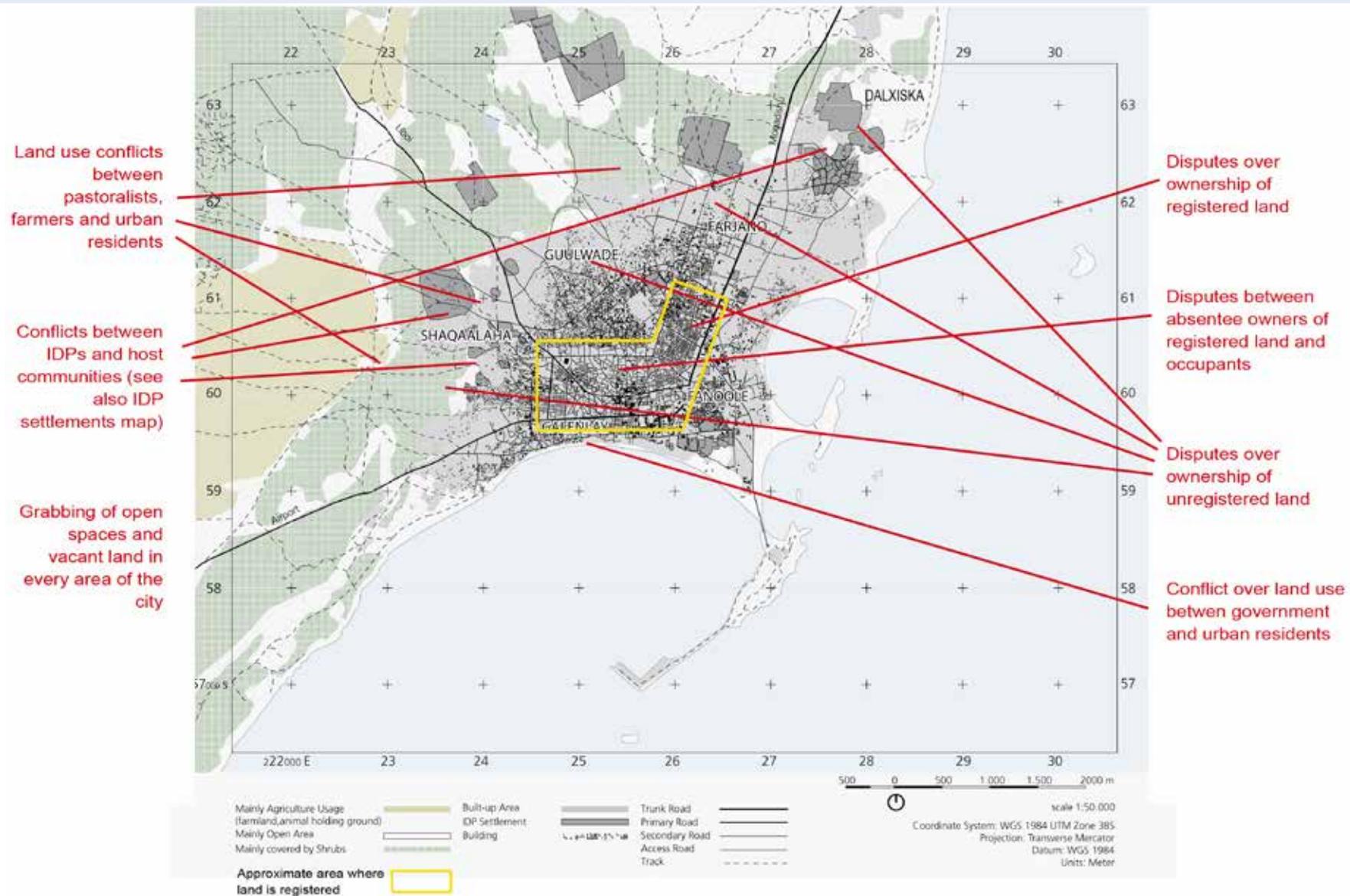
Source: Field Survey, June-October 2017

## Examples of clan-based conflicts in Kismayo

Name of place	Location	Type of land use	Description of the conflict
Dalxiiska	IDPs settlement in Kismayo.	IDPs residential area.	The conflict occurred in 2017 and was over unregistered land. This land was owned by someone from the Mursade clan. People from Ogaden clan grabbed the land claiming that they paid money to another party. Both parties have no proper documentation to claim ownership of the land in dispute.
Gulwade	Village in Kismayo	Residential use in urban settlement.	The case involved parties with no proper documentation claiming ownership of the land in dispute. The case occurred in 2016 and the dispute is between the Raxaweyn clan and Dagoodia clan. Both parties in this case have no proper documentation to prove ownership.
Dalhiis	IDPs settlement in Kismayo.	IDPs residential area.	Case occurred in 2017 between Ogaden and Marehan clans over land in the Dalhiis area. The conflict was triggered by the influx of IDPs and returnees.

Source: Field Survey, June-October 2017

# ANALYSIS OF THE LAND-RELATED ROOT CAUSES OF CONFLICT IN JUBALAND



**Schematic representation of the most common typologies of land conflicts in Kismayo**

Source of the map: Kismayo Urban Profile, UN-Habitat, 2017

# ANALYSIS OF THE LAND-RELATED ROOT CAUSES OF CONFLICT IN JUBALAND

## Dysfunctional land registration

Kismayo town can be divided into five main villages. Fanole is made up of the commercial (central business district) and residential land use and has most of the registered land. All the other areas are predominantly residential areas.

Estimates by government officials are that Kismayo's land is 70 to 80 per cent unregistered. As described in Section 2.3.2, the collapse of central government saw the **country losing its land records**, as government and municipal officials fled to the neighbouring countries and further abroad. The current perception is that it is only the former officials that have extensive and reliable knowledge on land records that is "authentic" when solving historically-based ownerships of land in Kismayo and Jubaland. The narrative is that, in practice, clients contact them to verify their land ownership documents and thereafter submit them to the municipality as evidence or proof of land ownership.

An analysis of the available land records reveals that they are very old, tend to vary in form and are not sophisticated in terms of accuracy. On average, the written text provides details of the owner, size of the plot and the identity of the owners of the four

neighbouring plots. Some land records do have diagrams of the property while others do not. The photographs on page 57 illustrate basic property diagrams used to prove ownership of land but are not to scale and are indicative. There is also evidence of **tampering with the documents**, a clear sign of fraudulent property rights.

Discussions with the Municipality of Kismayo confirmed that the changing regimes facilitated the issuing of **"false" property documents** to support access to land by members of their own clans, a view grounded in the lack of legitimacy attached to the land administrations that followed the fall of Siad Barre. In judging land disputes that involve registered land, the courts are known to get advice from the Municipality - Land Department, who then scrutinize the property records in question and make appropriate recommendations. The land records for neighbouring plots are sometimes used to prove the "rightful" property records as they also describe the ownership details of abutting plots.

The categorization of land as "registered" and "unregistered" has implications for the type of land disputes and how they are managed. Registered

land is affected by land disputes associated with fake property documents and the illegal occupation of vacant land. Land disputes on unregistered land concern land grabbing, boundary problems and contested land claims. Most people are settled on unregistered land which is – according to the old but still recognized legislation – state land.

However, the **simplified categories** of authentic/false property rights between which the administration has to choose when adjudicating individual properties, and registered and unregistered land are **not sufficient** to resolve land and property disputes in urban areas at the scale and speed required. The situation is particularly acute in urban areas like Kismayo, where the volume of contested land claims is very large. In practice, communities are settled on the land on the basis of different social arrangements, which constitute a particular form of de facto land rights. Communities are settled according to clan lines, primarily for security as these arrangements protect the rights to occupy land via the agency of the clan. The study found several examples of the way in which communities make land claims and protect their land rights through various social arrangements, which can be read using the continuum of land rights framework.

# ANALYSIS OF THE LAND-RELATED ROOT CAUSES OF CONFLICT IN JUBALAND

## Registered and unregistered land in Kismayo

Name of village	Prevailing state of the land registration	
Shakalaah	Registered land	
Gulwade		Unregistered land
Kibora		Unregistered land
Fanole	Registered	Registered & unregistered land
Alanleey	Few plots are registered	Unregistered land
Dalhiska		Unregistered land

Source: Field Data, July-October 2017

## Military, political and social factors and the occupation of Gulwade village

Gulwade is a village in Kismayo. Until the 1990s, Gulwade land was used for military training. The collapse of the state in 1991 was followed by the breakout the civil war and allowed the military personnel based in Gulwade to grab the land and converted its use for residential purpose. Under that political situation, different clans settled alongside each other, as the military was inclusive of all clans.

In 1999, the Marehan clan led by Bare Hirale grabbed all the land after ousting the Majeerteen militia from power. The Marehan dominated the area until 2006 when a conflict between the Marehan and the Islamic Courts broke out. The Islamic courts led by the current Jubaland President pushed the Marehan militia out of Kismayo, the Marehan leader was removed from power and fled to Kenya. Since then, Gulwade is associated with the Marehan clan and the land is classified as part of unregistered land in Kismayo. The current administration in Jubaland is proposing to provide 'title deeds' to the residents living in Gulwade as a way avoiding further conflicts between parties in the area.

Source: Field Survey, June-October 2017

## Clan factors in the land dispute in Dalxiska village in Kismayo

A land dispute pitting a man from Marehan clan (minority) and a woman from Majeerteen clan (majority) erupted on 25 July 2017. The land in dispute is unregistered and in essence, this was a boundary-related dispute. The two parties own parcels of land that share a boundary and they have been neighbours for the past five years. Both of them did not live in the area but operated businesses from their respective premises. The conflict started when the woman accused the man of moving the boundary of his plot 3 metres into her plot. Physical violence erupted between the two parties before the case was handed over to the elders of the two parties for arbitration.

The elders requested the conflicting parties to bring witnesses with knowledge of their property boundaries. Both brought witnesses from their respective clans, and each spoke in favour of the person from their own clan. After deliberations, the elders made a proposal to resolve the dispute, but the woman did not agree and accused the elders of receiving a bribe from the man. This forced the two groups of elders into another round of deliberations and eventually they persuaded the man to cede the 3 metres of land to the woman. She accepted the solution and the conflict ended, but she was fined by the elders for insulting them during the dispute-resolution process.

Source: Field Survey, June-October 2017

## Grabbed open spaces and vacant land

All or nearly all open spaces and vacant land in Kismayo have been grabbed or claimed. Field visits to IDP settlements in Kismayo found situations where members of the host communities would simply claim, for instance, that a particular house in the settlement was located on what used to be their "former garden". A key point is that more than one

factor to claim land may be used to make a land claim – political, social and other factors may all be used in an application. In practice, the different ways to claim land ownership reinforce one another; thus, for instance, the use of clan relations to claim land ownership can be applied jointly with the construction of landmarks.

The **occupation of open spaces and vacant land**, whether government or privately owned, is a very common basis for land conflicts and a

## Most common mechanisms to legitimize land claims (or grabbing) in Kismayo

How clan identities and the use of landmarks are being used to make and defend land claims or land grabbing:

- Political factors. The regime in power makes political decisions on the terms of settlement/occupation of specific parcels to approve or disapprove
- Social factors. This involves the use of clan relations to protect or justify specific land claims
- Construction of landmarks. Landmarks are put in place to prove ownership of land
- The use of witnesses. Witnesses are a key agency used to prove land ownership
- The use of the 'host tag' in IDP settlements. Members of the host community are free to make land claims inside IDP settlements
- Internalization and acceptance of the slogan: 'Land belongs to the person who develops it.' It seems as if citizens of Kismayo in particular do accept that vacant land can potentially be occupied.

