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# SOMALIA

## LAND GOVERNANCE REVIEW



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Land governance in Somalia has been marred by decades of conflict, instability, and state incapacity. Since the collapse of the state in 1991 and the destruction of both judicial and governance authority, the violent capture of land and other critical resources has been integrated into the political economy of warfare. Today, land is a central point of contention in Somalia's fragmented political landscape and remains a significant driver of contemporary conflict (Global Land Tools Network, 2020). Somalia's land governance architecture can be characterized as a patchwork of unclear and overlapping authorities, overlapping claims to land use, large-scale land grabbing, and unclear land tenure. Understanding contemporary systems governance is therefore a foundational issue for the country as it influences prospects for statebuilding, peacebuilding, and everyday livelihoods.

This report aims to provide an overview of the current state of land governance in Somalia, examining the historical context, hybrid legal framework, and current practices around land ownership, access, and control. In so doing, it identifies critical knowledge gaps and limitations in academic and policy scholarship and opportunities for future research. This report is based on a desk review of existing academic and policy literature, including comprehensive analysis of published reports, academic articles, and policy documents from government agencies, international organizations, and civil society groups. The outcomes of this report were presented to key experts (academics, policymakers, and legal professionals) at an in-person validation workshop on 30 June in Mogadishu, and the findings from these collaborative discussions inform this report.

This report is organized in three sections. First, it considers how Somali land tenure has been described in academic and policy literature, with an emphasis on the transformations that occurred across major historical transitions (coloniality, independence, and military rule). Second, this report considers the law and land governance mechanisms in existence across Somalia, charting specific pieces of legislation and attempts at reform. Finally, it summarizes the key themes of how land conflict is described in the academic and policy literature, with an emphasis on the key drivers of contemporary land conflict.

## 1. Somali Land Tenure

The following section reviews existing academic and policy attempts to map Somali practices of land tenure. These practices are by no means uniform, with differentiations across rural and urban communities, pastoralist and sedentary communities, as well as distinctions across historical periods.



## ***Clan, land and territory***

As Cassanelli (2015, 98) notes, “competition over land is nothing new in Somalia.” While it is clear that many of Somalia’s contemporary challenges over land have emerged from the recent legacy of the civil war, it is important to understand the historical transitions in land governance and management strategies which (in some form or another) continue to shape Somali land governance practices and technologies.

Michael Roth and John Bruce (1988, 1) characterize historical Somali pastoralist practice as a system of “private customary tenure” wherein “land was commonly owned by all but yet each and every location was designated for the exclusive use of a clan, subclan, down to the smallest unit of an extended family.” Somali customary management systems were developed to manage mobile communities and, as such, have complicated relationships to land, territory, and management. The Somali social system is organized around clan and kinship relations.

As opposed to approaches to territoriality with clearly defined borders, clan territory (or *deegaan*) was often conceptualized through access for pasture and grazing, with commensurate land and water rights (Cassanelli, 2015, 9). According to Cassanelli (2015, 10), pastoral communities in northern and central Somalia focused on “permanent water sources” and much of the social life – marriages, dispute resolution, and rituals – centered around these important locations. Conflict often occurred in contexts where access to water sources, grazing areas and their environs were threatened. These historical precedents continue to shape contemporary contours of land conflict as “many of the conflicts we see today are rooted in longer histories of disputes between neighboring clans over land and water” (Cassanelli, 2015, 8). For more sedentary communities, such as the agropastoral communities in southern Somalia, “the boundaries of *deegaan* were more limited” and tied to particular plots.

Even in the absence of hard-edged borders, there is some degree of historical relationship between clan affiliation and territory. Cedric Barnes (2006) argues that the contemporary politicized couplet ‘*u dhashey-ku dhashey*,’ which connects birthright (*u dhashey*) with birthplace (*ku dhashey*) speaks to a deeper historical relationship than is often posited in Somali studies. As Barnes (2006, 489) argues, “it is likely that traditional “segmentary” genealogical-based political identity has at certain historical moments chimed with territorial identity...matching clan (family) to a territorial base.” Cassanelli (2015, 20) suggests *ku dhaqmay* (or *use*) as a more cosmopolitan approach, evidenced primarily in Somalia’s precolonial urban centers.

