Land and Conflict in Jubaland
Root Cause Analysis and Recommendations

Final draft, May 2018
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1. 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 UN 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 analyzes the key institutions involved in the mediation and management of the land disputes, it gives insights on the functioning of traditional land disputes 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 protected are and what are the main land tenure disputes. 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 – 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 contributes 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 on pastoralist related land conflicts.

1.2 Research Methods

The study uses 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 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 conflicts 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.

Non-state actors targeted in the study were UN 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 conflict dynamics related to the nature and extent of land conflicts, location of the conflict sites, parties to the conflict and the efforts invested towards 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 handled through the traditional mechanism and its interactions with the government-led institutions.

Key informant 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 the study in building stories on land conflicts from a community perspective. Over 80 people participated in the Focus Group Discussions, allowing the study to capture rich materials on community perspectives to 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 land conflicts attributes across key sites 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 generated 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. Inside 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 putting forward land-related complaints.

Literature Review - A detailed literature review was undertaken to complement primary data collection. Despite the scarcity of literature on Somalia and Jubaland, the study identified and reviewed some of the key written sources of information. Civil society organizations working on conflicts and peace building provided some important documentation for review by the study. It was, however, not possible to locate the old land legislation that remains operational in Jubaland and Kismayo.

1.3 The Study Area

The study area is constituted by the state of Jubaland, one of the six states of the Federal Republic of Somalia. Jubaland is composed by three regions - Lower Jubba, Middle Jubba and Gedo – each of which is divided in 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 km² The region boasts of two major rivers: the Dawa and the Juba. The Juba river, one of two perennial rivers in the country, flows through the country. The Lower Juba Valley has a rich agricultural potential, with huge forests, expansive coastline, and fertile farming lands along both sides of the Juba Valley. For decades, its resources have been its curse, as the armed groups have fought to control the rich territory.

Large part of rural Jubaland are currently under the control of the Al-Shabaab terrorist organisation. 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 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 who
control most of the rural areas and the roads that connect all Gedo districts\[2\]. At the time of the writing of this report, the Al Shabaab also fully controlled the Middle Juba region, home to predominantly Somali Bantus who are largely agro-pastoralists, surviving on rain fed crops and livestock production, especially cattle and goats. Prolonged dry spells and intense conflicts are major factors acting the livelihoods of its population.

### 1.4 Study Limitations

The study met several challenges related to the prevailing security conditions in Jubaland. The research team failed to 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 benefitting from direct data collection for Kismayo only.

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 clear evidence of lack of cooperation from key government officials.

Little literature on land governance in Jubaland (and more generally Somalia) was found. The old legislation and other land policies that originate from the Siad Barre era are not available. Some of the available literature could not provide explicit answers to vital conceptual issues relevant for the study. The little published literature not easily available and comprehensive enough. Some of the more relevant work is limited in terms their focus on rural settlement of the Juba Valley area. Further, the few major existing studies, do not unpack 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 of the cases handled. 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 regarding inaccessible and Al-Shabaab controlled Jubba valley.

1.5 Overview of the context

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

The formation of the Jubaland state - Jubaland is a young state that its Provisional Constitution recognizes as a member state of the Federal Government of Somalia. The Interim Jubaland Administration was created in 2013 as a result of local elections. The Jubaland President Ahmed Madobe established cabinet with a very broad clan representation with a total of 17 cabinet ministers representing different communities to promote reconciliation and legitimacy. Clan representation in 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 remains problematic because of opposition along clan lines, questioning on the legitimacy of the administration, 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 definitive yet. 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 predominantly youthful population often finds little 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 the last 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 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 20th century, small scale 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 Jubba 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 enclosures of pastures have intensified.

In spite of the overall economic difficulties faced by Jubaland, the city of Kismayo has been recently experiencing a period of economic development, due to the improved security, trade and inflow of humanitarian assistance. Companies, diaspora and 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 main economic importance and the whole country at large and it represents the largest natural resource 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.
### Summary of the stakeholders analysis for the land sector

<table>
<thead>
<tr>
<th>Institution</th>
<th>Main observations and areas for improvement</th>
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| **State Ministries dealing with land issues**    | 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 & land registration) and land disputes resolution.  
State institutions require tools to support their functionality. Such tools include written mandates, written job descriptions of key staff & clear legislation guiding their work.  
State capacities to deliver in physical planning and development control, land administration (land surveying & land registration) and land disputes are generally non-existent.  
At the time of undertaking the study, no state institutions were involved in land disputes resolution outside the courts.  
A key point of strength is UN-Habitat Somalia Programme’s intervention in helping in the development of the Land Law. |
| **UN Agencies & Civil Society Organizations**     | The provision of shelter to IDPs has no close supervision on the ground. Some structures in IDP settlements have collapsed before they are occupied.  
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.  
Linked to the above, the application of Physical Planning Standards has generally been missing or inadequate inside IDP camps.  
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.  
The progress and impacts of civil society organizations’ peace building and conflict management work is largely not documented. |
| **Private Institutions (Notary Public)**          | There are allegations that the office of the Notary Public is not manned by lawyers as is required by law.  
The functionality of the Notary Public is generally compromised, with allegations of corruption leveled against the institution |
| **Private developers**                            | In the absence of formal channels of land allocation for investment; private sector players have been acquiring land through un-procedural means.                                                                                     |
| **Traditional Mechanisms of disputes resolution** | The major strength is that the structures have deep historical knowledge of land conflicts and have experience in land disputes resolution  
The main weakness is that clan elders tend to favour their clan members in dispute resolution  
There is no documentation of impacts and key decisions on land conflicts handled by the structure |

*Source: Field Survey, August – October 2017*
### Conflict and population movement

Conflict has kept Somalia and the emerging state of Jubaland chronically unstable for decades and 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

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 the report. Other actors that play key roles are civil society, private sector, development organisations 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 the impact of the civil society’s work and how it is coordinated and made sustainable; however, there is the potential to make it 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
Clan composition in the Somali region

Clan composition in Jubaland, highlighting ethnic minorities

Somali ethnic groups
- Dir
- Darod
- Hawiyya
- Digil
- Rahanwein

Ethnic minorities
- Other
A large number of joint programmes are being implemented, including on issues that have land implications (e.g. displacement).

Nevertheless, the UN 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 will be completed and there will be more clarity on the different level 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 UN 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 member of the Guurti, “after Al-Shabaab, land is the next major issue that requires urgent attention”.

The table on page 9 gives an overview of the UN engagement in Jubaland and overall Somalia as of the end of 2017.
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 set-up, formalized by the new Federal constitution, has implications on how positions of power in key government institutions are shared amongst different clans. This clan-based approach – that only time will tell if 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 government as the most influential authority among citizens. In this context, clan identities and related politics have been assuming more and more importance and 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

Yet, other 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-uses.

Responses and solutions to the conflict may not make the necessary breakthroughs if conceptualized as responses to social and political rivalry fronted as a 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 youths are key actors in land conflict precisely for reasons associated with lack of livelihood opportunities and the lack of education. Youths are particularly involved in most of the types of land conflicts associated with land grabbing and pastoralists. The common view is that youths 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 youths into land conflicts. In reverse, various studies have also shown that youths join violent and armed conflict by Al-Shabaab partly as a result of frustration and feeling of exclusion that result from the lack of employment opportunities in Jubaland and Somalia as a whole.

Women

From discussions also emerged that women are disproportionally 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 of 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
2. 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 aiming 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.

COMPONENTS AND DEFINITIONS

DEFINITIONS

Root cause: It is a long-term invisible factor underlying violent conflict. It can be historical, political, economic or social. Land can also be a potential root causes of conflict.

Proximate factor: It is immediately responsible for causing the conflict, but it exists only because there is a root cause of conflict. There are many different types of proximate land factors depending on the nature of the root cause.

Trigger: Triggers are flashpoints that feed into the root cause and proximate factors of the conflict and fuel a response from the population that leads to violent conflict.

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

<table>
<thead>
<tr>
<th>ROOT CAUSES OF CONFLICT IN JUBALAND</th>
<th>Section of the report</th>
</tr>
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<tbody>
<tr>
<td><strong>ENVIRONMENTAL</strong></td>
<td></td>
</tr>
<tr>
<td>1 Scarcity natural resources including land and water</td>
<td>2.1.1</td>
</tr>
<tr>
<td>2 Natural resources exploitation</td>
<td>2.1.2</td>
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<td><strong>SOCIO ECONOMIC</strong></td>
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<td>3 Population pressure</td>
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<td><strong>GOVERNANCE-RELATED</strong></td>
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<td>7 Weak governance</td>
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<td>10 Capture of state instruments</td>
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<td>11 Chaotic urbanisation</td>
<td>2.3.5</td>
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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.

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

<table>
<thead>
<tr>
<th>ROOT CAUSES OF CONFLICT</th>
<th>LAND-RELATED PROXIMATE FACTORS</th>
<th>TRIGGERS OF VIOLENT CONFLICTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Scarce natural resources including land and water</td>
<td>■ Scarcity of land for pastures; ■ Unrecognized and undefined land rights of pastoralist communities; ■ Environmental degradation; ■ Breakdown of legislative controls governing use and access to natural resources; ■ Increasing inadequacy of Xeer Law and its implementation mechanisms related to use and access to land and water; ■ Private livestock enclosures and exclusion of others from using land perceived as communal; ■ Unsustainable increase of livestock; ■ Destruction of the environment by charcoal production</td>
<td>■ Droughts; ■ Destruction of farms by livestock; ■ Excessive consumption of water or pasture by a group to the detriment of another; ■ Destruction of grazing land and livestock environment by charcoal producers</td>
</tr>
<tr>
<td>Natural resources exploitation</td>
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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’ user such as charcoal producers. In some situations, the conflicts assume violent dimensions and turn fatal.

The United Nations Economic Commission for Africa\(^1\) 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% of the population, are pastoralists\(^2\), with livestock contributing 40% of Somalia’s GDP (while about 60% is agriculture based). 14% of this GDP is from exports, coming mainly from 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 both in 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 pastoralists-related conflicts. The Federal Government of Somalia’s Strategic Plan 2017-2019 notes that “pastoralists face continuously 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.

Human and natural factors have fuelled environmental degradation in Somalia, described by UNEP as characterized by deforestation, desertification, soil erosion, 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 then causes tensions and conflicts over access to such resources.

The growing practice of private livestock enclosures – 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 the relations between the type of livestock that pastoralists keep and the conflicts that can arise. Camels and cattle have different tastes for pastures and their water requirements are also very different. From field interviews, frictions between camel herders and other pastoralists emerge, 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 have a reported aggressive attitude towards other pastoralists and they often ignore the needs and proposals of cattle, goats 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 can be disrespected or broken, sparking conflict (e.g. after being granted access to pastures, the visiting pastoralist groups can overstay in an area, thereby creating conditions that generate misunderstandings, and ultimately erupting 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. Further to that, new forms of regulations or management practices (e.g. demarcation of migratory routes, land use planning, etc.) may be required to keep 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 pastures, making it even more difficult to maintain the fine balance among different communities.

Conflicts between pastoralists and farmers are also very common in Jubaland, creating the most common type of land-related conflict in rural areas. The moving herds of cattle, often composed by large numbers, are not easy to control and encroach with farms. Farmers’ fences are often not strong enough to deter animals from destroying crops. In situations of scarcity, the use of water often sparks fierce conflicts between the two groups and conflicts can arise both along the migratory routes or at points of destination. It is worth noting that the migration routes
of pastoralists are both within country and across national borders. Pastoralists in Jubaland migrate to Kenya, an issue that brings along 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** located in peri-urban areas also arise, aggravated by the expansion of urban areas into surrounding rural areas. The unplanned nature of urban expansion is a major contributor to such conflicts that are 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 resources exploitation factors contributing to violent conflicts in Jubaland. Charcoal production leads to deforestation and environmental degradation. Every year thousands of hectares of forest land are lost to charcoal production, a lucrative trade that provides a considerable amount of employment in rural areas and not only services the population of Somalia but also goes for export. This has accelerated the loss of traditional grazing lands, alongside other factors such as overgrazing from **increasing numbers of livestock**.

While being an important source of income for the depressed economy, charcoal production is directly opposed to the interests of pastoralists and therefore disapproved by pastoralist communities. For this reason, conflicts between charcoal producers and pastoralists are prevalent in Jubaland. Key informant interviews with pastoralist communities and elders confirmed that the scarcity of pastures commonly leads to scarcity-induced land conflicts and tensions and misunderstandings often arise between pastoralists and people in the charcoal business. At times traders in charcoal business are forced to suspend their business for fear of violent attacks and killings from pastoralists. The Al Shabaab group adds to the complexity of the issue as it opposes charcoal business and considers such offense punishable with death.

**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 on the charcoal business for three years in partnership with a local charcoal dealer who lives in Kismayo. His work entails cutting trees and burning them to make charcoal. He works closely with the clan elders, particularly those who possess power in the community. Such powerful 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 (chief of forest) rented a large piece of land (15Km x 3 Km) from a man from the Abgaal clan based in Mogadishu to enter in charcoal business with individuals like Abdelrahman. The business is not without risks, though.