Source: Field Survey, June-October 2017

# ANALYSIS OF THE LAND-RELATED ROOT CAUSES OF CONFLICT IN JUBALAND

direct contestation of the formal land rights system as supported by the legal frameworks. A study commissioned by the Ministry of Interior in 2017 revealed that in Kismayo the total number of obbosibo (illegally occupied land with permanent structures) is estimated at about 30,000 units. It is evident that the situation is complex and presents huge challenges for the government.

The land governance discourse in Jubaland does not make reference at all to the payment of compensation for the destruction of improvements on the land or for vacating land “illegally” occupied. The study came across several examples where demolitions or relocations were ordered at the instruction of government and no compensation was paid. A high-profile case has been the Ministry of Sports and the Municipality and the Governor of Kismayo’s order to relocate people who settled in the Wamo Football Stadium of Kismayo. Some people vacated the land voluntarily while others remained and were later forcibly removed by the government with no compensation paid.

## Pastoralist land use in urban centres

Conflicts between **pastoralists and urban residents** located in peri-urban areas also arise, aggravated by

## Occupation of open spaces in Kismayo

Name of place	Location	Type of land use	Description of the conflict
1. Alanleey	Kismayo, Lower Juba	Open space the coastal area owned by Ministry of Fishing & Marine Resources	The current Ministry of Fisheries proposed to construct a building funded by the Norwegian Refugee Council on a piece of land within 500m of the shore beach. The plan was to use this building for marine and fisheries operations. A man from Majeerten clan claimed that the land belongs to his family. The Ministry of Fisheries referred the case to the local authority. This case is still pending with the court.
2. Alanleey	Kismayo, Lower Juba	Open space in the coastal area which is used for residential needs	This is an area along the Indian Ocean which people have grabbed for residential purposes. The government is proposing to clear this land as “the law does not allow” such areas to be used for residential purposes.
3. Marina; Ministry of Gender and Human Rights	Kismayo -	Residential use in Urban settlement	This was government-registered land for marine/port operations. People are using it for residential purposes. The conflict started when government wanted to build a project for women in Kismayo. People living on the land refused to move out claiming they have the right of ownership.
6 Alanlee	Kismayo Lower Juba, Jubaland Year 2003	Residential use in urban settlement	This was an open space where no landmark was built to deter false claims of land ownership. A group of people from the same clan claimed the right of ownership against a woman who was from a minority/marginalized clan.

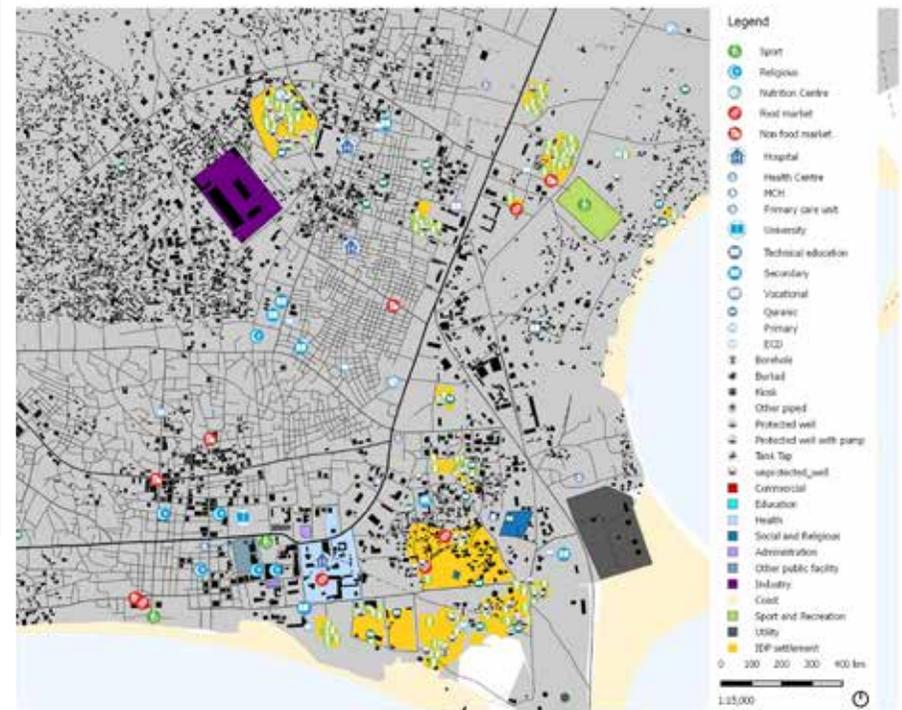
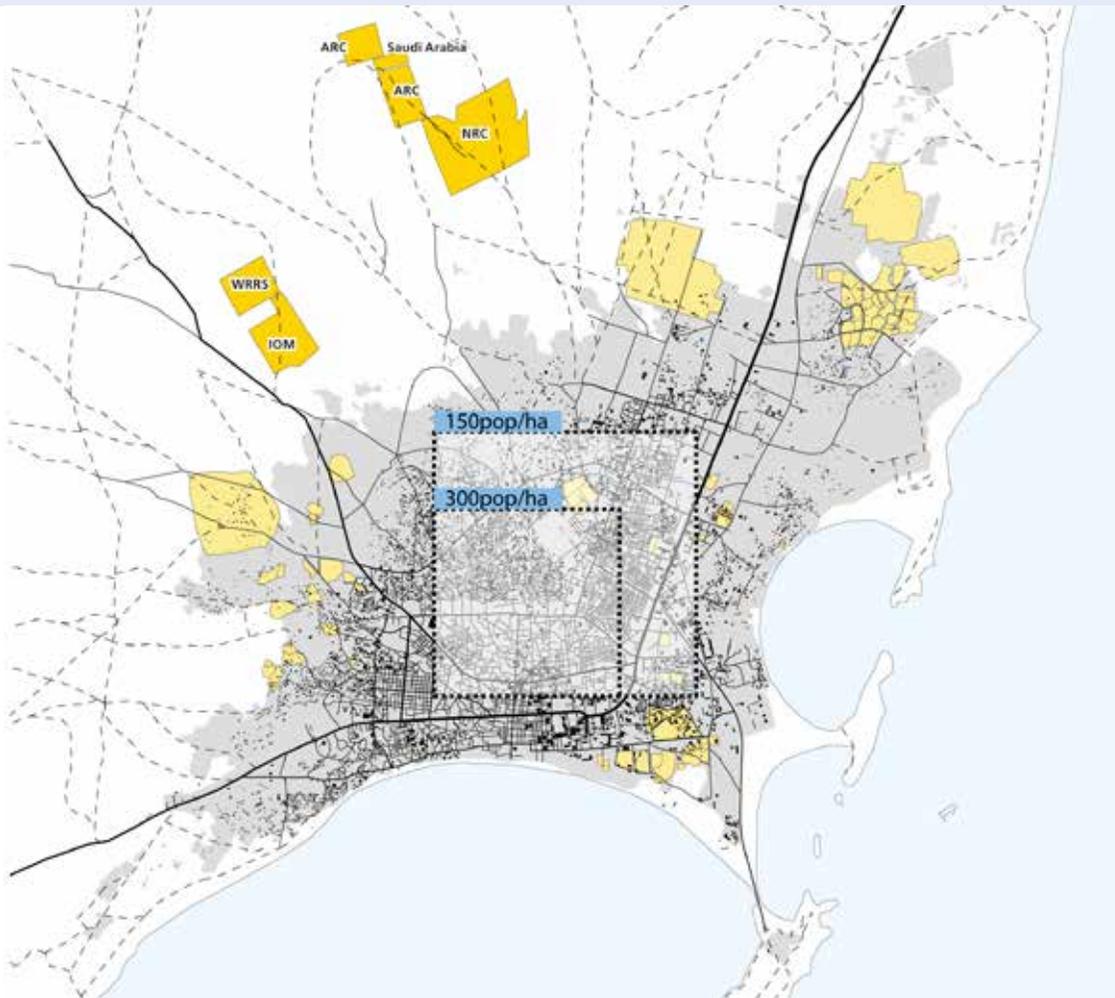
Source: Field Survey, June-October 2017

the expansion of urban areas into surrounding rural areas. The unplanned nature of urban expansion is a major contributor to conflict.

A significant section of Kismayo and many other towns is made up of pastoralists, many of them live with their animals. Pastoralists and other livestock

keepers are direct suppliers of farm products to urban residents; meat and milk products come directly from the pastoralists resident in Kismayo and its surroundings. The interactions between the pastoralists and the urban land-users are naturally antagonistic and land-use related conflicts arise as there is no land in urban areas allocated for livestock.

# ANALYSIS OF THE LAND-RELATED ROOT CAUSES OF CONFLICT IN JUBALAND



**Top left:** Density of urban development in Kismayo

**Top right:** Detail of peri-urban area where IDP settlements and host communities are settled

**Bottom right:** Detail of inner urban area where IDP settlements and host communities coexist

Source of the maps: Kismayo Urban Profile, UN-Habitat, 2017

# ANALYSIS OF THE LAND-RELATED ROOT CAUSES OF CONFLICT IN JUBALAND

Although some respondents note that pastoralist activities have minimal impact on urban settlements and contribute little to the conflict over land use, extensive evidence of conflicts and tensions between pastoralists and other types of land users exist in urban centres, particularly Kismayo.

The practice of **constructing landmarks also causes problems with the movement of camels in peri-urban contexts** and at times injuries to the animal, resulting in conflicts between land “owners” and herders. Similarly, the enclosure of open spaces excluded animals from accessing land for grazing purposes in urban and peri-urban contexts.

## **Haphazard spatial urban development**

Until the 1990s, the city had developed in an organized, compact fashion (approximately 160 people/ha), with a good network of roads and public spaces. In the last 15 years, a dispersed, low-density development has sprawled towards the inlands, characterized by poor roads and services and lack consideration for environmental hazards.