In southern Somalia in particular, there was evidence of allowances and alliances for ‘outsiders,’ which Cassanelli (2015) describes as a system of ‘hosts and guests.’

In these contexts, there were often arrangements for ‘hosts’ ‘to first use of local resources, along with the authority to allocate use-rights to outsiders’ (Cassanelli, 2015, 17), where hosts were determined by ‘primacy in settling the land, on numerical strength, and on religious sanctions, all backed by the consensus of the community’ (Cassanelli, 2015, 18).

The extent to which colonialism impacted land tenure relations is debated in the academic and policy literatures. For many, “there were minimal contacts between pastoralists and ruling colonial bodies” as “the nomads kept their distance from the British and Italian rulers and continued their customary tenure arrangements” (Roth and Bruce, 1988, 2). However, it is generally accepted that British and Italian colonial encroachments into modern-day Somalia had the effect of prefixing territory and lands in place, in order to manage and rule a highly mobile pastoral population (Cassanelli, 2015, 22). While the impact of these fixtures are most evident in the areas that were to become international borders, such as the modern boundaries with Ethiopia and Kenya (Barnes, 2006), the impact of colonization in increasing clan-based territoriality is an important issue across Somali studies (Kapteijns, 2013; Besteman, 1998).

Through legislative interventions, Italian colonial administrators experimented with the transformation of collective land rights in order to facilitate colonial agricultural exploitation in Somalia’s fertile southern regions. Guadagni (1979, 132) describes the ways that interventions attempted to bring about “the dissolution of the tribal collective land tenure system” and “preparing the conditions for a new form of ownership, individual and foreign” (Guadagni, 1979, 142). The consequences of British and Italian colonial intervention in land governance were twofold: the erosion of customary rights and management systems, whilst also increasingly tying identity and land (access and ownership) closer together. This would have deep implications for post-independent governance, and contemporary challenges to land governance.

### ***Post-independence legislation***

The transition from “private customary tenure” (Roth and Bruce, 1988, 1) to private freehold and leasehold tenure was accomplished primarily through legislation but was unevenly adopted in practice. Somalia’s post-independence period was characterized by significant changes to land governance mechanisms. While there were attempts at the adoption of land reforms in the early 1960s (Guadagni, 1979, 355; RVI, 2017), none passed.

Significant legislative interventions in the arena of land governance and management came after the accession to power of the “scientific socialist” regime of Maxamed Siyaad Barre in 1969. It was during the 1970s that “the struggle for land” was transformed “from the local to the national arena” (Cassanelli, 2015, 24). Cassanelli (2015, 25) argues that this was driven by several key trends: a rise in agricultural values, a need for legislative power to resettle nomads displaced by drought and the Ogaden war, the rise of land-based clientelism, and massive rises in urbanization (particularly in the capital of Mogadishu).

Several key pieces of legislation were introduced. The 1970 Law for Social Protection mandated that “all forms of tribal association, rights, and privileges, including over rights over land and water, were abolished and claimed by the state” (RVI, 2017, 33). Many of the legislative interventions focused on the agricultural sector, as “between 1970 and 1976, the government passed as many as 22 laws regulating the crop sector” (Roth, 1988, 6). The 1975 Land Law introduced land registration, which also “brought all land under the authority of the state” but also had the effect of upending ownership arrangements in agriculturally productive regions as titles “were disproportionately issued to newcomers to the area and not to people who were permanently settled farmers” (Besteman, 1994, 497), with titles overwhelmingly being issued to “traders, businessmen, or government officials from Mogadishu or regional capitals” (Besteman, 1994, 497). In any case, it seems that there was limited uptake of these registration policies due to the significant encumbrances they entailed, “with only 0.5 percent of Somalia’s total land area having been registered by 1986 and 0.6 percent by 1988” (UN-HABITAT, 2008, 145).

The 1973 Urban Land Law (and 1980 amendment) was beset with similar challenges. In Somalia’s cities, particularly Mogadishu, those with access to closed bureaucratic networks often had significant advantage in legal titling as the land registration process continued (RVI, 2017). In practice, the legislative interventions of the Barre era (1969-1991) created land reform and titling practices that were unevenly adopted and beset by corruption and cronyism.