In the views of Abdelrahman, ‘the biggest challenge charcoal businessmen face is death threats from Al Shabaab that considers the charcoal trade illegal. If we are found collecting charcoal, we are asked to pay a ‘fine’ of US$1800 per vehicle or US$1000 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*
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 rights 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 19 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.
Main pastoralist clans and their livestock

<table>
<thead>
<tr>
<th>Main Clan</th>
<th>Type of livestock</th>
<th>Main Clan</th>
<th>Type of livestock</th>
</tr>
</thead>
<tbody>
<tr>
<td>Marehaan:</td>
<td>camels, cows and goats</td>
<td>Gaaljecel</td>
<td>Goats, sheep, camels</td>
</tr>
<tr>
<td>Majeerten:</td>
<td>camel, cows and goats</td>
<td>Ogeden</td>
<td>Goats, camels, sheep</td>
</tr>
<tr>
<td>Ogaden</td>
<td>No data</td>
<td>Majerteen</td>
<td>Cows, camels, sheep, goats</td>
</tr>
<tr>
<td>Sheqaal</td>
<td>cows</td>
<td>Dagodiye</td>
<td>Camel and goats</td>
</tr>
<tr>
<td>Bartire:</td>
<td>camel, sheep</td>
<td>Bartire and Abas-guul</td>
<td>Sheep, camel</td>
</tr>
</tbody>
</table>

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

In 2011, there was one of the most severe droughts in southern Somalia, causing disastrous effects to herders of all livestock. Goats, sheep and cattle herders are often referred to as Nugul herders, a term that implies that the livestock they keep cannot go for more than 48 hours without water, while camels are known to be able to go without water for more than 3 months. During the 2011 drought there was a historic conflict between goats, sheep and cattle herders and camel herders over access to pasture and water resources. The only water available and trees with green leaves were in rivers valleys around Juba. In the Jilib areas there was only one place with water. This forced the Rahanweyn Camel herders’ sub clan of the Leysan to move from their areas in search of water and green pasture for the camels in the Jilib area. This they did with the support for Al Shabaab which they were loyal to.

Faced with shortage for their own livestock, goats, sheep and cattle herders fenced their green pastures and water. When the camel herders arrived, they tried to remove the fence and forcing their camels to graze. This caused conflict to erupt between the two groups of livestock herders. The conflict was not so much about the water, but the fact that camels, walked over and destroyed the pasture, causing the deprivation of cattle, sheep and goats. 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
<table>
<thead>
<tr>
<th>NAME OF PLACE</th>
<th>GENERAL LOCATION</th>
<th>TYPE OF LAND USE</th>
<th>DESCRIPTION OF THE CONFLICT</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Bardhere</td>
<td>Gedo region, Jubaland 2012</td>
<td>Land use for farming and grazing in rural areas</td>
<td>The dispute was between pastoralists and farmers. The land in dispute was on public irrigation land. Pastoralists used the land for feeding their animals while the croppers used it for farming. Droughts are the main triggers of such conflict between farmers and pastoralist in this region.</td>
</tr>
<tr>
<td>2. Gosha (Juba valley)</td>
<td>Jamame, Lower Juba / Jilib, Middle Juba.</td>
<td>Farming in rural settlements (farmers versus pastoralists)</td>
<td>The dispute arose between pastoralists &amp; croppers. It happened in Gobwein area (rural settlement). The conflict was triggered by pastoralist who entered the farming area. The farmers started fighting the pastoralist to defend their land after animals trespassed into the farming area. In Gobwein areas – pastoralist, farmers and fishermen live along-side each other. The conflict normally happens between the pastoralist and crop farmers.</td>
</tr>
<tr>
<td>3. Anjeel</td>
<td>Road connecting Kismayo to Afmado 2016</td>
<td>Road connecting Kismayo to Afmado</td>
<td>The dispute was between two different clans over access to land for use for borehole provision. The case happened in 2016 between Gaaljecel Clan and Ormale Clan. People from Oormale clan wanted to dig a borehole. Residents living in the area (mainly in Gaaljecel clan) refused to give access as they thought Ormale will take over the whole land in the future.</td>
</tr>
<tr>
<td>4. Birole village</td>
<td>Kismayo, Lower Juba. Year 1999</td>
<td>Residential areas located alongside pastoral communities, outskirts of Kismayo</td>
<td>The dispute was between a charcoal producer &amp; pastoralists. A returnee from Daadaab who settled in Birole was involved in charcoal business. He started collecting charcoal and trade with urban residents living 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.</td>
</tr>
<tr>
<td>5. Sa’moja Farjano</td>
<td>Village in Kismayo farming land 2016</td>
<td>Rural farmland (croppers vs pastoralists).</td>
<td>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.</td>
</tr>
<tr>
<td>6. Saa Moja</td>
<td>Kismayo – rural farming land</td>
<td>Rural farming (peri-urban expansion into rural land)</td>
<td>Due to increased number of people coming to Kismayo – the town has expanded to rural farming areas in Saa Moja (outskirt of Kismayo approx. 10 Kilometers), people have continually expanded their occupation of the rural farming land, with most making false ownership claims.</td>
</tr>
<tr>
<td>7. Wamo</td>
<td>Farming areas on outskirts of Kismayo 2017</td>
<td>Rural farmland (croppers vs pastoralists)</td>
<td>The conflict was between pastoralists and farmers. The conflict started when pastoralist entered into the farming land in the outskirts of Kismayo.</td>
</tr>
</tbody>
</table>

*Source: Field Survey June-October 2017*
Selected movements / routes of specific clans and groups during the dry season

<table>
<thead>
<tr>
<th>Clan</th>
<th>Routes followed in the dry season</th>
</tr>
</thead>
<tbody>
<tr>
<td>Oormale</td>
<td>Bangal/Kenya</td>
</tr>
<tr>
<td>Sheeqaal</td>
<td>Lower Juba and Middle Juba</td>
</tr>
<tr>
<td>Majeerten</td>
<td>Lower Juba such as Abdalla Biroole</td>
</tr>
<tr>
<td>Marehaan</td>
<td>Afmadow, Dooble, Diif</td>
</tr>
<tr>
<td>Bartire</td>
<td>Dhooblely, Afmadow, Taabdo and Diif</td>
</tr>
<tr>
<td>Sheeqaal and Ogaden</td>
<td>Move to Hosingo in Badaade district, sharing dry season</td>
</tr>
<tr>
<td>Ogaden and Marehan</td>
<td>The two share Afmadow District, especially when the Marehan shift to Afmadow from the Gedo Region Fafahduun</td>
</tr>
</tbody>
</table>

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

Some quotes

“When 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 Jubba 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*
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

<table>
<thead>
<tr>
<th>ROOT CAUSES OF CONFLICT</th>
<th>LAND-RELATED PROXIMATE FACTORS</th>
<th>TRIGGERS OF VIOLENT CONFLICTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Population growth</td>
<td>■ Youth bulge without secure land rights; ■ Landless poor and minorities; ■ Return of refugee and displaced families to areas of origin or alternative locations;</td>
<td>■ Migration and displacement to areas already occupied by other groups; ■ Famine;</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Poverty</td>
<td>■ Inadequate housing and basic services; ■ Mushrooiming of underserviced neighbourhoods (IDP settlements); ■ Discrimination against the poor with regard to access to land and housing; ■ Food insecurity as result of limited access to land for farming and livelihood;</td>
<td>■ Diseases’ outbreaks; ■ Forced evictions or exclusion of the poor from urban or rural land; ■ Grabbing of land on which the poor is settled by powerful groups or individuals; ■ Social unrest; ■ Poor forced to join criminal / terrorist groups to earn a living;</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Criminality and terrorism</td>
<td>■ Illicit activities (illegal migration, human trafficking, trade of arms and drugs) linked to a particular land use (pastoralism); ■ Revenues from land and natural resources used to fuel terrorist groups; ■ Parallel land management and dispute resolution system run by terrorist groups as a way to claim legitimacy; ■ Land grabbing by organized criminals;</td>
<td>■ Escalation of land use conflicts because of high arm prevalence; ■ Terrorist groups acquire the necessary resources and support to challenge and attack state institutions or opposing groups; ■ Confrontation around land grabbing leads to violent conflicts that may escalate along clan lines;</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Exploitative or unregulated investment</td>
<td>■ Illegal or irregular land acquisitions; ■ Land grabbing; ■ Corruption of land professionals and institutions dealing with land; ■ Increased pressure on valuable land; ■ Disproportionate pressure put on land by the lack of banking and alternative investment systems; ■ Lack of protection for land owners and occupants;</td>
<td>■ Forced evictions; ■ Investors acquiring land to the detriment of vulnerable people; ■ Very visible inequalities in terms of land access; ■ Corruption results in land-related decision widely considered as unjust;</td>
</tr>
</tbody>
</table>
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 have a disproportionately negative effect on the youth, which constitute over 75 percent of the Jubaland population.

2.2.2 Poverty

Poverty and lack of economic opportunities for the population are major sources of conflict. The situation in Somalia has culminated to a 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 session evidence 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 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 – worst – 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 of such types is known as new fringe pastoralism and it adds a layer of complexity to land-related conflicts involving pastoralist communities. Such 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 brews further conflicts among communities and frictions with state institutions that are often better fit to manage sedentary communities.

In Jubaland, all these dynamics can be found. 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 penetrated by criminal elements, a feature that adds a different dimension on pastoralist activities and conflicts in society.

Smuggling and other criminal behaviours brings in another dimension of the pastoralist related land conflicts: under such situations; pastoralists come into conflict with the state, in particular the law enforcement agencies. Given the trans-boundary nature of the activity, the scale of the conflict with state structures assumes an international character. Controlling such activities becomes extremely challenging for individual states.

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; this makes of the terrorist group one of the main causes of forced displacement.

Paradoxically, Al Shabaab has also an important role in relation to dispute
ILLUSTRATION OF OTHER LAND-RELATED PROXIMATE FACTORS OF CONFLICT IN JUBALAND

The map below shows the incidence of land conflicts resulting from the Al-Shabaab presence in eastern Jubaland, resulting in displacement of people and forced evictions.

The map on the top right side of the page shows the main livestock trading routes. As indicated in the narrative part of the report, pastoralist movements are at times 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.

The map on the bottom right side of the page illustrates cross border population movements that can lead to land use conflicts over land for settlements and other related land uses.
resolution in rural contexts. Reports were received about rural based communities that owe allegiance to Al-Shabaab as a way of protecting their land rights. Al-Shabaab represents some form of alternative 'land authority' active predominantly in the rural areas where it resolves land disputes and collects some form of land tax. The tax is paid by farmers regardless of the level farm production and “local farmers are abandoning their farms due to heavy tax and frequent rule changes”\(^\text{21}\). 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 was controlling 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 Jubba 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 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\(^\text{22}\).

Regarding the management of land conflicts that erupt in the areas under Al Shabaab's jurisdiction, public perceptions on how the terrorist groups compares with state authorities are divergent. 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\(^\text{23}\), as the terrorist group is known for being against ownership of large pieces of land by individuals and often forces the sharing of such land. Such focus by the terrorist group on land disputes resolution and protection of land rights

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, 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 a means of transport, the local brokers hand the migrants over to more organized smuggling syndicates in the Somali side Tog Wajale and further away, up to Bossaso. 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 ECA 2017: 36
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 main task of the group is to identify vacant plots of land. Once identified the vacant parcels, the group proceeds with the gathering of information related to them. The collected information is then submitted to the second group, typically consisting of people with military experience. Such people include retired police and army officers. The group spearheads the operations associated with the seizing of the targeted parcels of land.

Once seized the land, the third group emerges on the scene. It is called ili ma aragto (the unseen group). This group never shows up in any form of public contestation over the said land. Their task is to finance activities of the first and second group. 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 land marks, 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 on it or physically develops it.

Most of the times these groups grab land which is unregistered (obosibo). It often happens that members of such gangs become witnesses for themselves when the land dispute is brought for arbitration. 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 living abroad. Claiming back the land is often complicated by the widely accepted concept that the “land belongs to the one who develops it.”

Source: Field Survey, June-October 2017

Liya, a victim of land grabbing

Liya (not real name), is a widow aged 38 years. She has 8 children and her husband was killed by Al-Shabab in 2013. She and her family live in Bulo Haji, in Dalcadda Allanley Village, some 45 km to the west of Kismayo. She belongs to the Ormale clan. She inherited a plot of land from her father, who was born and resided in Kismayo. Her late father had two families, her mother’s and that of her stepmother. Her mother lived in Bulo Haji, keeping cattle and goats at the plot. The step mother and her children resided in Kismayo, as their father worked in the Somali government. The father died in 2003; living 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 40m X 40m. Due to financial difficulties, she was not able to build on any of the two plots. However, the land is registered land and she has the property documents.