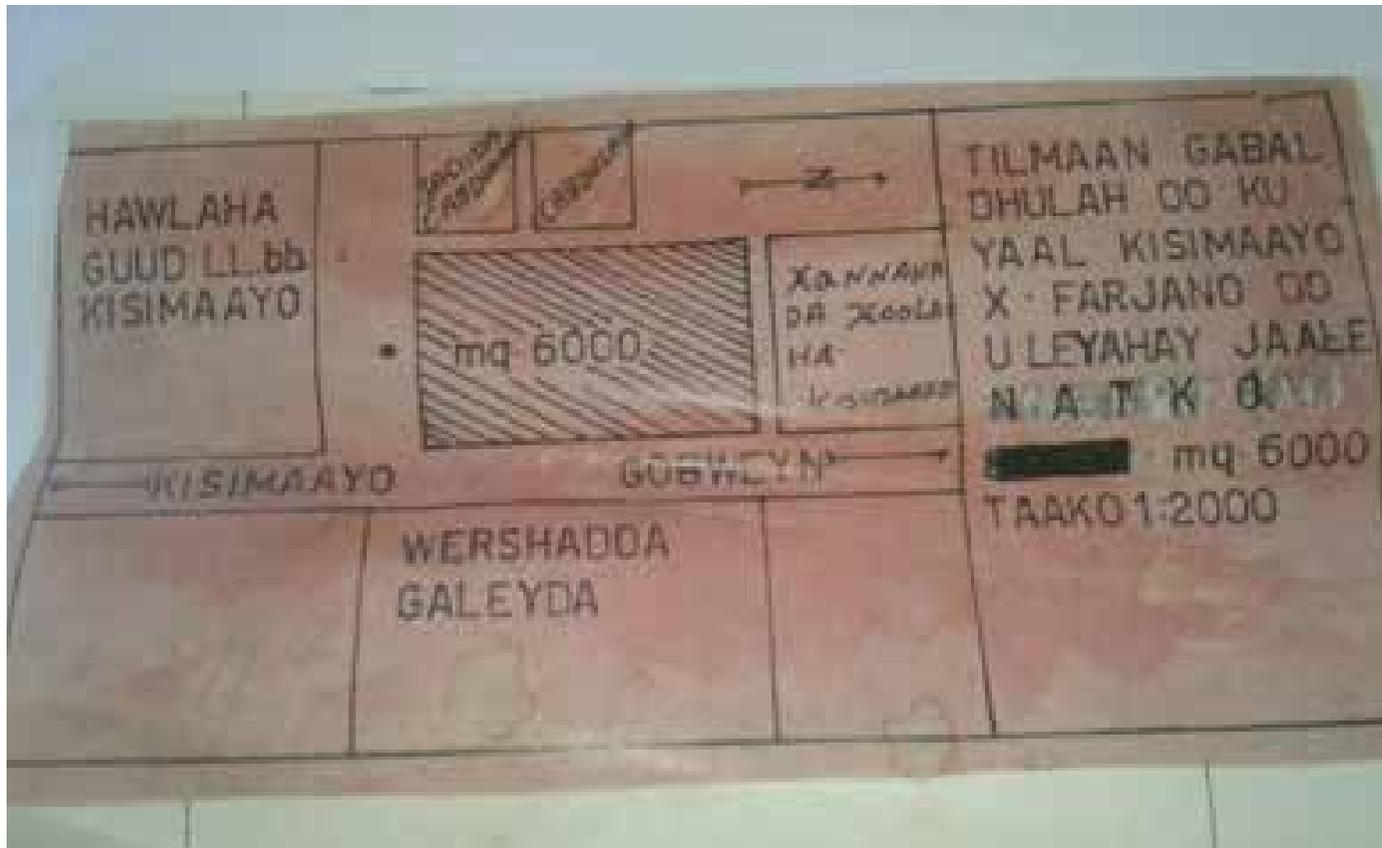
“According to the Displacement Tracking Matrix, as of June 2017 there are over 100 IDP sites in Kismayo. The sites are grouped into four geographic clusters across the town, each with its own leader. [...] Such settlements can be categorized into three different groups, based on their physical organization and land tenure: older sites are usually small to mid-sized, unplanned settlements on private land. New sites are divided between small, spontaneous settlements on private land, and new, large planned sites built by humanitarian agencies on land allocated by the government.”

Many **settlements are developed in unsuitable locations** and lack the necessary services and access to livelihoods. If no area-wide planning is undertaken and such settlements are reconnected and integrated in the city as regular neighbourhoods, they will develop into peri-urban slums.

The need for a strategic spatial development plan is very apparent. **Unregulated urban sprawl will result in increased conflicts over land use** and

inefficient urban development, ultimately further segregating the poor, damaging the overall social economic development of the city, and only serving the better-off income group, fostering segregation and conflict. An area-based, multi-sectoral approach will complement “the traditional humanitarian focus on the affected individuals with a broader lens that considers the whole population of an existing urban system and tries to meet both short-term humanitarian and longer-term development needs of urban populations and their environments”. A step-by-step incremental approach should be promoted, that starts to put in place key strategic and timely interventions and solve the most urgent problems, while striving for a long-term urban development vision. Land management approaches should be used to make the implementation of such a strategic plan possible.

# ANALYSIS OF THE LAND-RELATED ROOT CAUSES OF CONFLICT IN JUBALAND



**Above:** Example of a property diagram that constitutes part of the land records. Source: lawyer working on land disputes in Kismayo; originally from court documents  
**Right:** Example of land ownership records in Kismayo



# RECOMMENDATIONS

# RECOMMENDATIONS

## *About the recommendations*

The recommendations presented here result from the root cause analysis outlined in Chapter 2. They are intended to guide strategic discussions and interventions by a broad group of actors from different levels of government, non-state actors, and development and humanitarian organizations, including the United Nations. They address different domains, from security to economic development. More information is given on land-related recommendations. Although they are presented by theme, the root causes and related recommendations are interconnected. The implementation of the recommendations needs to be phased into short, medium and long term planning; some indications about this are given in the recommendations' narrative.

## *Scenarios*

The recommendations are based on the analysis done of the context in 2017. However, when preparing to implement the recommendations it would be important to also assess the most likely scenarios ahead. The Jubaland situation is still very volatile and different political and security scenarios could unfold. The recommendations are based on the assumption that the security situation would either remain stable or improve, with Al-Shabaab being fully defeated and forced to cede areas under their control to government. This will likely increase

land-based conflicts as some displaced people might move back to areas of origin to find them occupied by other families. The recommendations are also based on the assumption that the inflow of returnees, especially from the Dadaab refugee camp in Kenya and belonging to minority clans, will keep increasing and the majority of them will settle in Kismayo. This will lead to a progressive escalation of the current challenges and likelihood of the conflicts described.

# RECOMMENDATIONS

## 3.1 OUTLINE OF THE RECOMMENDATIONS

### *Environmental root causes of conflict*

The table below outlines the key recommendations to address environmental root causes of conflict and by doing so prevent future conflicts and create the conditions for peace and development.

Root causes of conflict	Land-related proximate factors	Triggers of violent conflicts	Recommendations
<b>ENVIRONMENTAL</b>			
<p>Scarce natural resources including land and water</p> <p>Natural resources exploitation;</p>	<ul style="list-style-type: none"> <li>• Scarcity of land for pastures</li> <li>• Unrecognized and undefined land rights of pastoralist communities</li> <li>• Environmental degradation</li> <li>• Breakdown of legislative controls governing use and access to natural resources</li> <li>• Increasing inadequacy of xeer law and its implementation mechanisms related to use and access to land and water</li> <li>• Private livestock enclosures and exclusion of others from using land perceived as communal</li> <li>• Unsustainable increase of livestock</li> <li>• Destruction of the environment by charcoal production</li> </ul>	<ul style="list-style-type: none"> <li>• Droughts</li> <li>• Destruction of farms by livestock</li> <li>• Excessive consumption of water or pasture by a group to the detriment of another</li> <li>• Destruction of grazing land and livestock environment by charcoal producers</li> </ul>	<ul style="list-style-type: none"> <li>• Mitigate the impact of droughts, especially in conflict-prone areas</li> <li>• Assess the capacity of the territory and its resources to sustain the main land uses</li> <li>• Put in place/strengthen existing regulatory mechanisms to manage the use of land, water and natural resources (and related enforcement mechanisms)</li> <li>• Regulate livestock and farming activities and agree on/demarcate migratory routes in a participatory manner</li> <li>• Regulate charcoal production</li> <li>• Strengthen dispute-resolution mechanisms</li> </ul>

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## *Socio-economic root causes of conflict*

The table below outlines the key recommendations to address socio-economic root causes of conflict and by doing so prevent future conflicts and create the conditions for peace and development.

Root causes of conflict	Land-related proximate factors	Triggers of violent conflicts	Recommendations
<b>SOCIO-ECONOMIC</b>			
Population growth	<ul style="list-style-type: none"> <li>Youth bulge without secure land rights</li> <li>Landless poor and minorities</li> <li>Return of refugee and displaced families to areas of origin or alternative locations</li> </ul>	<ul style="list-style-type: none"> <li>Migration and displacement to areas already occupied by other groups</li> <li>Famine</li> </ul>	<ul style="list-style-type: none"> <li>Improve youth's access to land and livelihood</li> <li>Provide suitable land and tenure security for refugees, displaced population and landless poor</li> <li>Make area-wide spatial plans to accommodate population growth and their land needs</li> <li>Put in place strategies aimed at a sustainable and adequately distributed population growth</li> </ul>
Poverty	<ul style="list-style-type: none"> <li>Inadequate housing and basic services</li> <li>Mushrooming of underserved neighbourhoods (IDP settlements)</li> <li>Discrimination against the poor with regard to access to land and housing</li> <li>Food insecurity as result of limited access to land for farming and livelihood</li> </ul>	<ul style="list-style-type: none"> <li>Diseases outbreaks;</li> <li>Forced evictions or exclusion of the poor from urban or rural land</li> <li>Grabbing of land on which the poor is settled by powerful groups or individual;</li> <li>Social unrest</li> <li>Poor forced to join criminal/terrorist groups to earn a living</li> </ul>	<ul style="list-style-type: none"> <li>Promote sustainable economic growth and employment</li> <li>Combat land grabbing and exclusion of the poor from the land</li> <li>Monitor and prevent forced evictions</li> <li>Plan for adequate human settlements both in rural and urban areas (healthy, close to livelihood opportunities, accessible to all, etc.)</li> </ul>

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Root causes of conflict	Land-related proximate factors	Triggers of violent conflicts	Recommendations
Criminality and terrorism	<ul style="list-style-type: none"> <li>• Illicit activities (illegal migration, human trafficking, trade of arms and drugs) linked to a particular land use (pastoralism)</li> <li>• Revenues from land and natural resources used to fuel terrorist groups</li> <li>• Parallel land management and dispute-resolution system run by terrorist groups as a way to claim legitimacy</li> <li>• Land grabbing by organized criminals</li> </ul>	<ul style="list-style-type: none"> <li>• Escalation of land-use conflicts because of high arms prevalence</li> <li>• Terrorist groups acquire the necessary resources and support to challenge and attack state institutions or opposing groups</li> <li>• Confrontation around land grabbing leads to violent conflicts that may escalate along clan lines</li> </ul>	<ul style="list-style-type: none"> <li>• Combat criminal and terrorist groups</li> <li>• Disarmament of groups involved in illicit activities</li> <li>• Develop the capacities of state institutions and traditional structures to deal with land management and dispute resolution (mandate, technical knowledge, resources, etc.)</li> <li>• Combat land grabbing</li> </ul>
Exploitative or unregulated investment	<ul style="list-style-type: none"> <li>• Illegal or irregular land acquisitions</li> <li>• Land grabbing</li> <li>• Corruption of land professionals and institutions dealing with land</li> <li>• Increased pressure on valuable land</li> <li>• Disproportionate pressure put on land by the lack of banking and alternative investment systems</li> <li>• Lack of protection for landowners and occupants</li> </ul>	<ul style="list-style-type: none"> <li>• Forced evictions</li> <li>• Investors acquiring land to the detriment of vulnerable people</li> <li>• Very visible inequalities in terms of land access</li> <li>• Corruption results in land-related decision widely considered to be unjust</li> </ul>	<ul style="list-style-type: none"> <li>• Combat land grabbing and forced evictions</li> <li>• Promote transparency in land transactions/ combat corruption</li> <li>• Ensure that land can be legally transacted</li> <li>• Put in place fit-for-purpose land administration and land governance systems</li> <li>• Protect vulnerable communities from eviction</li> <li>• Develop the banking system</li> </ul>

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## *Governance-related root causes of conflict*

The table below outlines the key recommendations to address governance-related root causes of conflict and by doing so prevent future conflicts and create the conditions for peace and development.