## ***Civil war and contemporary land challenges***

Somalia’s clan-based civil war concretized conceptions of homeland through the threat of violence. As Bakonyi (2015, 253) argues, “many people now fled to regions populated mainly by people from their own clan and controlled by a local clan militia.” They soon referred to these regions as “home regions” or “areas of origin” which accelerated “the entanglement of genealogical affiliation with notions of territoriality”. This rapid reterritorialization of Somalia through clan logics occurred even in the country’s historically cosmopolitan urban centers.

Land access and control quickly became central to the political economy of the civil war. As Cassanelli (1996, 23) argues, “below the surface of militia mobilization, there was a struggle to secure resources in an increasingly resource poor country.” Farmland “was occupied and claimed by the liberators,” as “Somalia’s productive resources became the battleground” (Cassanelli, 1996, 23) for a decade’s long conflict, often at the expense of the poor and marginalized communities that had occupied and long settled the area.

The political economy of Somalia’s warfare soon became centered on access to important infrastructures (airports, ports, roads) as well as fertile land and water sources. As Cassanelli (1996) argues, “warlords, it turned out, were not simply clan leaders intent on destroying their rivals but competitors....to gain access to productive land, port facilities, and urban real estate, which in turn could be used to sustain networks of patronage and support.”

Formerly public land ceased to be under the control of the state, with “most public lands or buildings ... occupied in or after 1991” (Hagmann et al, 2022, 32), with uneven and incomplete processes of “reclamation” since the war. In the absence of the state, roads and other central connectivity infrastructure were significantly degraded and roadblocks through vital throughways became a source of rents for armed groups (Hagmann et al, 2022). This political economy of warfare continues to shape the landscape of Somalia’s land governance system in myriad ways.

## **Current context**

The return to statehood has been uneven, and land governance continues to be a central challenge to political stability. Concern about upending the tenuous stability has meant that there has been no national legislation or any efforts at redressing the land plunder of the civil war era. Today, land issues remain a particularly volatile problem, with private land disputes in Mogadishu accounting for some 80% of cases before the courts. As such, there are several cross-cutting challenges to security of tenure affecting land governance in Somalia.

- **Land governance in Somalia can be characterized as consisting of unclear and overlapping governance systems and a lack of state capacity.** What emerges is a context of distinct uncertainty and instability – where multiple authorities compete for recognition and power. This creates a distinctly challenging system to navigate, for the state and citizens alike, where security of tenure can be validated or nullified by different parties. This will be discussed at length in the next section of this report.
- **The rapid urbanization of many Somali cities is outstripping the capacity of urban and regional governments to administer them.** As noted by the World Bank’s Somali Urbanization Review (2020), “the growth rate for urban areas is extremely high – around 4.3 percent per annum” with predictions that the country could “triple its urban population over 30 years.”



With this comes significant challenges for urban and regional administrations, and a strain on already limited resources. While urban spaces in Somalia have been an “anchor for development,” there is severe concern that largely unplanned urban growth coupled with volatile land issues could create significant challenges for future land administration.

- **Long-standing land disputes and contemporary land conflicts continue to be a trigger for instability and even violence.** Overlapping urban and rural land claims from expropriation emerge from eras of colonial rule, military rule, and the civil war. Today, these are amongst the most hotly contested and challenging issues, preventing possible interventions for reconciliation and adjudication. The continued threat of violence also creates a context of widespread impunity, characterized by the Somali saying *ku qabso ku qaadi maaysid*, “if you claim it, you will not go without” (Harris, 2015, 6).
- **Enforcement and a lack of judicial capacity** compounds the already-existing land conflict challenges. Even in contexts where individuals are able to successfully adjudicate land dispute cases in court, there is a significant lack of enforcement capacity. This results in a judiciary that is significantly constrained in the de facto authority, and a context of impunity which results in further escalating violence.
- **Land grabbing, the increasing commodification of land, and the use of land to consolidate political alliances and patronage** is a central issue for land governance. In the absence of many economically viable investment opportunities, investment in urban and rural land is a vital economic activity. Political elites often use land as means to consolidate support, while diaspora investors and government affiliated officials purchase land for its future resale value (Somalia Stability Fund, 2021, 24). In rural areas “this is manifest in enclosures of rangelands and appropriation of valuable farmland, as well as land known to hold mining or hydrocarbon potential and land that is strategically located near ports” (Somalia Stability Fund, 2021, 24). In urban areas this manifests in the rapid development of cities.
- **Forced displacement is a critical issue for land governance**, as vulnerable communities are forced to flee recurrent environmental catastrophes, as well as ongoing armed conflict (Bryld et al, 2020; Bonnet et al, 2020). Some 2.6 million people are internally displaced, and find themselves without access to basic services or rights (World Bank, 2020, 11). Displaced people often find themselves in Somalia’s cities, where they are enmeshed in a network of brokerage between “gatekeepers” who navigate services, landowners and managers, and the wider humanitarian aid presence (Bakonyi et al, 2019). Displaced communities in Somalia’s cities often find themselves as perpetual “outsiders” with few political rights and under constant threat of eviction. Eviction may even come after significant humanitarian aid investment, intended to clear land or make it suitable for their habitation and support (Bakonyi et al, 2019; Bakonyi, 2021).

