LAND, PROPERTY, AND HOUSING IN SOMALIA
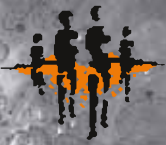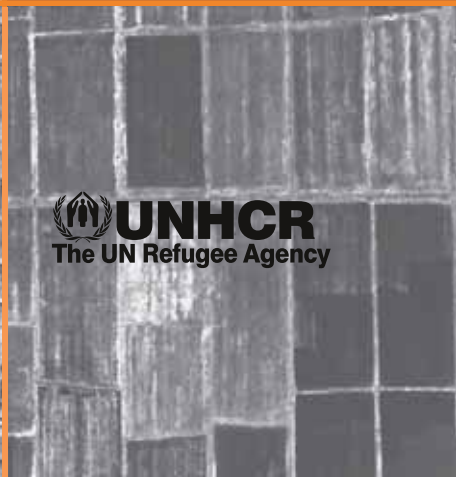
BY GREGORY NORTON

NORWEGIAN
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LAND, PROPERTY, AND HOUSING

IN SOMALIA

NORWEGIAN REFUGEE COUNCIL

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PART A:
EXECUTIVE SUMMARY

This report focuses on the Somali legal frameworks and institutional systems relating to land and on the historical background of the current landholding and ownership patterns in Somalia. However, it also looks at a much wider range of social, cultural, political, economic, and environmental contexts relating to land and examines some of the theoretical debates on land issues, in order to apply them to Somalia. Due to security issues and time constraints, it is primarily a summary and synthesis of existing literature on these subjects (which has a number of limitations), but some field research was also carried out as a "reality check" of the desk review. It does not necessarily represent the views or policy of the three agencies that commissioned or funded the research – United Nations High Commissioner for Refugees (UNHCR), Norwegian Refugee Council (NRC), and United Nations Human Settlements Programme (UN-HABITAT).

Many of Somalia's political problems can be traced back to the imposition of centralized nation state structures on to existing decentralized and egalitarian systems, leading eventually to a zero-sum struggle between clans for control of the state apparatus and its resources, including land. Following the collapse of the Somali state, a number of groups have had political or economic incentives to oppose the process of building (or rebuilding) the state and to act as "spoilers" in any peace process. Considerable sums of money can be made by control of key real estate in a conflict economy. Formal governance structures have either limited capacity (as in the north of Somalia) or virtually no control at all (as in the south) and there has been a process of political fragmentation and "radical localization". Traditional governance structures remain very influential, especially in the north. Lack of state control or any other effective form of governance has led to widespread misuse or overuse of Somalia's natural resources and therefore to environmental degradation and damage. Deforestation resulting from the charcoal trade and increasing water scarcity

are particular concerns. Somalia is heavily dependent on food imports (especially in the form of food aid, which distorts local markets); agricultural production and general food security are highly vulnerable to external shocks such as natural disasters (which for climatic and other reasons are relatively frequent) or bans on the export of livestock.

Somalia's human development indicators relating to housing and shelter (and related matters) are generally very poor but disguise significant disparities along regional, class, and rural-urban divides. The clan system is a fundamental but deeply controversial factor in Somali society, which can both divide and unite, depending on context. There is considerable debate as to the importance of clan loyalty in Somali politics and its role in the collapse of the state and subsequent civil wars. Some scholars argue that Somali society is by no means as homogeneous as it has been portrayed and that class, race, and other factors are also major "fracturing points". Clan identities can be very fluid and are also clearly influenced by external stimuli such as foreign assistance or the creation of new representation structures. The links between clans and particular "ancestral" areas of land are extremely contentious and have the potential to significantly destabilize any peace settlement, but they also reflect long-standing social dynamics. The various "minorities" include the Bravanese and other coastal groups, the very complex Bantu/Gosha grouping, and the traditional "outcaste" groups, but their exact identities and origins are difficult to clarify. They generally lose out in the power politics of Somali clan interrelations, particularly regarding control of land and access to justice. Women are often disadvantaged by conservative social norms and denied the entitlements or rights that Islam theoretically provides. The civil wars have had some effect on women's socio-economic position and gender relations, not always for the better.

Somalia's economy was "unconventional" well before the collapse of the Barre regime, with a failing and aid-dependent formal economy, a corrupt, centralized, and inefficient public sector, a thriving and mostly extra-legal private sector, and strong transnational trade links. The peculiarities of the pre-civil situation ironically made the configuration of the economy relatively well suited to the conflict economy that developed during the civil wars, but it remains heavily dependent on a high level of remittances and on foreign aid, which has had generally negative social and political effects. Public finance capacity is poor and the likely revenue streams for the state(s) of Somalia are very small in comparison both to the bloated and externally supported budgets of the Barre era and to the level of remittances and foreign aid. The private sector economy is primarily agricultural and remains underdeveloped; the negative effects of recent livestock bans have only been offset by the continuing flow of remittances, which contribute significantly to household income in urban areas and may also fuel land investment.

Somalia experienced major displacement and government-directed resettlement in the 1970s with the 1974–1975 drought and the Ogaden War. The gradual collapse of the Barre regime from the late 1980s onward saw huge displacement, first in the north and then in the south, followed by famine and disease. Those internally displaced within Somalia are among the poorest and most vulnerable in Somali society, but it is very difficult to accurately profile and analyse the caseload because of security constraints, vested interests in keeping numbers high, and lack of distinction between conflict internally displaced persons (IDPs) and other groups such as returnees, economic migrants, the urban poor, and natural disaster IDPs. The limited existing profiling confirms that poverty and other livelihood factors are other key reasons for displacement and suggests that many have lost land or houses; it also highlights wretched current living conditions. Low household income and limited assets, along with ever-increasing economic stratification, make the chronically poor

highly vulnerable. Despite (or perhaps because of) high levels of need, Somalia is a highly problematic environment for humanitarian assistance and requires considerable sensitivity to local political and clan dynamics and the ever-present potential for conflict. Structural issues related to "remote management" of operations from Nairobi contribute to the difficulties.

An important collection of studies on changing patterns of land use and land ownership in southern Somalia, edited by Lee Cassanelli and Catherine Besteman, makes clear how closely connected land and politics are and discusses many of the dynamics behind the increasing competition for land and rural resources. It highlights the generally disastrous effects of the Barre regime's agricultural policies and land reforms (and in particular the title registration introduced by the 1975 land law) on customary land tenure arrangements and traditional agricultural patterns. The widespread appropriation of fertile land in the Jubba and Shabelle valleys from its original inhabitants by the Mogadishu elite, and others with links to the regime, set the scene for the "liberation" of these areas by clan militias during the civil wars. State agricultural policies, which sought to fix producer prices to ensure a cheap food supply for the growing cities (especially Mogadishu), had a negative impact on agricultural production; the sector as a whole was underfunded and under-resourced. State grazing land projects in the pastoral north and agricultural resettlement projects for drought- or Ogaden War-displaced people were also generally unsuccessful. In the 1980s, a combination of factors intensified the competition for potentially valuable land in the Jubba and Shabelle valleys, but local inhabitants generally did not have the resources, knowledge, or political connections to register land in their own names. The loss of land to outsiders impacted on their established systems of crop production, which relied on flexibility

of labour and diversity of location. Increasing concentration of ownership and larger plantation farms changed the dynamics of the relationship between farmers and pastoralists. Three major state farm projects in the Lower Jubba involved large-scale appropriation of land with little or no compensation and, at a staggering cost in donor funding, achieved no significant productivity gains; corruption, inefficiency, and misappropriation of project funds were rife.

Somalia's urban settlements fall significantly short of the Millennium Development Goals that relate to shelter, water, and sanitation. Urban infrastructure and urban planning capacity are poor, and general infrastructure such as roads and flood control mechanisms has seriously deteriorated in the south. Mines, unexploded ordnance, and explosive remnants of war remain an issue, though there is some dispute as to the extent of the problem. Land titling and administration systems, where they do exist, have very limited capacity. For this and other reasons, land- or resource-based disputes are very common in Somalia, generally involving clan politics or issues over clan "homelands" (*deegaan*). Competing claims of ownership are common in urban areas, frequently over land that was once public. In the dryland grazing areas, disputes over access to water cisterns (*berkads*), increasing sedentarization, and enclosure of reserves have led to violent clashes, fuelled by the ready availability of weapons. The land committee of the Somali National Reconciliation Conference has decided that all land acquired by misuse of power between Somalia's independence and 1991 must be returned, that all land occupied by clan militias during the civil wars must be vacated, and that a concerted effort must be made to repossess all government fixed assets and to hold to account those who have profited from their use. These are ambitious objectives and their implementation would be very challenging.

In a section focusing on housing, land, and property "theory", the report sets out the human rights framework behind land issues. It summarizes some of the policy debates in relation to customary land tenure and the arguments for and against formalization of title, which has gone in and out of fashion with donors as an instrument for economic development but is still sometimes recommended as a solution to Somalia's various land problems. It also examines the specific issues related to urban titling programmes and looks at changing policy orthodoxies on the management of communal land and natural resources. Finally, it sets out some suggested best practices in the design of land policy and land administration systems.

The last main section of the report summarizes what is known in relation to the plural legal systems of Somalia. It briefly examines the legal history of Somalia and current constitutional provisions in relation to land and law and assesses the (limited) effectiveness of the judiciary and court systems. It also looks at the anomalous position of Somalia (and Somaliland) under international law and summarizes the key principles and structures of customary law. The legal framework in relation to land in Somalia (or at least the state of our knowledge relating to it) is very patchy and unclear. While Somaliland does have some modern legislation on the subject, much of it is deficient in content and application; much less is known about Puntland's land laws, but it seems that some Islamic land law principles may be applied there. The direct application of sharia law is generally limited to family and inheritance matters, though sharia courts are becoming more common in the south; the overlap between sharia and customary law is somewhat hazy. The customary systems of dispute resolution can be efficient, quick, and cheap, which is why they have retained popular support and legitimacy, particularly in comparison with the deficiencies of the formal sector. However, women and minorities are often not well served by these mechanisms, and customary law has not always kept pace with social changes, though it remains inherently flexible.

Finally, the report sets out the author's own conclusions on land-related programming in Somalia. The author suggests that clan identity is a key (and variable) issue but argues that there are other determining factors in Somali society and that clan determinism should be avoided. Clan claims to "ancestral" land should be treated with considerable caution because of their political and conflict implications. The author advises against large-scale land titling programmes in Somalia but sees a role for registration in some settled rural areas and suggests that document registration may be beneficial in urban areas. He also highlights the complexity of the patterns of land and resource use in rural areas and the dangers of simplistic solutions that do not take these matters into account. While endorsing the decisions of the Somali National Reconciliation Conference in relation to land, the author notes the huge obstacles to their implementation. He argues that land programming should have a strong legal component and should also be sensitive to livelihood and economic vulnerability issues; more data is needed on the displaced caseload and on the levels of homelessness, secondary occupation, and destruction of property. The author suggests that the need for improvement of the three legal systems is greater than the need to integrate them and points to some of the areas where assistance could be provided; he also indicates areas where further research and better interagency coordination are required.

Photo © UN-HABITAT Somalia Office

PART B: INTRODUCTION

PURPOSE AND INTENDED AUDIENCE

This report is a summary of research into land, property, and housing issues in Somalia, commissioned by NRC and UN-HABITAT and funded by UNHCR and UN-HABITAT. It is intended to assist and be read by a range of different parties involved or interested (as donors or active agencies) in Somalia. In particular, it is aimed at those who are carrying out:

- short- to medium-term shelter projects to meet the needs arising from the current major displacement emergency in the country;
- longer-term projects to improve land management and administration, local governance, and shelter provision;

- rule of law programming and major development projects relating to land;
- conflict resolution projects; and
- protection and general assistance projects for IDPs and returnees.

The report focuses on the legal frameworks relating to land in Somalia and on the structures that exist to manage and administer land, property (i.e. the rights relating to land), and housing (i.e. the structures built on land). However, the current situation in Somalia is a highly complex and volatile one, and it is impossible to understand land in Somalia today and the considerable sensitivities relating to it without looking at the background

behind it. The report thus also provides background information and analysis on a number of contexts relating to land, from the Somali clan system and its relationship with land to the geographic and environmental factors affecting land and the economic value to be derived from controlling land. The policy issues and theoretical debates relating to the general study of housing, land, and property matters (often referred to as "HLP" in agency jargon) are similarly complex and contentious but are also directly relevant to understanding land in Somalia and considering appropriate programming options. The report therefore summarizes some key housing, land, and property debates and research findings and applies them to the Somali context. A glossary of Somali and Arabic words, together with a list of abbreviations used, can be found at the end of the report; key technical terms related to housing, land, and property are listed and explained in Section 5 of Part D.

For those with long experience in Somalia and for housing, land, and property specialists, parts of the report may seem somewhat simplistic or basic. On the other hand, the last eighteen years (and arguably the last century) have demonstrated how difficult it has been for "outsiders" to understand and deal appropriately with the complex and unusual social and political dynamics of Somalia. Operations in Somalia have also often suffered from a high turnover of staff and resulting lack of institutional memory. "Remote management" from Nairobi due to the security situation has meant that only a limited number of international staff is able to gain sustained field experience and understanding of the Somali context. The literature relating to Somalia (both academic research and agency reports) is relatively substantial but not easily available; it is also often fairly technical and not particularly accessible for busy agency staff. The literature on housing, land, and property matters, both generally and specific to sub-

Saharan Africa, is very large indeed and equally specialized; research on the legal systems of Somalia has been much more limited but is also fairly technical. The report therefore seeks to provide accessible historical background, theoretical analysis, and a summary of the current position in relation to all of these issues, within a practical context. It is primarily focused on southern Somalia, since the current battles for political and military control over economic resources, the resulting mass displacement, and thus the most problematic land issues are centred there. However, much of its content (particularly in terms of explanatory background) is applicable to northern Somalia. It does not contain detailed technical recommendations in relation to land but where possible will try to use the lessons of history and agency experience in Somalia and elsewhere to highlight potential pitfalls and problems and to suggest possible alternative approaches.

This report does not deal in detail with existing programming and policies in relation to shelter provision and "durable solutions" for IDPs and returned refugees, for three reasons. Firstly, the three main agencies involved in such programming are those that have funded or commissioned this research (UNHCR, UN-HABITAT, and NRC), and there seems little point in telling those agencies about their own current programmes and policies. Secondly, the reality is that major "durable solutions" programmes will not be possible until there is peace and significant economic development in Somalia, which is clearly several years away at best. Thus, there is limited utility in guessing now what durable solutions might be viable when a long-term peace settlement is achieved. However, the general historical background and socio-economic contexts set out in this report may assist in informing programming and policy when that time comes. Thirdly, as part of the overall research project, the author was also commissioned to produce two

short advisory reports on certain technical aspects of current housing, land, and property programming and other shelter programming, principally in northern Somalia. These reports contain specific practical recommendations and suggest work plans and areas for further research.

LIMITATIONS AND QUALIFICATIONS

Research for this report was carried out over a period of around four and a half months, from January to June 2008. The author made several visits to Somaliland and one visit to Baidoa in south central Somalia to carry out interviews, but the deteriorating security situation in Somalia meant that it was not possible to visit Puntland or any other areas of the south central region. Consequently, it was decided to use local researchers to investigate the situation in these areas: Mr. Ibrahim Ali Ambar ("Oker") and a team from the Centre for Research and Development carried out interviews and focus group meetings in south central Somalia and Mr. Abdulkadir Koshin did the same on a more limited scale in Puntland. The majority of the research for this report has therefore involved finding and reviewing general and specialist

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Figure 1: A user's guide to this report

Part C of the report provides a range of background information relating to Somalia and land in a broader sense, in terms of:

· general conflict dynamics and the political economy of war (how economic benefit can be obtained from land during wartime and the vested interests this creates)
· a description of formal and informal governance structures (how land is governed)
· geographical and environmental factors (how land use is affected by location and local conditions)
· social and cultural contexts, such as the clan system, "minority" groups, and the position of women (how people's social status affects their access to land)
· the public and private sectors of the economy, including remittances and foreign aid (how people make money out of land and other sources)
· patterns of displacement and related protection and humanitarian issues (how war has affected people's access to and control over land)

Those readers who are familiar with the Somali context and are interested specifically in land issues may wish to go straight to *Part D* of the report, which begins with a detailed historical description of changing land ownership patterns from the colonial era to the present day, with an emphasis on key periods of the Barre regime and the civil wars. It then looks at the current position in urban areas and at existing land administration structures, before examining a variety of land conflicts and the structures that exist to resolve such disputes. The last section of Part D places Somali land issues in the wider context of housing, land, and property "theory" and policy debates.

For those who want to understand more about the legal context, *Part E* examines the legal systems of Somalia. The first section deals with the formal or "secular" legal sector in Somalia, in terms of its background and history and the different structures and judicial systems. It also looks in some detail at the specific laws relating to land and examines the international law position. Subsequent sections summarize the basics of sharia and customary law and their interrelationship.

Part F sets out the author's conclusions in relation to land and law-related programming in Somalia. *Part G* contains glossaries of relevant Somali and Arabic phrases, an explanation of abbreviations used, and a detailed Somalia bibliography.

literature on Somalia, as well as conducting interviews in Nairobi with various operational agencies and key donors. This report is thus primarily a synthesis and summary of the available literature, with (where possible) a "cross-check" of these findings against current ground realities. Some of the issues and limitations relating to the literature and to the state of knowledge about Somalia in general are highlighted below in Section 1 of Part C; a detailed bibliography can be found in Part G.

NRC and UN-HABITAT commissioned the research contained in this report, and UNHCR and UN-HABITAT provided the funding. However, the opinions expressed in this report, unless otherwise indicated, are those of the author and do not necessarily reflect the views and policy of these organizations. This report uses the names "Somaliland" and "Puntland" to describe the areas of north-west and north-east Somalia, which have declared themselves to be respectively an independent state and a federal state (in waiting) of Somalia. These names are used for practical purposes and their use (along with mention of the "governments" and other political institutions of Somaliland and Puntland) does not constitute a formal acknowledgement by NRC, UN-HABITAT, or UNHCR of the status of either area. Almost all agency maps of Somalia (including those reproduced in this report) use the regional and district boundaries as they existed in 1990 when the Barre regime collapsed, and the report follows this practice in referring to region and district names. Again, the marking of boundaries on any maps in this report (not least those between Somaliland and Puntland) does not constitute a determination of their legal status. Place names are generally given in the form most easily understood by a non-Somali reader (e.g. "Baidoa" rather than "Baydhaba"), though there may not be complete consistency, and place name spellings used by other authors have been tacitly amended; the same applies to the (non-Somali speaking) author's rendering of Somali personal names and Somali phrases.

A glossary of Somali words relating to the matters dealt with in this report is at the end of the document.

ACKNOWLEDGMENTS

PART C: CONTEXTS

SECTION 1: HISTORICAL BACKGROUND

CHRONOLOGY OF KEY EVENTS IN SOMALI HISTORY[1]

1875: Egypt occupies towns on Somali coast and parts of the interior.

1860s: France acquires foothold on the Somali coast, later to become Djibouti.

1887: Britain proclaims protectorate over Somaliland.

1888: Anglo-French agreement defines boundary between Somali possessions of the two countries.

1889: Italy sets up a protectorate in central Somalia, later consolidated with territory in the south ceded by the sultan of Zanzibar.

1925: Territory east of the Jubba River detaches from Kenya to become the westernmost part of the Italian protectorate.

1936: Italian Somaliland combines with Somali-speaking parts of Ethiopia to form a province of Italian East Africa.

1940: Italians occupy British Somaliland.

1941: British occupy Italian Somalia.

1950: Italian Somaliland becomes a UN trust territory under Italian control.

1956: Italian Somaliland is renamed Somalia and granted internal autonomy.

1960: British and Italian parts of Somalia become independent, merge, and form the United Republic of Somalia; Aden Abdullah Osman Daar is elected president.

1964: Border dispute with Ethiopia erupts

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1   This chronology comes from the BBC News website country profile for Somalia
    (http://news.bbc.co.uk/2/hi/africa/country_profiles/1072611. stm), last accessed 6 June 2008.

into hostilities.

1967: Abdi Rashid Ali Shermarke defeats Aden Abdullah Osman Daar in elections for president.

1969: Muhammad Siyad Barre assumes power in a coup after Shermarke is assassinated.

1970: Barre declares Somalia a socialist state and nationalizes most of the economy.

1974: Somalia joins the Arab League.

1975: Severe drought causes widespread starvation.

1977: Somalia invades the Somali-inhabited Ogaden region of Ethiopia.

1978: Somali forces are pushed out of Ogaden with the help of Soviet advisers and Cuban troops.

1981: Opposition to Barre's regime emerges after he excluded members of the Majerteen and Isaaq clans from government positions, which were filled with people from his own Marehan clan.

1988: Peace accord with Ethiopia is signed.

1991: Opposition clans oust Barre, who is forced to flee the country.

1991: Former British protectorate of Somaliland declares unilateral independence.

1992: US Marines land near Mogadishu ahead of a UN peacekeeping force sent to restore order and safeguard relief supplies.

1995: UN peacekeepers leave, having failed to achieve their mission.

1996: Warlord Muhammad Aideed dies of his wounds and is succeeded by his son, Hussein.

1998: Puntland region in northern Somalia declares unilateral independence as a "state of Somalia".

2000 August: Clan leaders and senior figures meet in Djibouti and elect Abdulkassim Salat Hassan president of Somalia.

2000 October: Hassan and his newly appointed prime minister, Ali Khalif Gelayadh, arrive in Mogadishu to heroes' welcomes.

2000 October: Gelayadh announces his government, the first in the country since 1991.

2001 April: Somali warlords, backed by Ethiopia, announce their intention to form a national government within six months, in direct opposition to the country's transitional administration.