Three months after the death of her father, the town was captured by warlord Bare of Marihan Clan. After that, 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 on her. Later on, the two men sold the land to a diaspora man from their clan who immediately built a perimeter wall. The woman alerted him of 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 bought the land and therefore was 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 in pursuit of her case, having made an appointment with Deputy Mayor of Kismayo. Yet, 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
of its affiliates shows how crucial is for an administration to secure the
land rights of its people to strengthen the social pact that gives legitimacy
and trust in state’s institution, a key component of state building and
peacebuilding.

**Land gangs and land grabbing**

Some type 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 individuals
from different clans who engineer land grabbing in groups of 15 to 20
people. These gangs operate in collusion with other structures of society
such as clan elders and community dispute resolution structures to
facilitate the criminal transactions. In other cases, criminal transactions
involve business people 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
flourishing of criminal activities that involve land transactions. 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 land marks. Initially, the gangs do their own ‘intelligence
surveillance’ where they collect background information concerning
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 neighbors living in the area, etc. When the required information
is in place, the gangs physically make claims to the land by erecting land
marks. The gangs are known to use excessive force, especially gunfire, to
deter people from intervening. Land gangs are known to be organized
across clan lines. In other words, gangs can be consisting of people from
different clan, working together to gain financial benefits through the
violently seized 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 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 by 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 dimensions of land grabbing are not that straightforward.
Though in many of the instances women end up as victims, the study was
alerted of women who have power and money and were involved in the
land grabbing business. However, the norm is that the ordinary woman is
less likely to engage herself in the land grabbing business as opposed to
their male counterparts.

The Police Commissioner estimates that 15 land related cases are
reported per day in Kismayo alone, coming to a total of some 450 cases
per month. Of these, many are usually related to land grabbing. The main
areas where land grabbing is prevalent include places such as Kibora,
Gulwade, Saa Mojaa, Shakhalaa and Alanleey (along the beach) where the
target is mainly unregistered land. Violent confrontations are known to
emerge 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 widely unregulated and exploitative. In often cases, the
absence of a functioning land administration system is such that
it is virtually impossible to carry out land-related investment ‘legally’.
According to the Somalia National Development Plan 2017-2019, a
2014 World Bank Group Survey of five hundred firms in Somaliland
concluded that the main obstacles to private sector development included
Examples of how land investors deal with land conflicts

A private company that provides water services to residents confirmed the difficulties and problems associated with land acquisition. For that company, the conflicts occurred in the process of acquiring land for drilling boreholes and during installation of pipes. Based on the interviews with company officials, the organisation normally purchases land in unregistered land (obosivo), as it’s more convenient to acquire land from individuals who are willing to sell their land. The Chief Executive Officer went further to state that “to avoid land dispute /confrontations associated with the land market transactions, the organisation pays money to all people claiming ownership of the land in the areas of operation”.

Another company involved in the provision of water services also went through the same experience. The company accessed two separate plots. The first plot was government’s land with old buildings which they rehabilitated in 2014. The premises are currently being used as office spaces. The second plot was unregistered land purchased from individuals. The land was used for drilling boreholes and is located on the outskirts of Kismayo. After the purchase, different claims on the land emerged. According to the company officials, an agreement was made with the groups who claimed ownership of the land, allowing the company to start drilling of the boreholes until completion before payment of compensation. Upon completion, all the persons/groups 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. After that, the company has not experienced further challenges relating to ownership of the land.

Source: Field Survey, June-October 2017

Land transactions and the diaspora community

A member of the diaspora community purchased for US$800 a 10 by 10 meter plot in Khudbiga Hajiga, Sinay Village. The land was bought from land grabbers and was destined to residential use. The land ownership documents were prepared by the office of the Notary Public. No complications from the sale have arisen.

A second member of the diaspora community bought a 40 by 40 meter plot in the Kibora Village. The plot was bought from land grabbers and costed about US$10,000. The transaction went through the Notary Public office. The land is to be used for residential development and a perimeter wall has since been erected. No complications have risen 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 built. The study came across a case of a diaspora woman who owned a 20x20 meters vacant plot in the Fanole area. She had bought the piece of land in the 1980s and got original property documents to prove the ownership. When the war started in the early 1990s, she left the country for the USA and only came back 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 unbuilt. She approached the court to seek remedy, supported by the original documents. The court requested her to make a payment of US$5000 to issue a verdict on her favour. The woman refused to pay the fees. The other claimant paid an equivalent amount to the courts, which resulted the case to be adjudicated in his favour. The two persons come from different clans, both being majority clans. The woman has since died and her son has restarted the court battle to get back the land.

Source: Interview with members of the diaspora, 21 October 2017
inadequate land titling systems. A similar, if not worse situation, is found in Kismayo. On the other hand, groups and 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 on the ground shows that private sector players and individuals, especially those from the diaspora, need land for investment purposes. Yet, there are no clear formal channels for accessing land for investment, thereby forcing investors to acquire land from what can be described as ‘informal channels.’ This has aided the development of conflicts as some of the land offered for sale has disputed ownership records, giving rise to more land conflicts.

The absence of clear land markets to facilitate access to land for investment has created complexities. For instance, the Kuqabso Kuqadii Meheysithe narrative (you can just grab land and at the end of the day you will get something in return) has fuelled much disorder and land 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 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.

Further, existing practices of managing land conflicts can breed more conflicts. The practice by some of the private sector players to pay everyone who makes a claim on land acquired can be seen in itself as encouraging ‘criminal members’ to make such claims even in situations where they are not entitled. The arrangement appears “too loose” and open for abuse by criminal elements of society.

The diaspora and their land needs

Members of the diaspora are also actively involved in the accessing of land. Members of the diaspora can be classified into two main groups. The first group relates to Somalis who owned land and property before they left the country; this group is coming back to claim their land rights. The second group is about Somalis who are coming back to invest in the country; they seek to access land through the informal land markets.

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

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 in-flow of remittances in the Somali’s economy, amounting to an estimated 25% of Somalia’s GDP. Remittances are often invested in covering the basic costs of living and education, but also in purchasing land and building properties. In a context where the land registration system is collapsed, purchasing land in a ‘legal’ way 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 left to carry the burden of being the economic safety net. Purchasing or taking over illegally land is often seen as 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, both in urban and rural areas.
<table>
<thead>
<tr>
<th>ROOT CAUSES OF CONFLICT</th>
<th>LAND-RELATED PROXIMATE FACTORS</th>
<th>TRIGGERS OF VIOLENT CONFLICTS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Weak governance</strong></td>
<td>■ Weak institutional governance;</td>
<td>■ Large inflow of population due to returns, further displacement, migration;</td>
</tr>
<tr>
<td></td>
<td>■ Weak land-related institutions lacking legitimacy, with no clear roles or mandate, little capacity and resources</td>
<td>■ Inflow of external capital and interventions requiring large portions of land (for agriculture, humanitarian interventions, infrastructure, etc.);</td>
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<tr>
<td></td>
<td>■ Legally pluralistic system (statutory, customary and religious laws);</td>
<td>■ Conflicts over land ownership or land occupation escalate into violence and killings (and potentially assume community / clan dimensions);</td>
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<tr>
<td></td>
<td>■ Established common land governance practices that do not follow the laws;</td>
<td>■ Elections (or coups);</td>
</tr>
<tr>
<td></td>
<td>■ Unclear land rights (ownership, customary and use rights);</td>
<td>■ Conflicts over land ownership or land occupation escalate into violence and killings (and potentially assume community / clan dimensions);</td>
</tr>
<tr>
<td></td>
<td>■ Lack of / limited legitimacy of government administrations dealing with land governance;</td>
<td>■ Forced evictions;</td>
</tr>
<tr>
<td></td>
<td>■ No adequate policy, legal, administrative and institutional frameworks;</td>
<td>■ Politicization or manipulation of land disputes;</td>
</tr>
<tr>
<td><strong>Weak land administration</strong></td>
<td>■ Majority of land is unregistered;</td>
<td>■ Reforms introduced change the power balance of groups and clans;</td>
</tr>
<tr>
<td></td>
<td>■ No functioning land registration system and impossibility to acquire land ownership legally;</td>
<td>■ Conflicts over land ownership or land occupation escalate into violence and killings (and potentially assume community / clan dimensions);</td>
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<tr>
<td></td>
<td>■ Widespread land grabbing;</td>
<td>■ Forced eviction of ‘IDP households / communities’ at the hand of ‘host communities’ or more powerful groups;</td>
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<td></td>
<td>■ Highly dysfunctional land markets;</td>
<td>■ Elections or coups;</td>
</tr>
<tr>
<td></td>
<td>■ Customary land disputes resolution system functioning but with important limitations;</td>
<td>■ Radicalization and violent extremism;</td>
</tr>
<tr>
<td></td>
<td>■ Formal land dispute resolution system (courts) partially functioning and only in urban areas;</td>
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<tr>
<td></td>
<td>■ Disconnect between formal and customary land dispute resolution system;</td>
<td></td>
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<tr>
<td><strong>Politics of exclusion</strong></td>
<td>■ Land dispossession to the detriment of smallholder farmers and weaker rural communities;</td>
<td>■ Confrontations escalate into violent conflicts;</td>
</tr>
<tr>
<td></td>
<td>■ Marginalisation and blockages in accessing land for minority clans and other minority groups;</td>
<td>■ Conflicts over land ownership, occupation, use or land grabbing escalate into violence and killings and potentially assume community / clan dimensions;</td>
</tr>
<tr>
<td></td>
<td>■ Exclusion of ‘IDP communities’ and returnees from accessing the full range of land rights and marginalization in ‘IDP settlements’;</td>
<td>■ Spatial, social and economic segregation leads to social unrest, violent demonstrations or attacks to individuals, groups or institutions;</td>
</tr>
<tr>
<td></td>
<td>■ Spatial, social and economic segregation of vulnerable communities;</td>
<td>■ Radicalization and violent extremism;</td>
</tr>
<tr>
<td><strong>Capture of state instruments</strong></td>
<td>■ Armed and terrorist groups take up government’s functions;</td>
<td></td>
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<td></td>
<td>■ Clans or groups capture state instruments to the advantage of their particular group;</td>
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<tr>
<td><strong>Chaotic urbanisation</strong></td>
<td>■ Dysfunctional land registration;</td>
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<td></td>
<td>■ Contested land claims on a large scale;</td>
<td></td>
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<tr>
<td></td>
<td>■ Grabbed open spaces and vacant land;</td>
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<td></td>
<td>■ Confictual land dynamics render urban land management and dispute resolution challenging;</td>
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<td></td>
<td>■ Land use conflicts between pastoralists and urban residents;</td>
<td></td>
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<tr>
<td></td>
<td>■ Haphazard spatial urban development;</td>
<td></td>
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<td></td>
<td>■ Urban expansion taking place in an unserviced and unsustainable manner, including in unsuitable land;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>■ Spatial, social and economic segregation of vulnerable (‘IDP communities’)</td>
<td></td>
</tr>
</tbody>
</table>
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 issue for Somalia and Jubaland. Jubaland is a state in the making and its institutions, their role and mandates, the way of interacting and collaborating will have to be worked out, building on the current strengths, improving partially functioning institution to make them more effective, transparent and accountable, and radically modifying some aspects that do not work. This is a crucial aspect to be addressed to tackle issues of land and conflict in Jubaland. This report does not analyses overall governance aspects, but it rather focuses on land governance and land governance institutions (see below), although those clearly are linked to the overall governance frameworks.

Weak land governance

Of the different root causes of conflict in Jubaland, weak land governance is one of the most important ones. ‘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 where statutory laws, customary laws and Islamic law coexist, complement each other and overlap in a rather chaotic manner and often get engrained in common practices, which seems to constitute the most solid element of such fluid land governance system.

Under the customary law, land is treated as a sacred collective good and 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 Shari’a) law is a system of religious rules derived from the Quran and Hadiths; it has a stronger power and is more respected than the customary law in Somalia. They 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 question unaddressed, creating a large gray 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, with varying levels of success, have been done by international organisations and governments’ initiatives to work in an integrated manner with the legal pluralism that prevails in Somalia. This is an important area that requires the attention of the current and coming 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 provisions
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 Jubba, 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 on the land rights. The land rights of citizens are so defined: “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. In that regard, 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 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 Land Dispute Commission and enactment of the Land Law. This study illustrates the typologies of land conflicts that the Land Use and Land Dispute Resolution Commission will be expected to solve. However, the provisional constitution does not lay out further details on the distribution of land governance powers to other structures such as ministries, local authorities and traditional structures such as the elders.
of the 1975 Land Law enacted by the Siad Barre government, which still constitutes 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 land-holdings within six months from 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 of claiming land rights, pushing millions of Somalis into informality. From the 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, while at the same time 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 of land registration. The land that got registered was mostly the one in urban centres, such as Kismayo, or tracts of agricultural land put to cash-crop farming and for export (investment driven rather than subsistence driven), a challenge that remains unchanged to present days. The registration process responded better to the needs of the urban elites or the groups closer to the Siad Barre administration, and was not corresponding to the contemporary 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 businessman 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 the themselves. Consequently, the flawed land registration process created the basis for the dispossession of the poor of the land and aftermath of the exercise remain an important determinant of land conflicts in current Somalia, Jubaland included.