## 2. Law and Land Governance Mechanisms

It is commonly argued that in Somalia, there are three distinct, but interrelated governance systems for land: *xeer* (customary law), Islamic law, and state law (Somalia Stability Fund, 2021; ReDSS, 2019). It is generally agreed that *xeer* is not a body of law, but instead, is an accretion of many disparate clan agreements transmitted through generations orally. It generally governs “reciprocal rights and obligations between kin and clans and cover domestic matters, social welfare, political relations, property rights and the management of natural resources,” (Global Land Tools Network, 2022, 13) depending on the history of agreements between the clan communities in question, and the nature of the specific dispute. The Land, Property, and Housing in Somalia (UN-HABITAT, 2008, 157) report provides certain examples of the generally accepted principles of *xeer*: the payment of blood compensation (or *diya*); the protection of the elderly, religious, women and other “socially protected groups” from violence; family obligations to do with marriage and widowhood; and the general maintenance of “resource-utilization rules regarding the use of water, pasture, and other national resources.” The Global Land Tool Network (2022) further differentiates between *xeer qodato* (farmers’ customary law), *xeer daaqsato* (pastoralists’ customary law) and *xeer dabato* (fisher’s customary law). It is often the case that before land disputes are managed through state law, attempts at mediation often include clan elders. Particularly in contexts where there is no alternative, there is potential for power differentials between clans to emerge and impinge on the deliberation process and outcome of particular land disputes.

Similarly, the utilization of religious elders and recourse to Islamic jurisprudence in land governance and dispute resolution is common. This is a body of juridical and moral laws based on the Holy Qur’an, the hadith, and scholarly consensus. According to the Land, Property and Housing in Somalia (2008, 155) report, interviewees were familiar with the general principles of Islamic land law, but found that it had limited practical applicability. However, appeals to Islamic scholars in cases of intractable inheritance or general land disputes is common in Somalia.

To gain legitimacy, al-Shabaab has created what might be considered a parallel judiciary with its own set of rules, judges, and ways of enforcement for land disputes. In addition to its taxation system for revenue collection, arbitrating land disputes has become a meaningful way in which al-Shabaab attempts to exert authority across the Somali territories. As the UN Monitoring Group (2019, 14) notes, “al-Shabaab ... provides some basic services typically associated with government, even in areas it does not physically control.” In contrast to the state justice system, which is perceived as “costly, protracted and unpredictable” (UN Monitoring Group, 2019, p.14), using the al-Shabaab justice system can be seen as a way to cut through the complicated politics that surround the government system. The Monitoring Group argues that “al-Shabaab’s provision of rudimentary courts and access to judicial recourse...may account for its appeal among certain segments of the population.”

A key differentiating factor between state courts and the al-Shabaab system is the prospect of enforcement. In many cases, even judgements that have been successfully adjudicated in state courts cannot be enforced, for fear of upending the fragile network of relationships which underpins the hybrid governance system. The threat of violence and disruption, in certain contexts, takes precedence over administering or enforcing particularly sensitive rulings (Mohamed, 2021). Al-Shabaab's ruthless enforcement widens the appeal of their courts, as they have the capacity to realize their judgments in a way that the state courts simply cannot achieve.