2004 August: A new transitional parliament is inaugurated at a ceremony in Kenya. In October, the body elects Abdullahi Yusuf as president.

2004 December: Prime Minister Ali Mohammed Ghedi is approved in office by parliament. Large waves generated by an undersea earthquake off Indonesia hit the Somali coast and the island of Hafun. Hundreds of deaths are reported; tens of thousands of people are displaced.

2005 May: An explosion kills at least ten people and injures many more at a rally in Mogadishu where Prime Minister Ali Mohammed Ghedi is giving a speech.

2005 February–June: Somali government begins to return to Somalia from Kenya, but there are bitter divisions over where in Somalia the new parliament should sit.

2005 November: Prime Minister Ali Mohammed Ghedi survives an assassination attempt in Mogadishu after gunmen attack his convoy, killing six people.

2006 February: The transitional parliament meets in Somalia – in the central town of Baidoa – for the first time since it was formed in Kenya in 2004.

2006 March and May: Scores of people are killed and hundreds injured during fierce fighting between rival militias in Mogadishu. It is the worst violence in almost a decade.

2006 June–July: Militias loyal to the Union of Islamic Courts take control of Mogadishu and other parts of the south after defeating clan warlords. A political stand-off emerges between the Islamic Courts and the transitional government based in Baidoa.

2006 July–August: Mogadishu's airport and seaports are re-opened.

2006 September: The transitional government and the Union of Islamic Courts begin peace talks in the Sudanese capital, Khartoum. President Yusuf is the target of Somalia's first

known suicide bombing outside parliament in Baidoa.

2006 October: About 35,000 Somalis escaping drought, strict Islamist rule, and the possibility of war arrive in Kenyan refugee camps (since the start of 2006), according to the UN refugee agency UNHCR.

2006 December: UN Security Council endorses African peacekeepers to help prop up the interim government. Islamist leaders say they will treat any foreign forces as invaders. Ethiopia confirms it is engaged in fighting against the Islamists in Somalia, and Ethiopian troops and Transitional Federal Government forces rout the Islamist militias.

2007 January: Islamists abandon their last stronghold, the port town of Kismayo. President Abdullahi Yusuf enters Mogadishu for the first time since taking office in 2004. US carries out airstrikes in southern Somalia, which it says targeted Al-Qaeda personnel sheltering there; Somali president defends the attack. Interim government imposes three-month state of emergency.

2007 February: UN Security Council authorizes a six-month African Union peacekeeping mission for Somalia.

2007 March: African Union troops land at Mogadishu airport amid pitched battles between insurgents and government forces backed by Ethiopian troops.

2007 March–April: Heavy fighting between the insurgents and the government forces, described by the UN as the worst fighting the country has seen for sixteen years, displaces approximately 390,000 people from the city. More sophisticated, targeted attacks by the insurgents continue after that period of heavy fighting, including an attempted suicide car bomb attack on Somali Prime Minister Ghedi. Many civilians are killed in the retaliatory spray shooting by government and Ethiopian forces when there are suspected insurgent attacks.

2007 June: A US warship shells suspected Al-Qaeda targets in Puntland. Prime Minister Ghedi escapes a suicide car bomb attack on his compound. Ethiopian Premier Meles Zenawi visits Mogadishu, pledging to withdraw his troops once peace takes hold.

2007 July: National reconciliation conference opens in Mogadishu and comes under mortar attack. Islamist leaders stay away from the talks. Refugee exodus grows amid an upsurge in violence.

2007 August: Human Rights Watch accuses Ethiopian, Somali, and insurgent forces of war crimes, and the UN Security Council of indifference, during the recent conflict. The National Reconciliation Conference ends on 30 August 2007 with mixed opinions of its success.

2007 September: Opposition groups form a new alliance to campaign for a military and diplomatic solution to the Somali conflict. They meet in Asmara, Eritrea.

2007 October: Ethiopian forces fire on demonstrators in Mogadishu protesting at the presence of what they call foreign invaders. The heaviest fighting in Mogadishu since April 2007 occurs during this month. Ethiopians move reinforcements into the city. Prime Minister Ghedi resigns. Aid agencies warn of a catastrophe unfolding in Somalia.

2007 November: The Transitional Federal Government shuts down Radio Shabelle, Radio Simba, and Radio Banadir. The UN special envoy Ahmedou Ould-Abdallah describes Somalia's humanitarian crisis as the worst in Africa, and suggests using international justice to curb the violence. Nur Hassan Hussein, also known as Nur Adde, is sworn in as the new prime minister. The number of Somali refugees hits one million, with nearly 200,000 fleeing the capital in two weeks.

2007 December: Ethiopian troops leave key central town of Guriel.

2008 January: Burundi becomes the second nation to contribute troops to the African Union peacekeeping force, sending 440 soldiers to Mogadishu.

2008 March: US launches missile strike on southern town of Dhoble, targeting suspected

Al-Qaeda member wanted for 2002 bombing of Israeli-owned hotel in Kenya. Islamist-led insurgency continues to spread.

2008 April: European Union (EU) calls for international efforts to tackle piracy off the Somali coast after a series of hijackings and attacks on vessels. US airstrike kills Aden Hashi Ayro, a leader of the Al-Shabaab insurgent group.

2008 May: Ethiopian Prime Minister Meles Zenawi says he will keep troops inside Somalia until "jihadists" are defeated.

2008 June: The UN Security Council unanimously votes to allow countries to send warships into Somalia's territorial waters to tackle pirates.

THE PROBLEM OF KNOWLEDGE

Secure and unrestricted access to the whole of Somalia has not been possible for most of the last eighteen years. This, in combination with the absence of competent governance institutions in most of the country, has significantly limited the ability of researchers to gather proper data on Somalia. During the 1980s, the repressive security apparatus of the Barre regime also limited the access of researchers and official statistics became increasingly divorced from reality; in the 1990s, systematic data gathering was more or less impossible for most of the decade. However, with comparative peace in Somalia from 2000 onwards, a number of major data-gathering exercises were undertaken, mostly by United Nations Development Programme (UNDP) and the World Bank, which produced the 2001 Human Development Report, the 2002 socio-economic survey, the voluminous Joint Needs Assessment reports in 2006, and the 2006 Country Economic Memorandum. These provide a considerable amount of information and analysis. Accuracy of data gathering and statistics has continued to be very problematic in Somalia because of the perceived connection to the likelihood (and amount) of assistance

or (more recently) the belief that collection of even the most straightforward information is connected to the so-called "war on terror". Information was often gathered by agencies with a limited and specific purpose in mind, and there was and is also a considerable lack of trained data enumerators. In addition, some statistics continue to be widely quoted even when they are substantially out of date or their reliability is otherwise dubious[2].

In relation to land issues, there was a fair amount of research conducted in the late 1980s, which was published and elaborated on in the early 1990s, but apart from some local studies of land conflicts there has been little since then. Research on the legal systems has been similarly patchy and some of the more technical studies by rule-of-law agencies such as UNDP have not been made generally available. There seem to be some semi-structural problems with information sharing among agencies and with recurrent loss of "institutional memory". For example, the very important and detailed studies carried out by United Nations Development Office for Somalia (UNDOS) on governance in various southern regions in the late 1990s are very hard to find, and it seems to be almost impossible to obtain a copy even of the 2006 settlement survey carried out by UNDP.

In the more general literature on Somalia, there is a frequent tendency for authors to extrapolate from their findings in one region (or indeed one region and one trade, in the case of Little's study of the cattle trade around Kismayo) to describe Somalia as a whole, as arguably occurs sometimes in Lewis's studies of northern Somalia and Besteman's work on southern Somalia. Conversely, the de facto

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2   For detailed commentary on the quality of data collection in Somalia and a large collection of statistics, see World Bank (2006a), as well as World Bank and UNDP (2002) and UNDP (2001). For the problems of data collection in south central Somalia and Puntland, see Centre for Research and Development (2004) and Puntland Development Research Centre (2004b) respectively.

separation of Somaliland and Puntland from the rest of Somalia and the generally improved security in those areas has more recently led to a concentration of research on those two areas, to the exclusion of south central Somalia. Finally, Somalia often manages paradoxically to combine an intense volatility of events with the remarkable resilience of many social structures, which makes it very difficult to establish whether a state of affairs that was reported as existing in the past remains the same now. All of these caveats should be borne in mind when reading what follows.

SECTION 2: POLITICAL BACKGROUND AND ANALYSIS

As noted above, the only predictable thing about Somalia is its unpredictability. Periods of relative calm are interspersed with rapid change and complete reversals of fortune, although a number of "warlords" and other figures from the early 1990s have shown remarkable staying power. As such, detailed reports of political events or analysis of the "current position" have a tendency to age very quickly; the most useful commentary tends to be that of the International Crisis Group and of experienced Somalia watchers like Ken Menkhaus, Mark Bradbury, and Matt Bryden, as listed in the bibliography to this report.

Given Somalia's political volatility, donors and the international community generally have tended to follow a "twin-track" approach[3], by engaging with the various regional administrations and "governments" as they come and go, while also focusing considerable resources on analysing and seeking to improve the underlying structures of "governance" in Somalia. This can be broadly defined as the social and administrative systems, institutions, and procedures by which the business of government (whether central or local) is

actually delivered to the population and by which the population in turn can influence the government. Considerable literature exists on the subject, produced by the World Bank and UN agencies themselves (especially as part of the Joint Needs Assessment process) or commissioned from local Somali civil society organizations. This section will therefore look at some of the longer-term political and conflict dynamics and at issues of governance and general administrative effectiveness, which will be relevant to service delivery and agency programming.

CONFLICT DYNAMICS AND ANALYSIS

As the 2001 Human Development Report[4] comments, "the contradictions arising from grafting an external 'modern' system of centralized governance onto a decentralized and egalitarian political system remain unresolved", and this statement arguably goes to the heart of many of Somalia's conflicts. Luling[5] argues that the "artificial state" and the clan-based society were unable to work together healthily and "instead set up a poisonous interaction which produced corruption in the state and distortion of the clan-tie. Clans had always competed for resources such as land, grazing and water, but now that control of all these resources and much more was vested in the state, competition between clans, which before had been only one aspect of their existence, became its permanent condition. The state was both the arena within which they fought and the prize for which they contended. So the state, which had been intended to unify the Somali people, actually became the mechanism of their disintegration."

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3 One donor described this more bluntly as a "parallel universe" strategy (Interview 26).

4 UNDP (2001). The 2001 HDR was written by three very experienced and knowledgeable Somalia specialists, Ken Menkhaus, Roland Marchal, and Mark Bradbury, and is probably the best single introduction to the current situation in Somalia. It will be quoted frequently in this report and the citation for it will therefore not be repeated on each occasion.

5 Luling (1997).

Moreover, the mechanisms of state control that were previously available no longer exist in this post-Cold War world. As Menkhaus and Prendergast[6] comment, "In the past, the centrifugal tendencies of clan politics were overcome through a combination of foreign aid-fuelled patronage and military coercion. While militia leaders still have the ability to intimidate local community leadership, they are nowhere near to possessing the kind of well-funded and intrusive security apparatus of the Barre regime. Neither patronage politics nor coercion will be available to future national leadership on a sufficiently large scale." Nor, given the fate of previous international interventions in Somalia, is the international community likely to intervene significantly in Somalia; it has learned the lessons of what Coyne describes as the "nirvana fallacy"[7].

Ken Menkhaus has elaborated a detailed and compelling argument in relation to the dynamics of the Somali conflict over the course of a number of articles[8], which will be quoted here in some detail as the author considers it to be the most convincing analysis provided by outside commentators so far. Menkhaus argues that there are three separate crises in Somalia – state collapse, armed conflict, and lawlessness – and that they must be disaggregated to be better understood and diagnosed.

"The complete and sustained collapse of the central government in Somalia has spawned many problems. But it is not *inherently* linked to other concurrent crises in Somalia, such as criminality and armed conflict. Indeed, Somalia has repeatedly shown that in some

places and at some times communities, towns, and regions can enjoy relatively high levels of peace, reconciliation, security, and lawfulness despite the absence of central authority. In fact, it can be argued that attempts to revive a centralized state have actually exacerbated armed conflicts. In this view, state-building and peace-building are two separate and, in some respects, mutually antagonistic enterprises in Somalia. This is so because the revival of a state is viewed in Somali quarters as a zero-sum game, creating winners and losers in a game with potentially very high stakes. Groups (i.e. clans) which gain control over a central government will use it to appropriate economic resources at the expense of others, and will use the law, patronage, and the monopoly of legitimate use of violence to protect this advantage. This is the only experience Somalis have had with centralized authority, and it tends to produce risk aversion and to instigate conflict rather than promote compromise, whenever efforts are made to establish a national government. It is not the *existence* of a functioning and effective central government which produces conflict, but rather the *process* of state-building in a context of state collapse that appears to exacerbate instability and armed conflict in Somalia."

However, as Menkhaus points out, given the history of the Somali state under Barre, "if the most powerful interests in Somalia were to pursue their best interests rationally (in the sense of seeking optimal outcomes), then we would expect to see a scenario other than complete state collapse. We would instead predict collusion among the country's economic and political elites to create a 'paper state'. That would produce a state legitimate enough to win full external recognition, attracting all the benefits conferred upon such states, from World Bank loans to profits derived from property rental to diplomatic missions. It would dramatically increase the spoils over which various political predators could feast

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6 Menkhaus and Prendergast (1995a).
7 Coyne (2006): "In terms of weak or failed central governments, it is assumed that foreign governments can generate, via occupation and reconstruction, an outcome preferable to that which would occur absent these interventions. This assumption overlooks (1) the possibility that foreign government interventions can fail, (2) the possibility that government efforts can do more harm than good, and (3) the possibility of the evolution of endogenous governance mechanisms that are more effective than attempts to impose government by military occupiers."
8 See Menkhaus (2003a), (2003c), (2004a), (2004b), and (2007a).

but it would remain unable to enforce the rule of law at a level that would threaten the illicit interests of this elite. The paper state would allow virtually all of Somalia's top economic and political elite to have their cake and eat it too; to enjoy the benefits of a central state without any of the burdens[9]."

Menkhaus argues that that there are three groups of "spoilers"[10] who prevent this lucrative prospect from coming to pass or who may have an interest in perpetuating one or more of the three crises identified above. "First are those who seek to undermine efforts at state-building or peace-building because they are not satisfied with their share of the pie. These can be individuals or whole clans. For instance, the Eldoret peace talks in Kenya were complicated by arguments over levels of clan representation. They are 'situational' spoilers, who in some instances have legitimate grievances, though in most cases their motive is greed, and who in theory can be brought in to a state-building venture with appropriate concessions. Second are the 'intrinsic' spoilers. These are actors with a vested interest in maintaining a state of lawlessness, state collapse, and/or armed conflict. War criminals are the most obvious candidates, but a host of others – young gunmen, merchants of war, individuals and groups holding valuable state assets – can also fall into this category. A final and more complex set of spoilers are those whose opposition to state-building and peace-building initiatives is driven by risk-aversion. While they could potentially benefit from peace, government and the rule of law, they face a high level of uncertainty about the impact such developments could have on their interests. As a result, they choose the suboptimal but safe route of scuttling initiatives which might

alter an operating environment which, while not ideal, is at least familiar and in which they find some benefit. Some of the most powerful constituencies in Somalia are those served by a rule of law which controls criminality by the underclass, but lacks the capacity to address 'metacriminality' – war crimes, incitement of communal violence, expropriation of land and buildings by force, forced labour, distribution of counterfeit currency, money laundering, piracy, drug smuggling, illegal exportation of charcoal, embezzlement of foreign aid and tax money from the coffers of regional government and the Transitional National Government, to name a few. The local sharia courts fit this limited legal role rather well, which is one reason we can expect to see their re-emergence. For regulation and prosecution of the sort of crime committed by political and economic leaders, a functional state with an autonomous judiciary and police capacity is needed."

THE POLITICAL ECONOMY OF WAR

Recent studies[11] have analysed the structure and dynamics of the economies of conflict-affected countries and shown the considerable incentives for many parties to sustain the conflict. For example, William Reno[12] sees the "breakdowns" in state bureaucracies and institutional capacities and the increased use of violence and transnational connections not as simple pathology or regression to a primitive, tribal past but as *alternative* forms of governing and state formation. In this "neo-patrimonial" system, rulers rely on "alliances with local strongmen whom they allow to exploit local economic opportunities" and realize that they can "manipulate transnational commercial connections and outsiders' willingness to recognize them as mediators between local and world economies to accumulate wealth and

9 Some commentators described the Transitional National Government and its backers as seeking to do exactly what Menkhaus describes here – see Le Sage (2002).
10 The description of "spoilers" in peace processes was coined by Stephen Stedman in an influential article entitled "Spoiler Problems in Peace Processes" (*International Security*, Vol. 22, No. 2, Fall 1997, pp. 5–53).

11 These are very usefully summarized from a humanitarian agency perspective in Le Billon (2000), written for the Overseas Development Institute. For specific analysis of Somali using the political economy paradigm, see Sorens and Wantchekon (2000), Kanazawa and Friedman (1999), and Reno (2003).
12 As summarized in Peters (2004).

Figure 2: Map of Somalia

control associates"[13]. As Baker[14] comments, where there is a well-developed "shadow state", "the collapse of the formal state with its public services and security functions can even work to the political advantage of central powers, releasing them from burdensome costs, legal constraints on contraband trades and predatory expropriation, and arenas of power".

Many of these dynamics were already present in Somalia before the civil wars began, in terms of the ability of the political elite to divert or profit from massive humanitarian assistance and the existence of transnational commercial and trade networks designed to evade the regime's control. The UN/US interventions of the 1990s served to pump huge amounts of money into Somalia, through the legal channels of property rentals, currency transactions, staff salaries (especially for the very large private security forces employed to guard agency staff and assistance), and general procurement contracts and through the illegal channels of theft, aid diversion, protection money, and kidnapping. On the other hand, as Menkhaus[15] points out, the United Nations Operations in Somalia (UNOSOM) "inadvertently helped to stimulate and strengthen legitimate businesses, thereby shifting business activities away from a war economy toward construction, telecommunications, trade, and services. In the process, it helped to reshape local interests in security and rule of law, and eventually local power relations as well."

The reports of the group of UN-appointed experts monitoring the embargo on selling arms to Somalia contain fascinating (and surprisingly detailed) information about the extra-legal economy in Somalia and its connections to the arms trade. The following examples (if the figures are anywhere near accurate) demonstrate how lucrative control of land and productive assets in southern Somalia[16] can be for warlords, faction leaders, and "businessmen":

- Kismayo seaport yielded an income of US$411,569 for the month of April 2005, from import tax, export tax, and berth tax[17].

- Kismayo airport yielded estimated monthly revenue in early 2005 of US$58,200, from passenger entry and exit tax, landing tax (per aircraft), and *qat* import tax (with two flights a day, each bringing in 60 bags of *qat*)[18]. Daynile airport was reported to receive six *qat* flights a day in 2003, yielding US$170,000 per month[19]. In 2004, some sources estimated that the Somali population spends up to US$300,000 per day on Kenyan *qat*[20].

- Income generated from the import of contraband (untaxed) consumer goods into Somalia from Gulf and Asian countries for onward transmission to Kenyan and general African markets was estimated in 2004 to be US$200,000 per month at Kismayo port[21].

- The gross monthly revenues from charcoal exports through the seaports of Kismayo, El Ma'an (30 kilometres north of Mogadishu), and El Adde (the local seaport of Mogadishu) in the spring of 2005 were US$2.02 million, US$1.9 million, and US$205,000 respectively[22].

- Airport operations at the Isiley (Mogadishu North) airstrip were estimated in 2003 to generate annual revenues of US$1.2 million[23].

- A "self-regulated" fishery service operating off the Somali coast was generating

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13 Reno, quoted in Peters (2004).
14 Baker (1999).
15 Menkhaus (2007a).

16 It should be noted that this issue is not limited to the south. As Bradbury (2008) notes, persistent questions have been raised by Somaliland opposition figures over the opaque and substantial nature of the revenues from Berbera port, which are directly controlled by and channelled through the Office of the President. In 2002, Berbera Port Authority collected US$1.7 million.
17 UNSC (2005b).
18 UNSC (2005b).
19 UNSC (2003a).
20 UNSC (2004).
21 UNSC (2004).
22 UNSC (2005b).
23 UNSC (2003a).

US$600,000 to US$1 million per year between 1996 and 1998, which was distributed among various prominent faction leaders[24]. Fishing "permits" issued by various bodies were reported in 2006 to cost as much as US$150,000 per year, per boat[25].

- Checkpoints in Afgoye were estimated in 2006 to yield around US$4.3 million per year to one faction leader[26].

- "Hashish from an Asian country is smuggled into Kenya and Tanzania on Somali vessels and small boats. Information indicates that [various warlords] recently exported more than 400 kilograms of hashish to neighbouring countries"[27]. One warlord is reported[28] to control 10 farms in the Shabelle which produce 6 harvests a year of marijuana; each overall harvest is estimated to yield him around US$100,000.

- The same report states that this warlord "collects revenue from [non-governmental organizations] that want to operate in the area under his control; they must obtain [his] permission and must pay him a sum of money to conduct their activities. He receives at least 15 percent of any NGO benefits that are offered to the local population. The fees paid by an NGO for the buildings they use are split between the owner and [him]. He has a say in the question of which Somalis work for NGOs – members of his own clan – and gets part of an employee's salary."