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

Based on interviews with key government officials and other key informants, the Siad 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 Siad Barre government. Because of the protracted conflict following the fall of the Siad Barre government in 1991, land records that originated from that period define what is considered up to current times "registered land". The rest is defined "unregistered land". Most citizens are settled on the 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 to other functions – the typical case is land for IDP settlements in peri-urban areas - that same land is claimed by the communities and their customary administrators.

The failure of formal titling, as said, is more visible and more disastrous in urban contexts, but more broadly, the possibility of having a combination of customary and formal land registration systems has been considered by some reviews, building on the notion of hybrid land governance systems that seem reasonably viable in conflict and post conflict countries. "Non-
### State institutions working on land governance

<table>
<thead>
<tr>
<th>AGENCY</th>
<th>MAIN FUNCTIONS ON LAND</th>
<th>OTHER LAND RELATED FUNCTIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ministry of Public Works &amp; Housing</td>
<td>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</td>
<td>Supports the issuing of rights to land &amp; property to IDPs /Returnees.</td>
</tr>
<tr>
<td>Jubaland Refugee &amp; IDPs Affairs Commission (JRIAC)</td>
<td>Coordinating with INGOs working on Shelter programmes in Jubaland Involved in mediation of land conflicts between IDPs/Returnees and Host communities/ Government Agencies</td>
<td>Work closely with UNHCR in Providing livelihood opportunities, education and health facilities to IDPs /Returnees</td>
</tr>
<tr>
<td>Judiciary – Court system</td>
<td>Providing remedies / solutions to land disputes on registered land in Kismayo/ Jubaland</td>
<td>Referring land disputes on unregistered land to traditional mechanisms</td>
</tr>
<tr>
<td>Police Commissioner</td>
<td>The Police Department receives &amp; refers land cases to either traditional elders or courts, depending on whether the dispute is happening on registered land or unregistered land.</td>
<td>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.</td>
</tr>
<tr>
<td>Ministry of Interior</td>
<td>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</td>
<td>The Ministry of Interior is responsible for policing, emergency management, national security, registration, supervision of local government, and conduct of elections, public administration and immigration matters.</td>
</tr>
<tr>
<td>Ministry of Agriculture</td>
<td>The Ministry is responsible for maintaining food security through supporting farmers and pastoralist to produce agricultural products and thus boosting the economy</td>
<td>The Ministry works with other Ministries whose activities interact with agricultural land.</td>
</tr>
<tr>
<td>Ministry of Fisheries/ Marine resources</td>
<td>The Ministry requires land for marine / fisheries operations along the beach area.</td>
<td>The Ministry is responsible for protection of fisheries / marine resources. It is also mandated to promote business related to fisheries /marine resource extraction.</td>
</tr>
<tr>
<td>Jubaland Land Use and Dispute Resolution Commission (yet to be established)</td>
<td>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, healing and ensure that the matters relating to property dispute are addressed through a legal and state directed process.</td>
<td>TBD</td>
</tr>
</tbody>
</table>

Source: Field Survey, August 2017
formal institutions are often the only ones left standing after civil and hence play an unavoidable role in governance, including management of land disputes in urban settings, but 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 both in Jubaland 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 existing 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 Jubaland administration in particular. The control of Jubaland can be regarded as 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, province and district levels; weak capacities and lack of resources. Clarity on what is decided and legislated at the federal level and at the state or district level with regard to land is yet to be made.

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 for the State of Jubaland, define adequate policy, legal, administrative and institutional frameworks, develop the required capacities and human resources. The mandates of the key ministries are still evolving, so are the related coordination functions and 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 Land Use and Dispute Resolution Commission.

Observations of the Saferworld Report illustrate 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 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.
Issues and Objectives of the Proposed Land Law

The Jubaland land law under development addresses the following issues:

- Restrictions and containment of illegal land grabbing practices
- Identify and register government land ownerships
- Measure land conflicts resulted by lack of proper / credible documentation (title deed)
- Support the government in allocating land for residential
- Support the government in allocating land for developmental projects (e.g. tourism)
- Establish a land commission to provide oversight / management of government land in close collaboration with the Ministry of Public Works and Housing
- Provide a clear framework and responsibilities for key Ministries working on land matters
- Support development of Master Plans for urban settlements
- Support documentation (provision of title deed) on all unregistered land (abusive)
- Provide guidelines on land market transactions

The focus of the Land Law is on the technical aspects of land governance, with less emphasis on the human rights issues. A key recommendation will be for the Land Law to seek to operationalize relevant aspects of the key land related human rights frameworks, including the Pinheiro Principles. The massive displacements of citizens 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, allocation of land to returnees, addressing 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 authors analysis.

Policy and legal frameworks

There is no current land policy and land law in Jubaland. Related physical planning and land administration frameworks are also lacking and the practice is to rely on the ‘remnants’ of the law from the Siad 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; yet these could not be identified during the preparation of this study. In the making are two pieces of legislation that speak to land issues in Jubaland: the Land Law and the Local Government Act.

The proposed land legislation prioritizes land conflicts resolution, land registration, institutional development and the planning of urban settlements, as shown more in 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 confirm that the mandates of such institutions are still evolving. Notable is the fact 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.

From focus group discussions and interviews with key informants emerged a worrisome range of conflicting assertions about land governance decisions made by government, 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 inconsistencies and gray areas are many. Such factor undermines the trust of the public in the land governance sector and 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 of 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 particularly.
Land registration system

Challenges regarding titles to registered land are possibly the single land governance challenge that heats land-related discussion of Jubalanders. This single aspect catalyses so much the discussions that it is often difficult to approach land governance from a broader perspective. Land registration is one the most pressing problem that Jubaland will have to solve in the short term, for two key reasons: unlocking the social and economic potential of its urban and agriculture land and gain the required legitimacy in the eyes of the population.

The DDG 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 land owners in the diaspora lead to multiple competing claims by their surviving kins. 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 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 dysfunctional land registration system causes and it is aggravated by the common practice of illegally occupying or grabbing land by physically fencing it out on the ground with perimeter walls or land marks, especially in urban and peri-urban areas. Land grabbers often use their alleged ownership to sell the land that gets bought ‘legally’ by third parties, creating an intricaded scenario of land claims and land rights: a breeding ground for conflicts.

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 located on unregistered land, where there are no formal land records to prove land ownership. The woman, who belongs to the Makubul clan, had bought the piece of land from another person from another clan more than two decades ago. The plot remained as an open space as the widow did not invest in any buildings, neither did she construct land marks to assert her ownership. One day, she was informed that her plot had been occupied by another person, a man from the Gaal Jecel clan. The widow visited her plot and found that the man had already constructed land marks on the land. She was powerless and could only manage to report the issue to the elders.

Elders from both clans gathered to deliberate on the case but, as often is the case, elders from the two different clans could not agree on a solution. Nor the widow nor the man have documentation to prove their ownership of the land. Two sets of witnesses supported their respective clan member 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. After hearing the case, the Gurti Plus Committee ruled in favour of the widow. While accepting the verdict, the man made a claim of about US$500 as expenses met at various stages of developing the land, inclusive of construction of the land marks. The widow accepted to pay the claim and the case was closed.

Source: Field Survey, June-October 2017
The construction of such perimeter walls constitutes a significant monetary investment and a particular form of ‘public announcement’ on the ownership of such land. This proves the confidence that people have in the informal land rights system that prevail in Jubaland and confirm 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; 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 disputes resolution is a very important element of the land and conflict dynamics in Jubaland and a key area of 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 are also taking advantage of such forum to present their land claims to the President through this streamlined procedure according to which citizens are only required to go through the security checks, after which the 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 by 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 by judges and court clerks. Land issues are only heard in Regional and Appeals Courts as the District Courts are not mandated to do so. It is to be noted that courts only deal with registered land, while unregistered land disputes are addressed by traditional clan elders. This practically restrain the area of action of courts to urban areas under the control of the Jubaland administration, as courts do not actively operate in Al-Shabaab controlled areas because of security reasons. According to some key informants, Jubaland courts handle about ten 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 according to others minority clans are excluded. The recruitment of court personnel’s is based on merit, but fear of retaliation by unsatisfied customers is reported as a key challenge to ensuring the quality of personnel. The interviews carried out during the preparation of 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 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 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 Xeer, represents a key instrument to manage conflicts, land disputes included. Xeer is constituted by traditional norms, rules and obligations developed by traditional elders to govern inter and intra-clan relationships and mediate peaceful relations between Somalia’s clans and sub-clans.

In Kismayo, for instance, the traditional dispute resolution mechanism composed 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 recent additions of 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 dispute is the manifestation of 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 of the Guurti to ask the owner of the land to pay the youths some money to facilitate their disengagement from the conflict.

Traditional dispute resolution mechanisms are currently handling all forms of disputes that involve pastoralists, crop farmers and charcoal producers in Jubaland and, on this basis, clan elders call for more support to such structures, with more involvement and support from the state, to enable customary land structure 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 disputes resolution. However, the despite the significant role played by the traditional structures in disputes resolution, the public seems to be in favour of the formal structures of government. "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."

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

Politics of exclusion is 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 further back in time, the land dispossession carried out under Siad Barre are clear examples of politics of exclusion. The 1975 Land Law that effectively eradicated customary tenure and put all lands under state ownership created the conditions for a land registration process that suited best 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 well known state farms are known to have expropriated some of the finest riverine agricultural land in the Lower Jubba." State led land expropriation was characterized by the establishment of parastatal agricultural projects. Three well known state farms are known to have expropriated some of the finest riverine agricultural land in the Lower Jubba.

Smallholder farmers are among the key categories that experienced land dispossession as a result of politics of exclusion. There is an extensive literature on the contribution of agricultural development projects to the development of land conflicts in Somalia and the related dispossession
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 marginalised clans living along-side Bajunis are Biyamal, Jareer and Tuni. The Bajuni are mainly involved in fishery and farming.

The interviewee, Abdul (not real name) was born in Majengo village in Kismayo about 72 years. 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 marginalised 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 pastoralist who are mainly from the majority clans who often trespass and enter into the farming land to access pasture and water to feed their animals and by doing so destroy their crops and livelihood.

Source: Field Survey, June-October 2017

Displaced communities or excluded communities?

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

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

This raises the question of what can be legitimately called ‘IDP settlement’ (presumably a temporary settlement whose inhabitants will likely go back to an area of origin after the situations that have caused the displacement stabilize and normalize) and what should instead be considered a poor and underserviced neighbourhood that should be upgraded, serviced and regularized in terms of land tenure.

The study findings seem to indicate that often the so called ‘IDPs’ are in fact second class citizens discriminated and stripped of their full rights, including land rights, by being considered ‘temporary guests’ in an area dominated by other clans. This seems caused by the fear of dominant clans 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 experiencing the highest inflow, putting them at risk during the future election cycles.

A frank review of the concept and practices related to IDPs and IDP settlements should be undertaken by UN agencies and also 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.

Along these lines, Peter del Clercq - Deputy Special Representative of the United Nations Secretary - General (DSRSG) for Somalia stated: “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 […] realising that actually many of the IDPs will never go back. Even those that have lost their livelihoods are likely to be integrated into the cities51”
of smallholder farmers. For a long period, the Jubba Valley represented a neglected region until the potential for irrigated agriculture in the area became a focus of the Siad 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 also reflected clan dynamics, where the minority Gosha (Bantu) clan became a victim of dispossession 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 government as the most influential authority among citizens, 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 diverse complexity of social organisation 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.

Unfortunately, however, land governance and land conflict resolution are easier to handle if conflicting parties are from the same clan and as such, individual 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 constitute dominant resident in ‘IDP settlements’.

Also, the perception is that minority clans are sometimes intimidated by the majority clans, forcing them 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 the monumental 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, 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 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 present as well. Kismayo is the main location that receives population fleeing the Al-Shabab controlled rural areas, mostly ending up in IDP settlements.
Risks associated with the return of Dadaab refugees to Kismayo

If the political and security scenario of Jubaland remains stable, Kismayo will keep feeling the impact of returnees more than any other location, as the number of expected returnees – 80 to 90,000 individuals 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 have arrived in the city in the last months, 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 a cost of free and open political discourse and returnees may not be in a position to speak frankly about their situations.

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

The returnee 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. Most are from the Jubba 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 constitute a large IDP population residing in over 40 IDP camps, all crowded slums with temporary or sub-standard housing. Most are expected to stay in Kismayo permanently rather than attempt to continue to their rural home areas.