Root causes of conflict	Land-related proximate factors	Triggers of violent conflicts	Recommendations
<b>GOVERNANCE-RELATED</b>			
Weak governance	<ul style="list-style-type: none"> <li>Weak institutional governance</li> <li>Weak land-related institutions lacking legitimacy, with no clear roles or mandate, little capacity and resources</li> <li>Legally pluralistic system (statutory, customary and religious laws)</li> <li>Established common land governance practices that do not follow the laws</li> <li>Unclear land rights (ownership, customary and use rights)</li> <li>Lack of/limited legitimacy of government administrations dealing with land governance</li> <li>No adequate policy, legal, administrative and institutional frameworks</li> </ul>	<ul style="list-style-type: none"> <li>Large inflow of population due to returns, further displacement, migration</li> <li>Inflow of external capital and interventions requiring large portions of land (for agriculture, humanitarian interventions, infrastructure, etc.)</li> <li>Conflicts over land ownership or land occupation escalate into violence and killings (and potentially assume community/clan dimensions)</li> <li>Elections (or coups)</li> </ul>	<ul style="list-style-type: none"> <li>Strengthen institutions</li> <li>Develop adequate policy, legal and administrative frameworks Strengthen and capacitate land institutions (mandate, technical and client-orientation capacity, resources)</li> <li>Harmonize, align and ensure coordination among statutory, traditional and religious institutions, with particular focus on their land governance and dispute-resolution functions</li> <li>Analyse and reform the land rights system and the related land tenure categories, to increase the protection of HLP rights for all;</li> </ul>
Weak land administration	<ul style="list-style-type: none"> <li>Majority of land is unregistered</li> <li>No functioning land registration system and no possibility to acquire land ownership legally</li> <li>Widespread land grabbing</li> <li>Highly dysfunctional land markets</li> <li>Customary land disputes-resolution system functioning but with important limitations</li> <li>Formal land dispute-resolution system (courts) partially functioning and only in urban areas</li> <li>Disconnect between formal and customary land dispute-resolution system</li> </ul>	<ul style="list-style-type: none"> <li>Conflicts over land ownership or land occupation escalate into violence and killings (and potentially assume community/clan dimensions)</li> <li>Forced evictions</li> <li>Politicization or manipulation of land disputes;</li> <li>Reforms introduced change the power balance of groups and clans</li> </ul>	<ul style="list-style-type: none"> <li>Revise the land tenure categories and their attributes</li> <li>Establish fit-for-purpose land administration, including incremental approaches, and by improving what is in place</li> <li>Strengthen dispute-resolution mechanisms</li> <li>Develop the capacities of the different actors involved in land administration and land-disputes resolution;</li> <li>Promote coordination, alignment and harmonization among the different laws used</li> </ul>

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Root causes of conflict	Land-related proximate factors	Triggers of violent conflicts	Recommendations
Politics of exclusion	<ul style="list-style-type: none"> <li>Land dispossession to the detriment of smallholder farmers and weaker rural communities</li> <li>Marginalization and blockages in accessing land for minority clans and other minority groups</li> <li>Exclusion of 'IDP communities' and returnees from accessing the full range of land rights and marginalization in 'IDP settlements';</li> <li>Spatial, social and economic segregation of vulnerable communities</li> </ul>	<ul style="list-style-type: none"> <li>Forced eviction of 'IDP households/communities' at the hand of 'host communities' or more powerful groups</li> <li>Elections or coups</li> <li>Radicalization and violent extremism</li> </ul>	<ul style="list-style-type: none"> <li>Ensure that minorities and displaced people are included in the governance systems and their rights are protected</li> <li>Revise the definition of 'IDP' to better reflect the complexities on the ground and to redefine the HLP rights of marginalized communities</li> <li>Prevent and address the segregation of vulnerable communities</li> </ul>
Capture of state instruments	<ul style="list-style-type: none"> <li>Armed and terrorist groups take up government's functions</li> <li>Clans or groups capture state instruments to the advantage of their particular group</li> </ul>	<ul style="list-style-type: none"> <li>Confrontations escalate into violent conflict;</li> </ul>	<ul style="list-style-type: none"> <li>Increase the legitimacy and capacity of state institutions</li> <li>Combat armed and terrorist groups</li> </ul>
Chaotic urbanisation	<ul style="list-style-type: none"> <li>Dysfunctional land registration</li> <li>Contested land claims on a large scale</li> <li>Grabbed open spaces and vacant land</li> <li>Conflictual land dynamics render urban land management and dispute resolution challenging</li> <li>Land-use conflicts between pastoralists and urban residents</li> <li>Haphazard spatial urban development</li> <li>Urban expansion taking place in an unserved and unsustainable manner, including in unsuitable land</li> <li>Spatial, social and economic segregation of vulnerable ('IDP communities')</li> </ul>	<ul style="list-style-type: none"> <li>Conflicts over land ownership, occupation, use or land grabbing escalate into violence and killings and potentially assume community/clan dimensions</li> <li>Spatial, social and economic segregation leads to social unrest, violent demonstrations or attacks to individuals, groups or institutions</li> <li>Radicalization and violent extremism</li> </ul>	<ul style="list-style-type: none"> <li>Establish fit-for-purpose land administration</li> <li>Plan city growth and extension to address current and future problems (lack of services, spatial and socio-economic segregation, unsustainable land use, etc.)</li> <li>Promote compact and integrated urban development that features mix land use and mixed social composition</li> <li>Ensure that land markets are well regulated and functioning</li> <li>Strengthen dispute-resolution mechanisms</li> <li>Combat land grabbing</li> </ul>

# RECOMMENDATIONS

## 3.2 KEY LAND-RELATED RECOMMENDATIONS

### 3.2.1 *Reconceptualize the fundamentals*

If Jubaland wants to ensure that its land and land-based resources become drivers of social and economic development and foster peace rather than conflicts, there is a need to **reconceptualize the way the land rights system is set up** (who is entitled to what, where) and the related land tenure categories. Several countries in Africa and beyond went through such a process and have embraced the concept of the **continuum of land rights**.

The continuum of land rights is an inclusive concept that recognizes the existence and validity of a range of types of land rights that exist (rights of use, occupancy, lease, ownership,...), qualities of rights (formal, informal, customary, short or long duration) and rights holders (individuals, groups, clans, urban communities...). The continuum of land rights approach advocates for the **identification and progressive strengthening of the range of appropriate and legitimate land tenure arrangements** existing in a specific context as the most effective, scalable and time efficient way to

improve access to land for all in a relatively short time frame. The rights so identified, can be progressively upgraded over time, through an incremental approach.

Land tenure arrangements in Jubaland are frequently described in opposing terms: legal/illegal, registered/unregistered, by law/by practice (*de jure/de facto*). However, in practice a wide and complex spectrum of tenure categories exists between these two extremities and lie along a “continuum”. Registered, individual ownership can be seen as one of the appropriate and legitimate land tenure categories, each of which has its advantages and disadvantages.

In Jubaland, registered individual land rights are considered to be the most secure type of land tenure. However, anyone who wants to secure this type of tenure must go through a lengthy and costly procedure. While this might be appropriate for urban centres, where competition over land is strong, individually registered land rights cannot be implemented at scale in rural areas, and clear and well-documented group rights could be a better option.

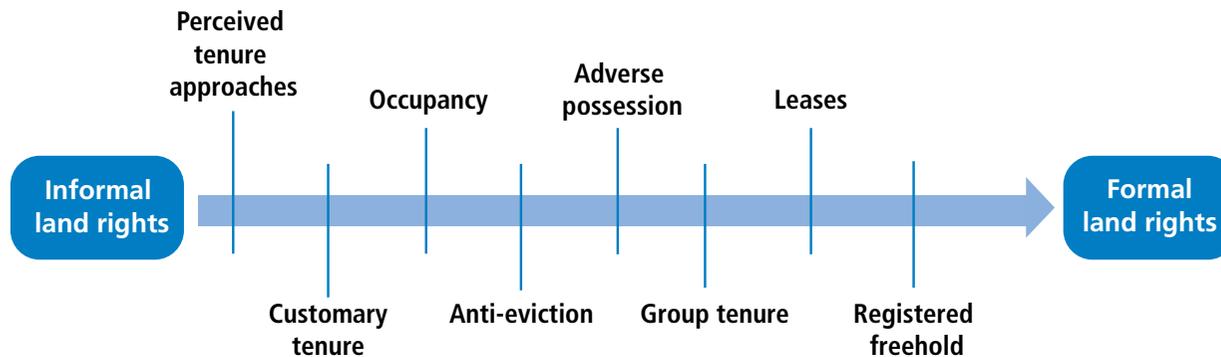
The most appropriate form of land rights’ recognition depends on context, on what suits the social, cultural and economic needs of local communities, the existing capacities of recognizing and managing such rights, and the requirements of the land administration authorities.

It is recommended that Somalia and Jubaland authorities – formal and traditional – reflect on this issue through a **participatory approach** that involves all key stakeholders. This will lead to the identification of the most common types of land tenure which will then inform decisions about which ones to be recognized and regulated by the policy, legal and institutional frameworks. The **attributes** of each type of tenure should be defined: who can access it (e.g. all Somalis, some groups of Somalis only, Somalis and foreigners, etc.), under which conditions, for how long, what rights and responsibilities are associated with it, which institutions administer it, etc.

The continuum of land rights has been widely embraced by global, regional and national institutions and organizations, even if at times it is conceptualized with different wording. Key resources on the continuum of land rights have been developed by the Global Land Tool Network.

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Diagrammatic representation of the continuum of land rights (global model)



### 3.2.2 Policy, legal and administrative frameworks

On the basis of the decisions taken on what was described in Section 3.2.1, **adequate policy, legal and administrative frameworks need to be developed.**

The absence of clear land policy and legal frameworks in Jubaland is fomenting conflicts. However, to be effective, any frameworks need to be based on and aligned with policies and laws established at the federal level, which has time and sequencing implications. How federal land governance frameworks and institutions should interact with those

of Jubaland is not clear, but it is hoped that the federal constitutional review underway will address issues of subsidiarity and accountability.

Integral to the constitutions – federal and Jubaland’s – a comprehensive **land policy** for the State of Jubaland will have to be developed and translated into appropriate legislation that addresses the core land issues identified in this report in an incremental way: land use management, physical planning, land administration, land disputes’ resolution, land rights for all, including those of minority groups, youth, women and displaced people (IDPs, returnees, refugees, migrants...) and the landless. The policy will have to address both rural and urban areas (or

separate policies will have to be developed) and technical as well as human rights challenges.

Such process will take time and it is important that **adequate time and resources** are allocated to it. The existing GLTN tool on land policy development could assist such process and learning exchanges with countries that have undergone similar exercises in comparable contexts could take place. In the meantime, other **short- and medium-term interventions, at both state and local levels,** can be established in preparation for policy and legal reforms and to address immediate needs. Some of these interventions are listed in the sections below.

#### Dealing with the prevailing legal pluralism

Constitutions, policies and laws will have to define how Jubaland will deal with the prevailing legal pluralism. The roles, duties and responsibilities of traditional land governance and dispute-resolution mechanisms will have to be assessed, appreciated, deliberated on in a participatory and inclusive manner, and clarified.

The **various institutions and legal frameworks** (statutory, xeer, religious) have a different reach in different areas of the country (e.g. rural versus urban

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areas, different regions, different issues, etc.); they are better understood by some parts of the society and less by others (e.g. communities, women, judges, traditional decision makers, etc.), and have different levels of enforcement (depending on their set up, level of understanding by the public, perceived legitimacy, and other context specific factors).

In an ideal context, where policies and legislation are in place and institutions are fully functioning, statutory laws would be optimally placed to regulate access, use and control over land. This is not the case in Jubaland where laws alone – even if they were in place – would not be sufficient to govern the different land issues in an effective manner. The effectiveness of laws depends on awareness of them, the presence of implementation mechanisms, the ability of people to invoke them, and the extent to which cultural norms and traditions are relied on rather than the statutory laws. In many areas of Jubaland, state institutions, including the judiciary, have a weak presence beyond urban centres.