In its May 2006 report[29], the monitoring group stated that it had "uncovered the existence of three powerful cartels that are headquartered in Mogadishu and have operations with sprawling business networks throughout central and southern Somalia and extending into certain foreign countries. The cartels operate mainly in central and southern Somalia in an area

that covers 10 regions of the country[30]. They provide services to and may have shares of seaport operations in Merka and Kismayo. The three cartels also have foreign business operations that extend from Mombasa, Kenya, to Djibouti and Dubai, United Arab Emirates. The cartels are involved to varying degrees – as owners, minority shareholders or subcontractors – in commercial activities, including both maritime and land transport. They also have a virtual monopoly in relation to securing contracts with various agencies of the United Nations and other international organizations that involve activities related to general trading – import and export, food distribution, warehousing services, fuel supply, construction, telecommunications and money remittance. The only regulations they abide by are self-imposed, and the only taxes and fees they pay are to each other, rather than to a central Government. When they spend money on local infrastructure – roads, buildings, airports, seaports, etc. – it is chiefly for the furtherance of their own interests, whether security-related or economic. By contrast, civil society must rely overwhelmingly on international aid organizations for day-to-day survival and community development activities. The vast and complex web of economic vested interests of the local administrations, business cartels and associated businesses represents huge financial gains for their owners, and therefore the intense urge to secure and maintain those interests is compelling and primary."

FORMAL GOVERNANCE STRUCTURES AND THEIR CAPABILITIES

Somalia generally comes close to the top (or bottom) of any comparative assessment of governance and state functions. The 2008 Brookings Index of State Weakness[31], drawing on 20 indicators covering economic, political,

24 UNSC (2003a).
25 UNSC (2006a).
26 UNSC (2006a).
27 UNSC (2004).
28 UNSC (2005b).
29 UNSC (2006a).
30 Galgaduud, Hiran, Middle Shabelle, Bay, Bakool, Gedo, Lower Shabelle, Lower Jubba, Middle Jubba, and Benadir.
31 Rice and Patrick (2008).

security, and social welfare matters, ranks it at number 1 and describes it as a "failed state" (along with Afghanistan and the Democratic Republic of Congo). Freedom House's "Freedom in the World" annual survey awards countries scores for political rights and civil liberties (with 1 being the best and 7 the worst): in 2008 Somalia was scored at 7 for each and described as "Not Free" (which qualified it for Freedom House's separate report on "The Worst of the Worst"), although Somaliland was scored at 4 for each and described as "Partly Free"[32].

The World Bank's very detailed Governance Indicators[33] draw on 310 different variables to seek to measure "voice and accountability", political stability and absence of violence, government effectiveness, regulatory quality, rule of law, and control of corruption. Because of the statistical methods used to calculate their "aggregate governance indicators", the 2006 results do not permit direct comparisons or country ranking, but Somalia is at more or less the lowest level in each category. In Transparency International's 2007 Corruption Perception Index[34], Somalia came last, together with Myanmar. These assessments of course do not reflect the heterogeneous nature of Somalia's multiple formal governance structures (except for Freedom House) but do demonstrate the immense difficulties inherent in any attempt at state building, governance improvement, or political reconstruction in Somalia.

"Radical localization" and decentralization

The 2001 Human Development Report argues thus: "Since the late 1990s the political landscape of Somalia has been partially reshaped by a discernible trend towards political consolidation with the institutionalization of larger regional and trans-regional polities.

The process is driven by a convergence of internal and external interests. Internally, there are economic and social forces that demand greater regulation and order. Business people have concluded that commercial expansion requires political structures capable of providing security, financial services, and a more regulated business environment. Civil society groups, Somalis in the diaspora, and ordinary people are demanding greater security in their daily lives. Externally, foreign states and international aid agencies have found Somalia's localized polities too fluid and weak to serve as effective interlocutors in matters of security and development and have, therefore, encouraged the creation of larger political units, as a potential precursor to national unity."

While the most recent outbreaks of violence have seen a refragmentation of governance systems and units in south central, this trend seems likely to continue in the medium term, whether through the resurgence of the Islamists or through the Transitional Federal Government retaking control. There are however two potentially different external dynamics at work, roughly equivalent to "track 1" and "track 2" in diplomatic jargon: the so-called "building blocks" approach[35] of building from the bottom up (i.e. from the districts and regions or even potential federal states such as Puntland), and the top-down "revival" (more accurately, "creation") of the Somali state, either along traditional centralized nation state lines or as a federalized system with some decentralization of power.

The 2001 Human Development Report also argues that there are two paradoxically related processes affecting Somalia's political and socio-economic situation: on the one hand, the forces of globalization have an extremely direct effect on Somalia because no state exists to intermediate, and on the other hand, Somalia has splintered into highly localized

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32 Freedom House (2007) and (2008).
33 World Bank (2006b).
34 Transparency International (2007).
35 See Bryden (1999) for a somewhat jaundiced account of the genesis of the "building blocks approach".

units in the absence of central authority[36]. The authors comment that "localization of political authority in Somalia in some respects provides much greater local ownership of political decision making than was the case in the past. Virtually all governance in contemporary Somalia now requires lengthy and protracted negotiations with a wide number of local social and political groups, and local political leaders spend much of their day in meetings with constituents. Even mundane and minor issues such as the hiring of teachers or awarding of contracts by aid agencies necessitate repeated meetings with interested constituencies. Because the civil war has left most social and political groups well-armed, 'veto coalitions' are now a standard feature of Somali politics. Any group that feels unsatisfied by a political decision or arrangement can disrupt the process by threat of recourse to violence. The involuntary localization of Somali politics has therefore empowered small, local constituencies more largely than before and this heightened level of accountability, empowerment, and democratic voice is seen by its advocates as the chief virtue of localization."

As Menkhaus comments elsewhere[37], "The key variable in whether regional administrations are likely to yield coexistence and power-sharing rather than ethnic hegemony appears to depend on the primary purpose which the regional polities serve. If they come into existence as 'building blocks' with the sole purpose as stepping stones designed to culminate in a central state, they are more likely to produce conflict and encourage ethnic domination at the local level, even as they fail to deliver basic services. This is so for several reasons. First, when viewed as building blocks for a central government, federal states attract political figures whose sole interest is in using them to secure a top position in the national government. The regional states become the

new means of securing a 'seat at the table' in a central administration. This invites intense power struggles by individuals (and their constituents) jockeying for positions of power. These political figures have no interest in actually administering the federal state; their focus is on the capital. Second, in the building-block scenario each federal state will be viewed locally as the 'seat' for a particular clan; in the zero-sum game of political representation, there will be little tolerance for competing claims of other clans resident in the region. Because there are invariably more clans than states, what will ensue is a political equivalent of a game of musical chairs, with each clan struggling to ensure control over a federal state. As with factions in the early 1990s, this will yield one of two results – either bloody battles for control, or a multiplication of new states to accommodate every lineage's demand for its 'own' home base. Since Somali clans are almost limitlessly fissurable, this process could yield a continual multiplication of new federal units."

Menkhaus opines "Given that existing informal and local systems of governance have enjoyed real success, and that a central government will necessarily have to be minimalist in the roles it assumes, the most promising formula for success in state building in Somalia is some form of a 'mediated' state in which the government relies on partnership (or at least coexistence) with a diverse range of local intermediaries and rival sources of authority to provide core functions of public security, justice, and conflict management in much of the country. Mediated states are intrinsically messy, contradictory, illiberal, and constantly renegotiated deals – not ideal choices for governments, but often the best of bad options for weak states."

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36 See Marchal et al. (2000) for more details on the effects of globalization on Somalia.
37 Menkhaus (2003c).

Figure 3: Map of Somali Regions and Districts

SOMALIA: ADMINISTRATIVE UNITS

AFRICA

Gulf of Aden

DJIBOUTI

Zeylac
AWDAL
Lughaye
Baki
Borama
W. GALBEED
Gabiley
Hargeisa
Odweine

Berbera
Sheikh
TOGDHEER
Burco
Caynaba
Buhodle

El Afwein
SANAG
Erigavo
Xudun
SOOL
Lasanod

Las Qoray
Badhan
Bosaso
BARI
Gardo
Taleh
Garowe
NUGAL
Burtinle

Alula
Kandala
Iskushuban
Bender Beila
Eyl

ETHIOPIA

Goldogob
Galkayo
Adado
Abudwaq
Dusa Mareb
GALGADUD

MUDUG
Hobyo
Jariban

El Barde
BAKOOL
Rab-Dhuure
Hudur
Dolo
Luuq
Wajid
Belet Hawa
Garbahare
Baidoa
GEDO
Qansah Dere
El Waq
BAY
Bardera
Dinsor
Bur Hakaba
Sakow
Kurtun Warrey
Sablale
Buale
Afmadow/Xagar
Jilib
Jamame
Kismayo
L. JUBA
Badhadhe

Belet Weyne
El Bur
Haradhere
HIIRAN
El Der
Tieglo
Bulo Burti
Aden Yabal
Jalalaqsi
Jowhar
Adale
Wanle Weyne
M. SHABELLE
Balad
Afgoye
Qoryoley
Marka
BANADIR
Mogadishu
L. SHABELLE
Brava

Indian Ocean

KENYA

N

50 0 50 100 150 200
Kilometers
1 cm equals 65 Km

LEGEND
Regional boundary
District boundary
International boundary
Coastline

Produced: January, 2005

South central Somalia

A 2005 report[38] for the World Bank by the Centre for Research and Development, one of the leading civil society organizations in south central, summarized "five different authority systems with varying degrees of effectiveness and social acceptance" in the area, and its analysis holds true today, though the locations and degrees of effectiveness and social acceptance continue to vary:

1. "The most common of these systems, which were formed at the district level, were the remnants that survived from the regional and district councils established by UNOSOM II in the first part of the 1990s[39]. Some of this governance administration still exists in a number of regions, with minimal authority and functions to exercise, in South Central Somalia. Nevertheless, these administrations provide limited services to the people in the area.

2. "Various political factions and militia leaders have also established a number of administrative structures immediately after the major civil wars subsided. An example of this kind of administration exists in both the Middle and Lower Shabelle regions with minor differences between the two administrations.

3. "Islamic courts also hold a degree of control in a number of localities within South Central Somalia. This system only provides relative security in the areas they control.

4. "Governance structures established by the local communities in consultation with the traditional and religious leaders.

5. "There are also areas where no formal administrative structures exist and elders, using the traditional xeer system, have managed to keep peaceful relations between and among many communities. This kind of administration has many similarities to that established by the sharia Islamic Courts where the issue of security is a priority."

In terms of their effectiveness, the Centre for Research and Development states rather baldly "None of these structures function properly. Some of them impose taxes on locals ostensibly to guarantee a provision of security. The revenue generated in such cases is not utilized for any other public service provisions. However, exceptions can be found at limited areas where a share of these tax collections is put aside for certain basic public service delivery such as education and health. Another exception is the case of the Islamic courts that have met people's need for security in the areas under their control."

Puntland

Puntland has a standard republican political structure, without the innovations of the Somaliland system. The Joint Needs Assessment rule of law report[40] noted that the majority of civil servants "have no university or secondary education. About 60% do not have a secondary education; 35% have a secondary education, and about 5% are university graduates. In addition, the majority lack the basic skills to fulfil minimum requirements and lack an ethos of self-improvement and professional pride, and the notion of client service appears to be only marginally developed within the existing civil service."

Also, "because of its extremely limited fiscal capacity, the Puntland state government has had little involvement with service delivery responsibilities and has transferred the large majority of its responsibilities in this regard to the district administration (without fiscal transfers). It has been concerned largely with regulatory functions and with some revenue collection. In practice, service delivery is essentially done through private initiatives.

38 Centre for Research and Development (2005).
39 See Menkhaus (2002b) on the difficulties of setting up the District Councils and also Helander (1995), a "critical review of the Bay and Bakool District Councils", produced with assistance from Mukhtar and Lewis.

40 Joint Needs Assessment (2006a).

Budgets are generally sufficient to cover only staff salaries and to provide for limited recurrent costs. Levels of revenue collection are low by international standards, and the state government has experienced problems in raising revenue levels. Most of Puntland's central revenues come from customs duties, essentially from the port of Bossaso. Given this extreme dependence on the port, financial planning is difficult because of the unpredictability of revenues. Furthermore, evidence shows that budgets are released to the respective ministries upon request and that allocations are based on cash balance and availability rather than on firm commitments and expenditure categories presented in the annual budget."

Somaliland

Somaliland has a relatively "standard" republican political system, with an executive (led by an elected president), judiciary, and legislature. However, the law limits the number of political parties to three, and parties cannot be based on "regionalism or clannism" (article 9 of the constitution). This was no doubt a reaction to the proliferation of clan-linked factions in the south. The parliament has two chambers: the House of Representatives with 82 members elected for a five-year term, and the House of Elders with 82 members, representing traditional leaders[41]. The Joint Needs Assessment rule of law report[42] noted the following: "The activities of the civil service are constrained by low government revenue collection ($13 million in 2003) and significant security spending, with more than 55% of expenditure reportedly allocated to the security forces in 2001/02. Though the civil service in Somaliland has a clearly delineated structure, and roles have been defined at least

at ministry and department levels, the service suffers from various endemic problems. Two major problems are a widespread lack of motivation among civil servants and a significant number of staff who lack the level of basic education expected for the positions held. This situation is compounded by the fact that the wage bill remains considerable and leaves very few resources for developmental plans and service delivery."

A Somaliland interviewee[43] commented that Somalis have a difficult relationship with both central and local government, in terms of very limited expectations of authorities, lack of transparency by authorities, and in general little commitment to public good rather than personal or clan enrichment. Despite the Islamic concepts of *zakat* and *waqf*, the idea of "public good" had (he felt) been lost following the civil war – people were not prepared to put this ahead of their own interests in terms of assisting with land for schools, for example. While there are a few local groups where businesses and religious leaders are improving facilities by collecting and using resources transparently, it has been difficult for agencies to support these without the government perceiving this as an attempt to circumvent or undermine their authority. Public authorities were perceived to be inefficient and underfunded; there was no proper regulation of land allocation, etc., and influence or money was the key to success.

The interviewee felt that the rule of law was not sufficient to control or regulate the actions of public bodies and there was little or no commitment to the public interest; no civil society groups were willing or able to litigate test cases of administrative review, and in any case the courts might not entertain cases (as had reportedly happened during a recent attempt to litigate a challenge to the local elections). The Academy for Peace and Development has

41 The current members of the House of Elders were elected indirectly at a Grand Conference in 1997 and have had their term extended three times. A draft bill to have the elders directly elected was rejected by them in 2006.
42 Joint Needs Assessment (2006a). See also Bradbury (2008) for detailed commentary on the establishment of local government bodies.

43 Interview 9.

organized a workshop[44] on this issue of "civic education" in relation to the public good, to try to understand some of the causes and possible remedies, but it will of course be a very long-term process. As one workshop participant commented, "It is about teaching the public about their rights and obligation towards the county and fellow citizens, to impart that feeling in them. It is to create a 'civic culture' that can sustain and understand the prevailing lifestyle and our emerging democratic institutions."

An issue that affects both Somaliland and Puntland is the low level of public sector wages, in comparative terms. As the World Bank's Country Economic Memorandum[45] comments, "Staff are not competitively paid across all levels. A minister or director general in Puntland or Somaliland is paid, after allowances are factored in, about the same or slightly less than a carpenter or mason in the private sector. A Somaliland policeman is paid about 5%, and a Puntland clerk or driver about 25%, of a carpenter's wage. It is very difficult to attract well-qualified professionals or to motivate any staff under such conditions. Qualified professionals prefer setting up an NGO to supply public goods and services, especially but not only with donor support, to joining the civil service. Unless donor funds to support recurrent expenditure are forthcoming, cutting staff further appears necessary to address the issue of adequate pay incentives."

TRADITIONAL GOVERNANCE STRUCTURES

This brief section draws on the work of Joakim Gundel, who is an expert on the traditional structures of governance by elders and other clan systems[46], but does not summarize the technicalities of those structures. For a discussion of *xeer* and the *diya*-paying system,

see Section 3 of Part E; for dispute resolution mechanisms in the context of land, see Section 4 of Part D.

South central Somalia

Gundel argues that the traditional structures in south central Somalia are diverse and more composite, fragmented, weakened, and confused than in the north, for a range of reasons. The ethnic composition of its population is very different from the north, with a heterogeneous mix of sedentary agriculturalists, agro-pastoralists, old urbanized cultures along the coastline, and pastoralist peoples, all with differing cultural heritages and traditional structures. The history of the area in terms of its pre-colonial and colonial experience and the dynamics of the civil war in the south also differed in its impact on the traditional structures. He suggests that it is therefore incorrect to superimpose or project the well-described northern pastoralist traditional structures upon the societies in the south. Gundel comments "the civil war, and the ensuing total collapse of the state, prompted the Somalis to turn to and revitalize the role of traditional governance. In the South, this even happened in the urban areas of Mogadishu and Kismayo despite these two cities being more modernized than the rest of the country. Hence, the application of *xeer* resurfaced and traditional governance came into a more important existence, albeit in the context of unclear governmental authorities. Unfortunately, especially in the South, the faction leaders (warlords) continued many of the practices of the previous regimes, such as manipulation of the traditional elders. Corruption was another. Hence, like Siyad Barre, the faction leaders and warlords tried to win the support of the clan elders by giving privileges to them. The internationally sponsored peace-processes contributed to this evolution, because their top-down approaches tended to focus on the faction leaders who

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44 The report is Academy for Peace and Development (2007b).
45 World Bank (2006a).
46 See Gundel (2006a).

in return used the attention and money they received to manipulate the elders."

Puntland

The *issimo* (elders) play a very active political role in Puntland, in addition to their traditional roles as representatives of their larger clan groups and as the primary mediators in both inter-clan conflicts and intra-governmental conflicts. They do not generally play a direct role in government but are involved in politics "behind the scenes", except when they are required to publicly step in to ensure stability and find a resolution to a deadlocked political crisis. As traditional leaders, they solve up to 90 percent of conflicts and disputes between clans and adjudicate the full range of *diya* liabilities, resolving most cases before they reach government. If the traditional leaders in Bossaso (for example) make a decision, then that is what the government implements; the government reports both to the parliament and the elders. The *issimo* can mobilize people to follow what the government wants but can also suggest alternatives through dialogue and consensus discussions.

Somaliland

Somaliland has to a large extent re-established the British colonial administrative system, which links institutions of central government with the traditional structures of the *aqil* (elders). In the present system there is a chief *aqil*, who is chief of between five and ten *aqil* and functions as an intermediary between the *aqil* and the regional governor. The *aqil* are foremost the functionaries of the *mag*-paying groups, and are registered at the Ministry of Interior, which issues them with ID cards; below the *aqil* are the village headmen, who cover settlements within a radius of about five kilometres. The *aqil* work at district level, with the elected district council and local mayor. They perform vital roles for the state, especially in relation to security and law and order, where

they handle at least 80 percent of all cases and are also the main interlocutor between rural communities and the district, regional, and government authorities, especially in cases of conflict, drought, and other environmental disasters. The regional and district authorities generally praise the work of and cooperation with the elders on law and order and local development, but there can also be friction, which is often caused by a combination of lack of capacity in the public governance institutions and corruption.

Developing traditional structures

Gundel argues the following: "The traditional system of governance is based on the *xeer*, and strong and respected figures, the *odayaal* (elders), enable it to function. If this system is to contribute to a new Somali way of good governance, then the values attributed to the traditional leaders, such as honesty, accountability and fairness are not enough. The focus must be set on changing and formalizing the *xeer*, to ensure that new *xeer* are shared multilaterally between the clans on a regional or even nationwide basis, rather than the present bilateral basis between neighbouring clans who have a historical relationship between them. The objective is to create change, not just by targeting the elders, but by enabling them to improve their traditional practices based on their *xeer*, and align them with human rights standards. A supporting agency, or another kind of arrangement, should be set up to assist the elders in facilitating the workshops, managing their affairs, building their capacities, implementing their intervention schemes, running awareness campaigns, etc. In addition to the supporting agency, a Somali legal adviser could be useful, on a regional basis, to assist the elders (and government) in understanding and addressing the three tier legal system that exists in most of Somalia. The legal adviser could also be used to guide the individual members of the communities on how to address their elders if they find that difficult, discuss their

Figure 4: Map showing livestock movements and grazing areas
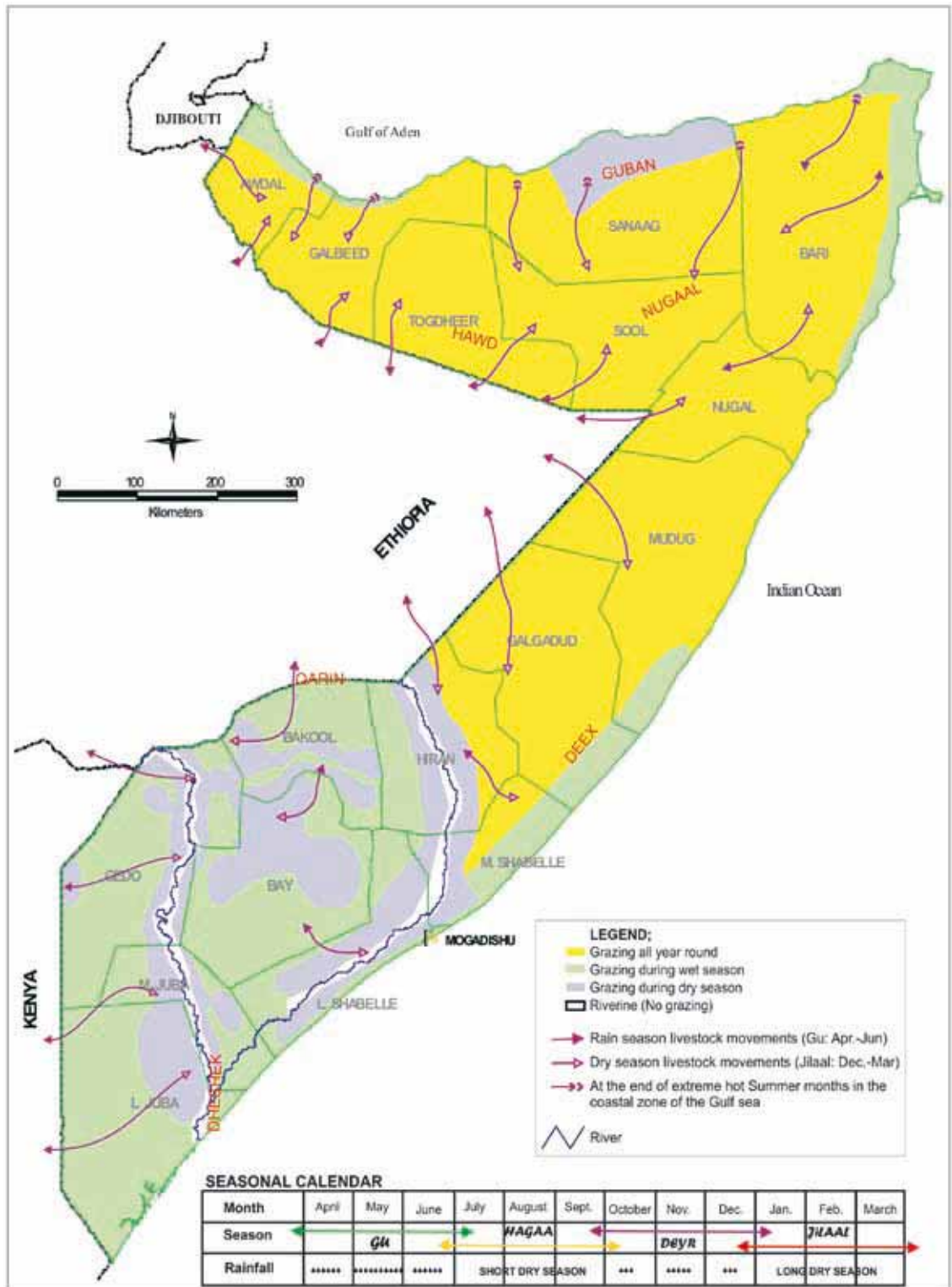
cases if they are uncertain on their rights, and on how to prepare cases before going to the *guddi*, as well as guide women, and help them decide whether they are better served in the customary, sharia or formal legal systems."