Thus, the Somali land governance system is characterized by a multilayered constellation of authorities, taking the xeer and Islamic systems, with the multi-level state land governance structures (where they exist), and the intervention of powerful individuals and groups. The World Bank's Somali Urbanization Review (2020, 14) terms this a system of "hybrid governance" where "in addition to the presence of multiple state actors... de facto authority resides in the hands of traditional clan elders, business leaders, militia leaders, civic groups, and religious authorities." These competing and collaborating authorities create a system of unpredictable network reactions, where "relations with one another range from routinized cooperation and power sharing to open rivalries," (Somali Urbanization Review, 2020, 14) creating mutually interpolating governance networks in some cases, and opportunities for forum shopping in others. This creates a context where there is "little coherence or complementarity in land administration due to competition between institutions, unclear and overlapping mandates, institutional fragmentation and limited integration of formal and informal systems" (Somali Urbanization Review, 2020, 104). Land governance in Somalia is therefore deeply fluid – flexible at its best, unpredictable at its worst, and heavily reliant on constant negotiation.

## **State land governance**

The impact of the civil war on land governance has been significant and wide-ranging, impacting almost every aspect of land administration and governance. As Menkhaus (2017, quoted in Somali Stability Fund, 2021) argues, "land title governance is a broken system" as the records and land data of the capital city are held in private hands, outside of the country. This makes the determination of real and fake documents (which are ubiquitous) nearly impossible without reference to private individuals. Moreover, the court system is notoriously open to pressure from powerful individuals and even outright corruption, making recourse in the context of land disputes challenging and dangerous.

Since the collapse of the state in 1991, there has been no national land policy or attempt at land reform. The Provisional Constitution of the Federal Republic of Somalia (adopted in 2012) is the only national piece of legislation with reference to land, which protects the rights of Somalis to own, sell, and transfer property without discrimination.

In reality, however, the government has been beset by endemic capacity challenges since the inauguration of the Federal Government of Somalia in 2012, and the establishment of land laws remains a key unaccomplished statebuilding task.

The land laws in force in much of the country were inherited and adapted from the state before the war. This leads to a remarkably outdated land legislation framework, which fails to account for contemporary land use practices or governance realities. Indeed, the legal framework continues to maintain a distinction between *daminyaale* (land for permanent use) and *munishibaale* (land for temporary use), where land for temporary use cannot be used to construct permanent structures, but only for the construction of Somali temporary traditional structures such as *baraako*, *cariish*, *mundul*, *aqal* (Law No. 10, Article 5). In practice, this distinction has little impact on land use, as land previously registered for temporary use is commonly used to construct permanent buildings.

As the Somalia Stability Fund (2021, 32) argues, “inability to make progress on establishing appropriate frameworks for land governance in Somalia is unfortunate, as policy, legal, and institutional frameworks carried over from the pre-conflict period are outdated and fragmented, and their continued application is a key source of land conflicts.” These outdated and ill-fitting legislative frameworks are sometimes conspicuously adapted for contemporary use, but are rarely fit for purpose in the highly fragmented and volatile contemporary land economy.

## ***Regional authorities and administrations***

While the Provisional Constitution decrees that the federal government “shall develop a national land policy” (Chapter 3, article 3), it also allows for the formulation of land policies at the Federal Member State level (Article 3, subsection g). As a rule, Somalia’s Federal Member States (FMS) have provisions which protect property rights and the right to transact without discrimination. Most FMS share particular functions in common: a Ministry of Public Works tasked with planning land allocation and housing; a judiciary which provides recourse where disputes emerge; Ministries of Agriculture and Fishing which manage the production and consumption of foodstuffs; and police or regional security services tasked with enforcing court orders. However, state capacity and service delivery is chronically weak, and regulations (where they exist) can be easily flouted.

The amount of existing and relevant legislation and levels of actual enforcement across each FMS varies widely. In the absence of legislation clearly demarcating FMS and district roles, “state level ministries often wind up involved in municipal functions and city governance” due to capacity constraints and the “opportunity for ministries to expand their control over local issues” (World Bank, 2020, 93). The following summary considers the recent land policies and legislation across the FMS, with a specific focus on the distinction between administrative tasks.

## **Puntland**

Puntland is a relatively stable state in the northeast of the country. It has adopted several pieces of legislation in regard to land including an Urban Land Law in 2000 which “restates the position of the Land Law 1975 which vests ownership of all land in the State” (Legal Action Worldwide, 2015). In 2005, Puntland issued a new land law which “lacks clarity over the division of roles between the Ministry of Local Government and Rural Settlement and the local governments of the districts” (UN-HABITAT, 2008, 147).