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

Of all the major areas of return in Somalia, Jubaland authorities have been most engaged in preparing for the returnees, including 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. Such approach, while it can address the immediate needs of the new arrivals, 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
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 sparkle 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, neither is it 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 on unregistered land. However, this is potentially inconsistent with the provision of the Constitution which stipulates that compensation is payable if property is legally expropriated, and that affected parties have a right to just, fair and timely compensation. The failure of doing 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. For such reasons 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 in terms of providing land and shelter inside the IDP settlements. This approach is seen by many respondents as sidelining 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, leading to the swelling-up of population 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 most numerous group is composed by those coming from the Dadaab Refugee Camp in Kenya, the majority of whom end up in Kismayo. “More than 44,000 people have been voluntarily repatriated from the Dadaab and Kakuma refugee camps in Kenya to Kismayo from 2014 up to July 2017. Only in the first four months of 2017, ten thousand returnees have reached the city, and similar has been the 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, also thanks 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 vouchers to cover costs of school fees”. Returning refugees and other Somali members from the diaspora often bring with them financial savings aiming at purchasing land for investment.

Yet, with a mal-functioning land market, such returnees often buy unregistered land which is prone to contested ownership. Evidence has also shown 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 while at the same time fueling the illegal land markets transactions. The
Historical excursus of capture of state instruments by clan dynamics

First was the General Morgan’s regime, representing the Majeerteen clan; which governed Kismayo /Jubaland from 1993 to 1998. Taking advantage of this power/leadership, people from the Majeerten clan governed all land in Kismayo Town. These include Alanlee, Marina and the Sinai area.

The Barre Hirale’s administration was next, 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 current government (led by Ahmed Mathobe) proposed to demolish the village and use this land for state’s development projects. However some ‘gatekeepers’ representing Marehan clan (who are part of the current government); believed the project should not be implemented as it will disproportionately affect their clan. Other government officials believe this new proposal could trigger conflict and thereby causing further displacements. To avoid this escalation the government is even proposing to provide title deeds to all land owners, thus ultimately legitimizing all the land occupation and ownership in the area.

The Al-Shabaab /Islamic courts regime governed between 2007 to 2012. During their reign there was less land conflict disputes between parties due to their strict practice of the law / sharia law. The latter was normally implemented through practices of barbaric /inhumane enforcement of the law. Based on Key Informant Interviews with citizens with knowledge about rural Jubaland, Al-Shabaab continues to practice such actions, using fear and extreme force to enforce land governance decisions.

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

Source: Field Survey, June-October 2017

Is restitution an option for returning Somalis?

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

However, 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 direct strategically its resources to improving the land governance and the dispute resolutions mechanisms.

Key question to be addressed are: what emphasis is to be put on the process of restitution of housing land and property rights as opposed as 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 of promoting peace and reconciliation and increasing the legitimacy and credibility of the Jubaland administration?
inflow of returning refugees is therefore a key risk factor contributing land-related conflicts in Kismayo, particularly in peri-urban areas.

Another dimension of the land-related conflicts between returnees and host communities is related to their *ethnic composition*. According to ReDSS (2016), such returnees 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 end up destabilizing the fragile governance equilibrium of the city and trigger a negative response from the dominant clans in Kismayo, especially the Darood.

### 2.3.4 Capture of state instruments

The protracted conflict in Somalia resulted in the *substitution of the state* by various forms of armed groups in decision making in critical areas such as land governance. Under such situations, 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 favor their respective clans (or groups), capturing state instruments to advantage of 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, thereby displacing the defeated clans, 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. Such a situation has contributed to the current problems associated with land conflicts in Kismayo and Jubaland in general.

The structural set-up and settlement patterns of the current Kismayo were created 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 born of that historical context of the land conflicts.

### 2.3.5 Chaotic urbanisation

Last but not least, chaotic urbanisation is one of the important root causes 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, although 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. 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."
Examples of land conflicts in urban contexts

<table>
<thead>
<tr>
<th>NAME OF PLACE</th>
<th>LOCATION</th>
<th>TYPE OF LAND USE</th>
<th>TYPE OF CONFLICTS OCCURRING IN THE AREA</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Gulwade</td>
<td>Kismayo Lower Juba Year 1999 to 2000</td>
<td>Residential use</td>
<td>The land was previously used as a military barracks facility, however currently it is used for residential purpose. (i) This land is not registered as no title deed was issued and therefore the lack of proper documentation have resulted in contested claims by different parties. (ii) Open spaces in the area further increases disputes between parties.</td>
</tr>
<tr>
<td>2. Alanleey</td>
<td>Kismayo: Lower Juba, Jubaland Year 2000</td>
<td>Residential use in urban settlement</td>
<td>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.</td>
</tr>
<tr>
<td>3. Alanleey</td>
<td>Kismayo: Lower Juba, Jubaland Year 2000</td>
<td>Residential use in Urban settlement</td>
<td>This land dispute was triggered by people claiming ownership without showing evidence of proper documentation. The urge to make money to earn a living in a protracted conflict drives land grabbing. The non-performing economy and reduced employment opportunities are drivers of the land grabbing.</td>
</tr>
<tr>
<td>4. Alanleey</td>
<td>Village in Kismayo</td>
<td>Residential use in Urban settlement</td>
<td>The case involved someone from the diaspora and people living locally in Kismayo. The conflict happened in 2016. A man living in London claimed the ownership of a land that is currently owned by a lady from the Marexaan clan.</td>
</tr>
<tr>
<td>5. Sinai – NRC Shelter project</td>
<td>Kismayo, Lower Juba Jubaland</td>
<td>IDPs and Returnees Settlement</td>
<td>Hostilities between the locals and returnees / IDPs on provision for shelter. Host community attempted to grab the shelter houses built by NRC for the vulnerable groups.</td>
</tr>
<tr>
<td>6. Fanole</td>
<td>Kismayo, Lower Juba,</td>
<td>Residential use in Urban settlement</td>
<td>The land in dispute belonged to an Arab man who lived abroad (Yemen) for more than 25 years with his family. He fled Kismayo due to threats and fear of death. Upon returning to Kismayo to claim back his land, he was threatened by land occupiers who lived on his land for 25 years. The conflict in this scenario is about contested ownership of land.</td>
</tr>
<tr>
<td>7. Kibora (Shaqaalaha)</td>
<td>Kismayo, Lower Juba.</td>
<td>Residential use in Urban settlement</td>
<td>The land in dispute was allocated to a cooperative society by authorities during the Siad Barre regime. The cooperative society went into bankruptcy and thereafter the land was sold to a private entity. The private entity bought the land and 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 land owner opted to settle the matter out of court through paying money to the other party claiming the land.</td>
</tr>
<tr>
<td>8. Kibora (Shaqaalaha)</td>
<td>Village in Kismayo</td>
<td>Residential use in Urban settlement</td>
<td>The case happened in 2016. It involved neighbours who lived in Kibora. The conflict started when one of the neighbours sought privatization of the open space which was being used for a car park.</td>
</tr>
</tbody>
</table>
Inter-clan conflicts are known to be more visible and complex to solve. However, arrangements where clans dominate in specific localities does not translate into conflict-free situations. Further, where land conflicts exist between individuals, in the end they assume a ‘clan flavour’ as members of society tend to side with and seek the protection of members of their own clan.

Whereas 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 pits one clan against another; the leadership of respective clans, inclusive of elders and political leaders, becomes a key actor in the land conflicts discourse, which creates unhealthy dynamics and further complicates addressing conflicts. 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 divorcing clan narratives from urban development approaches.

**ILLUSTRATION OF LAND-RELATED PROXIMATE FACTORS OF CONFLICT IN KISMAYO**

The map above 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 forced eviction of vulnerable IDP communities.

The set of maps below 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.
# Land Use and main groups /clans living in the area

<table>
<thead>
<tr>
<th>NAME OF PLACE</th>
<th>LAND USE</th>
<th>MAIN GROUPS CLANS IN THE AREA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gulwade</td>
<td>Residential</td>
<td>Marehan</td>
</tr>
<tr>
<td>Alanleey</td>
<td>Residential</td>
<td>Majerteen</td>
</tr>
<tr>
<td>Shakhalah</td>
<td>Residential</td>
<td>Ogaden, with other clans as well</td>
</tr>
<tr>
<td>Shakhala (Kibora)</td>
<td>Residential</td>
<td>Ogaden</td>
</tr>
<tr>
<td>Fanole</td>
<td>Commercial (Central Business District) &amp; Residential</td>
<td>Ogaden and Dulbahante</td>
</tr>
<tr>
<td>Dalhiska</td>
<td>Residential – mainly IDPS</td>
<td>Ogaden and Somalia Bantu</td>
</tr>
</tbody>
</table>

Source:  *Field Data, July 2017*

### Examples of inter-clan relationships and conflicts

<table>
<thead>
<tr>
<th>TYPE OF CONFLICT</th>
<th>CLANS INVOLVED IN THE LAND CONFLICT</th>
<th>BRIEF DESCRIPTION OF HOW CONFLICT MANIFESTS ITSELF</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pastoralist conflict</td>
<td>Bartire and Mohamed Zuber</td>
<td>The conflict erupted on agro-pastoralist area near the Afmadow and Hagar Area,</td>
</tr>
<tr>
<td>Urban areas (Buale)</td>
<td>Awlihan and Bartire</td>
<td>There is contested ownership of Buale Town by the Bartire and the Awlihan clans</td>
</tr>
<tr>
<td>Urban Areas (Kismayo)</td>
<td>Ogaden and Marehan</td>
<td>The two clans of Ogaden and Marehan claim the ownership &amp; management of Kismayo Town.</td>
</tr>
<tr>
<td>Urban Areas (Dhobley)</td>
<td>Awlihan and Mohamed Zuber</td>
<td>Mohamed Zuber and the Awlihan claim the ownership of the town of Dhobley and conflict erupted over its ownership</td>
</tr>
</tbody>
</table>

Source:  *Field Survey, June-October 2017*
### Examples of clan-based conflicts in Kismayo

<table>
<thead>
<tr>
<th>NAME OF PLACE</th>
<th>LOCATION</th>
<th>TYPE OF LAND USE</th>
<th>DESCRIPTION OF THE CONFLICT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dalxiiska</td>
<td>IDPs settlement in Kismayo.</td>
<td>IDPs residential area.</td>
<td>The conflict happened in 2017. The dispute involved 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.</td>
</tr>
<tr>
<td>Guulwade</td>
<td>Village in Kismayo</td>
<td>Residential use in Urban settlement.</td>
<td>The case involved parties with no proper documentation to claim ownership of the land in dispute. The case happened in 2016. The land disputed is between Raxaweyn clan and Dagoodia clan. Both parties in this case have no proper documentation to prove ownership of the land in dispute.</td>
</tr>
<tr>
<td>Dalhiis</td>
<td>IDPs settlement in Kismayo.</td>
<td>IDPs residential area.</td>
<td>Case happened in 2017 between Ogaden and Marehan. Ogaden clan and Marehan clan had conflict over a piece of land in Dalhiis area. The conflict was triggered by the influx of IDPs and returnees</td>
</tr>
</tbody>
</table>

*Source: Field Survey, June-October 2017*

### Registered and Unregistered Land in Kismayo

<table>
<thead>
<tr>
<th>NAME OF VILLAGE</th>
<th>PREVAILING STATE OF THE LAND REGISTRATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shakalaah</td>
<td>Registered land</td>
</tr>
<tr>
<td>Guulwade</td>
<td>Unregistered land</td>
</tr>
<tr>
<td>Kibora</td>
<td>Unregistered land</td>
</tr>
<tr>
<td>Fanole</td>
<td>Registered</td>
</tr>
<tr>
<td></td>
<td>Registered &amp; Unregistered land</td>
</tr>
<tr>
<td>Alanleey</td>
<td>Few plots are registered</td>
</tr>
<tr>
<td>Dalhiska</td>
<td>Unregistered land</td>
</tr>
</tbody>
</table>

*Source: Field Data, July-October 2017*
SCHEMATIC REPRESENTATION OF THE MOST COMMON TYPOLOGIES OF LAND CONFLICTS IN KISMAYO

- Land use conflicts between pastoralists, farmers and urban residents
- Conflicts between IDPs and host communities (see also IDP settlements map)
- Grabbing of open spaces and vacant land in every area of the city
- Disputes over ownership of registered land
- Disputes between absentee owners of registered land and occupants
- Disputes over ownership of unregistered land
- Conflict over land use between government and urban residents

Source of the map: Kismayo Urban Profile, UN-Habitat, 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 of the civil war and allowed the military personnel based in Gulwade to grab the land and convert 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 land. In essence the dispute was a boundary related dispute. The two parties in the dispute own parcels of land that share a boundary and they have been neighbours for the past 5 years. Both of them did not live in the area, but operated business enterprises from their respective premises. The conflict started when the woman accused the man of moving the boundary of his plot 3 meters 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 the woman and the man brought witnesses from their respective clans, but each set of witnesses spoke in favour of the person from their own clan. After deliberations, the elders made a proposal on how to solve the land 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 persuaded the man to cede the 3 metres of land to the woman. She accepted the woman and the conflict ended. However, the woman was fined by the elders for insulting them during the dispute resolution process.