SECTION 3: GEOGRAPHICAL AND ENVIRONMENTAL FACTORS[47]

The general situation is well summarized in the Joint Needs Assessment livelihoods report[48]:

"In the predominantly agrarian rural economy of Somalia, some 80% of livelihoods are directly dependent on the natural resources base: 55% of households are based on pastoralism or agro-pastoralism livelihoods, 24% are based on agricultural livelihoods, and 1% are based on coastal fishing. These livelihoods are often supported by further exploitation of the natural resources base: trees for livestock fodder, charcoal production, or building materials; aromatic resins; and honey hunting or apiculture. Over the preceding 30 years the human population of South Central Somalia, Puntland, and Somaliland has more than doubled, from 3.3 million people in 1975 to the currently estimated 7.7 million in 2006. Over the same period there has been a concomitant expansion in livestock populations and cultivated land, a consequently greater pressure on the finite natural resources, and an increase in the potential for conflict over access to resources, both within and by different livelihood groups."

SUITABILITY AND USE OF LAND FOR VARIOUS FORMS OF AGRICULTURE

This information is most easily presented in map form, and highly detailed maps showing the agro-ecological zones (rainfall, soil types, etc.) of Somalia can be found in a range of publications from the Somalia Water and Land Information Management project. The maps included here show the key agricultural areas of the Jubba and Shabelle and also the areas used for grazing by pastoralists. The Food Security Analysis Unit produced a series of "livelihood baseline profiles" for each of the agricultural "livelihood zones" of Somalia in 2002[49], which are highly recommended. Each profile includes a map, population figures, and a timeline of events with their impact on production. It provides very useful data on wealth breakdowns, baseline production yields, "terms of trade" (as between livestock and foodstuffs – see page 39 below), sources of food and income, the seasonal calendar for agriculture, risk factors, and coping strategies.

ENVIRONMENTAL ISSUES

Detailed analyses of the deteriorating environmental situation in Somalia can be found in studies by the United Nations Environment Programme (UNEP) and the International Union for the Conservation of Nature[50] and will not be reproduced here; some striking maps showing reduction in land cover and increasing chemical and biological degradation in areas of Somaliland and Puntland can be found in recent Somalia Water and Land Information Management publications[51]. The union's report provides a convenient list of the key problems (set out in Figure 6 below), while also noting that "there is a strong sense of awareness of the importance of the environment especially by pastoralists who are the dominant land users, though this has been impacted on by the spread of other forms of land use, for example rain-fed and irrigated agriculture, ill-planned water development and the charcoal trade. There is a strong body of customary knowledge and management institutions relating to the environment, again mainly pastoralist based".

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47 See also Section 1 of Part D on landholding patterns. There is a list of Somali terms relating to land at the end of the report.
48 Joint Needs Assessment (2006f).
49 Food Security Analysis Unit (2002).
50 UNEP (2005) and International Union for the Conservation of Nature (2006).
51 See in particular Somalia Water and Land Information Management (2007), a general land resources assessment.

Figure 5: Map of land use in the Jubba and Shabelle river valleys
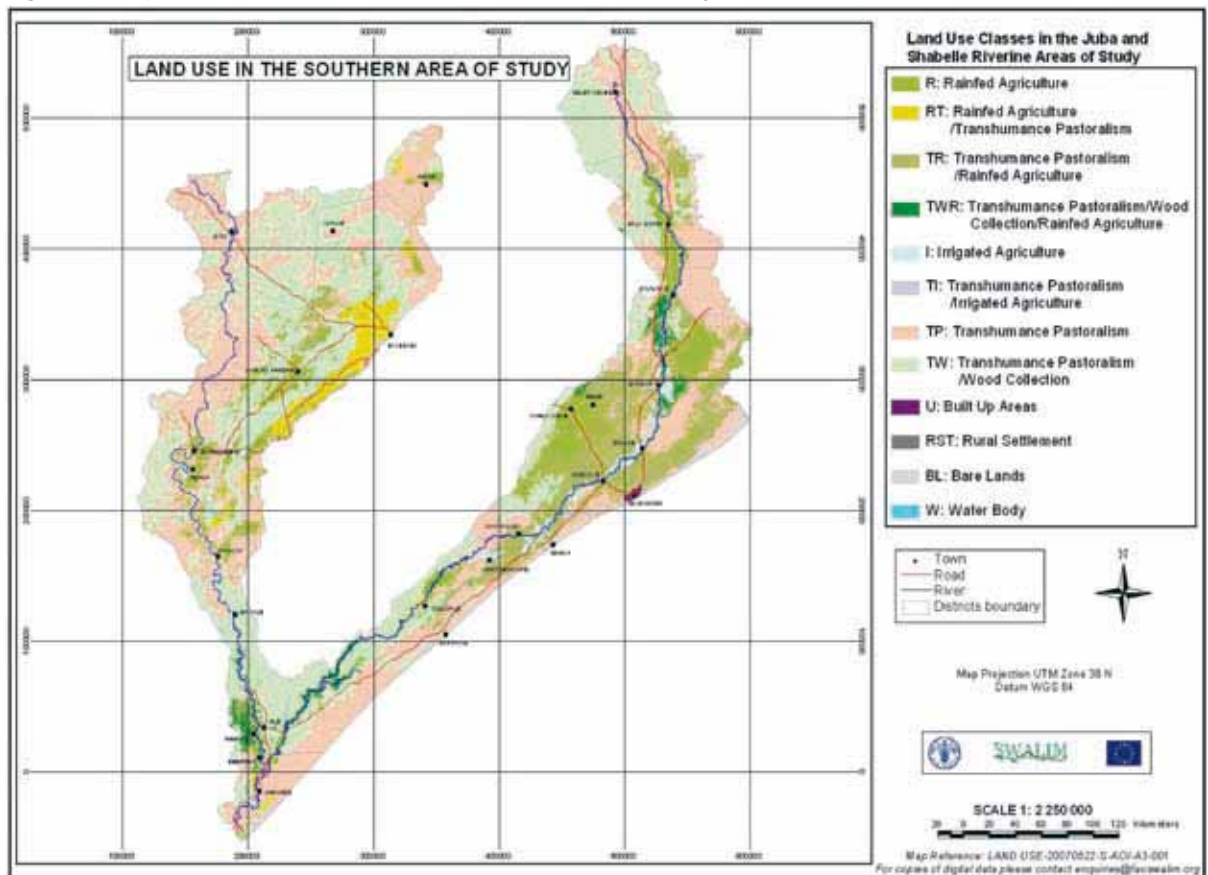
Figure 6: Key environmental issues

1. Unsustainable tree felling through the clearing of land for agriculture and the making of charcoal, both for local use and export.
2. Expansion of land for cultivation into areas inappropriate for cultivation.
3. Irrigation projects resulting in clearing of riverine forests without concern for broader landscape management.
4. Lack of security in terms of rights to land and natural resources and clarity in land tenure, where the more powerful tend to push out the weaker.
5. Illegal dumping of oil and waste, some of which is toxic, by international fleets, though evidence is difficult to substantiate.
6. Illegal and unregulated fishing by international fleets, especially trawlers from Asia and Europe.
7. Unplanned private water development (especially for **berkads** [water cisterns]) is increasing pressure on surrounding rangeland and is exacerbated by the increased use of private enclosures for grass, which curtails grazing routes.
8. Donors do not give serious attention and the required support to the environment – it is seen as mainstreaming, but there is a need for accountable indicators for the environment in these activities and thus for the identification of priority intervention areas and sectors.
9. Invasive plant species need to be managed as they could encroach and degrade the landscape (e.g. around Hargeisa).
10. The policy and legislative framework for environmental issues is weak to non-existent.
11. Good management is required, of both energy and broader urban emissions, which result from expanding urbanization that effects ground water, waste management, and air pollution.
12. Soil erosion of gullies and wadis.
13. Trade in plant and animal species from the Somali region and elsewhere.

Felling trees for charcoal has had an especially devastating effect on Somalia's forests[52]. The trade in charcoal (sometimes described as "black gold") is a relatively new but also highly lucrative development, as the 2001 Human Development Report explains:

"Under the former government it was forbidden to harvest trees for charcoal export. This restricted charcoal production for the local market and helped to protect Somalia's acacia forests. Charcoal production was traditionally limited to a particular group who produced for local consumption, using hand axes. After the start of the conflict, the cutting of trees for charcoal production increased as alternative fuel supplies dried up and environmental controls collapsed, but the export of charcoal continued to be banned in the south by the faction leader General Aideed. Since his death in 1995, however, there has been a dramatic rise in the export of acacia charcoal from Somalia to the Arabian peninsula. In 2000, it was estimated that 112,000 metric tonnes of charcoal were produced, of which 80% was exported. Almost 50% of the trade in southern Somalia is exported through Kismayo. The trade has reaped modest earnings for thousands of low-paid charcoal producers, but those who have benefited most and reaped handsome profits are a few major charcoal merchants and faction leaders who control forest access, access to the market, and access to capital. According to some estimates, a sack of charcoal purchased locally for $3-4 sells for $10 in the Gulf. With a ship carrying up to 100,000 sacks, the potential value of a single shipment could be as high as $1 million."

Water management is also a potentially serious future problem and its governance is in many ways a classic "public good" that requires the intervention of government. The 2001 Human Development Report notes that "current models of climate change predict up to a 45 % increase in annual runoff in the major river basins of Somalia by 2030. Trends in flooding in the Jubba and Shabelle rivers are therefore predicted to increase significantly, with a corresponding impact on riverine communities. The long-term predictions are that water stress conditions in Somalia, as in other sub-Saharan countries, will worsen in the coming years, due to an intensification of the hydrological cycle leading to greater extremes in drought and floods, coupled with a number of man-influenced trends. It has been argued that when available renewable freshwater per capita falls below 1,000 m³ per annum (the condition of 'water scarcity'), lack of water begins to hamper health, economic development, and human well-being. When water availability drops to less than 500 m³ per annum it becomes life threatening. When population growth increases, meeting needs becomes more challenging. Based on population growth figures for 2025, Somalia's annual renewable freshwater fell from 2,500 m³ per capita per annum in 1950, to 980 m³ in 1990, with a prediction of 363 m³ by 2025. Future implications for water security, health, and livelihoods therefore look serious."

AGRICULTURAL PRODUCTION AND FOOD SECURITY

Agriculture and food

Somalia was among the world's highest food aid beneficiaries on a per capita basis and among the countries with the lowest per capita food intake during the 1980s[53], and the current situation is still one of considerable vulnerability to external shocks. The Food Security Assessment Unit announced in May

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52 According to the Joint Needs Assessment productive sector report (Joint Needs Assessment [2006d]), charcoal output from north-east Somalia in 1996 alone was estimated to be in the order of 4.8 million sacks, each weighing 25–30 kilograms, 80 percent of which were exported. Producing such a volume required cutting down about 2.1 million *Acacia nilotica* trees, which, at an average density of 60 trees per hectare, translates into a deforestation rate of 35,000 hectares of land a year.

53 Little (2003). See Farzin (1988), a World Bank study of Somalia's food import dependence, for details on the distorting effect of such food aid imports on domestic markets.

2008 that 580,000 of the urban population and 920,000 of the rural population, as well as the whole IDP population (estimated at 1.13 million[54]) were in "acute food and livelihood crisis" or "humanitarian emergency"[55].

The 1998 Human Development Report[56] summarizes the background: "There has been a steady decline in per person food production for years. Food aid constituted 20% of all food imports from 1970 to 1974 and 5% from 1980 to 1984. The difference between food produced and total food consumption (the 'food gap') changed from a surplus of 5% in the former period to a deficit exceeding 30% in the latter. This decline in food self-sufficiency occurred between 1960 and 1990 despite massive international investments in the rural sector and despite considerable untapped potential in the agricultural areas. Among the reasons for this decline are:

- rapid population growth, which outstripped increases in food production in the 1980s;
- rapid urbanization, which places a growing percentage of the population out of pastoral or agricultural food production;
- changes in food consumption habits among urbanized Somalis who prefer wheat, rice and pasta over locally grown maize and sorghum;
- inappropriate government policies such as price controls in the 1970s which created disincentives for farmers to produce grain crops;
- unintended impact of large-scale annual and often poorly timed delivery of food aid, which depresses prices and drives farmers out of agriculture; and

- alienation of portions of the country's most fertile irrigable land for cash cropping of bananas for export rather than grain.

"The food security situation has been worsened by the civil war and statelessness. Without a government, farmers have lost access to agricultural inputs and services formerly provided by the state. The private sector has responded to a degree, but the unregulated sector has led to misuse of resources and inputs, poor quality control and the spread of drug-resistant diseases."

The 2001 Human Development Report noted the struggles of ordinary people: "Declining purchasing power and rising costs of living are placing poorer households under considerable strain. Although terms of trade for livestock vary seasonally due to the impact of the monsoons, dry and rainy season sales, or Islamic festivals when demand from the Gulf States for livestock is highest, the long-term trend is one of higher prices for imported grains and lower prices for livestock sold. The reasons for this lie in external market factors beyond the control of Somali pastoralists and merchants. When the livestock ban was imposed in 2000, terms of trade for livestock in Hargeisa immediately dropped to between 40% to 50% below the terms of trade for the previous year. This trend is less apparent among southern pastoralists where the high demand for beef in Kenya has sustained the price of Somali cattle. In the south, the most dramatic influences on the cost of living in the past three years have been the currency crises that have triggered hyperinflation and eroded the purchasing power of poorer households."

Little confirms that the price[57] of grain has a crucial effect on pastoralists' livelihoods and food security, because income from livestock

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54 This comprises 855,000 "new" IDPs and 275,000 "protracted" IDPs, but there is a major overlap between these populations, which is why UNHCR gives "official reporting figures" of "approximately 1 million". See Section 5 below on displacement.
55 Food Security Assessment Unit (2008): 455,000 of the urban population and 490,000 of the rural population were in acute food and livelihood crisis; 125,000 of the urban population and 430,000 of the rural population were in humanitarian emergency.
56 Quoted in UNEP (2005).

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57 Little comments that grain and flour purchases account for the largest cash expenditures by herders (livestock are sometimes used as a means of exchange for other items or services) and that these expenditures are highly seasonal.

sales is used to buy grain (and thus higher grain prices require more livestock sales) and because grain purchases are used to help herders withstand periods of low milk productivity by their herds. A major change in either of the two prices has a significant effect and both prices can be highly volatile[58].

Vulnerability to natural disasters

Little[59] suggests that a "localized" drought (where there is markedly less rainfall or a delay in the onset of the *gu* rains in some areas) occurs in the southern borderlands of Somalia every three to four years and that a "regional" drought (where both the *gu* and *deyr* rains fail across the region) has occurred about every eight years in the last three decades[60]. For pastoralists, mobility (and reciprocal grazing rights) is the key to avoiding heavy livestock losses due to droughts; Little cites the localized drought of 1996 when lengthy migrations across southern Somalia occurred without incident and describes this as "indicative of the willingness of competing pastoral groups to recognise drought-induced problems even during times of hostility". Catastrophic flooding due to an "El Nino" event in 1997–1998 caused significant damage along the Jubba River, which was exacerbated by the lack of maintenance in recent years of the flood control canals and dykes, most from the colonial era[61]. The storms also created a massive outbreak of malaria and Rift Valley Fever, with over 2,000 dying from disease and the effects of the storms. The geographical risk factors in the Horn of Africa for flooding, drought, or locust infestation (prevalent in northern Somalia)

are shown vividly on a series of maps produced by the US State Department's Humanitarian Information Unit, as combined in Figure 7.

SECTION 4: SOCIO-ECONOMIC BACKGROUND

It is clearly beyond the scope of this report to provide a full picture of the socio-economic situation, past or present, in the various regions of Somalia, not least because much of the information has simply not been recorded or is not generally available (in the case of the UNDOS governance studies). A number of detailed studies from the late 1990s and early 2000s set out what is known and comment on it; these are listed in the bibliography and the 2001 Human Development Report, on which this section draws heavily, is particularly recommended, as are the very important and detailed UNDOS governance reports. The following sections set out information and analysis from those studies and other literature that is directly relevant to land and its contexts.

At the time of writing (May 2008), the exchange rate for the Somaliland shilling was around 5,900 to one US dollar. The Somali shilling (which was undergoing major fluctuations due to the printing and/or distribution of "new" notes[62]) was around 32,000 (having been only 18,500 in June 2007[63]) to one US dollar.

KEY STATISTICS AND INDICATORS

This section sets out (in the bulleted list on page 42) a few key socio-economic indicators that are relevant to the subject of this report[64]. For example, female literacy has an effect

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58 Little reports that the food value from the sale of one small herd declined by almost 40 percent in Somaliland during the 1998 livestock ban and by 79 percent in a southern market after the El Nino floods in 1997–1998; there were swings in monthly maize prices of 175 percent between 1996 and 2000.

59 Little (2003).

60 In the dabadheer ("long-tail") drought of 1973–1974, it is estimated that around 30 percent of Somali livestock herds died, according to Conze and Labahn (1986).

61 Little (2003) reports "Over 60,000 hectares of crop lands and the bulk of the agricultural crop of 1997 were lost in the Lower Jubba region."

62 See Mubarak (2003) for an account of the various banknote printings and their effect on the money supply.

63 Data from SAACID Somali shilling tracking table, available on their website (www.saacid.org), last accessed 4 June 2008.

64 Indicators come from the Millennium Development Goals report (UNDP 2007) and from World Bank and UNDP (2002), the countrywide socio-economic survey. The comments made in Section 1 above in relation to the reliability of data gathering apply here too.

Figure 7: Map showing risks of natural hazards

This joint probability map shows the likelihood that a given region will sustain any natural disaster (i.e., drought, flood, or locust infestation) within any given year. Earthquakes are not included in the joint probability calculation because large damaging events occur on a far less frequent time scale than the other three hazard types. The map suggests that most regions of the Horn could expect to receive a natural disaster on an annual to semi-annual basis. Regions typically affected by Shabeelle River flooding suffer most frequently, while the Bari and Sanag regions of Somalia, and the northeasternmost Ethiopia may expect disasters least frequently.

This map showing the most probable type of natural disaster in each cell can aid in the allocation of mitigation resources. Each disaster type dominates in a particular physiographic environment – locusts predominate along the Red Sea and Gulf of Aden, floods are limited to the main drainages, and droughts dominate all other regions. The bar chart summarizes the map information. In summary, drought is the most probable natural disaster in every Horn country. Locust infestation is the second most probable disaster in Djibouti and Eritrea, while floods are second most probable in Ethiopia, Kenya, and Somalia.

Table on population figures

| Item | Zone | | | | | |
	Central and South	North-east	North-west	Total	Source	Reference Year
Total population (%)	64.2	12.8	23.0	100	Somalia census	1975
Total population	4,952,100	889,200	1,886,500	7,727,800	UNDP	2006
Total population (%)	64.1	11.5	24.4	100	UNDP	2006
Total population (%)	60.3	11.4	28.3	100	UNDP	2006

on the ability of women to access justice effectively, food insecurity demonstrates poverty or difficulties of agricultural supply, HIV/AIDS prevalence may lead to problems of property inheritance, and solid fuel use shows the intense pressure on Somalia's dwindling forests. It should be noted that these figures are national averages and that many of these indicators are worse in rural areas (e.g. an extreme poverty proportion of 53.4 percent)

or in south central Somalia (17 percent with access to safe drinking water)[65].