In 2020, Puntland’s Parliament approved the Urban Land Management Law which “for the first time establish[es] clear guidelines on the governance, and management of urban land.” This reform was supported by the UN’s Joint Programme on Local Governance and Decentralized Service Delivery (JPLG) (UN-HABITAT, 2020). Puntland also hosts a Land Dispute Tribunal which aims to be “informal and more easily accessible” and “adopt more flexible procedures than ordinary courts” which allows efficient management of land disputes (Legal Action Worldwide, 2015).

## **Jubaland**

Jubaland is located in southern Somalia. Al-Shabaab controls large swaths of this rural state, which also suffers from endemic conflict in Gedo. Legislation passed in 2018 called Xeer Maareynta Dhulalka authorized the state to create the Jubaland Land Authority (JLA). According to the World Bank, the “perceived authority [of the JLA] is tied to its current president” (World Bank, 2020, 106), raising concerns as to whether new administrations will abide by its decisions. The Jubaland Land Authority recently transitioned from an analog to a digital land management system, a transition which occurred with collaboration from private actors. This includes the digital registration of individual plots, the creation of a satellite map to document current registrations and taxation statuses, and even a QR-code based application that allows land owners to locate the boundaries of registered plots of land.

A recent Regional Durable Solutions Secretariate (ReDSS) report (2019, 24) concluded that there are provisions for the establishment of a “land use and dispute resolution commission” in the Jubaland constitution including “some progressive provisions on land and property rights”. In the interim period since the publication of this ReDSS report, the 11-member land use and dispute resolution commission has been created and operates with an eight-person voting majority (validation workshop, June 30, 2023).

In reality, however, state and non-state actors play an important role in the management of land in Jubaland. The Global Land Tool Network (Global Land Tools Network, 2020, 5) argues that customary authorities play a particularly “significant role” in land administration including “land governance and land management in particular”.



Even so, the state administration often takes a direct hand in land administration in the absence of legislation “in a relatively ad hoc manner” (World Bank, 2020, 105). Al-Shabaab is also an important actor in land dispute resolution, providing a “form of alternative land authority that is active predominantly in rural areas where it resolves land disputes,” even as their activities are “a central cause of forced displacement” (Global Land Tools Network, 2020, 24).

## Southwest

Southwest state is located in southern Somalia. In 2022, the Southwest Parliament approved urban land legislation proposed by the state’s Ministry of Public Works (2022). This “model land law” (World Bank, 2020, 105) has not yet been put into effect, but is far reaching in its ambitions. The Somalia Urbanization Review (2020) notes the aim of the law is to “protect tenure security...harmonize institutional mandates, simplify land administration procedures and services, [and] maintain accurate land records”.

The law divides land governance functions between the FMS and the local authorities. The Ministry of Public Works of Southwest is responsible for harmonizing the town plans of all local authorities through the auspices of the Land and Urban Planning Office. The law also

establishes the State Land Registry (Article 17), which compiles the “registration of all planned land transactions in towns and districts provided by local governments”.

Local authorities are responsible for land governance under this law. As Article 25 states, “the authority to grant land to a private person rests with the local government, no other government institution can claim the authority to grant land to a person or group.” Local governments are also responsible for the creation of a system to “store information related to land and real estate” (Article 25, subsection c). Similarly, urban planning is the responsibility of the local government (Article 33).

The law clarifies the distinct roles of different institutions, reducing overlap by creating a State Committee on Urban Land and Planning, and devolving certain roles to local governments. It also specifically addresses protections for IDPs from evictions and mandates the creation of a Land Dispute Tribunal. Critically, the law considers the recent history of lost and destroyed land records, and allows for tax records to be introduced as evidence of ownership in the context of disputes. While implementation of the law is in the nascent stages, and there are concerns about how gender equality and land grabbing will be addressed in the real-world context (World Bank, 2020, 96), this is a landmark piece of legislation in Somalia’s fragile context.

## **Galmudug**

In February 2022, the President of Galmudug signed legislation passed through the state legislature which codified, for the first time, systems of urban land management. This followed similar legislation, passed in 2020, which created a legal framework for the management of rural and agricultural land.