For this reason, it is important to take into account the traditional/customary and religious laws and practices that are in place in Jubaland and how they impact decisions on land. **A (progressive) harmonization and alignment of the different systems should be fostered**, to ensure that – through different institutions and interventions – the overall objectives of the Jubaland administration are achieved. Specific aspects of the different frameworks might have to be adjusted, corrected or minimized and gender equality and minorities' rights should be accounted for.

The Jubaland state should **clarify how the statutory, religious and customary mechanisms relate and interface with each other** to avoid jurisdictional confusion and forum shopping in terms of dispute resolution, law application and enforcement. Although there are some cases where people benefit from a general flexibility in the discretionary application of different sources of law depending on the need, overall people – women and vulnerable people in particular – often lose out in a context where there is little clarity on the existing rules and regulations and their application. Ambiguities created by legal

pluralism accommodate stronger groups in the society, either the elites, the predominant ethnic or religious groups, or the supporters of patriarchy.

### 3.2.3 Strengthen land institutions

Federalism was enshrined as the basis of Somalia's governance structure in the 2004 Transitional Charter and the constitution of the Transitional Federal Government created in 2004 and dissolved in 2012. The Jubaland Provisional Constitution recognizes that the Jubaland State is a member state of the Federal Government of Somalia and the political governance model in Jubaland is an extension of the federal level, power-sharing deal in Somalia. Beyond that, it is not very clear how the **nexus between Jubaland and the federal government** is expected to function and how this will impact the respective institutions.

To strengthen land institutions in Jubaland, it will be important to **clarify this relationship**, develop their **capacities and harmonize, align and ensure coordination among statutory, traditional and religious institutions**, with a particular focus on their land governance functions.

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**Mandates, clarity of responsibilities** and functionality are not resolved and, in general, there is need for more internal open debate and external support for land institutions in Jubaland to ensure that they acquire the legitimacy they will need to adequately service the country. Capacity development and **resources** also need to be mobilized internally and externally in support of the land institutions and their personnel. Some of the areas identified for development are training on “hard” and “soft” skills, documentation of the work done, exposure to best practices, and a culture of listening to and embracing alternative views on specific topics.



Large tracts of land are managed by clan elders and this appears to be the only viable system in the short to medium term, particularly in rural areas. The **mandate of traditional authorities should be clarified**, their practices assessed and improved, and their **interactions with statutory authorities clarified and formalized**. Capacities of traditional land administrators should be developed.

**The Jubaland Land Use and Dispute-Resolution Commission**

It has been mentioned that efforts towards the establishment of the Jubaland Land Use and Dispute-Resolution Commission have started. It is important

that such an initiative is managed carefully so that the commission does not fail to deliver on its mandate, which then causes further conflicts and mistrust in the Jubaland administration.

The **mandate** of the Land Commission needs to be carefully designed and to take into consideration the timeframe of the constitutional reviews and the policy and legal reforms. Its mandate can be defined as incremental, with functions that change over the years ahead on the basis of the progress on these other important and complementary areas and periodic reviews. The Jubaland administration needs to be shrewd in assessing what can be delivered by the commission in the current context, and what will only be possible once the different frameworks have been setup and the situation has stabilized.

The role and mandate of the Land Use and Dispute-Resolution Commission need to be defined so that its **functions do not compete or conflict with those of other existing ministries** or other land governance bodies, which will result in an institutional conflict and further paralysis. The **collaboration and coordination between the commission and the traditional structures** of land management and dispute resolution will be crucial for success and create a solid base for the way ahead.

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## 3.2.4 *Manage the use of natural resources*

Environmental causes are often behind land-related conflict in Jubaland. Conflict prevention and peacebuilding initiatives must address these issues in the medium to long term, while mitigation and conflict-resolution measures need to be put in place in the short term. As multiple conflicting land uses are unavoidable in the short to medium term, regulatory mechanisms to manage the use of land, water and natural resources need to be put in place or strengthened.

**Livestock activities, charcoal production and farming activities need to be regulated,** to ensure balanced access to land and land-related resources by the communities that engage in such activities, on the basis of an analysis of the capacity of the territory to sustain such activities. This will avoid depleting the region's natural resources and fostering future conflicts. Enforcement mechanisms should accompany any regulations.

Although the movement of cattle is directed by their owners, there is a place for **technical interventions** to facilitate these movements in a peaceful way. Examples are the demarcation of livestock migratory

routes (already being successfully implemented in similar contexts, such as Sudan), management of grazing and crop farming through **land-use planning** and appropriate **regulations, and renegotiation** and renewed definition of the rules to share land and natural resources between different land users. State authorities and, especially, traditional authorities have a key role to play in such negotiations and their **enforcement**.

While such initiatives should be progressively scaled up to cover the whole of Jubaland, interventions can be established in locations that are particularly prone to conflicts.

## 3.2.5 *Strengthen dispute resolution mechanisms*

The conflicts can be classified into categories of high-profile, politically sensitive land conflicts and low-profile land conflicts. Low-profile land conflicts occur between individuals, are localized and do not have the potential to undermine general peace and stability. High-profile land conflicts have high stakes, pitting groups of people or clans against others and they have the potential to escalate and threaten lives, peace and stability.

Dealing with the range of land conflicts requires multiple interventions, starting from policy and legislative development, institution building, land-use planning, land administration, political negotiations, law enforcement, etc. Such interventions reinforce each other and combined are implemented in the short, medium and long term.

A key element underpinning the success of all these interventions is a functioning dispute-resolution system composed of well-coordinated justice administration institutions (formal, traditional and religious) that refer to a unified or harmonized body of law, and are staffed with well trained personnel.

**Coherence needs to be brought to the statutory, religious and customary systems of dispute resolution** in Jubaland. Legal procedures need to be streamlined so that they cannot be manipulated to exclude weak individuals or groups. A hierarchy between the different dispute-resolution mechanisms needs to be established and the way they interface with each other needs to be clarified. **Checks and balances** need to be put in place to rigorously assess the validity, strengths and weaknesses of traditional and religious dispute-resolution mechanisms, so that measures for improvement can be introduced.

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Traditional and religious mechanisms should not perpetrate and legitimize customs that are against the law and discriminatory towards women and other vulnerable groups.

Working on aligning and rendering more effective and different dispute-resolution systems should not divert attention and funding away from **strengthening the formal court system**, which should remain as the overarching mechanism. The necessary human, financial, legal, and technical resources have to be availed to put the justice mechanisms in the condition

of doing so. The work of other mechanisms should rather feed and complement it in areas where the state institutions are still too weak to arrive.

A **comprehensive range of interventions** have to accompany formal and non-formal courts systems, including accessible and affordable legal aid, legal information and counselling, legal assistance, representation and mediation, etc. Legal accessibility needs to be improved through the simplification and popularization of laws and decrees, and vulnerable people need to be supported in accessing justice. Different types of practical support need to be provided to women to improve their access to justice.

### **Capacity development of justice administrators**

Legal professionals such as judges, prosecutors and lawyers and religious and customary justice authorities must be trained on key aspects related to their profession, including dealing with specific land issues, gender and human rights. The sharing of good examples of previous land cases that were deliberated in accordance to the different constitutional, policy and legal provisions – once they were in place – would be a useful avenue to improve the capacity of the different justice administrators in dealing with complex land issues.

In particular, the study found that **traditional practices of managing and negotiating the sharing of pastures** are no longer as effective as they used to be and need further analysis, rethinking and reinforcement.

### **3.2.6 Fit-for-purpose land administration**

Jubaland is embroiled in a protracted conflict; most land is held under informal land rights and it is not realistic to expect that formal land administration in its current disarray can protect land rights. The answers to contested land tenure problems and contested land claims may not lie in the formal land administration system in the interim period. Jubaland needs to **shift towards a system where land rights are managed along the continuum of land rights** by a range of stakeholders, with clear rules and regulations. This includes statutory and traditional authorities and communities themselves, especially in rural areas.

As described in Section 2.3.2, the conventional land administration has failed. After the **revision of fundamentals**, highlighted in Section 3.2.1. which will create the basis for action, a fit-for-purpose land administration system needs to be designed, piloted and implemented. Particular focus needs to be put on

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the **land records system**, design, set up of the offices and functions, and identification and training of the personnel.

In Jubaland, most of the land conflicts occur on unregistered land, it being most of the land and widely affected by land grabbing. Yet, there are also conflicts on registered land, the consequence of contested land records, boundary problems and other challenges associated with the land administration's failure. Jubaland needs support to implement a simplified land registration system that is cost effective, quickly implementable with the resources and capacities available, but sufficient to ensure peace and stability in society.

Appropriate, **low-cost, fit-for-purpose land registration models** applied in other comparable contexts exist that can be used to construct land records in conflict and post-conflict situations. Over many years, UN-Habitat's Land and GLTN Unit, in collaboration with key partners, has developed and tested approaches that can help to address land administration issues in situations comparable to Jubaland. These are the Fit-for-Purpose Land Administration and the continuum of land rights approaches and the **Social Tenure Domain Model**

**(STDM)**. The STDM is a flexible and easy to manage alternative to the formal cadastre that benefits from modern mapping technologies and open source platforms; it can be operated by communities, with minimum support and supervision from technical personnel and can be easily integrated into local administrative frameworks.

The **key land administration functions** needed in the short/medium term should be identified and the possible available options assessed, so that a concrete and feasible proposal for the way forward can be formulated by the Jubaland administration with the technical support of specialized United Nations agencies and other key actors. The selected fit-for-purpose land administration approach could then be implemented on a pilot basis, to assess its suitability to deliver against the identified needs.

Once a fit-for-purpose land administration system is established, a systematic **verification of the existing records** should be done in collaboration with the Jubaland administration at different levels as well as the federal government. As the size of this task is daunting, co-ordination with external partners such as development and humanitarian actors is necessary. Often in such contexts, several pilot projects using

### The fit-for-purpose land administration

The fit-for-purpose (FFP) approach provides a new, innovative and pragmatic solution to land administration in developing countries, where current land administration solutions are not delivering. The solution is directly aligned with country specific needs, is affordable, is flexible enough to accommodate different types of land tenure, and can be upgraded when economic opportunities or social requirements arise.

The FFP approach includes three fundamental characteristics. Firstly, there is a focus on the purpose before designing the means to be most "fit" for achieving it; secondly, the FFP approach requires flexibility in designing the means to meet the current constraints; and thirdly, it emphasizes incremental improvement to provide continuity.

There are three interrelated and mutually reinforcing core frameworks that work together to deliver the FFP approach: the spatial, the legal and the institutional frameworks. The approach also highlights four key principles for each of the three frameworks that need to be established, facilitated and implemented. Each of the frameworks must be sufficiently flexible to accommodate the specific needs and context of the country.

Source: "Fit-for-purpose Land Administration: Guiding principles for country implementation" (2017). Global Land Tool Network, UN-Habitat and Kadaster International. Netherlands.

different approaches and tools are being implemented, undermining the scope of the interventions. Adequate, sustainable and predictable funding needs to be made available for such interventions.

A simple database that captures information on who owns what land in the government-controlled areas, including IDP camps, could be developed.

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To ensure that land markets are normalized and function well, however, the establishment of a land registration system alone is not sufficient. **Area plans and urban plans** need to be developed to determine which areas can be subdivided and legally allocated for development. Simple norms regulating the number of plots that may be owned by the same individual in the same location might be put in place, as well as basic principles regulating the use of the land.