As the 2001 Human Development Report comments, "Aggregate human development indicators have their uses but disguise significant disparities in Somalia along regional, class, occupational, and rural–urban divides.

65 Bradbury (2008) tries to disaggregate some of the national indicators to come up with estimates for Somaliland alone.

List of socio-economic indicators

· Share of population in extreme poverty (per capita income of less than $1 per day): 43.2%
· Share of population in general poverty (per capita income of less than $2 per day): 73.4%
· Share of population below minimum dietary energy consumption (1,600 kcal per day): 71%
· Unemployment rate: 47.4%
· Life expectancy at birth: 47 years
· Gross enrolment rate in primary education: 18%
· Ratio of girls to boys in primary education: 54%
· Adult literacy rate: 19.2%
· Ratio of adult female literacy to male literacy: 52.2%
· Proportion of female-headed households: 12.6%
· Prevalence of HIV/AIDS in adult population (15–49): <1%
· Proportion of land area covered by forest: 12%
· Proportion of population using solid fuel: 98.5%
· Proportion of population with access to safe drinking water: 23%
· Proportion of population with access to improved sanitation: 49.8%

The higher per capita incomes and better access to food and social services in Somaliland and Puntland compared to southern Somalia reflect environments that are generally more conducive to human development. In urban centres, household incomes are generally higher and access to basic health, education, and other services are better than in rural Somalia. At the same time the largest concentration of destitute are found in the peri-urban areas among displaced people, returning refugees, and economic migrants. Although Somali society has few of the sharp class divisions that characterize many societies, there is a widening gap in human development between economically privileged and poor households. Those Somali households that receive remittances from relatives abroad have greater economic security and thus enjoy privileged access to privately run social services." It should also be noted that most of the indicators in the red box were in fact worse[66] during the last years of the Barre regime[67].

The statistics for the population of Somalia and its growth are as contentious and potentially unreliable as other statistics. A Centre for Research and Development report[68] has this to say: "The last known population census was conducted in 1986. It is widely agreed that the data then collected was unreliable due to claims that the results were doctored to suit the military government's political strategy. According to these claims, data for certain regions was inflated, while other regional data was understated. However, the figures of the 1986 census seem to form the basis for many present estimates of demographic characteristics. This data has been projected and extrapolated by many agencies over the years, and those extrapolations have now acquired a life of their own." Conversely, the population statistics produced by the administrations of Somaliland and Puntland have been rather higher than some specialists feel is probable, perhaps in reaction to their alleged historical neglect. The World Bank quotes a population growth rate figure for 2000–2006 of 3.2 percent, but the high mortality and migration rates claimed by some may be exaggerated or

66 See Leeson (2007), who argues by reference to various indicators that Somalia has done better without a state than it did with one.
67 The accuracy of the figure on forested area is not certain. The reported figure for 1990 was 13 percent (or alternatively 14 percent in 1992) and with a subsequent decade and a half of intense deforestation by the charcoal trade (previously banned by the Barre regime) it seems unlikely that it only fell to 12 percent. The Joint Needs Assessment report on livelihoods (Joint Needs Assessment [2006f]) speculates that it may be as low as 4 percent.

68 Centre for Research and Development (2004b).

Figure 8: Map showing population density in Somalia
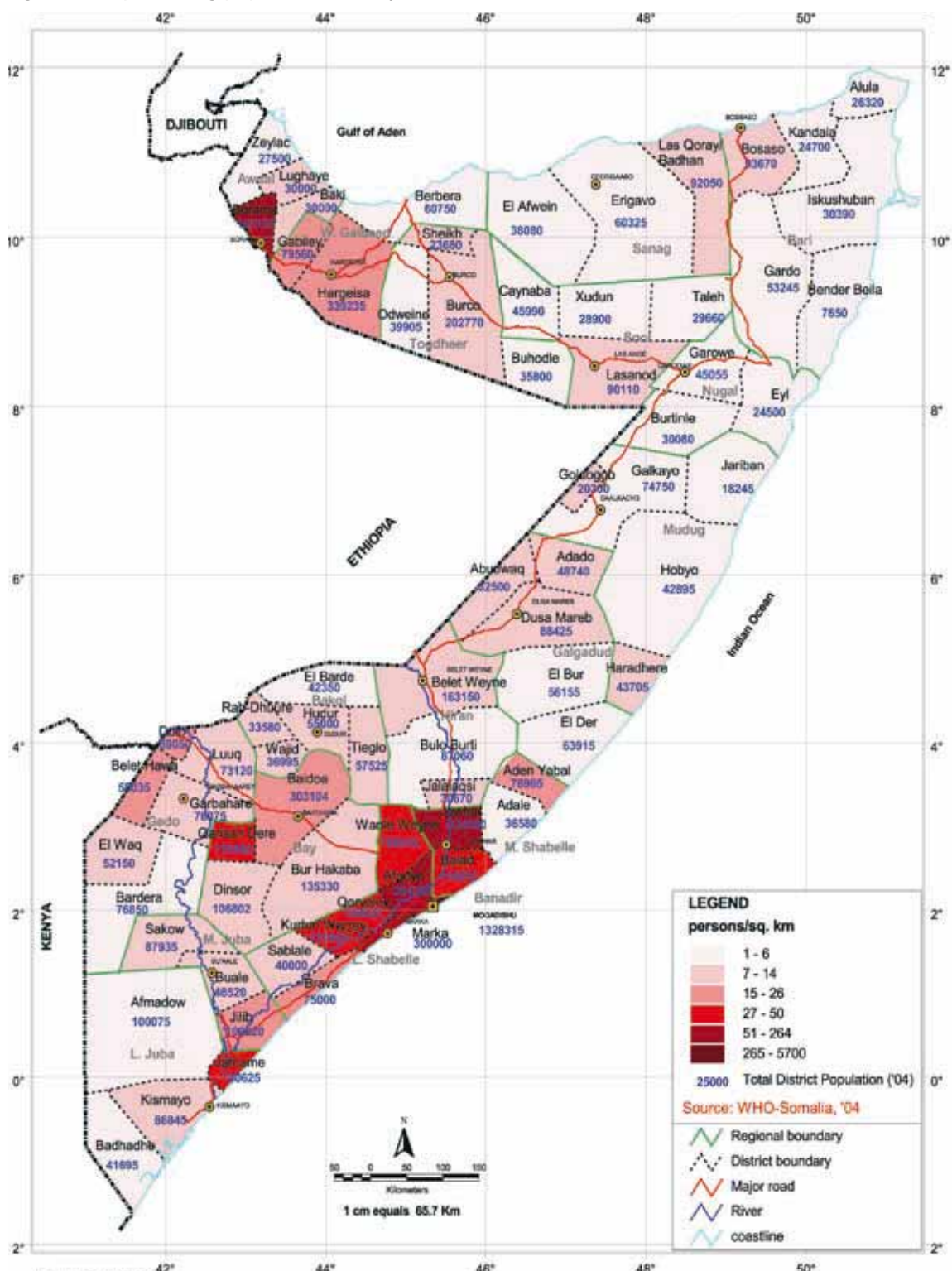
have been cancelled out by the high birth rate[69]. The table on page 41 comes from a 2007 UN study on population figures[70].

CLANS, CLASS, AND OTHER DIVISIONS

Introduction and historical background

There is probably no single subject in Somali studies (and in discussions among Somalis) that is as contentious as the clan "system". To begin with, it is more or less impossible to find a general consensus on what the system actually looks like, in terms of the lines of descent within clans and the relationships between clans and sub-clans. Figure 9 below is a "partial and simplified lineage chart" produced by the respected Somalia scholar Ken Menkhaus, but there would no doubt be some who would disagree with this, not least because it shows the Isaaq as a separate lineage from the Dir clan family[71]. The terminology used by commentators is similarly contentious and inconsistent, in terms of applying the labels of "clan" and "sub-clan". The British anthropologist I. M. Lewis was the first to write at length (in English) on the clan system, based on his extensive fieldwork in Somalia (predominantly in Somaliland), and this report will generally use Lewis's terms. He described a "segmentary lineage structure" of six patrilineal clan families (though others dispute that number), each of which was then divided into patrilineally related clans, sub-clans, sub-sub-clans, and lineages, the last being the smallest unit in the system and comprising one or more

"*diya*-paying groups"[72]. (The *diya* system and the structures for customary dispute resolution by elders are dealt with in detail in Section 3 of Part E).

The clan system is the declared basis for political representation within the Transitional Federal Government and Parliament, through the so-called "4.5" formula[73]. The dynamics of clan relationships can be either unifying or intensely divisive, as the following paragraphs demonstrate, and in either case are often mystifying to non-Somalis. As Bradbury[74] comments, "The clan or sub-clan a person identifies with (or is identified with) will depend on the prevailing context and issue at hand, such as access to environmental resources, the control of real estate, competition for political office or a collective response to security threats." The civil wars have seen a downward fragmentation of clan identity: As the World Bank conflict analysis[75] notes (with examples), "In all three regions, homogeneity of the clans has given way to the emergence of sub-clan identity as dominant, with clans lowering their level of identity to the level of sub-clans in the competition for economic power and political ascendancy." Perhaps one way to understand it is the description by Anna Simons[76]: "Genealogy[77] works... mapping trustworthiness – by charting who has trusted whom in the past and where this has led in

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69 The World Bank Country Economic Memorandum also suggests that Somalia has a population deficit – relative to expected levels on the basis of pre-1980s long-term growth patterns – of about 2 million people who have been killed by war and disease, who were never born, or who emigrated. See World Bank (2006a).

70 See Jarabi (2007), which also reviews the various methods of estimating population figures and growth rates used by Puntland, Somaliland, and various agencies.

71 Gundel (2006a) comments "This is a contentious issue which also plays into the present perceptions of the right of the Isaaq to claim independence in Somaliland versus the 'others' perception of belonging to the Dir and hence duty to join the family of a greater Somali union."

72 In Lewis's earlier works he reportedly refers to the first level below "clan family" (e.g. the Marehan in the Darod clan family) as "clan confederations", which perhaps highlights that effective political units were at a lower level in the structure.

73 As International Crisis Group (2006b) explains, "The 4.5 formula was first adopted by the TNG in 2000. It allocates an equal number of seats in parliament to each of the four major clan-families – the Darod, Hawiye, Dir, and Digil-Mirifle – and half that number to remaining minority groups. The use of the formula again for the TFG suggests it is likely to become a fixture in negotiations over national representation". Note that the Isaaq are not included as an independent clan family.

74 Bradbury (2008).

75 World Bank (2005c).

76 Quoted in Luling (1997).

77 The lineage table comes from Menkhaus (2004a). World Bank (2005c) contains charts showing clan structures from a Puntland viewpoint (prepared by Puntland Development Research Centre) and a south central viewpoint (prepared by Centre for Research and Development).

Figure 9: Major Somali lineages

Major Somali lineages

Daarood — **Dir**

Marehan — Kabalah

Red Dini (Bare Hirale Abdirizak Bihi; Siyad Barre) — Rer Hassan — Eli Dheere

Absame — Harti

Ogaden — Jidwaq — Dolbahante (Ali Khalif Galayr) — Warsengeli — Mijerteen

Makabul — Mohamed Zubeir (Omar Jess) — Aulihan (Aden 'Gabio')

Omar Mahmud (Abdullahi Yusuf) — Issa Mahmud (Aden 'Gabio') — Osman Mahmud (Jama Ali Jama; Hassan Abshir Fa'ah)

Gadabursi (Dahir Riyale Kahin) — Biimaal (Abdullahi Sheikh Ismail) — Issa (Abdirahman Bore)

Isaaq — **Rahanweyn**

Haber Awal — Haber Geelo (Ahmed Mohamed Silanyo) — Garhajis

Sa'ad Muse (Omar Arte Ghalib; Mohamed Ibrahim Egal) — Iise Muse — Haber Yunis (Abdirahman Tur'; Mohamed 'Gabboose') — Iidagale (Faysal Ali Waraabe)

Digil — Mirifle

Tunni — Geledi — Sagaal — Sideed

Jilible (Abdulla Deerow) — Hadame (Sheikh Aden Madobe) — Harin (Hassan Mohamed Shatigaduud) — Eelay — Jiron — Leysan (Mohamed Habsade)

Hawiye

Gaaljaal — Hawadle (Hassan Abdulla Qalad) — Abgal — Murosade (Mohamed Qanyare A'rah) — Sheikal — Haber Gedir

Harti — Wabudhan — Wa'esli (Hussein Bod) — Sa'ad (Hussein Aideed; Osman Atto) — Suleiman — Ayr (Abdiqassim Salad Hassan; Indha Adde; Aden Serar; Hassan Dahir Aweys) — Sarur

Agonyar (Ali Mahdi) — Warsengeli (Mohamed 'Dheere') — Abokor (Imam of Abgal) — Da'oud (Muse Sude; Omar 'Finish') — Rer Mattan — Mohamed Muse (Ali Dheere)

Somali Minorities: Bantu; Benadiri; Barawans (these groups generally stand outside Somali kinship, but occasionally enjoy adopted status within a Somali clan)
Note: this is a *partial and simplified* lineage chart of the five main Somali clan-families, intended to highlight sub-clans of particular political relevance in 2003. Many lineages are omitted while others are compressed or their relationships simplified. Notable Somali political figures are identified in parentheses below their sub-clan identity.

terms of thicker or thinner, and sustained and broken relationships."

Clan-based patronage networks heavily divided the post-independence civilian administrations, and this created a multiplicity of factions[78], all competing for a share of the national "cake" (which was to happen again in later years). Hashi comments that "a politician would be esteemed by his constituency by the quantity of wealth he accumulated through the misuse of the public resources, the quantity he fed into the pockets of the handful of traditional elders and leaders and businessmen that would support him [and] the number of young people of his constituency for whom he secured employment in the government institutions".

Siyad Barre's coup in 1969 inaugurated the era of "scientific socialism"[79] and one of his first acts (no doubt in response to the situation

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78 Hashi (2005) states that in the last civilian election of 1969, over 70 parties contested the 123 parliamentary seats; Lewis gives the figure as 62 parties and notes that there were 1,002 candidates. Lewis also comments that many civil servants left their posts to stand for election and that when parliament convened, all but one of the "opposition" members joined the government group, "hoping to share in the spoils of office"

79 Literally, "wealth-sharing based on wisdom" (**hanti-wadaagga ilmi ku disan**).

described above) was to abolish "tribalism", by outlawing "the recognition of clan distinctions, ethnic distinctions, patron-client relationships and any other formal relationship based on social inequality". This was explained as "a step towards nationalist unity that would nurture economic, political and social progress through erasing social inequalities, clan conflicts and loyalties built along clan or ethnic lines"[80]; it also of course had the effect of eliminating alternative allegiances and concentrating political power and patronage in the hands of Barre's state.

However, following defeat in the Ogaden War, economic crisis, and declining popularity, Barre sought to retain his personal power by increasingly militarized repression and by rewarding his immediate supporters with distribution of state resources such as land and foreign assistance. This was done very much along clan lines and his dependence on the support of members of the Marehan, Ogaden, and Dulbahante clans (all part of the Darod clan family) was reflected in the clandestine code-name "M.O.D." given to the regime in (illegal) private conversations. Showing a mastery of clan manipulation, Barre also sought to isolate influential leaders from other clans while wooing less prominent rivals from the same clan: "Each individual who joined the President's fold was expected to bring the support of his lineage or sub-clan with him."[81] As Luling notes, all public use of clan names was forbidden, yet all the while Barre was practising "clan clientelism", distributing arms and money to his friends and "encouraging them to attack the common clan enemies who, of course, were accused of divisive tribalism by the master tribalist… By destroying his country's economy, Siyad also directly promoted those conditions of general lack of resources and insecurity on which clan loyalty thrives, since clan solidarity offers the only hope of survival"[82].

The civil wars and the clan system

The importance and relevance of the clan system to Somali society and politics and to the dynamics of the civil wars is perhaps the most controversial aspect of the subject[83]. As Catherine Besteman argues, "the [segmentary lineage] model of the tensions inherent to this kind of genealogically based system provided an explanation of built-in conflict, making Somali social structure appear fundamentally divisive and resistant to state-building efforts"[84]. She notes that the civil wars in particular were simplistically portrayed in the media as merely an extension or continuation of ancestral clan rivalries, carried out on a grander scale and with heavier modern weaponry, thus implying that 20th century processes such as "colonialism, the expansion of the global economy, superpower geopolitics [and] massive development aid" had had no effect on Somali culture or on possible causes of the war[85]. Lewis continues to argue that the clan system (and clan loyalties) remains the predominant force in Somalia and thus provides the main dynamic of the civil wars, but many Somali scholars disagree[86]. Some[87] also argue that the "myth of homogeneity" is an extrapolation from northern society that conceals "the desire of nomadic groups to impose cultural and political hegemony on the settled agro-pastoralist groups in and around the inter-riverine region in the south".

Besteman agrees that the portrayal of Somali society as an ethnically and linguistically homogeneous culture is a "fantasy" and argues that there are other "critical fracturing points" in Somali society besides clan, such as race, class, religion, status, occupation, and language.

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80 Besteman (1999).
81 Lee Cassanelli, quoted in Besteman (1999).
82 Lewis, quoted in Luling (1997).
83 See the somewhat vitriolic exchanges in the pages of *Cultural Anthropology* – Besteman (1996a), Lewis (1998), and Besteman (1998) – and *American Ethnologist* – Besteman (1996b), Helander (1998), and Besteman (2000). Schlee (2001) and Luling (2006) provide a middle path.
84 Quotations of Besteman's arguments in this section come from Besteman (1999) – her major work on Somalia – unless otherwise specified.
85 Besteman (1996a).
86 See in particular the essays contained in Ahmed (1995), which is pointedly titled "The Invention of Somalia".
87 See Mukhtar (1996).

She suggests that over several generations a social order has emerged that is "stratified on the basis of racialized status, regional identities and control of valuable resources and markets" and argues that this is key to understanding the 1990s breakdown of the Somali state and in particular the "victimization" of agricultural southerners[88].

The debate to some extent falls along the lines of the long-standing dispute in studies of ethnicity and nationalism between "primordialists" and "instrumentalists", particularly in relation to the civil wars in the former Yugoslavia. As one detailed study[89] of former Yugoslavia and the UN war crimes tribunal there comments, for primordialists, "ethnicity is defined by inherent factors, such as race, language or religion, that distinguish groups in fundamental or irreconcilable ways, and that frequently or inevitably lead to conflict". For instrumentalists, it is "essentially a political contrivance of elites, who seek to manipulate the social construction of identity among the masses as a means of preserving or acquiring power". However, the debate to some extent creates an unnecessary dichotomy between the two sides: the point is that ethnicity is a powerful political instrument precisely because it is deeply rooted in culture. Both analysts would probably accept this: Lewis notes that clan is "mobilized situationally according to context and the machinations of local political impresarios", and Besteman describes "an increasing investiture in clan identities due to Barre's intrigues" in the last years of the regime, though she considers this "the result – not the cause – of contemporary conflicts and competition"[90].

As Little[91] comments, "The situational and flexible nature of Somali social structure continues to elude outside mediators, as well as social scientists who seek rigid classifications." He argues that the "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. They held static, traditionalist definitions of what a clan is and the necessary resources to reinforce these stereotypes." As an example of this tendency towards segmentation when representation and benefits are negotiated along clan lines, he cites rival peace conferences held in Kismayo in 1994: "More than 28 separate clan and sub-clan identities had emerged in an area where only seven years earlier I had identified fewer than 10 of any significance." Conversely, he notes from the same chain of events that "new" clan identities could also be used to try to unify clan groupings. Some Ogaden leaders invoked the Absame clan identity ("an identity that was never mentioned at any time during my stay in the late 1980s") seemingly because "with its larger size, the Absame label allowed them to assume more of a national role for their movement, especially vis-à-vis other sizeable political movements in Somalia", such as Aideed's Hawiye-dominated United Somali Congress. Little also describes (drawing on unpublished UNOSOM papers) how notions of indigenous "homelands" and "traditional" links between particular clans and areas were emphasized by clan elders (along with ethnographic maps from the early 20th century supposedly showing "original" inhabitants) in negotiations with the UN. As he comments, "The local clan elders had clearly devised a political strategy in response to what they perceived as UN priorities for territorial claims and assertions on development resources." The relationships between "warlords" and clans were and are similarly "situational", as Marchal[92]

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88 See also de Waal (2007), which provides an analysis of "class and power in a stateless Somalia". He provocatively describes Somaliland as "a profit-sharing agreement among the dominant livestock traders, with a constitution appended".

89 Payam Akhavan's article "Justice in the Hague, Peace in the Former Yugoslavia? A Commentary on the United Nations War Crimes Tribunal", Human Rights Quarterly, 20, 1998, pp. 737–816.

90 Lewis (1998) and Besteman (1996a).

91 Little (2003).

92 Marchal (2007a).

observes in an interesting deconstruction of the "warlord politics" paradigm popularized by William Reno. He notes that "in a number of cases, warlords emerged as the means by which a group of interests (often rallying behind the name of a clan) could make a point, get recognition from the international community (always in need of interlocutors), or show autonomy or resistance towards another warlord".