Source: Field Survey, June-October 2017
**Dysfunctional land registration**

Kismayo Town can be divided into 5 main villages. Fanole is made up of the commercial (central business district) and residential land uses and has most of the registered land. All the other areas are predominantly residential areas.

Estimates by government officials indicate that Kismayo’s land is 70-80% unregistered\(^2\). 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 normally 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 the 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 the property diagrams while others do not provide the same. The photos on page 57 illustrate basic property diagrams used to prove ownership of land but are not drawn to scale and indicative. There is open 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 point grounded in the lack of legitimacy attached to the land administrations that followed the fall of Siad Barre. In deciding land disputes that involve registered land, the courts are known to seek advice from the Municipality - Land Department, who then scrutinize the property records in question and make appropriate recommendations to the courts. 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 on the type of land disputes and how they are managed. Registered land is affected with land disputes associated with ‘fake property documents’ and 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 lands which are – according to the old but still recognized as valid legislation – state lands.

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 offer adequate elements for the resolution of land and property disputes in urban areas at the scale and speed required.

The situation emerged is particularly problematic 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 human security purposes. These arrangements provide protection of the rights to occupy land via the agency of the clan. The study picked-up several examples of how communities make land claims and protect their land rights through various social arrangements, which can be read through the continuum of land rights model\(^3\).
Most common mechanisms to legitimize land claims (or grabbing) in Kismayo

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

- Political factors. The regime in power makes political decisions on what to approve or disapprove in terms of settlement/occupation of specific parcels.
- Social factors. This involves the use of clan relations to protect or justify specific land claims.
- Construction of land marks. This involves the construction of land marks 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 have the liberty to make land claims inside IDP settlements; and
- 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

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### Occupation of open spaces in Kismayo

<table>
<thead>
<tr>
<th>NAME OF PLACE</th>
<th>LOCATION</th>
<th>TYPE OF LAND USE</th>
<th>DESCRIPTION OF THE CONFLICT</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Alanlee</td>
<td>Kismayo, Lower Juba</td>
<td>Open space the coastal area owned by Ministry of Fishing &amp; Marine Resources</td>
<td>The current ministry of fishing proposed to construct a building funded by NRC on a piece of land which is within the shores of the beach (500m from the shore). 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.</td>
</tr>
<tr>
<td>2. Alanlee</td>
<td>Kismayo, Lower Juba</td>
<td>Open space in the coastal area which is used for Residential needs</td>
<td>This is an area along the coastal shore of the Indian Ocean. People have grabbed this land and used it for residential purpose. The government is proposing to clear this land as ‘the law does not allow’ such areas to be used for residential purpose.</td>
</tr>
<tr>
<td>3. Marina; Ministry of Gender and Human Rights</td>
<td>Kismayo -</td>
<td>Residential use in Urban settlement</td>
<td>This was government registered land for marine/port operations. Presently, people living on that land are used for residential uses. 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.</td>
</tr>
<tr>
<td>6 Alanlee</td>
<td>Kismayo Lower Juba, Jubaland Year 2003</td>
<td>Residential use in Urban settlement</td>
<td>This was an open space where no land mark 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/marginalised clan.</td>
</tr>
</tbody>
</table>

Source: Field Survey, June-October 2017
Grabbed open spaces and vacant land

All or nearly all open spaces and vacant lands in Kismayo have been grabbed or claimed. Field visits to IDP settlements in Kismayo came across 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 one’s “former garden.” A key point to note is that the use of political and social factors and other forms of making land claims are not mutually exclusive in terms of their application. In practice, the multiple forms of claiming 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 land marks.

The occupation of open spaces and vacant land, whether government or privately owned, represent a very common typology of land conflicts and a 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. With an estimated total of 30,000 plots as being illegally occupied, with permanent structures on-site, it is evident that the situation is complex while at the same time presenting huge challenges to the government.

The land governance discourse in Jubaland does not make reference in any way 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 relocation of people who settled in the Wamo Football Stadium of Kismayo ordered by the Ministry of Sports and the Municipality and the Governor of Kismayo. Following the order issued by the government, occupants were notified of the government intentions; some vacated the land voluntarily while others remained and were later on forcibly removed by the government with no compensation was paid.

Pastoralist land use in urban centres

Conflicts between pastoralists and urban residents located in peri-urban areas also arise, aggravated by the expansion of urban areas into surrounding rural areas. The unplanned nature of urban expansion is a major contributor to such conflicts.

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 act as direct suppliers of farm products to urban residents. In this regard, meat and milk products supplied to the urban areas come directly from the pastoralists resident in Kismayo and its surroundings. The interactions between the pastoralists and the urban land-uses are naturally antagonistic and land-use related conflict arise as there is no land in urban areas allocated for livestock.

Although some respondents note that pastoralist activities have minimum 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 land marks 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 herdsmen. Similarly, the enclosure of open spaces exclude animals from accessing land for grazing purposes in urban and peri-urban contexts.

Haphazard spatial urban development

Until the 1990s, the city has developed in a quite organized, compact fashion (approx. 160 people/ha), with a good network of roads and public spaces. In the last fifteen years, a dispersed, low-density development has sprawled towards the inlands, characterized by poor roads and services and lack of environmental hazard considerations.
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 are coexisting

Source of the maps: Kismayo Urban Profile, UN-Habitat, 2017
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 organisation and land tenure: Older sites are usually small to mid-size unplanned settlement on private land. New site are divided between small, spontaneous settlement on private land, and new large planned sites built by humanitarian agencies on land allocated by the government65.

Many of such settlements are developed in unsuitable locations and lack the necessary services and access to livelihoods. If not 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 of a strategic spatial development plan is very apparent. Unregulated urban sprawl will result in increased conflicts over land use and inefficient urban development, ultimately segregating further the poor, damaging the overall social economic development of the city, and only serve 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 environments66.”

A step-by-step incremental approach should be promoted, that starts to put in place key strategic punctual interventions and solve the most urgent problems, while thriving for the long term urban development vision. Land management approaches should be employed to make the implementation of such a strategic plan possible.
3. **RECOMMENDATIONS**

About the recommendations

The recommendations presented are resulting from the root cause analysis outlined in Chapter 2. Recommendations are intended to guide strategic discussions and interventions by a broad group of actors composed by different levels of government, non-state actors, and development and humanitarian organisations, including the UN. 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 the short, medium and long term horizon; some indications about this are given in the recommendations' narrative.

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.*

<table>
<thead>
<tr>
<th>ROOT CAUSES OF CONFLICT</th>
<th>LAND-RELATED PROXIMATE FACTORS</th>
<th>TRIGGERS OF VIOLENT CONFLICTS</th>
<th>RECOMMENDATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>ENVIRONMENTAL</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| Scarce natural resources including land and water | ■ Scarcity of land for pastures;  
■ Unrecognized and undefined land rights of pastoralist communities;  
■ Environmental degradation;  
■ Breakdown of legislative controls governing use and access to natural resources;  
■ Increasing inadequacy of Xeer Law and its implementation mechanisms related to use and access to land and water;  
■ Private livestock enclosures and exclusion of others from using land perceived as communal;  
■ Unsustainable increase of livestock;  
■ Destruction of the environment by charcoal production | ■ Droughts;  
■ Destruction of farms by livestock;  
■ Excessive consumption of water or pasture by a group to the detriment of another;  
■ Destruction of grazing land and livestock environment by charcoal producers | ■ Mitigate the impact of droughts, especially in conflict-prone areas;  
■ Assess the capacity of the territory and its resources to sustain the main land uses  
■ Put in place / strengthen existing regulatory mechanisms to manage the use of land, water and natural resources (and related enforcement mechanisms);  
■ Regulate livestock and farming activities and agree on / demarcate migratory routes in a participatory manner;  
■ Regulate charcoal production;  
■ Strengthen dispute resolution mechanisms; |
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.

<table>
<thead>
<tr>
<th>ROOT CAUSES OF CONFLICT</th>
<th>LAND-RELATED PROXIMATE FACTORS</th>
<th>TRIGGERS OF VIOLENT CONFLICTS</th>
<th>RECOMMENDATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Socio-economic</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Population growth</td>
<td>■ Youth bulge without secure land rights;</td>
<td>■ Migration and displacement to areas already occupied by other groups;</td>
<td>■ Improve youth’s access to land and livelihood;</td>
</tr>
<tr>
<td></td>
<td>■ Landless poor and minorities;</td>
<td>■ Famine;</td>
<td>■ Provide suitable land and tenure security for refugees, displaced population and landless poor;</td>
</tr>
<tr>
<td></td>
<td>■ Return of refugee and displaced families to areas of origin or alternative locations;</td>
<td>■ Make area-wide spatial plans to accommodate population growth and their land needs;</td>
<td>■ Put in place strategies aiming at a sustainable and adequately distributed population growth;</td>
</tr>
<tr>
<td>Poverty</td>
<td>■ Inadequate housing and basic services;</td>
<td>■ Diseases’ outbreaks;</td>
<td>■ Promote sustainable economic growth and employment;</td>
</tr>
<tr>
<td></td>
<td>■ Mushrooming of underserviced neighbourhoods (IDP settlements);</td>
<td>■ Forced evictions or exclusion of the poor from urban or rural land;</td>
<td>■ Combat land grabbing and exclusion of the poor from the land;</td>
</tr>
<tr>
<td></td>
<td>■ Discrimination against the poor with regard to access to land and housing;</td>
<td>■ Grabbing of land on which the poor is settled by powerful groups or individuals;</td>
<td>■ Monitor and prevent forced evictions;</td>
</tr>
<tr>
<td></td>
<td>■ Food insecurity as result of limited access to land for farming and livelihood;</td>
<td>■ Social unrest;</td>
<td>■ Plan for adequate human settlements both in rural and urban areas (healthy, close to livelihood opportunities, accessible to all, etc.);</td>
</tr>
<tr>
<td>Criminality and terrorism</td>
<td>■ Illicit activities (illegal migration, human trafficking, trade of arms and drugs) linked to a particular land use (pastoralism);</td>
<td>■ Escalation of land use conflicts because of high arm prevalence;</td>
<td>■ Combat criminal and terrorist groups;</td>
</tr>
<tr>
<td></td>
<td>■ Revenues from land and natural resources used to fuel terrorist groups;</td>
<td>■ Terrorist groups acquire the necessary resources and support to challenge and attack state institutions or opposing groups;</td>
<td>■ Disarmament of groups involved in illicit activities;</td>
</tr>
<tr>
<td></td>
<td>■ Parallel land management and dispute resolution system run by terrorist groups as a way to claim legitimacy;</td>
<td>■ Confrontation around land grabbing leads to violent conflicts that may escalate along clan lines;</td>
<td>■ Develop the capacities of state institutions and traditional structures for dealing with land management and dispute resolution (mandate, technical knowledge, resources, etc.);</td>
</tr>
<tr>
<td></td>
<td>■ Land grabbing by organized criminals;</td>
<td></td>
<td>■ Combat land grabbing;</td>
</tr>
<tr>
<td>Exploitative or unregulated investment</td>
<td>■ Illegal or irregular land acquisitions;</td>
<td>■ Forced evictions;</td>
<td>■ Combat land grabbing and forced evictions;</td>
</tr>
<tr>
<td></td>
<td>■ Land grabbing;</td>
<td>■ Investors acquiring land to the detriment of vulnerable people;</td>
<td>■ Promote transparency in land transactions / combat corruption;</td>
</tr>
<tr>
<td></td>
<td>■ Corruption of land professionals and institutions dealing with land;</td>
<td>■ Very visible inequalities in terms of land access;</td>
<td>■ Ensure that land can be legally transacted;</td>
</tr>
<tr>
<td></td>
<td>■ Increased pressure on valuable land;</td>
<td>■ Corruption results in land-related decision widely considered as unjust;</td>
<td>■ Put in place fit-for-purpose land administration and land governance systems;</td>
</tr>
<tr>
<td></td>
<td>■ Disproportionate pressure put on land by the lack of banking and alternative investment systems;</td>
<td></td>
<td>■ Protect vulnerable communities from eviction;</td>
</tr>
<tr>
<td></td>
<td>■ Lack of protection for land owners and occupants;</td>
<td></td>
<td>■ Develop the banking system</td>
</tr>
</tbody>
</table>
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.