The Galmudug Urban Land Law aims to distinguish the functions of state-level and local-level government as they pertain to land, and expedite the creation of local land governance mechanisms. It establishes the Galmudug State Ministry of Public Works as responsible for the planning and harmonizing functions of urban planning. The law also allocates responsibility to the local governments for the registration, distribution, and dispute resolution of urban land and property. Just as in Southwest and Jubaland, the local government is also responsible for urban planning and zoning – with the exception of land allocated for airports, ports, military, and other government uses. This urban planning function is supported by the state-level Ministry of Public Works, where specific zones will be set out for industrial and residential use, and for transport connectivity. Following the establishment of this law, Dhusamareb and Hobyo proposed the development of city plans, with an expectation that other cities in Galmudug will follow suit.

## **Hirshabelle**

Hirshabelle is located in central Somalia. While there is draft legislation, it has yet to deliver legislation that governs land. There is also very little academic or policy writing concerning land governance practices in Hirshabelle. As noted by experts from the region (validation workshop, June 30, 2023), this is the result of significant instability. There is a significant need for further research concerning Hirshabelle.

## **Somaliland**

Somaliland is a self-proclaimed breakaway state in the north, which has been governed autonomously since the 1990s. In addition to the Somaliland constitution (2001) which protects land and property rights, Somaliland has a Civil Code and Civil Procedure Code which regulate ownership of property and land transactions (Legal Action Worldwide, 2015, 10).

In Somaliland, a central piece of urban land legislation is Law No. 17, which was “drafted in 2001 with amendments in 2008” (Global Land Tools Network, 2022, 12). This law “attempts to define...state institutions responsible for urban land governance; the allocation of land; the planning and development of land; aspects of land tenure... and the establishment of Land Dispute Tribunals” (Legal Action Worldwide, 2015, 10).

In addition, there is the Agricultural Land Ownership Law of 1999 which addresses rural land, granting oversight and the right to allocate agricultural plots to the Ministry of Agriculture (UN-HABITAT, 2008, 149). The Land, Housing, and Property report (2008, 149) argues that the law is vague on pastoral land and how tenure is to be managed for mobile populations.

A further piece of legislation, the Urban Land Dispute Resolution Regulation of 2014, governs the jurisdiction and scope of land dispute tribunals. However, this law does not make clear which specific ministry is responsible for the tribunals, or when they should arrive at the tribunals (Legal Action Worldwide, 2015, 10).

### ***Banaadir Regional Administration (Mogadishu)***

The constitutional status of Mogadishu is unresolved and is to be determined after a constitutional review, a process which is still ongoing. At present, Mogadishu remains the capital of Somalia, but it is neither a Federal Member State nor represented by any Federal Member State. The hot-button topic of Mogadishu's constitutional status bleeds into many considerations of its urban administration, particularly concerning land governance. As a result of Mogadishu's contested status, there is no post-civil war legislation that governs its land administration and governance. Instead, authorities work with adapted versions of earlier land laws.

The Banaadir Regional Administration (BRA) is the responsible authority for many land governance functions in Mogadishu, replicating many of the FMS structures. The Land Department (Waxda Dhulka) at the Banaadir Regional Administration is responsible for many key functions of land administration (Banaadir Regional Authority, 2016), although it is hampered by capacity constraints, lack of funding, and intervention from national-level actors.

Due to capacity constraints, the BRA executes a far narrower remit than stipulated by the law. It no longer registers or distributes new areas of urban land, evictions or demolitions of illegal constructions. Instead, the contemporary municipality registers the transfer of ownership between individuals (Mohamed, 2021).

The national Ministry of Public Works, Reconstruction and Housing engages in urban planning initiatives with the BRA, although the BRA is ultimately responsible. These planning initiatives are limited in scope and have little bearing on how land is disbursed or used in the rapidly urbanizing city.

### 3. Land Conflict

Conflict over land was a significant driver of the Somali civil war, and continues to be a significant source of insecurity across the country. This section will explore: histories of land conflicts; urbanization; competition for access to natural resources; and forced displacement. There are salient themes which cut across these factors including: disparities in clan power (which renders less powerful communities vulnerable to encroachment and expropriation); weak state capacity (which exacerbates existing tensions); and environmental degradation (which exacerbates competition for water sources, and leads to forced displacement in times of drought and famine).