Other divisions

Besteman argues that "while lineages have long been part of Somalia society, they have never been rigidly inflexible or primordial" and that in fact the system has historically been used to ensure flexibility in times of stress. In the south in particular, she suggests that people "switched clan affiliation for protection, for marriage, for grazing or land rights, for labour, for political reasons or for other personal reasons". She notes Helander's conclusion[93] that in the Hubeer sub-clan of the Rahanweyn clan family, those who had adopted clan membership by culture (*dhaqan*) outnumbered those who had clan membership by birth *(dhalad)*. She argues that ties of marriage and relationships at the village and neighbourhood level are also important: "Rural agricultural and agro-pastoral villages typically contained people from a number of clans; decisions about land and water use were made by village committees, not clan councils." She also argues that "historically, kinship-based political activity was conducted at the local – not national – level among small territorial and kinship-based networks" and that the focusing of civil war conflicts and political affinities at the clan and clan-family level is an entirely new development. She notes that many Somalis have either limited or no clan affiliations, such as the Bantu-speaking "Gosha" (descended from ex-slaves) and the "outcaste" groups, which are identified by supposedly impure

occupations (see page 54 below). In addition, she suggests that many northern Somalis view agriculture as inferior to pastoralism and also look down on those who speak the *af-may* dialect[94], arguing that "the combined factors of language, racial constructions and occupation served as regional distinctions which divided the Somali 'nation'".

Another social boundary is that between "noble" (*bilis*) and "commoner" (*boon*) lineage. Helander[95] suggests (in relation to his area of study in the south at least) that the distinction is based partly on racial stereotypes of commoners having a more "African" appearance, with those of Oromo or ex-slave origins usually being included in the grouping, but comments that the majority of commoners "may simply be destitute, marginalized remnants of other Rahanweyn clans". Helander notes that there was no intermarriage between nobles and commoners (whom he estimated to be around 30 percent of the local population) and that "membership in either category defines a person's access to commonly desired assets". Previously some commoners had apparently been barred from owning cattle; commoners also tended to be excluded from community-wide labour-sharing arrangements and, because they had smaller family networks to draw on, were more exposed to the hazards of labour shortage, which (in the longer term) resulted in more of them becoming general wage labourers, since they had no time to work their own fields. Helander suggests that "in many cases, commoners were a kind of second-class citizen within a noble clan", who lacked full political participation in village affairs and were unable (due to limited social and economic resources) to make use of migration for better agricultural circumstances in the same way as nobles[96].

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93 In Helander (1996a); see also Helander (1996b) on the positive aspects of the Rahanweyn associative model.

94 Lewis (2002) describes the southern *af-may* dialect as differing from "standard" *af-maxay* in roughly the same way as Portuguese does from Spanish.
95 Helander (1996a). See also Helander (1986) for a more detailed socio-anthropological discussion.
96 See pages 94–95 for a summary of Helander's study on landholding in the Bay region.

However, Helander cautions that the noble-commoner divide "is a large and complex issue, not least because the same local terminology may be used to denote different categories in different parts of southern Somalia". Certainly in northern Somalia the divide is sometimes seen as one between "noble" pastoralist clans (the Darod, Hawiye, Dir, and Isaaq) and "commoner" southern agriculturalist clans (the Rahanweyn or Digil-Mirifle). Helander also argues[97] that the segmentary lineage model provides a means of thinking about resources spread out over huge areas: "Genealogical relations between the clans of different zones, seasonal resources and personal relations end up as different 'benefits' in the calculations of family decision making concerning questions of migration and herding".

In considering lineages, Somalis also distinguish between smaller branches (*laan gaab*) and larger branches (*laan dheere*) of lineages. As Bradbury[98] explains, "The *laan dheere*, which trace a longer line of descent from the founding ancestor, are numerically larger and, because they can call on more kinsmen, are potentially stronger and politically more powerful than the *laan gaab*. Consequently, they are often favoured in terms of political representation." One final traditional distinction in Somali society is between the *wadaad* (a religious person; *sheikh* in Arabic) and the *waranleh* (warriors). As Lewis comments, "Men of religion fulfil such important tasks as teaching the young the Quran and the elements of the faith, solemnizing marriage and ruling according to the Sharia in matrimonial disputes and inheritance, assessing damages for injury and generally directing the religious life of the community in which they live. Ideally, whatever their *diya*-paying and clan obligations, men of religion are assumed to stand outside secular rivalry and conflict, although in practice in the circumstances of Somali life this expectation is rarely if ever fully sustained." Needless to

say, the rise of radical Islamism, in particular the Islamic Courts Union, has changed this situation, but it still seems to remain the case in many areas that religious leaders are not involved in politics, although they may become involved with elders in mediating disputes.

VULNERABLE GROUPS

Introduction

According to Minority Rights International, Somalia has the dubious distinction of having minorities that are the most at threat in the world of "genocide, mass killing or other systematic violent repression", and it occupied this number one spot in both 2007 and 2008[99]. They reach this conclusion because "the fact that inter-clan violence in Somalia exhibits most of the characteristics of inter-ethnic or sectarian conflict in other countries means that it produces a very high score on nearly all the indicators[100] used in the Peoples under Threat listing. In most cases, civilian victims are targeted simply because of their clan identity. However, also at particular risk in Somalia are the country's ethnic minorities, the Bantu and caste groups such as the Midgan, Tumal and Yibir, who have been subjected to violence by all sides and whose social and economic marginalization makes them particularly vulnerable to the general effects of the conflict." The question of who is a "minority" in Somalia is almost as vexed and complicated as the clan system, and "minority" status has been influenced or perhaps even created by external forces (especially the potential for resettlement in the West) in similar ways to clan identities. As Montclos[101] explains, "The war, the persecution, the exodus of groups to (in particular) Kenya and the resettlement programmes for Somali refugees in Kenya all precipitated the process of identity construction. In Mombasa, where many

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97 Helander (1986).
98 Bradbury (2008).
99 See Minority Rights (2007) and (2008).
100 See Minority Rights (2008) for an explanation of these indicators.
101 See Montclos (1997).

refugees gathered, the logic of humanitarian aid, as well as idleness, the concentration of refugees in small, relatively homogeneous camps, and finally resettlement criteria all helped towards a reconstruction of identities around the concept of minority status. Since resettlement in the West is limited, very strict selection criteria were developed by Western countries to favour the most 'threatened' people and minority status was equated to discrimination and therefore the need for resettlement." The literature on the minorities (much of which was commissioned or written by Western immigration services handling refugee claims) thus seeks to "pin down" and accurately classify the various groupings but succeeds only in being thoroughly confusing. The descriptions of the key minorities given in this section do not therefore claim to be in any way definitive and focus primarily on the land situation of these groups.

General background[102]

As currently used by both Somalis and foreigners, the term "minorities" usually refers to any clans or communities that do not belong genealogically to one of the four major "noble" clan families of Darod, Hawiye, Isaaq, or Dir. "Noble" in this sense refers to the widespread Somali belief that members of the major pastoral clans are descended from a common Somali ancestor (Samale) and that the minority clans have a different – usually mixed – parentage, with some Asian, Oromo, or Bantu ancestors. The minority clans are sometimes referred to as "Sab", though some authors apply this only to the Rahanweyn and others only to the "low caste" minorities. If one includes the agro-pastoral Rahanweyn clans of the inter-river zone, the so-called minorities probably make up one-third of the Somali population. Most of them live in relatively small, distinct communities throughout southern Somalia,

and often speak local dialects and marry within their own or other minority clans. Until the civil war they seldom interacted and had no sense of political solidarity, but recently some have begun to perceive themselves as sharing "second-class" status, and have begun to talk about themselves collectively as minorities who have been particularly victimized during the civil war.

Historically, some of the smaller minority clans have specialized in occupations like fishing (the Bajuni), religious learning (Shekhal), or working with metal and leather (Tumal and Midgan). Their expertise in these areas sometimes earned them a certain respect, even while their small numbers made them politically powerless. On the other hand, minorities like the Bantu farmers of the lower Jubba and Shabelle valleys or the Rahanweyn clans of the inter-river region number in the tens or even hundreds of thousands, yet enjoyed little political influence in post-independence Somalia. As do most of the minorities, the Bantu and Rahanweyn believe the major clans have systematically discriminated against them by excluding them from important government positions, restricting their educational opportunities, and neglecting social and economic services in their home districts. As a consequence, the minorities have tended towards political and economic self-reliance and have sought to avoid central government involvement in local affairs. They speak a variety of local and regional dialects, a fact that further isolated them from the centres of power following the 1972 decision to make the north central Somali dialect the official written national language. There is little question that members of the major Somali clans have regarded the southern minorities with condescension and even disdain, and have felt it unnecessary to incorporate them in any but a token way into the major clan coalitions that have governed the country since 1960.

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102 This section repeats the commentary contained in Cassanelli (1995), the first and most helpful of the main studies on minorities.

These cultural attitudes almost certainly influenced the conduct of the factional militias – all of which were recruited from the major clans – during their struggle for territorial control of the south after 1991. The dozens of southern minorities were not perceived as a military threat by the Barre regime, and most did not take up arms against the regime. Ironically, this lack of involvement would later open these groups to charges from the victorious opposition militias that they had contributed nothing to the overthrow of the dictator, indeed that their apolitical and pacifist stance had helped sustain the Barre government in its later years. Thus while the minorities were not as a rule singled out as military targets by the post-Barre militias, they were victimized repeatedly by armed gunmen of all persuasions. Outlined below are some of the factors that made minorities as a whole especially vulnerable to militia violence, not only during the early stages of war but also during the UN intervention.

1. **Military weakness.** Most minorities had few weapons and no military traditions. Some Gosha and Rahanweyn farmers had been forcibly conscripted in the Ogaden War of 1977–1978, but they had few high-ranking officers and no stockpiles of weapons. They were largely defenceless.

2. **Vulnerable assets.** Most minorities depended on fixed assets – fishing boats and nets, shops in the towns and villages, cultivated land, and grain stores in the countryside – for their livelihood. These were easy targets for the armed militias and the roving bandits that followed in their wake.

3. **Social isolation.** Almost by definition, minorities had few marriage or kin ties to members of the major clans that might have mitigated the treatment they received. Most of the established urban families tended to marry among themselves, both as a cultural

preference and perhaps as a way of keeping wealth "in the neighbourhood". The Bantu and Rahanweyn minorities also enjoyed few cross-clan alliances, but largely because they were shunned as marriage partners by the "noble" clans.

4. **Political neutrality.** The fact that the minorities were not part of any major clan coalition ironically made them suspect by all sides. When one faction replaced another as temporary master of a region, local residents were accused of harbouring or backing its rival. Incidentally, this served as a convenient pretext for the successive rounds of looting and intimidation that targeted the minorities.

5. **Limited support networks beyond their home communities.** Their past exclusion from government positions and overseas scholarships, coupled with their attachment to sedentary pursuits, meant that few minorities had established substantial family networks in other parts of Somalia or beyond its borders. If they lost their local productive assets, they had nowhere to turn for material assistance, and if they were displaced from their places of residence, they had no place to flee but to refugee camps. An exception needs to be made for certain prominent religious and commercial families of Mogadishu, Merka, and Brava who were historically linked by trading interests, and sometimes marriage ties, to similar families along the Arabian, Kenyan, and Tanzanian coasts.

The major "minority" groups

Bajuni: According to Cassanelli, the Bajuni are a small community of perhaps 3,000 or 4,000 who are predominantly sailors and fishermen. They live in small communities along the Indian Ocean coastline and on some of the larger offshore islands between Kismayo and Mombasa, Kenya. There are substantial numbers of families living in Kismayo, and

smaller numbers in Mogadishu and Brava. Some anthropologists believe the Bajuni represent an admixture of Arab, Bantu, Somali, and perhaps Malaysian backgrounds; Montclos adds Yemeni and Indonesian to the list. Many have lighter skin and hair than other Somalis, although local Somalis usually distinguish them by their primary language, Kibajuni, which is a dialect of Swahili. Those who live or work in the mainland towns also speak Somali. With the fall of Kismayo in June 1999 to allied Somali National Alliance and Somali National Front forces, a Bajuni "alliance" with the Somali Patriotic Movement was destroyed and Bajuni property on the islands was looted by militias, forcing many Bajuni to flee. Some Bajuni made their way to Bossaso in Puntland[103]. In 2002, it was reported[104] that recent Marehan settlers still control the islands: "Bajuni can work for the Marehan as paid labourers, which is at least an improvement over the period when General Morgan's forces controlled Kismayo and the islands, when the Bajuni were treated by the occupying Somali clans as little more than slave labour."

Bravans: The Bravans (or Bravanese or Brawans) are the residents of the coastal town of Brava and seem to have been singled out for harassment from the early stages of the civil war. Most of the related Reer Hamar community in the old quarter of Mogadishu (known as Hamar Weyn) has been driven out of the country, and the small Swahili and Indian population in Kismayo has been forced to flee as well. Those Reer Hamar that remain have been forced to link themselves to dominant clans in Mogadishu such as the Habr Gedir who reportedly act as "black cats" and divert a large proportion of the proceeds of property sales or remittances[105]. Cassanelli

quotes a comment from Menkhaus: "Somalis have made it abundantly clear that, historical evidence notwithstanding, they consider the Barawans and other coastal peoples to be foreigners." There is frequent confusion and overlap in some studies between the Bravans and the wider (and newer) grouping of "Benadiri" (see below).

Benadiri: A 2002 report[106] relates the following: "From discussions with these groups it transpired that the term Benadiri is used by them to indicate the coastal population of Somalia roughly between Mogadishu and Kismayo, who share an urban culture and who are of mixed origin (variously Persian, Portuguese, Arabian, Swahili, or Somali), separate from the major Somali clans". The Bajuni are agreed to be a separate group, but the Bravanese are sometimes subsumed into this grouping, as are the Ashraf. Montclos[107] states that the name Benadiri "does not correspond to any well-defined sociological reality. In the context of resettlement programmes for Somali refugees in Kenya, the Somali refugee traders of the coastal ports decided to regroup under the generic term 'Benadir', which designates greater Mogadishu. Those indigenous to this area succeeded in calling themselves 'Benadiri.'"

Bantu/Jareer/Gosha/Mushunguli/ Gobaweyn: The background and makeup of this group is particularly complicated and unclear, as the number of names variously used for some members of the group or the entire group demonstrates. Besteman[108] examines the history and heritage of the Gosha ("people of the bush") grouping in considerable detail, tracing their origins to the slaves brought from East Africa in the nineteenth and early twentieth[109]

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103 Danish Immigration Service (2000).
104 Danish Immigration Service (2002).
105 Danish Immigration Service (2004). The phrase "black cat" (**mukulaal madow**) is used for "gatekeepers". According to Marchal (2002), "black refers to the colour of the Somalis and cat refers to the animal protecting the food from the mice".

106 Danish Immigration Service (2002).
107 Montclos (1997).
108 Besteman (1999).
109 Besteman (1999) calculates (based on colonial figures) that there were "about 3,800 families owning slaves in southern Somalia (in a total estimated population of 300,000)" at this time. She states that the "laws of Islam mandated that slaves were to be converted and then manumitted [freed]", which would explain why there were so many ex-slaves – see Besteman (1996b).

centuries, some Oromo[110] "pastoral slaves and serfs" (the Ajuran), and earlier Bantu-speaking farming inhabitants of the Shabelle. There also appears to be a sub-group known as Eyle, who cultivate during the rains and hunt in the dry season (with dogs, considered dirty creatures by the "noble" Somali). Lewis[111] notes that both the Hawiye and the Digil "despise them, and there seems good reason to regard them as a pre-Cushistic aboriginal population". Some Gosha have assimilated into local Somali clans, although they retained their low status as ex-slaves in the eyes of the Somali majority. Historically, most of these groups have been "clients" of dominant pastoral clans and have depended on these pastoralists for protection and trade.

Cassanelli makes this comment: "While some of the Shabelle valley Jareer have suffered from the warfare of the past several years, they have undergone much less displacement than the Bantu minorities (Gosha) of the Jubba valley. The Gosha were hit harder by looting during the early phases of the civil war than any other social group in the Jubba valley. The collapse of the fruit plantations and state farms that had served as supplementary sources of food and employment further eroded their subsistence base, and those who remained in their villages were often terrorized by successive waves of armed militias."

A 2002 report[112] states "Outside Bay and Bakool, where the Bantu have been largely absorbed into the Rahanweyn clan structure and are able to retain their land, Bantu have been largely displaced along the Jubba and Shabelle rivers. They are usually able to remain in their home areas, to work mainly as labourers for the Somali clans (mainly the Marehan, Ogadeni and Habr Gedir) that have taken their traditional land. They can usually retain

about 10% of their land for their own use. The clans that have taken Bantu land are not traditional settled agriculturalists but with no central authority to prevent them from taking Bantu land by force, they see land as a means of providing an income when few alternative income-generating activities are available. Also the dispossessed Bantu provide a convenient and readily available supply of labour. Bantu try to link themselves to the dominant Somali clans that have dispossessed them of most of their land as for their own security they still need their protection."

Rahanweyn: Given its size, there would have to be some debate as to whether this grouping does in fact constitute a minority. As Cassanelli explains, the term Rahanweyn or Reewin[113] refers to about three dozen clans that inhabit the inter-river zone of southern Somalia. They are concentrated in the Bay and southern Bakool regions, but they also form substantial minorities in Gedo and the lower and middle Jubba and lower Shabelle regions. The Rahanweyn also differ from the other large Somali clan-families in having a mixed agro-pastoral economy. The majority of Rahanweyn families rely on both farming and livestock for subsistence, with the result that particular Rahanweyn groups more closely identify with specific local settlements. Through intermarriage and clientship, Rahanweyn clans historically have absorbed individuals and families from other parts of the country into their local communities. With the intense politicization of clan identities during the recent civil war, this practice has led many non-Rahanweyn clans to claim rights to land and representation in Bay and Bakool. The hierarchical social structure of many Rahanweyn clans, coupled with their heterogeneity, probably made it more difficult for them to mobilize cohesive

110 The Oromo are a predominantly Ethiopian ethnic group.
111 Quoted in Danish Immigration Service (2000).
112 Danish Immigration Service (2002).
113 Rahanweyn is the northern Somali name for the grouping, supposedly referring to their tendency to adopt or integrate members of other clans (*raxan weyn*, meaning big crowd); Reewin is what they tend to call themselves, referring to their semi-mythical ancestor of the same name. See Helander (1996b).

alliances to defend their region during the early stages of the civil war, and it certainly facilitated the manipulation of clan and status divisions by outside factions competing for territorial footholds in the Bay, Bakool, and valley districts.

Midgan and related groups: These groups include the Tumal, Midgan, and Yibir and are also known in the north as Gaboye. Outside observers have sometimes considered them "outcastes" because traditionally they could only marry among themselves and other Somali clans considered them ritually polluted. Living primarily among the nomadic populations of Somalia but in their own distinct settlements, they performed specialized occupational services such as metalworking, tanning, and midwifery for the dominant clans in the area. While as a group these minorities did not pose a significant threat to any other Somali group, particular individuals and families who had visibly supported the old regime were vulnerable to retaliation. Because they have no natural clan allies in the wider society and no collective voice in political circles, they could be attacked with impunity.

According to a 2000 report[114], those groups attached to a "noble" clan identify themselves with it in relation to other clans: "They have no recognized genealogy of their own. They are not landowning groups. Conventional paths to upward social mobility are not open to them. They are excluded from the councils of elders. They have no right to claim compensation for murder from 'noble' Somali except through the patron to whom they are attached, and the (lower) compensation is paid to the patron." There appears to be a distinct sub-group of the Midgan called the Madhiban[115] and the

2000 report quotes "a UN report"[116] as saying that approximately 10,000 Madhiban from Mogadishu and Bay and Bakool regions live in IDP sites in Puntland (mostly Bossaso). The Madhiban IDPs were reportedly especially vulnerable to spontaneous and forced relocations, and IDPs cited the insecurity of land tenure and ownership as their primary concern.

Priestly lineages: Ambroso[117] writes that the Shekhal is a priestly lineage with segments present both in central and southern Somalia as well as eastern Ethiopia, which claims direct descent from a religious Arab lineage, though some genealogists consider them as part of the Hawiye.

WOMEN

Introduction

The limited literature[118] on the position of women in Somali society is unfortunately somewhat out of date and also lacks detailed underlying survey and statistical information. The Islamic nature of Somali society is of course a key factor in the treatment of women, but theoretically progressive Islamic principles have generally been adapted to meet rather more restrictive Somali cultural norms. In theory, Islam grants women rights to life and education, as well the right to inherit, manage, and maintain property. Although polygamy is not outlawed, the number of wives is restricted to a maximum of four and guidelines are set to provide for the just and equal treatment of co-wives. In marriage, women's right to a marriage contract is stressed, as well as women's consent to marriage. Though only men possess the

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114 Danish Immigration Services (2000), drawing on Lewis's writings.
115 The name apparently means "harmless" and other sources suggest that it is simply a general and less offensive name for the Midgan.

116 This seems to be Khalid Medani's 2000 study for UNCU on remittances and internal migration, which the author has not been able to find.
117 Ambroso (1994).
118 The author was not able to obtain a copy of the 2004 book by Gardner and El Bushra on the experiences of Somali women during the wars, which has been well reviewed. Details are given in the third part of the bibliography.

right to divorce, women are allowed to initiate divorce[119]. In practice, the situation of women in Somalia can be very different, although of course there is considerable geographic and urban-rural diversity. A UNIFEM report[120] summarizes the comments of the Italian scholar Enrico Cerulli in relation to the traditional position of Somali women in customary law as describing "a situation in which women are not considered responsible members of society, and in which their lives are of unequal value to those of men. Decisions are taken on their behalf; they are controlled and protected." Cerulli observed that:

- "In public law, a woman does not take part in the assembly (*shir*).
- In civil law (*xeer*), a woman does not exist as an independent legal person; she is always under the jurisdiction of others. Before marriage, she is the responsibility of her father. If the father of an unmarried woman dies, another relative (usually the paternal uncle, *adeer*) may substitute for the father until she is married. Once married, she falls under the jurisdiction of her husband. A woman therefore submits de jure to the control of men for her entire life.
- In criminal law, the blood-price (*mag* or *diya*) of a woman is less than that of a man. If a woman has been killed, the clan of the killer usually pays only half the amount paid if the victim is a man.
- If a woman commits a crime, the clan of her husband or father must pay compensation on her behalf; if she is wronged, the clan of her husband or father receives compensation (*xaal*)."