<table>
<thead>
<tr>
<th>ROOT CAUSES OF CONFLICT</th>
<th>LAND-RELATED PROXIMATE FACTORS</th>
<th>TRIGGERS OF VIOLENT CONFLICTS</th>
<th>RECOMMENDATIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Weak governance</strong></td>
<td>Weak institutional governance; Weak land-related institutions lacking legitimacy, with no clear roles or mandate, little capacity and resources; Legally pluralistic system (statutory, customary and religious laws); Established common land governance practices that do not follow the laws; Unclear land rights (ownership, customary and use rights); Lack of / limited legitimacy of government administrations dealing with land governance; No adequate policy, legal, administrative and institutional frameworks;</td>
<td>Large inflow of population due to returns, further displacement, migration; Inflow of external capital and interventions requiring large portions of land (for agriculture, humanitarian interventions, infrastructure, etc.); Conflicts over land ownership or land occupation escalate into violence and killings (and potentially assume community / clan dimensions); Elections (or coups);</td>
<td>Strengthen institutions; Develop adequate policy, legal and administrative frameworks; Strengthen and capacitate land institutions (mandate, technical and client-orientation capacity, resources); Harmonize, align and ensure coordination among statutory, traditional and religious institutions, with particular focus on their land governance and dispute resolution functions; Analyse and reform the land rights system and the related land tenure categories, to increase the protection of HLP rights for all;</td>
</tr>
<tr>
<td><strong>Weak land administration</strong></td>
<td>Majority of land is unregistered; No functioning land registration system and impossibility to acquire land ownership legally; Widespread land grabbing; Highly dysfunctional land markets; Customary land disputes resolution system functioning but with important limitations; Formal land dispute resolution system (courts) partially functioning and only in urban areas; Disconnect between formal and customary land dispute resolution system;</td>
<td>Conflicts over land ownership or land occupation escalate into violence and killings (and potentially assume community / clan dimensions); Forced evictions; Politicization or manipulation of land disputes; Reforms introduced change the power balance of groups and clans;</td>
<td>Revise the land tenure categories and their attributes; Establish fit-for-purpose land administration, including incremental approaches and by improving what is in place; Strengthen dispute resolution mechanisms; Develop the capacities of the different actors involved in land administration and land disputes resolution; Promote coordination, alignment and harmonization among the different laws used;</td>
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<tr>
<td>Politics of exclusion</td>
<td>Capture of state instruments</td>
<td>Chaotic urbanisation</td>
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<tr>
<td>■ Land dispossession to the detriment of smallholder farmers and weaker rural communities;</td>
<td>■ Armed and terrorist groups take up government’s functions;</td>
<td>■ Dysfunctional land registration;</td>
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</tr>
<tr>
<td>■ Marginalisation and blockages in accessing land for minority clans and other minority groups;</td>
<td>■ Clans or groups capture state instruments to the advantage of their particular group;</td>
<td>■ Contested land claims on a large scale;</td>
<td></td>
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<tr>
<td>■ Exclusion of ‘IDP communities’ and returnees from accessing the full range of land rights and marginalization in ‘IDP settlements’;</td>
<td>■ Confrontations escalate into violent conflicts;</td>
<td>■ Grabbed open spaces and vacant land;</td>
<td></td>
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<tr>
<td>■ Spatial, social and economic segregation of vulnerable communities;</td>
<td>■ Conflicts over land ownership, occupation, use or land grabbing escalate into violence and killings and potentially assume community / clan dimensions;</td>
<td>■ Conflictual land dynamics render urban land management and dispute resolution challenging;</td>
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<tr>
<td></td>
<td>■ Spatial, social and economic segregation leads to social unrest, violent demonstrations or attacks to individuals, groups or institutions;</td>
<td>■ Land use conflicts between pastoralists and urban residents;</td>
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<td></td>
<td>■ Radicalization and violent extremism;</td>
<td>■ Haphazard spatial urban development;</td>
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<td>■ Urban expansion taking place in an unserviced and unsustainable manner, including in unsuitable land;</td>
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<td>■ partial, social and economic segregation of vulnerable (‘IDP communities’)</td>
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<td>■ Conflicts over land ownership, occupation, use or land grabbing escalate into violence and killings and potentially assume community / clan dimensions;</td>
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<td>■ Spatial, social and economic segregation leads to social unrest, violent demonstrations or attacks to individuals, groups or institutions;</td>
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<td>■ Radicalization and violent extremism;</td>
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<td></td>
<td>■ Establish fit-for-purpose land administration;</td>
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<td>■ Plan city growth and extension to address current and future problems (lack of services, spatial and socio-economic segregation, unsustainable land use, etc.);</td>
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<td>■ Promote compact and integrated urban development that features mix land use and mixed social composition;</td>
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<td>■ Ensure that land markets are well regulated and functioning;</td>
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<td>■ Strengthen dispute resolution mechanisms;</td>
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<td>■ Combat land grabbing;</td>
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</table>

Ensure that minorities and displaced people are included in the governance systems and their rights are protected;
Revise the definition of ‘IDP’ to better reflect the complexities on the ground and to redefine the HLP rights of marginalised communities;
Prevent and address the segregation of vulnerable communities;
Increase the legitimacy and capacity of state institutions;
Combat armed and terrorist groups;
Establish fit-for-purpose land administration;
Plan city growth and extension to address current and future problems (lack of services, spatial and socio-economic segregation, unsustainable land use, etc.);
Promote compact and integrated urban development that features mix land use and mixed social composition;
Ensure that land markets are well regulated and functioning;
Strengthen dispute resolution mechanisms;
Combat land grabbing;
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 the need of **reconceptualizing the way the land rights system is set up** (who is entitled to what, where) and what are the related land tenure categories. Several countries in Africa and beyond went through such process, embracing the concept of the continuum of land rights.

Two main types of land tenure are currently recognized: public land and individually registered land. The continuum of land rights, instead, is an inclusive concept that recognizes the existence and validity of a range of types of land rights (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 incremental approaches.

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 extremities, in 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 the context of Jubaland, registered individual land rights are considered the most secure type of land tenure. However, who wants to secure such type of rights needs to go through lengthy and costly procedures. While this might be appropriate for urban centres, where competition over land is high, it cannot be implemented at scale in rural areas, where probably clear and well documented group rights would be a better option.

The most appropriate form of land rights’ recognition depends on context, on what best suit the social, cultural and economic needs of local communities, what are 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 - go through such reflections through a participatory approach that involves all key stakeholders. This will lead to the identification of the most common types of land tenure. This will form the basis of the decisions about which ones should 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.

![Diagrammatic representation of the continuum of land rights (global model)](image)

The continuum of land rights has been widely embraced by global, regional and national institutions and organisations, even if at times presented with different wording. Key resources on the continuum of land rights have been developed by the Global Land Tool Network.
3.2.2 Policy, legal and administrative frameworks

On the basis of the decisions taken on what 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, such 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 the Jubaland’s ones is not yet clear, but it is hoped that the federal constitutional review underway will address issues of subsidiarity and accountability.

Hooked in the constitutions – federal and Jubaland’s – a comprehensive land policy for the State of Jubaland will have to be developed in due time and then translated into appropriate legislation that addresses in an incremental way the core land issues identified in this report: land use management, physical planning, land administration, land disputes’ resolution, land rights of 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 require 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 been undergoing similar exercises in comparable contexts could take place. In the meantime, other short and medium-term interventions both at the state level and at local levels can be established, in preparation for the policy and legal reforms to take place and to address immediate needs. Some of these interventions are listed in the sections below.

Dealing with the 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 different outreach in different areas of the country (e.g. rural versus urban 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 yet the case of Jubaland. 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 the awareness about them, the presence of implementation mechanisms, the ability of people to invoke them, and to what extent cultural norms and traditions are practiced instead of 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 what traditional / customary and religious laws and practices are in place in Jubaland and how they impact decisions made on land. A (progressive) harmonization and alignment of the different systems should be promoted, 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 considerations about gender equality and minorities’ rights should be promoted.

The Jubaland’s 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, it is overall found that citizens – women and vulnerable ones in particular - often lose out in their rights to land in context where there is little clarity on the existing rules and regulations and their application. Ambiguities created by the legal pluralism often open the door for the accommodation of the stronger groups of the society, either the elites, the predominant ethnic or religious groups, or the supporters of a patriarchal model of society.

3.2.3 Strengthen land institutions

Federalism, as the basis of Somalia’s governance structure was enshrined 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 under implementation in the state of Jubaland is an extension of the federal level, power-sharing deal within Somalia. Beyond that, it is not very clear how the nexus between Jubaland and 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 particular focus on their land governance functions.

The issue of mandates, clarity of responsibilities and functionality are not yet there. 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 their country. Capacity development and resources also need to be mobilised 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 propensity to listening and embrace alternative views on specific topics.

Large tracts of lands are managed by clan elders; the current scenario seems to indicate that such system will be the only viable one in the short to medium term, particularly in rural areas. The mandate of traditional authorities should be clarified, their practices assessed and improved,
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 initiative is handled carefully to avoid a scenario where the Commission fails to deliver on its mandate, causing further conflicts and mistrust in the Jubaland administration.

The mandate of the Land Commission needs to be carefully designed taking 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 in 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 crafty 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 disputes resolution will be crucial for success and create a solid base for the way ahead.

3.2.4 Manage the use of natural resources

Environmental causes are often at the basis of land-related conflict in Jubaland. Conflict prevention and peacebuilding initiatives must address such dynamics 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 a balanced access to land and land-related resources by the communities that entertain such activities, on the basis of an analysis of the capacity of the territory to sustain such activities, to avoid depleting the region’s natural resources and fostering future conflicts. Enforcement mechanisms should accompany the regulatory aspects.

Whereas the movement of cattle is at the direction of the cattle owners, there is place for technical interventions to facilitate such movements in a peaceful way. Examples of such technical interventions include the demarcation of livestock migratory routes (already being successfully implemented in similar context 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 be scaled up to cover the whole of Jubaland, local areas 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 have no potential of undermining general peace and stability. High-profile land conflicts have high-stakes, pitting groups of people or clans against others and have the potential to escalate and threaten lives, peace and stability.

Dealing with the whole domain 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 the above-mentioned interventions is a functioning dispute resolution system, composed by well-coordinated justice administration institutions (formal, traditional and religious) that refer to a unified or harmonized body of law, and 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 resolutions 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 put in place. Traditional and religious mechanisms should not perpetrate and legitimize costumes that are against the law and discriminatory towards women and other vulnerable groups.

Working on aligning and rendering more effective different dispute resolution systems, however, should not divert attention and funding from strengthening the formal court system, which should remain 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, 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 needs to be provided to women in 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 dissemination of good examples of previous land cases that were deliberated in accordance to the different constitutional, policy and legal provisions – once they will be 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 remains 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 state of 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 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 are happening on unregistered land, it being the majority of the land and widely affected by land grabbing. Yet, there are also conflicts on registered land, consequence of contested land records, boundary problems and other challenges associated with land
The fit for purpose land administration

The Fit-for-purpose (FFP) approach provides a new, innovative and pragmatic solution to land administration focused on developing countries, where current land administration solutions are not delivering. The solution is directly aligned with country specific needs, is affordable, is flexible 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 emphasises the perspective of 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. It 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”, GLTN, UN-Habitat and Kadaster International Netherlands, 2017
3.2.7 Area-wide spatial plans and planned urban growth

**Area-wide spatial plans** to manage land use, accommodate population growth and address their 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 needs to be made, to ensure that neighbourhoods promote spatial, social and economic integration, are close to livelihood opportunities and accessible, are not established in areas facing 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 needs to be promoted. Settlement patterns of populations in towns are largely based on clan relationships, inhibiting sufficient and organic integration of the urban residents and adding a layer of complexity that will be difficult for local authorities to manage. Under such conditions, mobilization of citizens based on clan affiliations is a risk that needs to be prevented, as it can lead to the quick spread of arising conflicts along clan lines. Urban societies world-wide are cosmopolitan in nature, and hence maintaining a rigid settlement pattern whose form is dictated by clan-based interests and parameters is as inappropriate as dangerous.

3.2.8 Combat land grabbing and forced evictions

From a political economy perspective, land grabbing is deeply rooted in power dynamics of the society. The enabling factors of land grabbing can be found amongst clan structures, common business practices, disproportionate power in the hands of former fighters and other influential personalities in the government or other sectors, wide availability of weapons in the hands of criminal elements of society, and 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 appropriate physical planning and development control functions of local authorities to evolve. Meanwhile, 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 land marks and the enforcement of prevention measures.

3.2.9 Provide suitable land and tenure security for refugees, displaced population, 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: the development of constitutional, policy and legal frameworks; the reform of the land administration system; 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 livelihood (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 need to be developed. The latter can be at the household or at the community level and have to define their tenure rights in 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 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 community could be regulated and incentivized. Jubaland institutions could develop
model rental agreements that can be utilized to formalize tenancy-
landlords 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 youth 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 Jubaland where risks of
violent extremism are very high.

Women’s access to land, housing and livelihood also needs to be the
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 deserve 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 identify the best way to access land
and housing; supporting the issuing of civil documentation, when they do
not have (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 UN system
The Federal Government and the Jubaland governments will have a
lot of work ahead to ensure that land issues are addressed in a way to
meaningfully contribute to the peace and stabilization process and to
re-establish the trust between the citizens and the state. Civil society and
private sector will be equally crucial for the establishment of a functioning
land sector.