### 3.2.7 *Area-wide spatial plans and planned urban growth*

**Area-wide spatial plans** to manage land use, accommodate population growth and address people's land needs will have to be put in place in the medium to long term, starting with the most conflict-prone communities (see analysis maps in this report). At a **smaller scale, plans** for adequate human settlements both in rural and urban areas need to be made, to ensure that neighbourhoods promote spatial, social and economic integration, are close to livelihood opportunities, are accessible, and are not established in areas prone to natural hazards, etc. The **segregation of vulnerable communities needs to be addressed** and prevented.

**Compact and serviced urban extensions** have to be promoted to address current and future problems (lack of services, segregation, unsustainable land use, etc.). **Mixed land use** and mixed social composition also needs to be pushed for; settlement patterns of populations in towns are largely based on clan relationships that inhibit sufficient and organic integration of urban residents and add a layer of complexity that will be difficult for local authorities to manage. Under such conditions, the mobilization of people based on clan affiliations needs to be prevented, as it can lead to the rapid spread of conflicts along clan lines. Urban societies world-wide are cosmopolitan in nature and maintaining a rigid settlement pattern whose form is dictated by clan-based interests and parameters is as inappropriate as it is dangerous.

### 3.2.8 *Combat land grabbing and forced evictions*

From a political economy perspective, land grabbing is deeply rooted in the power dynamics of the society. The enabling factors of land grabbing are clan structures, common business practices, disproportionate power in the hands of former fighters and other influential personalities in the government or other sectors, the wide availability

of weapons from criminal elements of society, and the overall absence of rule of law. Land grabbing is also based on the complete failure of the formal land administration system, which makes it impossible for people to access land legally.

It will take time for the appropriate physical planning and development control functions of local authorities to evolve. In the meantime, interim measures should be put in place to **contain the situation** with regard to land grabbing, including the issuing of a moratorium on the construction of landmarks and the enforcement of prevention measures.

### 3.2.9 *Provide suitable land and tenure security for refugees, displaced populations and landless poor*

It is clear that one of the most burning issues to be addressed is the provision of tenure security to the different categories of displaced people: IDPs, returnees and refugees, with the important addition of the landless poor. As recommended in section 3.2.1, the starting point would be the reconceptualization and definition of the characteristics of these different categories of displaced people and the type of land rights that they can access. To adequately address their needs, a **multifaceted approach** is required:

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the development of constitutional, policy and legal frameworks; the reform of the land administration system; and the development of inclusive spatial/urban plans, etc. These issues have been addressed in the section above.

While long-term interventions are worked on, a set of **transitional measures** have to be put in place, to address the short-term needs of the displaced in terms of land for housing and livelihoods (e.g. small-scale farming or workshops, keeping some animals, etc.).

**Suitable areas for temporary or permanent settlement** need to be identified and the related tenure security documents developed. The latter can be at the household or community level and have to define their tenure rights to the land, which can be **full ownership, or lease/tenancy agreements** with private landlords or the government, if on public land. To be sustainable, such measures need to clarify the rights and duties of the parties, the type of land uses that are allowed and the timeframe of the agreement, to ensure that common understanding is fostered.

Further tenure options can be explored and encouraged. **Individual rental agreements** between displaced households and host communities could be regulated and incentivized. Jubaland institutions could

develop model rental agreements that can be used to formalize tenancy-landlord relationships and define rights and obligations; such contracts could be also registered with the government's institutions to give an additional layer of protection to both signatories.

The **local integration** of families that would like to opt for such options should be encouraged, especially in the case of IDPs and returnees who are Jubaland citizens. For those who are able and willing to go back to their homes, support should be provided.

### **3.2.10 Improve youth and women's access to land and livelihood**

Youth and women are two categories that deserve particular attention. Youth's land needs have to be identified and young people need to be part of decision-making processes that involve access to land and housing. The study did not focus sufficiently on this topic to give detailed recommendations on this regard, but the exclusion of youth from livelihood opportunities and decision-making processes has proven to be a dangerous way to go, especially in a context like that of Jubaland where the risks of violent extremism are very high.

Women's access to land, housing and livelihood also needs to be specifically addressed. While the study highlighted that women who have access to resources are empowered enough to have tenure security, displaced women, women heads of household, illiterate and disable women are key vulnerable categories that need particular attention. Legal and administrative blockages that prevent the women from renting land or housing should be removed and specific, targeted support for women should be put in place. This can include: establishing information and support centres to help women to identify the best way to access land and housing; supporting the issuing of civil documentation, when they do not have it (identity cards, marriage certificates, etc.); supporting women in accessing justice; and monitoring and ensuring that land and HLP processes do not discriminate against women.

## **3.3 THE ROLE OF THE UNITED NATIONS SYSTEM**

The federal government and the Jubaland Government will have a lot of work ahead to ensure that land issues are addressed in a way that will meaningfully contribute to the peace and stabilization process and re-establish the trust between the citizens

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and the state. Civil society and the private sector will be equally important in the establishment of a functioning land sector.

The United Nations system will also have a crucial role to play if it intends to meaningfully contribute to conflict prevention and resolution, and to the peacebuilding process in Jubaland. With this study – which complements other research on similar or related topics – the key issues have been identified. Consultations on the emerging findings have been undertaken in the process of the development of the study, but now the recommendations will have to be tabled and discussed with key stakeholders, including the government, to refine them, identify which are most pressing and to **develop a consolidated road map** for land interventions.

A few rounds of internal United Nations consultations with key United Nations agencies active in Jubaland will be required to define a common vision on the way forward and to prioritize the actions to be taken. Alignment and coordination will be crucial.

**Assistance to Jubaland institutions** will be necessary on different fronts: **capacity development; fostering discussions and negotiations on key topics; technical assistance to identify key approaches and tools that would be needed; support for the implementation of catalytic activities** that would put land reforms in motion.

Engagement in strengthening the **dispute-resolution system, area/urban planning, reform of the land administration system, the land-use planning commission** in selected priority areas and capacity development for government institutions, including the land commission, all appear to be the best entry points for joint United Nations action in the coming two to three years while the institutional arrangements get settled and more comprehensive interventions can be planned. Support in the **reform of the legislation and assistance to the temporary or permanent settlements** of the displaced will remain focus areas for both humanitarian and United Nations development agencies.



## REFERENCES

- African Union (2010). "Policy Framework for Pastoralism in Africa: Securing, protecting and improving the lives, livelihoods and rights of pastoralist communities". Addis Ababa.
- Bagayoko, N., Hutchful, E. and Luckham, R. (2016). "Hybrid Security Governance in Africa: Rethinking the foundations of security, justice and legitimate public authority." In *Conflict, Security and Development*, 16(1).
- Besteman, C. (2000). "Local Land Use Strategies and Outsider Politics: The registration in the Middle Juba Valley." In Besteman, C. and Cassanelli, L. (eds.). *The Struggle for Land in Southern Somalia: The war behind the war. Revised Edition*. London: HAAM Associates.
- Besteman, C. and Cassanelli, L. (eds.) (1996). *The Struggle for Land in Southern Somalia: The war behind the war*. London: HAAM Associates.
- Besteman, C. and Cassanelli, L. (eds.) (2000). *The Struggle for Land in Southern Somalia: The war behind the war. Revised Edition*. London; HAAM Associates.
- Bradbury, M. (1993). "Development in Conflict: Experiences of ActionAid in Somalia". Report to the Responding to Conflict Unit, Woodbrooke College and ActionAid.
- Burman, J., Bowden, A. and Gole, A. (2014). "Land Tenure In Somalia: A potential foundation for security and prosperity". Shuraako, sharuaako.org. Accessed on 27 September, 2017.
- Cassanelli, L.V. (1982). *The Shaping of Somali Society*. Philadelphia: University of Pennsylvania Press.
- Compagnon, D. (1990). 'The Somali Opposition Fronts: Some comments and questions". *Horn of Africa*, vol. XIII, nos. 1 and 2.
- Clos (2011). "Al-Shabaab, Part of the Solution to the Problems Faced by Somalia?" In Lederach et al (2011). *Somalia: Creating Space for Fresh Approaches to Peace Building*. Uppsala: Life and Peace Institute.
- Danish Demining Group (2017). Dadaab Returnee Conflict Assessment. Nairobi: DDG and Department for International Development.
- Deheze, D. (2009). "The Scarcity of Land in Somalia: Natural resources and their role in the Somali conflict". Occasional Paper III. Bonn: International Centre for Conversion.
- Duffield, M. (1990). "War and Famine in Africa". Oxford: Oxfam (UK/I).
- Du Plessis, J., Augustinus, C., Barry, M., Lemmen, C. and Royston, L. (2016). "The Continuum of Land Rights Approach to Tenure Security: Consolidating advances in theory and practice". Proceedings of the 2016 World Bank Conference on Land and Poverty, 14-18 March, 2016.
- Durand-Lasserve, A. and Sarod, H. (2007). "The Formalization of Urban Land Tenure in Developing Countries". Paper for World Bank Urban Research Symposium, 14 April, 2007. Available at: ([http://siteresources.worldbank.org/INTURBANDEVELOPMENT/Resources/336387-1269364687916/6892589-1269394475210/durand\\_lasserve.pdf](http://siteresources.worldbank.org/INTURBANDEVELOPMENT/Resources/336387-1269364687916/6892589-1269394475210/durand_lasserve.pdf)).
- Economic Commission for Africa (2017). "New Fringe Pastoralism: Conflict and insecurity and development in the Horn of Africa and the Sahel". Addis Ababa: ECA.
- European Commission/International Union for Conservation of Nature (1993). "Environmental Synopsis of Somalia." Brussels and Switzerland: EC and IUCN.
- Food and Agriculture Organization of the United Nations (2006) "Environmental Study of Degradation in the Sool Plateau and Gebi Valley, SANAAAG Region of Northern Somalia". Rome: FAO.
- Fisher, S. (1993). "Mediation and Training Agencies". Unpublished paper. Oxford: Oxfam (UK/I).
- Gundel, J. (2006). "The Predicament of the Oday: The role of traditional structures in security, rights, law and development in Somalia." Nairobi: Danish Refugee Council.
- Helander, B. (2003). "The Huber in the Land of Plenty: Land, labour and vulnerability among a southern Somali clan." In Besteman, C. and Cassanelli, L. (eds.). *The Struggle for Land in Southern Somalia: The war behind the war. Revised Edition*. London: HAAM Associates.