#### *Historical tensions and land conflicts*

In Somalia, there are tensions stemming from almost every period of land administration in the 20th century including the colonial, military rule, and civil war periods. The recent history of the civil war looms particularly large in terms of land ownership, access, and use. The Somali Stability Fund (2021, 33) calls historical land grievances “the elephant in the room when it comes to developing and implementing a comprehensive land governance framework,” as in the absence of reconciliation or acknowledgement the highly sensitive and contested issue of land continues to be a source of ongoing grievance and political violence. Weak judiciaries struggle to manage the competing claims to ownership over land, and the failure to resolve disputes within the law leads to local conflicts and outbreaks of violence.

#### *Urbanization and forced displacement*

As Somalia’s cities continue to grow largely unplanned, conflict over urban land have continued to increase. As the growth of many cities has led to the rapid development of peri-urban and even rural land, there is concern about future jurisdictional boundaries and encroachment into land that is customarily governed. Moreover, Somalia’s urban centers were also sites of urban warfare, and the consequences of large-scale land-grabbing and forced displacement are beginning to be felt. In Mogadishu, landowners who went into exile in the early phases of the war have started iterative and non-linear paths of return, initiating land disputes and conflicts.

As armed conflict in rural areas continues, many flee to urban centers, hoping “for security, social services, and opportunities for livelihood security and economic advancement” (Somali Stability Fund, 2021, 29). However, IDPs in urban spaces often create shelters in available locations, including state and private land and property. “Rural residents displaced to cities are taking over vacant lands, both public and private, further clouding tenure status” (World Bank, 2020, 103).

## ***Competition for access to natural resources***

The competition for natural resources, such as water and grazing land, continues to be a source of significant land conflict in rural areas. Pastoralist and agropastoralist communities are vulnerable to the increasing unpredictability of weather patterns due to climate change, and require access to natural resources to sustain their livelihoods. Moreover, “state fragility over three decades has undermined both natural resource management and institutional capacities for managing competition for access to natural resources,” (Somalia Stability Fund, 2021, 22) further exacerbating tensions. During contexts of extreme deprivation such as drought, communities may ensure their survival through violent means. As the expansion of Somalia’s cities has led to the encroachment on rural resources, “interactions between pastoralists and urban dwellers in peri-urban and urban areas have led to an increase in disputes” (Somalia Stability Fund, 2021, 28) about land use and access.

## **4. Conclusions and Further Research**

Land governance in Somalia is riven with challenges including weak state capacity, overlapping and unclear authority, the legacies of statecraft in the 20th century, and the ongoing consequences of the devastating war. But there are also moments of significant opportunity for investigation and future consideration, the outcomes of which can be of use for policymakers and international partners. The bridging of these significant gaps in the academic and policy literature could be instructive for future researchers and interveners interested in progressing land reform in Somalia.

- **Local land governance mechanisms and their effectiveness:** much of the existing literature concerning non-state land governance (such as Xeer and Islamic law) is generalized and abstract in nature, due to the lack of detailed information and security concerns in researching this highly sensitive subject. It would be of great value to trace how land governance mechanisms (state and non-state) are experienced at the community- and neighborhood-levels, without the significant abstractions needed when comparing across villages, cities, or even the entire country.
- **Histories of land usage and governance mechanisms:** there is a significant knowledge gap in the academic literature, apart from that derived from colonial sources, about historical land management practices and understandings. Oral histories transmitted through communities may be a hidden archive that has yet to be fully explored, and it is critical to do so.



- **The interface of citizenship and land governance:** as Somalia prepares for one-person-one-vote elections and the transformation of the political landscape, there is a need for knowledge about concepts of belonging, community citizenship, and how they map (or do not) onto understandings of land use and access rights.
- **Private actors have played an increasingly central role in the development of new tools for land management and legislation.** In Jubaland and Southwest in particular, these private actors have played a significant role in the creation and maintenance of state land management systems. There is a need to understand the twin trends of digitalization of land records and the increasing centrality of private actors to everyday service delivery for citizens. The terms of these public-private partnerships will be critical for the trajectories of Somalia’s rapidly urbanizing cities.

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