The UN system will also have a crucial role to play if it intends to
meaningfully contribute to the conflict preventions 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.

Few rounds of internal UN consultations with key UN agencies active in
Jubaland will be required, to define a common vision for the way forward
and to prioritize the few priority actions to be taken forward. 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 for the identification of key approaches
and tools that would be needed; support the implementation of
catalytic activities that would start putting the land reforms in motion.

Engagement in strengthening the dispute resolution system, area /
urban planning, reform of the land administration system, land
use planning commission in selected priority areas and capacity
development for government institutions, including the land commission,
seem the best entry points for joint UN 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 area of work for both
humanitarian and development UN agencies.
4. 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.
4. In Jubaland, the practice is that three male witnesses - or alternatively six female witnesses - are required for the authorization of land transactions.
10. ECA 2017
12. EC/IUCN, 1993
13. FAO 2006
14. One such example was the conflict between Bimaal and Galjecel pastoralists in the Jilib area in the year 2016. Whilst both are minority clans, the Galjecel went to the Bimaal area for grazing but ended up overstaying in the area. This sparked the conflict, and the Bimaal reported the case to Al-Shabab. However, it is understood that the Al-Shabab ruled that based on their religious practices, the two groups were supposed to share the pastures.
15. One such incident happened in a village in the Gobwein area in 2016. Reportedly, pastoralists moved into the area and their cattle destroyed crops of one 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
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.
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 for 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 the Islam 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 Realisation of Peace, Development and Human Rights”, UN-Habitat, GLTN, UTI, UEL and AUS, 2018
30. Besten and Cassanelli 1996
32. Norton 2008: 94
34. Helander 2003; Deherex 2009
35. Rift Valley Institute 2017; World Bank 2011
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
44. The said law transferred control of all lands to the government, making it compulsory for all individuals to register their land-holdings 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 Jubba Sugar Project; Menkhaus 1996
47. Hoben 1988; Craven et al 1989; Menkhaus 1996; Menkhaus and Craven 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
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 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/22/48) builds on it. The continuum also features in the New Urban Agenda which was adopted by the UN General Assembly in 2016 and forms the basis of SDG land tenure security target that measures both administrative and perception data with Indicator 1.4.2.
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 Realisation of Peace, Development and Human Rights”, UN-Habitat, GLTN, UTI, UEL and AUS, 2018
73. NRC Afghanistan
74. NRC life can change
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”
5. REFERENCES


Dehenez; 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 (BICC), Bonn


EC/IUCN (1993): Environmental Synopsis of Somalia; EC, Brussels and IUCN, Gland Switzerland.


6. ANNEXES

A: Jubaland land stakeholders

<table>
<thead>
<tr>
<th>Names of Govt. Ministers</th>
<th>Ministry</th>
<th>Clan</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mohamed Yusuf Omar-</td>
<td>Mineral and Water</td>
<td>Shiekhal</td>
</tr>
<tr>
<td>Abdinur Ali Aden</td>
<td>Communication information Technology</td>
<td>Hawiye/Galjcel</td>
</tr>
<tr>
<td>Osman Husein Haji</td>
<td>Co-operation and international Planning</td>
<td>Jarerweyne/Bantu</td>
</tr>
<tr>
<td>Mohamed Abdi Mohamed-</td>
<td>Transport</td>
<td>Awramale</td>
</tr>
<tr>
<td>Mohamed Ibrahim Mohamud</td>
<td>Higher Education</td>
<td>Kumade/Ogadeen/Awliyahen</td>
</tr>
<tr>
<td>Aden Ibrahim Aw-xirsi</td>
<td>Justice, Constitution &amp; Religious Affairs</td>
<td>Marehan/Rer Dini/reer ugaas sharmarke</td>
</tr>
<tr>
<td>Ali Haji Nur Ali</td>
<td>Health</td>
<td>Raxaweyn/Leesan</td>
</tr>
<tr>
<td>Abdi Rashid Jire Qalinle</td>
<td>Finance</td>
<td>Kumade/Ogaden/Awliyahen</td>
</tr>
<tr>
<td>Mohamed Warsame Farax</td>
<td>Internal Affairs</td>
<td>Harti/Majerteen</td>
</tr>
<tr>
<td>Ahmed AbdiXafid Mohamed</td>
<td>Tourism And Wildlife</td>
<td>Raxaweyn/Dabarre</td>
</tr>
<tr>
<td>Mohamed Nur Buule</td>
<td>Livestock</td>
<td>Marehan/Talxe</td>
</tr>
<tr>
<td>Abdirashid Hassan Nur</td>
<td>Internal Security</td>
<td>Marehan/Rer Axmed</td>
</tr>
<tr>
<td>Shukri Weyrax Kariye</td>
<td>Housing And Public Works</td>
<td>Kumade/Ogaden/M.Zubeer</td>
</tr>
<tr>
<td>Mohamed Mohamud Yussuf</td>
<td>Youth and Sports</td>
<td>Marehaan/celi</td>
</tr>
<tr>
<td>Farid Jamac Saleeban</td>
<td>Trade and Industrialization</td>
<td>Harti/Dhuulbahante</td>
</tr>
<tr>
<td>Ibrahim Hassan Abdi</td>
<td>Fishing and Natural Resources</td>
<td>Dir/Biyomal</td>
</tr>
<tr>
<td>Gelle Muhumed Aden</td>
<td>Agriculture</td>
<td>Kumade/Absame/Bartire</td>
</tr>
<tr>
<td>Khamar Haji Khalid</td>
<td>Women Affairs</td>
<td>Kumade/Ogaden/M.Zubeer</td>
</tr>
</tbody>
</table>

Source: Jubaland Baseline Report 2016, Interviews with Key Government Ministers, July 2017
<table>
<thead>
<tr>
<th>Name of stakeholder</th>
<th>Main functions on land</th>
<th>Related functions with implications on land</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Wamo Relief &amp; Rehabilitation Organization</strong></td>
<td>Land conflicts mediation between IDPs/Returnees and Host communities/ Government Agencies</td>
<td>Provision of shelter and health facilities to IDPs and returnees</td>
</tr>
<tr>
<td><strong>IDPs /Returnees Shelter Gate-Keeprs</strong></td>
<td>Support JRIA in Shelter projects aimed at supporting IDPs / Returnees Involved in mediation of land conflicts between IDPs/Returnees and Host communities/ Government Agencies</td>
<td>Might be biased towards the locals and influence land grabbers in the future</td>
</tr>
<tr>
<td><strong>Norwegian Refugee Council (NRC)</strong></td>
<td>Providing shelters to IDPs /Returnees in Kismayo / Jubaland NRC is involved in projects that require land for implementing the projects.</td>
<td>Livelihood provisions through TVET, Education programmes, WASH, Borehole.</td>
</tr>
<tr>
<td><strong>Social Agricultural Development Organization (SADO)</strong></td>
<td>Peacebuilding and livelihood projects Currently implementing EU funded project which target 1500 youths in Kismayo</td>
<td>SADO is providing vocational training – TVET project. They require land for setting up the TVET training school.</td>
</tr>
<tr>
<td><strong>Kismayo Peace Committee (KPC)</strong></td>
<td>KPC is a group of people working on a voluntary basis in solving among others, land conflicts in urban and rural settings.</td>
<td>KPC is also involved in statebuilding projects like democratisation and civic education engagement will compliment land conflict management in Kismayo/Jubaland.</td>
</tr>
<tr>
<td><strong>Representative of Somali Bantu Group</strong></td>
<td>Act as liaison – bridging the gap between community and government /INGO /Private sector. Ensures that minority groups are not subjects of discrimination, particularly on land rights and tenure security.</td>
<td>Involved in advocacy work related to empowerment of marginalised communities e.g, ensuring the govt. 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.</td>
</tr>
<tr>
<td><strong>American Refugee Council (ARC)</strong></td>
<td>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.</td>
<td>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.</td>
</tr>
<tr>
<td><strong>Agency for Peace and Development (APD)</strong></td>
<td>APD is involved in peace building and community dialogue mediation programmes, covering land conflict management</td>
<td>APD’s grassroots approach to peace building is best suited to harness and promote traditional land conflict resolutions.</td>
</tr>
</tbody>
</table>

*Source: Field Survey, June-August 2017*
## B: Sources of information for the study

### Key informant interviews with government agencies

<table>
<thead>
<tr>
<th>Agencies</th>
<th>Title of the key person interviewed</th>
<th>Summary of issues discussed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ministry of Public Works and Housing</td>
<td>Minister</td>
<td>Land conflicts / land law / land allocation / Open spaces / registered and unregistered land / urban planning</td>
</tr>
<tr>
<td>Ministry of interior</td>
<td>Minister</td>
<td>Land law / Land allocation / IDPs and returnees / Capacity of the Municipality</td>
</tr>
<tr>
<td>Ministry of Agricultural</td>
<td>Minister</td>
<td>Rural land conflicts (pastoralist and farmers)</td>
</tr>
<tr>
<td>Ministry of Fisheries &amp; Marine Resources</td>
<td>Minister</td>
<td>Land uses along the coastal lines / The impact of land conflict on minorities</td>
</tr>
<tr>
<td>Police Department</td>
<td>Police Commissioner</td>
<td>Statistics on land related cases, How are they handled, Referral systems through the court and traditional systems</td>
</tr>
<tr>
<td>Land Department – Municipality</td>
<td>Head of Land Department / Municipality</td>
<td>Issues on registered and unregistered land and land documentation, proof of ownership</td>
</tr>
<tr>
<td>Jubaland Refugee and IDPs Affairs Commission (JRIA)</td>
<td>JRIA Commissioners / Head of Programmes / Protection Officer</td>
<td>IDPS &amp; Returnees Profiling / Statistics / Shelter projects in Kismayo /</td>
</tr>
<tr>
<td>Regional Court</td>
<td>President of the Regional Court / Regional court Judge</td>
<td>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</td>
</tr>
<tr>
<td>Appeal Court</td>
<td>Head of the appellant court</td>
<td>Discussion on the structure of the court in Jubaland, land conflict cases management</td>
</tr>
<tr>
<td>District Court</td>
<td>Head of District court</td>
<td>Discussion on the structure of the court in Jubaland, Land conflict case management</td>
</tr>
<tr>
<td>Ministry of Justice</td>
<td>Minister</td>
<td>Discussion on legal aspects of land issues in Kismayo and Jubaland</td>
</tr>
<tr>
<td>Name</td>
<td>Focal person</td>
<td>Land issues</td>
</tr>
<tr>
<td>-------------------------------------------</td>
<td>---------------------------------------------</td>
<td>------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Mercy Corps</td>
<td>National Programme Officer</td>
<td>Land conflict in the context of refugees / returnees</td>
</tr>
<tr>
<td>GIZ</td>
<td>Project coordinator based in Kismayo</td>
<td>Land conflict in the context of refugees / returnees</td>
</tr>
<tr>
<td>Somali Disability Rights Advocacy</td>
<td>Chairman</td>
<td>Land conflict in the context of people with disability</td>
</tr>
<tr>
<td>Hormud Internet and Telecommunication</td>
<td>-Head of Juba Telecommunication</td>
<td>Discussion on land conflicts in the context of private business operations in Kismayo</td>
</tr>
<tr>
<td>Jubaland Chambers of Commerce (JCC)</td>
<td>-Project Manager</td>
<td>Discussion on land conflicts in the context of business operations in Kismayo</td>
</tr>
<tr>
<td>Agency for Peace and Development</td>
<td>-Head of Programmes</td>
<td>Discussion on land conflicts and how the need for local advocacy / campaign</td>
</tr>
<tr>
<td>Agency for Vulnerable People</td>
<td>Head of Programmes</td>
<td>Discussion on the role of Youth in land conflicts in Kismayo</td>
</tr>
<tr>
<td>Social &amp; Agricultural Development Organisation (SADO)</td>
<td>Project Manager; TVET officer; WASH officer</td>
<td>Discussion on current trends of land conflicts in Kismayo</td>
</tr>
<tr>
<td>Norwegian Refugee Council (NRC)</td>
<td>Area Manager, WASH &amp; Shelter programme officer; ICLA Manager</td>
<td>Land Conflict situation in Kismayo / How IDPs &amp; Returnees are affected by Land Conflict / Land allocation.</td>
</tr>
<tr>
<td>Wamo Rehabilitation &amp; Relief Organisation</td>
<td>Head of Shelter projects; Head of Programmes</td>
<td>Land issues in the context of IDPs, returnees and Host communities</td>
</tr>
<tr>
<td>Notary Public Office</td>
<td>Notary Public Officer</td>
<td>Land sale agreements and disputes thereof, witnesses and testimonies</td>
</tr>
<tr>
<td>Afi Water Company</td>
<td>Head of Operations</td>
<td>The role of private entities in land conflicts</td>
</tr>
<tr>
<td>Wamo Electricity Company</td>
<td>Head of Operations</td>
<td>The role of private entities in land conflict management and the impact thereof.</td>
</tr>
</tbody>
</table>

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