## REFERENCES

- Hoben, A. (1988). "The Political Economy of Land Tenure in Somalia." In Downs, R. and Reyna, S. (eds.). *Land and Society in Contemporary Africa*. Hanover: University Press of New England.
- International Federation of Surveyors (FIG)/United Nations Centre for Human Settlements (1998). "Informal Settlements, Security of Tenure, Urban Land Management and Local Governance: Experience in implementing the Habitat Agenda". Draft Report of the Durban Conference; August, 1997.
- Jubaland, State of (n.d.). The Provisional Constitution of Jubaland State of Somalia; The Jubaland State of Somalia; Government of Jubaland; Kismayo.
- Jubaland Refugee and Internally Displaced Person's Agency (2016). "Report on the Profiles of Internally Displaced Persons Living in Camps of Kismayo". Kismayo: JRIA.
- Jubaland Baseline Study (2016). Qualitative Research on Political, Socio-economic, Security in Jubaland, Kismayo.
- Lederach, J.P. (1989). "NGOs and Peacemaking: A prospect for the Horn". Ontario: Horn of Africa Project, Institute of Peace and Conflict Studies, Conrad Grebel College.
- Lewis, I.M. (1961). *A Pastoral Democracy: A study of pastoralism and politics among the northern Somali of the Horn of Africa*. Oxford: Oxford University Press.
- Little, P.D. (2003). *Somalia: Economy Without State*. London: The International African Institute.
- Menkhaus, K. (1993). "Foreign Assistance in the Lower Juba Valley: The past record". United Nations Operation in Somalia Lower Juba Strategy Briefing Paper #3.
- Menkhaus, K. (2000). "Somalia: A situation analysis." United Nations High Commission for Refugees, WriteNet Paper 7, November 2000, pp. 4-5.
- Menkhaus, K. and Craven, K. (2000). "Alienation and the Imposition of State Farms in the Lower Juba Valley. In Besteman, C. and Cassanelli, L. (eds.)(2000). *The Struggle for Land in Southern Somalia: The war behind the war*. Revised Edition. London: HAAM Associates.
- Menkhaus, K. (2003). "Somalia: A situation analysis and trend assessment". United Nations High Commission for Refugees and the Department of International Protection.
- Menkhaus, K. (2003). "State Collapse in Somalia: Second thoughts". *Review of African Political Economy*, 97, pp. 405-422.
- Merryman, J. (2000). "The Economy of Geedo Region and the Rise of Smallholder Irrigation." In Besteman, C. and Cassanelli, L. (eds.)(2000). *The Struggle for Land in Southern Somalia: The war behind the war. Revised Edition*. London: HAAM Associates.
- Norton, G. (2008). "Land, Property and Housing in Somalia." Nairobi: UN-Habitat, Norwegian Refugee Council and United Nations High Commission for Refugees.
- Puntland Development Research Centre (2003). "Somali Customary Law and Traditional Economy – Cross Sectional, Pastoral, Frankincense and Marine Norms. Somalia: PDRC, Garowe, Puntland.
- Payne, G. (1997). *Urban Land Tenure and Property Rights in Developing Countries*. London: ZED.
- Regional Durable Solutions Secretariat (2016). "Local Integration Focus: Lower Juba Region: Durable solutions framework review of existing data and assessments to identify gaps and opportunities to inform (re) integration planning and programming for displacement affected communities". Nairobi: Danish Refugee Council, Norwegian Refugee Council and ReDSS.
- REACH (2016). "Kismayo IDP Settlement Assessment". December. Geneva: REACH.
- Reno, W. (2003). "Somalia and Survival in the Shadow of the Global Economy." QEH Working Paper Series, No. 100.
- Rift Valley Institute (2017). "Land Matters in Mogadishu: Settlement, ownership and displacement in a contested city." Nairobi: Rift Valley Institute.
- Roseveare, N. (1993). "Demobilization: Post-conflict issues and work". Oxfam Review, Unpublished Paper. Oxford: Oxfam (UK/I).
- Saferworld (2016). "Forging Jubaland: Community perspectives on federalism, governance and reconciliation". London: Saferworld.

## REFERENCES

- Samatar, Said S. (1991). "Somalia: A Nation in Turmoil". London: Minority Rights Group.
- Somalia, Federal Government of (2016). National Development Plan, 2017-2019.
- Third World Institute (1992). Third World Guide (1991/92), Instituto del Tercer Mundo, Montevideo.
- Somalia Shelter Cluster (2016d): Kismayo Mapping Exercise; May 2016.
- UN-Habitat (2015). "Harmonization of the Legal Systems Resolving Land Disputes in Somaliland and Puntland: Report and recommendations". Nairobi: UN-Habitat.
- UN-Habitat/Global Land Tool Network (2012). "Handling Land: Innovative tools for land governance and secure tenure." Nairobi.
- UN-Habitat (2003). "Handbook on Best Practices, Security of Tenure and Access to Land: Implementation of the Habitat Agenda". Nairobi: UN-Habitat.
- UN-Habitat (2017). "Kismayo City Profile". Nairobi: UN-Habitat and International Organisation for Migration.
- UN-Habitat (2018): Women and Land in the Muslim World: Pathways to increase access to land for the realization of development, peace and human rights." Nairobi: UN-Habitat, Global Land Tool Network, Arab Union of Surveyors, Urban Training and Studies Institute and the University of East London.
- United Nations Environment Programme (2005). "State of the Environment in Somalia: A desk study – UNEP". Accessed from: [edocs.unep.org/handle/20.500.11822/8425](https://edocs.unep.org/handle/20.500.11822/8425) on 27 September, 2017.
- United Nations High Commission for Refugees. "Weekly Update: Voluntary Repatriation of Somali Refugees from Kenya." 22 September, 2016.S
- World Bank (2011). "World Development Report 2011, Conflict, Security and Development". Washington D.C.: World Bank.
- Petersen, S. (2000). *Me Against My Brother, At War in Somalia, Sudan and Rwanda*. Routledge.



# ANNEXES

# ANNEXES

## A: JUBALAND LAND STAKEHOLDERS

### Jubaland Ministers and their respective clans

Names of Govt. Ministers	Ministry	Clan
Mohamed Yusuf Omar	Mineral and water	Shiekhal
Abdinur Ali Aden	Communication information technology	Hawiye/Galjecel
Osman Husein Haji	Co-operation and international planning	Jarerweyne/Bantu
Mohamed Abdi Mohamed	Transport	Awramale
Mohamed Ibrahim Mohamud	Higher education	Kumade/Ogadeen/Awliyahan
Aden Ibrahim Aw-xirsi	Justice, constitution & religious affairs	Marehan/Rer Dini/reer ugaas sharmarke
Ali Haji Nur Ali	Health	Raxaweyn/Leesan
Abdi Rashid Jire Qalinle	Finance	Kumade/Ogaden/Awliyahan
Mohamed Warsame Farax	Internal affairs	Harti/Majerteen
Ahmed AbdiXafid Mohamed	Tourism and wildlife	Raxaweyn/Dabarre
Mohamed Nur Buule	Livestock	Marehan/Talxe
Abdirashid Hassan Nur	Internal security	Marehan/Rer Axmed
Shukri Weyrax Kariye	Housing and public works	Kumade/Ogaden/M. Zubeer
Mohamed Mohamud Yussuf	Youth and sports	Marehaan/celi
Fariid Jamac Saleeban	Trade and industrialization	Harti/Dhulbahante
Ibrahim Hassan Abdi	Fishing and natural resources	Dir/Biyomal
Gelle Muhumed Aden	Agriculture	Kumade/Absame/Bartire
Khamar Haji Khalid	Women affairs	Kumade/Ogaden/M. Zubeer

Source: Jubaland Baseline Report 2016, Interviews with Key Government Ministers, July 2017

# ANNEXES

## NGOs working on land in Kismayo and Jubaland

Name of stakeholder	Main functions on land	Related functions with implications on land
Wamo Relief & Rehabilitation Organization	Land conflicts mediation between IDPs/returnees and host communities/government agencies	Provision of shelter and health facilities to IDPs and returnees
IDPs/Returnees Shelter Gate-Keepers	Support JRIA in shelter projects aimed at supporting IDPs/returnees Involved in mediation of land conflicts between IDPs/returnees and host communities/government agencies	Might be biased towards the locals and influence land grabbers in the future
Norwegian Refugee Council (NRC)	Providing shelters to IDPs/returnees in Kismayo/Jubaland NRC is involved in projects that require land for implementing the projects	Livelihood provisions through TVET, education programmes, WASH, borehole
Social Agricultural Development Organization (SADO)	Peacebuilding and livelihood projects Currently implementing European Union-funded project which targets 1,500 youths in Kismayo	SADO is providing vocational training – TVET project. They require land for setting up the TVET training school
Kismayo Peace Committee (KPC)	KPC is a group of people working on a voluntary basis in solving among others, land conflicts in urban and rural settings	KPC is also involved in state-building projects like democratization and civic education engagement will compliment land-conflict management in Kismayo/Jubaland
Representative of Somali Bantu Group	Act as liaison – bridging the gap between community and government/international NGOs/private sector. Ensures that minority groups are not subjects of discrimination, particularly on land rights and tenure security	Involved in advocacy work related to empowerment of marginalised communities, e.g, ensuring the government is strictly practising the 4.5 model of governance – which ensures minority clans are well represented in the government. This provides platforms for minority groups to raise their concerns on among others, land matters
American Refugee Council (ARC)	ARC is mandated to support refugees/returnees in Somalia. ARC is part of the shelter cluster, working on providing shelters to IDPs, returnees and local communities in Kismayo and other areas in Jubaland	ARC is also involved in supporting (IDPs/returnees, host) local communities to drill boreholes to access water. Sometimes this leads to conflict/tension between various stakeholders, particularly if the land is located on unregistered land
Agency for Peace and Development (APD)	APD is involved in peace building and community dialogue mediation programmes, covering land conflict management	APD's grassroots approach to peace building is best suited to harness and promote traditional land-conflict resolutions

Source: Field Survey, June-August 2017

# ANNEXES

## B: SOURCES OF INFORMATION FOR THE STUDY

### Key informant interviews with government agencies

Agencies	Position of the key person interviewed	Summary of issues discussed
Ministry of Public Works and Housing	Minister	Land conflicts/land law/land allocation/open spaces/registered and unregistered land/urban planning
Ministry of interior	Minister	Land law/land allocation/IDPs and returnees/capacity of the municipality
Ministry of Agricultural	Minister	Rural land conflicts ( pastoralist and farmers/
Ministry of Fisheries & Marine Resources	Minister	Land uses along the coastal lines/the impact of land conflict on minorities
Police Department	Police Commissioner	Statistics on land-related cases; how are they handled, referral systems through the court and traditional systems
Land Department – Municipality	Head of Land Department/Municipality	Issues on registered and unregistered land and land documentation, proof of ownership
Jubaland Refugee and IDPs Affairs Commission ( JRIA)	JRIA Commissioners Head of Programmes Protection Officer	IDPs & returnees profiling/statistics/shelter projects in Kismayo/
Regional Court	President of the Regional Court Regional Court Judge	Discussions on matters associated with land disputes before the court, how the court functions, work ethics and competency of the staff, efficiency and transparency of the court
Appeal Court	Head of the appellate court	Discussion on the structure of the court in Jubaland, land conflict cases management
District Court	Head of District Court	Discussion on the structure of the court in Jubaland. Land conflict case management
Ministry of Justice	Minister	Discussion on legal aspects of land issues in Kismayo and Jubaland

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## Civil Society and other organisations interviewed

Name	Focal person	Land issues
Mercy Corps	National Programme Officer	Land conflict in the context of refugees/returnees
GIZ	Project coordinator based in Kismayo	Land conflict in the context of refugees/returnees
Somali Disability Rights Advocacy	Chairman Deputy Chairman	Land conflict in the context of people with disabilities
Hormud Internet and Telecommunication	Head of Juba Telecommunication	Discussion on land conflicts in the context of private business operations in Kismayo .
Jubaland Chambers of Commerce ( JCC)	Project Manager Liaison officer	Discussion on land conflicts in the context of business operations in Kismayo
Agency for Peace and Development	Head of Programmes Grant Officer	Discussion on land conflicts and the need for local advocacy/campaign
Agency for Vulnerable People	Head of Programmes Protection officer	Discussion on the role of youth in land conflicts in Kismayo
Social & Agricultural Development Organization (SADO)	Project Manager TVET officer WASH officer	Discussion on current trends of land conflicts in Kismayo
Norwegian Refugee Council (NRC)	Area Manager, WASH & Shelter Programme officer; ICLA Manager	Land conflict situation in Kismayo/how IDPs & returnees are affected by land conflict/land allocation
Wamo Rehabilitation & Relief Organization	Head of Shelter Projects Head of Programmes	Land issues in the context of IDPs, returnees and host communities
Notary Public Office	Notary Public Officer	Land sale agreements and disputes thereof, witnesses and testimonies
Afi Water Company	Head of Operations	The role of private entities in land conflicts
Wamo Electricity Company	Head of Operations	The role of private entities in land conflict management and the impact thereof