In relation to the traditional role of women (especially in the northern, pastoral areas), an Academy for Peace and Development report[121]

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119 Under Islam, a woman has the power to initiate the sharia processes of *khula* (a judicial divorce) and/or *tahkim* (arbitration by relatives, possibly leading to divorce).
120 Bryden and Steiner (1998). Cerulli's considerable writings (*Somalia: Scritti vari editi ed inediti*) have not been translated into English.
121 Academy for Peace and Development (2002d).

for UNICEF on "women's rights in Islam and Somali culture" states the following:

"Women perform varied roles at different stages. As a wife and as a mother, she is a teacher for all her children, a master trainer for her daughters, and above all a manager of not only her home, including the family's livestock. In a traditional nomadic setting, women's work is also highly specialized and valued. For example, women make all materials for the construction of the nomadic home, as well as all household utensils and instruments. They are also responsible for the logistics of moving the family dwelling in the frequent nomadic movements. Women procure daily supplies of water and firewood."

The pre-civil war situation

The Academy for Peace and Development report provides helpful background:

"During the military regime of the 1970s and 1980s, women's public participation broadened. Female school enrolment and job opportunities increased and women were able to hold positions in the army and civilian government institutions. Legal reforms were also initiated. The Family Law of 1975, for instance, gave equal rights to women and men in matters of marriage, divorce and inheritance. An exodus of men in the mid-seventies to the Gulf States to seek job opportunities had greater and more lasting impact than the official reforms. Women whose husbands were working in the Gulf States assumed responsibility for the care and management of the family. The exposure of these Somali men to the religious influences of conservative Islamic countries, including the more puritanical and doctrinaire [Wahhabi] teaching of Islam, led to an Islamic resurgence upon the return of the migrant workers. This included a new breed of younger and better educated Islamic teachers and Imams of mosques, who called for the

re-Islamization of society to counter threats of western influences and secularism. Islamic missionaries targeted women and encouraged them to adopt the *hijab* dress code as a sign of modesty and Muslim identity."

The 1975 Family Law was, on paper at least, a highly progressive piece of legislation, since it gave women equal rights in property, inheritance, and divorce, forbade wife beating, and abolished the practices of *diya* payment and polygamy, except in certain circumstances[122]. Its implementation was met with considerable social resistance, especially by Islamic authorities; the Barre regime executed ten Islamic leaders for protesting against the reforms. The formation in the 1970s of the state-sponsored Somali Women's Democratic Organization had some effect in encouraging grass-roots mobilization and creating agents for social change; the group's representatives also assisted women to enforce their rights under the Family Law. However, in terms of inheritance practices in southern Somalia at least, Besteman reported[123] that "contrary to Islamic practice, when a man died, his widow and daughters had no rights to his land, which was inherited by his sons". If the sons were too young to inherit, then the land usually passed to the deceased husband's brothers or sons by earlier marriages, and although the widow might be able to work the land on their behalf she would forfeit this on remarriage.

A study of women in the Jubba valley in the late 1980s[124] provides some further background on the position of women before the civil wars, which may well still be the case. It commented that women in southern Somalia "lack control of basic productive resources and have little formal education, literacy or skills to equip them for employment outside the traditional subsistence economy". Women's situations varied with the type of subsistence strategies practiced: access to productive resources, education, and health was most limited in the pastoral sector, the greatest opportunities for economic independence were in the settled urban sector, and agro-pastoralists were somewhere in the middle. As might be expected, women's levels of formal education and literacy were significantly lower than men's. The very low levels of health spending in the last years of the Barre regime (1.3 percent as compared to 21 percent in 1975) disproportionately affected women and took a toll on their ability to participate in other economic endeavours[125]. The high death rate among children was significant in a society that depended on adult children, especially sons, for labour and the care of ageing parents[126].

Women's opportunities to participate in independent economic activity were constrained by the great amount of time involved in domestic maintenance tasks such as processing food, collecting firewood, and fetching water, especially amongst pastoralists: only 37 percent (across all subsistence patterns) earned cash through independent pursuits, and earnings were low. The study showed clearly that the wealthier women in the Jubba valley all came from the urban sector. Similarly, women had limited control over land (only 14 percent owned farms and these were mostly the least productive, least secure rainfall-dependent dryland plots) and livestock (28 percent owned some). However, it was common for women to have their own grain storage pits (*bakaar*), which could be stocked by working on men's fields and provided some independence[127].

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122 Human Rights Internet (1994).
123 Besteman (1995).
124 Nancy Merryman (1996), which draws on surveys carried out for the "Jubba Environmental and Socio-economic Studies" funded by the United States Agency for International Development and published in 1989.

125 In the 55 to 65 year old category, men outnumbered women 62 percent to 38 percent.
126 The average number of conceptions per woman (among women aged 40 or over who had largely finished reproducing) was 7 and of these 32 percent failed due to miscarriage, stillbirth, or neonatal death, with 25 percent of live births also dying by the time of the interviews.
127 Further commentary on women's position in agriculture can be found in the Besteman studies of the Jubba valley summarized in Section 1 of Part D.

The post-civil war situation

Most commentators agree that the civil wars had a significant effect on Somali society by destroying traditional economic and social systems and bringing about a change in the gender distribution of economic roles. Ahmed[128] argues that the rise of more radical Islamism (and the patriarchal social ideology said to be associated with it[129]) has had a negative effect on women's roles and women's rights: "Challenges have been made by religious extremists to women's rights within marriage and the family, to their economic and political participation outside the home, and to their freedom of dress and behaviour." She points to the results of a 1996 study conducted in Mogadishu, which reportedly indicated that many women "are confused about their rights, obligations, and duties as articulated in Islam[130]. It also highlighted the fact that wholesome and unwholesome traditional practices tend to be associated with Islam, and with women's rights as defined in Islam. It reconfirmed that violations against Somali women's rights are culturally rooted and that such practices continue unchecked."

Ahmed notes that before the civil war marriages generally occurred relatively late (the 1988 national planning statistics showed 21 as the average age of marriage for girls and 25 for boys), partly because more young people were seeking higher education, but states that this trend has now been reversed. Indeed, the recent UNICEF Multi-Indicator Cluster Survey[131] shows that 46 percent of girls are married by 18 (and 8 percent by 15). Ahmed also argues that the Islamic principle of "male responsibility for the family's maintenance,

as outlined in the Quran, is being seriously undermined by young men being encouraged to marry one or more wives without economic means. The research confirmed that many young girls are ultimately either deserted or divorced. Since young couples sometimes marry without the parents' consent, deserted or divorced wives cannot always count on the support they could have otherwise relied on within the extended family system." While she does not provide direct evidence for this statement, interviews[132] carried out for this report suggested (anecdotally) that desertion and/or divorce by men had increased since the war, partly because general poverty and lack of livelihoods made it more difficult for men to provide for their families. The 2006 Multi-Indicator Cluster Survey indicates that 23 percent of married women between 15 and 49 are in polygynous marriages. It also reports that three quarters of married women believe that there are at least some situations in which a husband is justified in beating his wife.

General analysis

In view of the limited literature on the position of women in Somalia, it is also worth looking briefly at general analysis on the position of women in sub-Saharan Africa, in particular relating to their property rights, since much of this is relevant to Somalia. As the Centre on Housing Rights and Eviction[133] notes, "If women are unable to legally own, control and inherit property, they have little economic and personal autonomy because they fundamentally lack access to wealth. Women's economic contribution to their families, which is essential, remains unremunerated and invisible. Women who do not control their own housing and are unable to access housing independently are placed in a position in which they may face homelessness and destitution at any given moment. Especially in sub-Saharan Africa, a woman's access to housing usually

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128 Ahmed (1999).
129 See al-Hibri (1997) for a general survey of Islamic jurisprudence and (Middle Eastern) legal practice on women's rights.
130 One interviewee (Interview 10) commented that women typically have fairly limited knowledge of their rights under sharia; men have greater religious knowledge, and religious instruction to women tends to be selective (e.g. men's right to four wives).
131 UNICEF (2006).

132 Interviews 10 and 15.
133 Centre on Housing Rights and Eviction (2004).

depends upon her relationship to a male, in most cases either her husband or father. Rarely are women able to gain housing and land in their own right. This dependency is the breeding ground for violence and exploitation. When a woman becomes homeless, she loses much more than just a house (although this alone is catastrophic enough), she is also deprived of her personal security and social status. In addition, given the central function that the home often has for a woman in terms of economic production, its loss may well signal the end of economic and food security for herself and her family. Furthermore, her ability to care for her children and keep them healthy becomes greatly impaired, and she loses many of her relationships and much of her social network, on which she depends for day-to-day survival." The ability for women to be recorded in title registers as a joint legal owner is therefore crucial.

Similar issues apply to girl children, and denial of inheritance rights is a particular problem for girls: A patriarchal family will seek to retain assets within the household, and boys are often seen as more suitable guardians of the family's inheritance. There is a customary Islamic practice called *tanazul*, which involves the renunciation of a female inheritance share in favour of a male family member such as a brother or son, in return for the express or implied promise of future support by him; occurrences of this in Somalia were confirmed in interviews[134]. Conflict also exacerbates women's already limited property and inheritance rights: houses are abandoned or destroyed, title deeds or other vital papers are lost, and family members are killed, with nothing and no one to support the woman's claim of being able to inherit marital land and housing[135].

As a UNIFEM report[136] notes, "The position of women with regard to land and property ownership is further weakened by both conflicts and the ensuing reconstruction process in societies where their access to land and property is already precarious. The usual imbalance in power relations between women and men is sustained and even deepened throughout the conflict and continues up to the stage of reconstruction. Breakdown in social stability and in law and order leaves a socio-economic vacuum in which the subordinate position of women, their social support systems and their access to land and property are compromised by traditional and customary laws."

Although the prevalence of HIV/AIDS in Somalia is comparatively low (around 1 percent in adults[137]), there is still potential for this to become a serious issue in terms of women's rights to land in Somalia, as it has done elsewhere in sub-Saharan Africa. A general study on African land rights[138] by the International Institute for Environment and Development comments in relation to the HIV/AIDS epidemic that "available evidence shows phenomena of land grabbing by male relatives following the [HIV/AIDS-related] death of a husband/father. Indeed, widows rarely inherit land under customary norms and they are often deprived of the access to their husband's land if they have no children. On the other hand, orphans[139] may be too young to inherit. Land is therefore vested in trusteeship with uncles and other male relatives, and inherited by children when they become of age. However, there were reports

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134 Interview 10.
135 Centre on Housing Rights and Eviction (2004).

136 UNIFEM (2001). For detailed general discussions of women's land rights and the impact on them of colonial and post-colonial land reform in Africa, see Ikdahl et al. (2005), Lastarra-Cornhiel (1997), and Whitehead and Tsikata (2003).
137 See the UNAIDS webpage for Somalia (www.unaids.org/en/countryresponses/countries/somalia.asp), last accessed 31 January 2008.
138 International Institute for Environment and Development (2004).
139 Joint Needs Assessment (2006e) states that there were some 24,000 HIV/AIDS orphans in Somalia in 2005. According to UNICEF (2004), in 2003 there were around 770,000 orphans, though the report also states that there are 7 million children aged 0–17, which seems highly unlikely.

of uncles cheating orphans out of inheritance, sometimes exploiting the stigma attached to HIV/AIDS. Moreover, HIV/AIDS may lead to land loss as a result of distress sales, as poorer households may be forced to sell their land to pay for medical care and funerals. This may enable wealthier elites to acquire new land, with a consequent impact on the equity of the land distribution."

GOVERNMENT REVENUES AND THE MACROECONOMIC PICTURE

Somalia's pre-war economy was, as one of the key articles[140] on the subject puts it, "unconventional" to say the least. The formal economy suffered from seemingly insuperable problems: It was heavily aid dependent and Mogadishu focused and the public sector was deeply corrupt and inefficient. However, there was a thriving and mostly extra-legal private sector with strong transnational trade links. This section will briefly examine the features of the pre-war economy and the considerable effect that its structure and dynamics have had on the modern Somali economy. Since (as Menkhaus and Prendergast[141] bluntly put it) there has never been "in Somalia's history a sustainable material basis for a viable central state authority" without huge foreign support, it will also note the position on government revenues.

The situation before the civil wars

From before independence onwards, Somalia has been exceptionally aid dependent. In 1969, 85 percent of Somalia's development budget was externally financed and as early as 1971, an economist[142] suggested that "Somalia's leaders in the past were naive, not only in failing to appreciate fully the limitations of external aid,

but more important, in underestimating the ability of the Somali nation to absorb large amounts of aid effectively and productively at a time when the nation lacked an efficient administration and other conditions necessary for a successful economic take-off."

By the mid-1980s, 100 percent of Somalia's development budget was externally funded and 50 percent of its recurrent budget was dependent on international loans and grants, reaching 70 percent in 1989. David Rawson[143] calculates that foreign donors (primarily Italy and America) spent over US$2.5 billion between 1980 and 1989 in Somalia on development projects, economic programmes, and military technology; he also suggests that there was "an 83% rate of implementation slippage" in Somalia's 12 biggest development projects. Rawson also notes the distorting effects of foreign currency aid flows: "From the Central Bank, the Commercial Bank and the Ministry of Finance, counterpart currencies flowed into private hands, fostering demand for imported goods, creating an acute trade imbalance and generating inflationary pressure within the economy."

Similarly, Compagnon[144] comments that "embezzlement of private funds, corruption of civil servants in connection with public markets and development projects, baksheeshes at all levels of the bureaucracy, illegal trafficking by relatives or friends of the president – all of these were tightly linked to a direct access to state power. Investment capital was predominantly oriented towards speculative trading activities and all kinds of illegal trafficking detrimental to the productive side of the economy." Little[145] reports estimates that over 60 percent of the country's foreign aid in the 1980s ended up in Mogadishu and that by 1990 "up to 95% of the country's negotiable assets were controlled by

140 Jamal, Vali (1988). "Somalia: Understanding an Unconventional Economy", *Development and Change* 19, pp. 203–265. The author was not able to obtain a copy of this article, but its conclusions are widely quoted in other literature.
141 Menkhaus and Prendergast (1995a).
142 Mehmet (1971).

143 Quoted in Besteman (1999). See also Sommer (1994), for detailed figures on American assistance.
144 Quoted in Besteman (1999).
145 Little (2003).

residents of Mogadishu". Government systems for implementing development projects were vertically structured and centralized in Mogadishu with weak horizontal links between ministries, poor capacity at the regional and district level, and virtually no impact from the coordinating bodies such as the Regional Development Councils[146]. According to the 2001 Human Developent Report, "41% of planned investments in the 1987–1989 development budgets were allocated to Mogadishu and 81% of the remainder to five favoured regions in the south and northeast. The northwest region, which accounted for the largest share of the country's export earnings, saw little of this return as development investment. Mogadishu grew, while rural infrastructure and services deteriorated."

The situation in the public sector and the macroeconomic picture were equally bleak. The market value of the Somali shilling declined more than 95 percent between 1983 and 1989, with annual inflation in the late 1980s exceeding 300 percent. Mubarak[147] notes that capacity utilization "of most of the manufacturing public agencies was below 20% of the installed capacity. Other government institutions also suffered from chronic financial and institutional problems. In 1987 and 1989, the consolidated non-financial public sector deficits were 34% and 37% of gross domestic product (GDP), respectively. Public sector foreign debt-service over exports and the total outstanding foreign debt over GDP were 240% and 277% in 1988 and 1990, respectively. Making matters worse, the combined government recurrent expenditure on economic and social services declined sharply, to less than 1% of GDP during the 1988–89 period. Defence and administration expenditures consumed about 90% of total recurrent expenditure. Wages and salaries of the civil service drastically eroded in 1989 to less than 3% in real terms when compared to their

levels of the early 1970s. Not surprisingly, civil servants were demoralized, and corruption and absenteeism became excessive. In effect, most of the government's basic social and economic services either deteriorated or completely disappeared."

By the mid-1980s, more than 80 percent of the refugee aid being received was reportedly being diverted to the military[148] and large amounts of the public budget were just vanishing. Luling[149] comments that "a leaked 1991 World Bank document on public expenditure management makes it clear that the budget of virtually every ministry and project was plundered by the families that dominated the government. Of the expenditure aggregate about a quarter appears as 'unidentified' i.e. embezzled."

The situation since 1991

Since 1991, the economy of Somalia has been sustained by two key inputs, remittances and foreign aid, and by its transnational trade. At the end of 2004, Somalia's total external debt (public and publicly guaranteed) was estimated at US$3.2 billion, of which US$2.5 billion was in arrears[150]. Foreign aid has therefore been by way of grant rather than loan. However, levels of foreign aid have fluctuated during this period: Between 1993 and 2000, assistance raised through the Consolidated Appeals Process fell from US$200 million to less than US$50 million, but in 2007 donors funded US$240 million, though this was in fact only 66 percent of the revised requirement under the 2007 appeal[151]. The 2001 Human Development Report identifies several trends behind this:

- Reduced aid flows to Somalia reflect global declines in foreign aid. During the period of UNOSOM, Somalia received an inflated

146 Conze (1986).
147 Mubarak (1997).

148 Ahmed and Green (1999). See Maren (1997) for a hard-hitting portrayal of refugee operations at this time.
149 Luling (1997).
150 World Bank (2006a).
151 OCHA (2008). See also Joint Needs Assessment (2006c).

amount of foreign assistance, and a drop-off in assistance was inevitable.

- A long history of failed aid projects in Somalia has also contributed to a certain level of donor fatigue and wariness.
- Since 1998 there has been a decline in humanitarian assistance as a proportion of overall aid, although it continues to be more readily available than rehabilitation and development funding. This trend reflects both an improved security environment in Somalia and a change in donor aid policy. Rehabilitation assistance is itself changing in nature, with greater emphasis on technical support and capacity building as opposed to material assistance, and a greater insistence on cost-recovery measures in social services.
- Since donors adopted a so-called "peace dividend" approach in Somalia in the late 1990s and made aid conditional on security and good governance, the policy has been to invest in the more politically stable northern areas of the country. In 1998, the UN stated that the most important work of the UN is "to invest in the rehabilitation and development of the social and economic fabric of relatively peaceful areas".

The 2001 Human Developmnet Report also comments on the pernicious longer-term effects of the 1980s aid dependency on the contemporary attitudes of some Somalis towards foreign aid: "First, there is an assumption that foreign aid should be supplied without conditions. During the civil war, the way Somali factions sought to play off perceived rivalries between foreign states is analogous to Barre's use of Cold War tensions to solicit support. Second, there is an over-inflated expectation of foreign aid that ignores the fact that aid has been diminishing throughout the last decade. Third, lack of accountability is considered innate to foreign aid, a perception informed by the way food aid was diverted in the 1980s, the stories of political or business

figures who enriched themselves on the proceeds of aid, and the activities of some local NGOs. The persistent expectation that foreign aid will pay for everything means that realistic assessment of local resources is rare."

Menkhaus[152] expands on this, commenting that the experience of Somali officials in the 1980s "feeds inflated (and outdated) local expectations of a return of large-scale delivery of foreign aid, and, when that aid is no longer forthcoming, suspicion that aid agencies are diverting the funds meant for Somalia. It contributes to a strong and palpable attitude of 'entitlement' to foreign aid rather than the expected sense of gratitude. It fuels the enduring preoccupation of Somali leaders with aid agencies rather than with their own constituencies and resources. It partially explains the exasperating tendency of Somali political leaders to value international assistance solely for the contracts, rent money, and jobs it provides (i.e., the opportunities for political patronage it gives them) rather than for the actual development or social service output it provides the community. And it has undeniably contributed to a local aversion to raising funds to pay for social services (such as education, health care, sanitation, potable water) which in the past were provided by international aid (sometimes via the Somali state, sometimes directly by NGOs), and which are now viewed as the 'job' of international NGOs."

The revenue situations of the various governments are very poor, and the sums that could realistically be raised are tiny in comparison both to the levels of foreign aid and remittances that Somalia receives and to the proceeds of the conflict economy (see Section 2 above). The Joint Needs Assessment macroeconomic report comments that since 1991, "only limited information has been collected on fiscal flows for Somaliland and Puntland, and no estimates are available for

152 UNDOS (1998).

South Central Somalia. Fiscal management in Somaliland and Puntland suffers from the same problems as in the pre-war years: low revenue collections, expenditures mostly for security and general administration, and poor planning and coordination of development projects. Trade taxes, mostly specific rather than ad valorem, including export taxes, have been the source of more than 80% of annual revenue; they have fluctuated widely in recent years, but are currently about US$22 million for Somaliland and US$16 million for Puntland. Minimal allocations of expenditure are made for the provision of public goods such as infrastructure and social services. Compared with in the pre-war period, now deficit financing is limited to semi-voluntary loans from major business people who are repaid through tax exemptions rather than central bank inflationary financing."

The report sets out some options for short-term income generation (mostly low-rate indirect taxes on imports, exports, and remittances) but does not speculate on how much these might raise. There is of course no central bank or treasury to back the Somali shilling (or to regulate its printing), but it remained remarkably stable between 1991 and 1998. However, major fluctuations occurred from 1999 onwards, when various parties printed new notes[153].