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## Focus Group Discussions

Group	Composition of the Group	Main issue for Discussion
Somali Women Solidarity Organization (SWSO)	Focus group discussions with 20 women representing clan elders, religious leaders, youth groups and businesspeople	Women and youth in the context of land conflicts
Kismayo Peace Committee (KPC)	Focus group discussions with 23 KPC members representing clan elders, religious leaders, women groups, youth groups and government officials	Areas associated with land conflicts in Kismayo, how conflicts are solved and the mechanisms used; the role of clan in land conflict
IDPs/Returnees and Host communities	Focus group discussions with 40 participants representing IDPs/Returnees/Host communities in Kismayo	Discussion on land conflicts in IDP camps in Kismayo and other areas in Jubaland



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## End Notes

1. Such as the Darood (especially the Majerteen, Ogaden and Marehan), the Hawiye, the Islamic Courts Union, Al-Shabaab, Hisbul Islam and Ras Kamboni Militia.
2. Jubaland Baseline Report, 2016.
3. Jubaland Baseline Report, 2016.
4. In Jubaland, the practice is that three male witnesses - or alternatively six female witnesses - are required for the authorization of land transactions.
5. "Scoping and Status Study on Land and Conflict: Towards UN System-Wide Engagement at Scale", UN-Habitat and GLTN, 2016.
6. Livingstone (2013).
7. Norton (2008).
8. Norton (2008).
9. <https://gltn.net/home/2017/12/04/how-to-do-a-root-cause-analysis-of-land-and-conflict-for-peace-building/>
10. ECA 2017.
11. World Population Data Sheet 2015: [www.prb.org/pdf15/2015-world-populationdata-sheet\\_eng.pdf](http://www.prb.org/pdf15/2015-world-populationdata-sheet_eng.pdf)
12. EC/IUCN, 1993.
13. Food and Agriculture Organization of the United Nations, 2006.
14. One such example was the conflict between Bimaal and Galjecel pastoralists in the Jilib area in 2016. While both are minority clans, the Galjecel went to the Bimaal area for grazing but overstayed in the area. This sparked a conflict and the Bimaal reported the case to Al-Shabab. However, it is understood that Al-Shabab ruled that, based on their religious practices, the two groups were to share the pastures.
15. One such incident occurred in a village in the Gobwein area in 2016. Reportedly, pastoralists moved into the area and their cattle destroyed the crops of a farmer who then fought back and killed what they described as the "intruder". The farmer subsequently escaped the wrath of the Al-Shabaab who wanted him killed.
16. 2001 WSP study in north-east Somalia estimated that some 170,000 hectares of forest land was lost to charcoal production in the last five years of the 1990s.
17. Yusuf (1997) estimated that some 30,000 tonnes of charcoal were being exported by ship to the Arabian Peninsula, particularly the United Arab Emirates.
18. Federal Government of Somalia.
19. Africa Union, 2010.
20. ECA, 2017.
21. Jubaland Baseline Report, 2016.
22. According to one key informant who fled the area in 2009, he has kept communication with his relations who stayed and was privy to periodic updates on the situation pertaining to his family and assets, including land. According to him, his assets remained in place only because Al-Shabaab did not have knowledge that they belonged to him.

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23. One key informant interview representing the minority groups cited a particular case involving Al-Shabaab to back the argument. Kamusuma Farm, located in the Gobwein area, is a big rangeland which has been left in the hands of the owner's children. Owing to the protracted conflict in Somalia, many of the children are scattered across the globe. Yet, some of the children have remained at the farm. As part of settling inheritance of the farm, the children requested the subdivision of the farm in preparation for its reallocation. It is understood that AL-Shabaab intervened and ordered that all the children who fled the farm were no longer entitled to inheritance. This approach, according to the interviewees, is not consistent with Islamic religious practices.
24. In one such example, a woman from Marehan clan lost her land rights/ownership of land after her cousin used Ogaden gangs to grab her land. The Ogaden gangs colluded with Marehan gangs to testify against the women's ownership of the land. The case itself indicates how people from the same clan/family can collude in underhand deals and land market transactions.
25. Interview with company official, 27 September 2017, Kismayo.
26. FAO/UN-Habitat, 2009.
27. "Land-governance: A review and analysis of key international frameworks", Global Land Tool Network and UN-Habitat, 2017.
28. Kismayo City Profile, UN-Habitat, 2017.
29. "Women and Land in the Muslim World: Pathways to increasing access to land for the realization of peace, development and human rights", UN-Habitat, GLTN, UTI, UEL and AUS, 2018.
30. Besten and Cassanelli 1996.
31. Norton 2008.
32. Norton 2008: 94.
33. Norton (2008: 94) quoting Besteman (1990).
34. Helander 2003; Deherez 2009.
35. Rift Valley Institute 2017, World Bank 2011.
36. Rift Valley Institute 2017:14, citing Bagayoko 2016.
37. Rift Valley Institute 2017: 15.
38. Rift Valley Institute 2017, World Bank 2011.
39. Burma et al.
40. DRC, South and Central Somalia Security Situation, al-Shabaab Presence, and Target Groups, January 2017.
41. Saferworld Report 2016.
42. Interview with a Judge, Regional Court, 9th August 2017.
43. Saferworld 2016.

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44. The said law transferred control of all lands to the government, making it compulsory for all individuals to register their landholdings within six months from the enactment of the law. Each family/individual could obtain only one concession for up to 30 ha of irrigated land, 60 ha of rainfed land and 100 ha of banana plantations. Landholders were permitted to register the land as state leaseholds or concessions, with usufructuary rights for up to 50 years, with the possibility of renewal and passing it on to "immediate kin". Effectively, the 1975 Land Law eradicated customary land tenure, substituting it with state leasehold title as the only means of claiming land rights (Besten and Cassanelli, 1996). As Norton (2008) noted, failure to register land that one was farming meant that claims to such land were lost, while at the same time registered land that was left idle could potentially be repossessed.
45. Menkhaus 2000: 147,
46. These were the Fanoole Rice Farm, the Mogambo Irrigation Project and the Juba Sugar Project; Menkhaus 1996,
47. Hoben 1988; Craven et al 1989; Menkhaus 1996; Menkhaus and Craven 1996.
48. Menkhaus (1996).
49. Refer to the definition of IDP settlements.
50. Federal Government of Somalia; 2016: 32.
51. Kismayo City Profile, UN-Habitat 2017.
52. JIRA (2016), as quoted by ReDSS (2016:9).
53. Kismayo City Profile, UN-Habitat 2017.
54. Interview with JRAIC official, 19 October, 2017.
55. "Kenya's commitment to close down Dadaab by mid-2017, the world's largest refugee camp hosting over 300,000 Somalis, has significantly increased returns and in turn puts more pressure on service delivery and infrastructure in Somalia. By October 2016, an estimate of 31,226 Somali people have returned from Kenya, the majority of which are heading to Kismayo, Baidoa, Luuq and Mogadishu." UNOCHA, Humanitarian Needs Overview 2017, October 2016.
56. Kismayo City Profile, UN-Habitat 2017.
57. DDG Report 2017.
58. Somalia Shelter Cluster 2016d.
59. Rift Valley Institute 2017.
60. The materials presented are primarily a reflection of the thinking of key leaders in the current government. In particular, the views of the Minister of the Interior and the Ministry of Public Works and Housing dominate the key arguments as outlined in this section. However, the views of other national leaders were generally supportive of the main arguments raised therein.
61. DDG 2017: 29.
62. Key informant interviews with government officials

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63. The continuum of land rights tool presents rights to land as lying on a continuum (UN-Habitat/GLTN 2012). "At one end are formal land rights, where the owner is an individual, who holds a set of registered rights to a parcel of land that can be enshrined in law, the parcel is delineated on a map; held in a record office, the owner has the right to occupy the land, build on it, sell it, rent it out, transfer it to his or her heirs, and prevent other people from moving on to it. At the informal end of the continuum are informal rights: a group of individuals (such as a clan) may have traditional rights to land to use a piece of land. The boundaries of the land may not be clearly marked on the ground or on a map, and there may be no official paperwork certifying who owns or has what rights to land," (UN-Habitat/GLTN 2012: 12). As argued by Palmer et al (2009) the continuum of land rights approach anchored on intermediate forms of tenure in the form of, inter alia: land certificates, rights to occupy and short-term leases in both rural and urban contexts.
64. Direct observation during the course of this study and key informant interviews.
65. Kismayo City Profile, UN-Habitat 2017.
66. Kismayo City Profile, UN-Habitat 2017.
67. The continuum of land rights was embraced in 2011 by the UN-Habitat Governing Council with Resolution GC23-17. It is reflected in the Framework and Guidelines on Land Policy in Africa that supports the Declaration on Land Issues and Challenges in Africa, signed by all heads of African states in 2009. The report of the Special Rapporteur on the Right to Adequate Housing to the Human Rights Council in December 2013 (A/HRC/C/22/46) builds on it. The continuum also features in the New Urban Agenda which was adopted by the United Nations General Assembly in 2016 and forms the basis of Sustainable Development Goals land tenure security target that measures both administrative and perception data with Indicator 1.4.2.
68. Resources on the continuum of land rights: (1) Handling Land: Innovative tools for land governance and secure tenure, UN-Habitat, GLTN, IIRR 2012. (2) Property Theory, Metaphors and the Continuum of Land Rights, UN-Habitat and GLTN, 2015. (3) Framework for Evaluating Continuum of Land Rights Scenarios, UN-Habitat / GLTN, 2016.
69. "How to Develop A Pro-poor Land Policy". GLTN and UN-Habitat. 2008
70. "Women and Land in the Muslim World: Pathways to increasing access to land for the realization of peace, development and human rights". UN-Habitat, GLTN, UTI, UEL and AUS, 2018.
71. "Islamic Inheritance Laws and their Impact on Rural Women". International Land Coalition. 2016.
72. Mohammed, J. (2016). "Somalia Through a Social Constructivism Prism". Paper presented at a roundtable discussion on Somalia Vision 2016, Doha Institute for Graduate Studies in 2016, Doha, Qatar.
73. NRC Afghanistan.
74. NRC life can change.
75. "Fit-for-purpose Land Administration: Guiding principles for country implementation". GLTN, UN-Habitat and Kadaster International Netherlands, 2017.
76. For further information on this topic see "Women and Land in the Muslim World: Pathways to increase access to land for the realization of development, peace and human rights."



## ABOUT THIS PUBLICATION

The report investigates the nexus between land and conflict in the Jubaland State of Somalia. From the analysis emerges that the key causes of conflict are environmental, socio-economic and governance-related. Each of these dimensions is tightly related to how land and land-related resources are accessed, managed and controlled. The report articulates the this relationship and provides a set of recommendations for addressing, mitigating and preventing violent conflicts by through improved land rights, land use and land management. The report encourages to reconceptualize the fundamental concepts related to land rights, improve the policy and legal frameworks, strengthen land institutions, improve the management and the use of natural resources, strengthen dispute resolution mechanisms, combat land grabbing and forced evictions, provide land tenure security for displaced people and landless poor, introduce and invest on fit-for purpose land administration, plan urban growth and give priority to women and youth's access to land and livelihood. The findings will guide the work of the United Nations in peace building and land conflicts management and will inform land policy processes and other land governance interventions in Jubaland and Somalia as a whole.

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