A recent Puntland Development and Research Centre report[154] on public finances in Puntland identified several critical weaknesses in the revenue collection and management systems in Bossaso and Galkayo, which are likely to apply across the board in Somalia. They included:

- Widespread disregard and lack of respect for existing laws, regulations, and financial and accounting procedures.

- A total absence of genuine financial management policy and strategy.
- Limited qualified personnel capable of delivering the services required.
- Unrealistic and often irrational budgeting processes.
- Non-existent reliable financial information systems.
- Inability of auditing and supporting judicial and law enforcement systems to measure accountability and transparency and provide evidence of mismanagement or misappropriation to the House of Representatives and other public bodies.
- Poor coordination of the government's financial institutions, and the high risks incurred in transporting public funds by road (with several robberies in recent years).
- Lack of baseline statistical data on macroeconomic issues and quantitative assessments of potential sources of public revenue.

KEY SECTORS OF PRIVATE ECONOMY

Introduction

In 1990 (when detailed statistical data were last available), agriculture was dominant in the economy, accounting for about 64 percent of total GDP. About 52 percent of agriculture's share was generated by the livestock subsector and about 37 percent by agricultural crops (including fruits). Forestry and fisheries accounted for the remainder (9 percent and 1 percent respectively of agricultural GDP). These shares have changed considerably since 1990, but livestock and crops still dominate[155]. The manufacturing industry contributed only about 5 percent to GDP by the time the Somali state collapsed, despite the contribution of sugar and milk processing plants and the introduction of a modern hide-processing factory in Mogadishu[156]. Paradoxically, the

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153 On the subject of Somalia's unique private money supply, see Mubarak (2003).
154 Puntland Development and Research Centre (2006a).

155 Joint Needs Assessment (2006d).
156 Joint Needs Assessment (2006f).

peculiarities of the Somali economy in the 1980s could be argued to have prepared it relatively well for the statelessness of the 1990s and beyond[157]. While the "formal" economy was (on paper at least) in crisis, the much larger informal or shadow economy was in fact comparatively prosperous, though its results were inequitable. As Vali Jamal demonstrated, the official statistics almost entirely failed to capture the true position on agricultural production, food aid diversion, informal trade, household income, and remittances[158]. Somalia had thriving transnational links of trade and political connection, which continued to function in the absence of the state and were well suited to the conflict economy discussed above in Section 2. As Little notes, "ironically, a 'greater Somalia' based on trade and transport has been achieved, while a 'greater Somalia' political state is now more unrealistic than at any time in the last forty years".

The effects of the pre-civil war situation

The literature on this period identifies several lasting effects of the economic situation by the time of the fall of the Barre regime. Firstly, the "formal" private sector was exceptionally constrained, which partly explains the lack of development within the industrial sector. As Little[159] comments, "The government created an environment where formal commercial transactions were difficult even when they were pursued. Its banking facilities were few and concentrated in a handful of large cities[160]; port and transport infrastructure were poor; communication and postal facilities were limited and inefficient; and bureaucratic approvals for trade and currency transactions were painfully slow and concentrated in Mogadishu."

Secondly, during the 1970s and 1980s the rural economy suffered from long-standing neglect and unfriendly government policies. Mubarak[161] comments that the sector "provided the livelihood of more than 80% of the population, accounted for more than 70% of the labour force, 65% of GDP at factor cost, and 95% of total exports. The pastoral economy, which was the dominant sub-sector considering its contribution to the economy and its vulnerability to recurrent droughts received only about 6% of public expenditure, corresponding to 1.2% of GDP annually during 1974–88. The planning documents of the Somali Ministry of National Planning attached little importance to the livestock sub-sector, which was allocated only a small share of the development expenditure. In addition, the prevalence of an import-biased trade regime eroded the competitiveness of Somalia's livestock exports. Livestock export, which accounted for 80% of total exports in normal years, lost about two-thirds of its market share in Saudi Arabia – its major destination. Crop farming, the second most important sub-sector, also suffered from state marketing agencies and other policies that kept the prices of major food staples artificially low. The inflow of foreign food aid, intended mainly for refugees of war and droughts, found its way to the local markets and depressed producer prices. As a result of these policy outcomes, per capita food production declined and Somalia became increasingly dependent on imported food."

Thirdly, the peculiarities of the system meant that the private sector that did exist developed somewhat idiosyncratic views on "the market" and its relationship with government. As the World Bank Country Economic Memorandum[162] observes, "Under the Siyad Barre government, state contracts were means to huge profits, and all kinds of networking

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157 Leeson (2007) in fact goes as far as arguing (by reference to various development indicators) that Somalia has performed better without a state than it did with one.
158 Jamal (1988).
159 Little (2003).
160 The Somali state controlled the only bank in the country in the 1980s, the Somali Commercial Bank.

161 Mubarak (1997).
162 World Bank (2006a).

tools (from kinship to pure corruption) were used to access decision makers. Decent competition within the market was seen more as a failure for businesses than a normal way to function. Virtually all markets were distorted by oligopolistic practices under the protection of the state. This mentality is still very much present within the private sector, as illustrated by the cartels in the telecommunications, power, and oil products supply sectors and other attempts to quash competition by traders using their political connections. The implication is that many business people might not support a new government if they feel that they do not have easy access and influence over its economic policies and contracts, especially once foreign aid starts flowing."

The 2001 Human Development Report makes a similar point: "Mass embezzlement of state resources, the use of parastatals to reward the kinsmen of the ruling elite and to finance repressive security structures, the regime's hold over foreign aid, and its efforts to eliminate potential market rivals have left a legacy of mistrust among the business class towards any state or government over which they have no control. Public mistrust of state-run public institutions has run deep since the collapse of the Somali Commercial and Savings Bank in 1989 due to pervasive corruption and mismanagement. Consequently, public institutions in the current administrations, which could play a role in the economy at a regulatory level, are perceived by other stakeholders to be threatening."

Current trends and issues

The 2001 Human Development Report provides a helpful summary of the overall position at that time, which is still broadly correct today, not least in relation to the impact of new currency issues:

"The service sector is the most dynamic part of the economy. Money transfer companies and telecommunication companies have expanded throughout Somalia and increased the range of financial services, facilitating the flow of remittances from the diaspora and commercial transactions. These companies, which did not exist a decade ago, are amongst the most powerful businesses in Somalia today. Likewise, the transportation sector continues to expand, with several Somali-owned airlines operating international services. Private education and health care services, hotels and restaurants, and utility companies such as electricity and water are also providing new income-generating and employment opportunities. Progress in the service sector is hindered, however, by the lack of regulation and the incompatibility of some utilities such as telecommunications.

"Commerce has expanded in recent years. Despite the embargo on livestock exports by Gulf States, domestic demand, funded largely by remittances, provides a modest market for foodstuffs, fuel, clothing, and other basic commodities. The main growth in commercial activity has been in the transit trade, with Somalia acting as an entrepôt for goods travelling to markets in the Horn and East Africa. The Berbera corridor handles increasing amounts of container cargo destined for Ethiopia, while in the south a robust transit trade moves consumer goods from Mogadishu's beach ports into Kenya. The absence of credible banking services that can provide a letter of credit remains a severe constraint to trade. The lack of an accountable and responsible authority to execute monetary policy is a threat to economic development and livelihoods. In 2000 and 2001, the import of counterfeit Somali shillings by Somali businessmen triggered hyperinflation. This has severely reduced the purchasing power of the poor, while wealthier Somalis, who operate mainly in a dollarized economy, have been less affected."

In 1999, Bossaso and Berbera exported 2.9 million head of small stock (with a substantial amount of this coming from cross-border trade with Ethiopia), and the two ports together accounted for 95 percent of all goat exports and 52 percent of all sheep exports from the whole of Eastern Africa[163]. However, periodic Middle Eastern livestock bans are a recurrent feature in Somalia and have a considerable impact: The 1983 ban on cattle export due to suspected rinderpest brought the livestock boom of the 1960s and 1970s to an end, and bans (of all Somali livestock imports) were also imposed by Saudi Arabia in 1998 and 2000 out of fear of Rift Valley Fever[164].

As the Joint Needs Assessment productive sectors report[165] notes, livestock production, trade, and marketing – key sources of household incomes and livelihoods in Somalia, providing revenue for public administrations, and contributing to the development of secondary and tertiary sectors – have been threatened by several other factors as well: "Recurrent droughts and floods, degradation of the environment, encroachment of key natural resources by agricultural production, difficult animal movements due to insecurity, and other barriers have weakened the productive natural assets on which mobile animal production is based and impaired coping mechanisms of pastoralists. Inadequate support services and applied research and fluctuating and unfavourable terms of trade have deprived Somali pastoralists and agro-pastoralists of an important source of livelihoods. The absence of sector policies and a regulatory framework, lack of specialized public and private support institutions, dearth of specialized human resources, paucity of reliable data on animal health and production, and the absence of processing capacity to transform and add value to products of animal origin have all contributed to the increasingly reduced

importance, in terms of GDP and households' livelihoods, of the livestock sector in Somalia."

There are also general difficulties in the main agricultural sector. The World Bank[166] comments in relation to the Jubba and Shabelle valleys that after the outbreak of the civil war, "the lack of maintenance of river embankments, water storage structures, and relief channels for flood control; the disrepair of water control barrages and main canals; the silting of the irrigation system; the looting of water pumps and agricultural machinery; the absence of technical expertise; and the displacement of plantation owners and experienced farmers resulted in drastic reduction in the area under controlled irrigation. The war also stopped the collection of hydrological data and reduced the capacity for early flood warning. As much as 85–90 percent of the originally irrigated land is now used for rain-fed agricultural production." In Somaliland, the total area of land under cultivation has roughly halved since the civil wars.

An Academy for Peace and Development report[167] on the "livestock economy" suggests that "the strength of the livestock sector and earning power of local livestock markets in the 1990s, among other factors, encouraged agro-pastoralists to favour animal husbandry over crop production". In addition, it suggests that the provision of relief food to Somali refugee camps in Ethiopia limited the marketability of locally produced sorghum and maize, because returnees had become accustomed to wheat products in displacement and also because rations in Ethiopia are often resold in local markets, thereby pushing down prices.

The Joint Needs Assessment livelihoods report[168] contains considerable detail on individual livelihoods in both rural and urban areas: "Somalia has largely urban-based,

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163 Figures reported in Little (2003).
164 See Holleman (2002) on the impact of these two bans.
165 Joint Needs Assessment (2006d).

166 World Bank (2006a).
167 Academy for Peace and Development (2002c).
168 Joint Needs Assessment (2006f).

market-led opportunities for the production and delivery of new and improved products and services. Women dominate micro- and small-enterprise activities, principally retailing of clothing, staple foodstuffs, hardware, and *qat*, and rural production sales of milk, ghee, vegetables, honey, meat, hides, and skins. Service enterprises by women are mainly teashops and restaurants, beauty salons, cosmetic products, and currency exchange. Most are operated on a self-employed sole trader basis. Most small-scale artisans are severely undercapitalized. Main livelihoods are in the construction industry, carpentry, tailoring and dressmaking, haircutting, masonry, blacksmithing, shoemaking, various repair services, pottery, traditional weaving, and crafts. These livelihoods are dominated by socially disadvantaged groups. The construction industry provides the bulk of employment in the urban service industry. Remittances have supported construction of private houses in major cities and towns. In rural areas in Somaliland and Puntland, large numbers of privately owned *berkads* – large, cement-lined water tanks for collecting rainwater – have also been constructed."

REMITTANCES AND THEIR EFFECTS

The literature on remittances is relatively large and its estimates are somewhat contradictory; its key points for the purposes of this report are summarized below.

Pre-civil war remittances

In the 1980s, "remittances alone are said to have brought in annually about $200 million in imports and cash and subsidized a vast amount of local consumption and investment, especially in urban real estate"[169]. They entered the country either as hard currency or as goods that could be resold or given to family members (the so-called *franco valuta* system,

which was periodically banned by the regime). The difference between the official and "street" exchange rates for the Somali shilling was reportedly as much as 275 percent during the 1980s[170]. Other reports[171] estimated that annual remittances in 1987 were between US$478 and 540 million, mostly from the population of migrant workers in the Gulf (estimated at 375,000 people). The 2001 Human Development Report comments that "their significance grew as part of the emerging parallel economy in the 1980s, when they were estimated to be worth US$370 million annually, 75% of which came from workers in the Gulf countries. This was equal to 13 times the Somali-based national wages bill and partially explains how households at the time were able to survive on basic government salaries that covered only 8% of household expenditure."

Remitters, remittees, and amounts

Ahmed notes the difficulty of accurately reporting remittances, which is due to three main factors: They are transferred in several forms (cash or in kind) and through various channels (*hawala* [money transfer] companies, trusted merchants, or personally through migrants); there is only limited data on global numbers and locations of migrants and refugees; the *hawala* companies often under-report transfers to avoid government interference by way of taxes or regulation or to influence policy (as reportedly occurred when United States Agency for International Development investigated the effects of the 1998 livestock ban); and the flows "show great seasonal variation, usually increasing sharply during droughts and insecurity when normal livelihood sources are disrupted".

Subject to these caveats, Ahmed reported in 2000 (in relation to Somaliland only) that the average annual remittance per household was

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169 Vali Jamal, quoted in Little (2003).

170 Little (2003).
171 Quoted in Ahmed (2000).

US$4,170 (forming 64 percent of household income), with over 120,000 recipient households and an annual overall value of $500 million. He noted that these figures were skewed by certain households receiving very large amounts and that amounts varied considerably among households, in proportion to the level of their dependence on remittances. Transfers often came from multiple remitters but were heavily concentrated in urban areas[172], since rural households depended more on internal remittances from urban workers. The profile of remitters has changed substantially: in the 1980s, they were typically single young men working in the Gulf oil boom states for a defined period and remitting the majority of their income; in the 1990s, whole families had permanently emigrated to the West but were able to remit less.

Lindley[173] lists various estimates of the remittance flows, noting that "the general consensus is that it represents US$500 million to 1 billion per year", with estimates for Somaliland ranging from US$150 million to 500 million. Her detailed study of remittances to Hargeisa[174] estimated that average household remittance receipts were US$2,600 per year and found that women with children were the most common recipients. Menkhaus[175] notes that one study calculates that remittances constitute nearly 40 percent of the income of urban households in the northern towns of Hargeisa, Burao, and Bossaso.[176] He comments that remittances to southern Somalia are less well documented: "Mogadishu is unquestionably the largest recipient of remittances; it probably accrues a similar level of remittances as does Somaliland. In the town of Beletweyne, with a population

of about 50,000, an estimated US$200,000 per month is received in remittances, for a monthly average of US$4 per town-dweller." The 2002 socio-economic survey[177] estimated household income from remittances to be around US$360 million, forming 22.5 percent of household income.

The 2001 Human Development Report suggests that most remittances "fall in the range of US$50–200 per month and service an extended household. The flow of remittances remains fairly regular, but increases in times of economic stress, during droughts or in response to inter-clan warfare. In 1998, for example, remittances offset the impact of the livestock export ban. The volume of imports did not decline as remittances financed the import bill." It also noted that "the rural poor and the internally displaced from groups who have fewer relatives abroad receive fewer remittances and are less well served by telecommunications. In Hargeisa and Bossaso, there is clear evidence of significant differential access to remittances between urban residents and displaced populations and economic migrants from southern Somalia."

Medani[178] comments that following the collapse of the Somali state, "every 'family' unit has come to encompass three or more interdependent households. In addition to assisting poorer urban relatives, a large proportion of urban residents support rural kin on a regular basis. While only two to five percent of rural Somalis receive remittances directly from overseas, Somalia's nomadic population still depends on these capital inflows. In northern Somalia, for example, 46% of urban households support relations in pastoralist areas with monthly contributions in the range of US$10 to $100 a month; of these 46%, as many as 40% are households which depend on remittances from relatives living abroad." Gundel[179]

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172 Up to 35 percent of recipients reported receiving money from two to eight different migrants. Only 5 percent of rural households received money transfers from abroad.
173 Lindley (2005). Her study also gives general details of the workings of the various remittance systems.
174 Lindley (2006).
175 Menkhaus (2001).
176 Khalid Medani, "Report on Migration and Remittance Inflows: Northwest and Northeast Somalia." Nairobi: UNCU and FSAU, 2000. The author has not been able to obtain a copy of this report.

177 World Bank and UNDP (2002).
178 Medani (2002).
179 Gundel (2002).

highlights the fact that there is very little study of or evidence for remittances to or by the "minorities" (Rahanweyn, Bantu, Bajuni, and others).

Uses and effects of remittances

Ahmed reports that most were used for immediate consumption (which in fact fuelled the market for imported consumer goods and has been described as the "Dubai syndrome") but that up to 15 percent of recipients used the money for investing in land or houses or in business opportunities[180]. Ahmed comments that remittances also to some extent increased income inequality, since the migrants often came from families that could afford the costs of sending someone abroad, and had similar effects to "Dutch disease" (where one economic sector, often resource related, booms at the expense of other sectors) in terms of pushing up wages and other costs.

Lindley suggests that remittances have contributed to the "dollarization" of the Somali economy but believes that their use for investment in property or other opportunities was fairly limited. However, FEWS-Net's 2003 household economy survey in Hargeisa[181] suggests that "almost one-third of the amount remitted every month is channelled towards investment in the construction industry and related business activities, and the remaining two-thirds contributes to the livelihoods of more than a quarter of households in Hargeisa directly". (It is possible that some authors are treating "remittances" as only the money remitted to households and others are looking at all monies transferred through the *hawala* companies, which would include funds going straight to businesses. The socio-economic survey[182] estimates the total transfer of remittances handled by Somali remittance companies at about US$700 to 800 million per year: "Only part of this goes as household income directly. Other transfers include normal business transactions, money sent to Somalis in neighbouring states, etc.".)

The 2001 Human Development Report states that remittances "both reflect and serve to increase the economic differentiation in society. For historical, social and political reasons, remittances are more common in urban rather than rural areas and the main beneficiaries of remittances tend to be urban households with educated and skilled members in the diaspora. Due to a history of better access to education, political privilege, or accident of geography, some social groups and clans [particularly the Isaaq, according to some sources[183]] have a higher percentage of their members in the diaspora than others." The report also observes that while remittances are important for livelihoods, "they are also used to pay for the massive importation bill for *qat*. No reliable figures exist on the outflows of hard currency to purchase *qat*, but conservative estimates put the amount at US$50 million per annum, while others suggest it could be US$250 million per annum or higher[184]."

SECTION 5: DISPLACEMENT PATTERNS AND PROTECTION ISSUES

As explained in the introduction (see Part B), this report does not deal in detail with existing programming and policies in relation to shelter provision and "durable solutions" for IDPs and returned refugees. The author was commissioned to produce separate technical reports on some aspects of these matters.

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180 Bradbury (2008) suggests that profits made in the booming property market of the early 2000s in the United Kingdom, which has a fairly large Somaliland diaspora population, may have enabled remitters to invest more heavily in Somaliland property.
181 FEWS-Net (2003).
182 World Bank and UNDP (2002).

183 See Hansen (2004) on historic patterns of outmigration from Somaliland, beginning with the merchant navy.
184 The Hargeisa statistical abstract (Municipality of Hargeisa [2003]) records that 8 million kilograms of qat were imported to Hargeisa in 2002, on which the municipality charged around US$135,000 in tax. Hansen (2004) estimates that Somaliland alone spends US$100 million on qat per year.

OVERALL PATTERNS AND PHASING OF DISPLACEMENT

Prior to 1991, Somalia hosted one of the largest refugee populations in Africa, with one in six residents of Somalia in 1987 registered as a refugee[185]. Although detailed official records of internal displacement were not kept before 1991, there was also a substantial continuing population of IDPs. For full details on the displacement caused by the 1974–1975 drought and the 1977 Ogaden War, see Section 1 of Part D[186]. Curiously, there is little detail on what happened to the Ogaden War refugees in the 1990s, after the slide towards civil war overtook a planned repatriation exercise in 1988; it seems likely that many joined the general flight of Darod and Marehan who were tarred with government associations[187], particularly as some of the Ogadeni refugee settlers in the north were armed by the Barre regime and sent to attack the Somali National Movement rebels[188].

There was also a strong pattern of urban migration: In the 1980s, Somalia's rate of urban migration was estimated at 6.5 percent, one of the highest in Africa[189]. The civil wars saw a short-term reversal of this as people fled fighting in the major southern urban centres to return to areas from which their clans came, typically small regional towns (such as Beletweyne, Galkayo, and Baidoa) and rural villages, as well as the safer northern urban areas such as Bossaso and Hargeisa, which also possessed a concentration of businesses and development agencies. In the north, the 1988 fighting saw one of the largest and fastest displacements in Africa, with 600,000 refugees fleeing to Ethiopia's Region 5; on their return to what became Somaliland, most (62 percent) chose to settle in Hargeisa[190]. There were also substantial displacements in the north following the Somali National Movement's victory in 1991, with around 125,000 non-Isaaq clan members fleeing to Ethiopia, and during the fighting in 1994 over control of Hargeisa airport and other issues, with 180,000 being displaced to Ethiopia[191].

Section 1 of Part D summarizes some of the key movements during the fighting in the first half of the 1990s; while the later 1990s and early 2000s saw overall trends of return, the huge displacement from 2005 onwards in south central Somalia has substantially reversed that. IDPs and returnees are among the most vulnerable groups in Somali society. Even in 2001, when the IDP population was estimated at around 300,000, the Human Development Report noted that the majority are from "the poorest rural families or minority groups and live on the peripheries of the urban centres. Bereft of assets and with limited access to stable employment, their access to education, health and other services is restricted by an inability to pay user fees."

As noted below, the displacement numbers are very unclear and not entirely reliable. UNHCR's overall historical statistics for its "population of concern" can be found in its 2005 statistical yearbook; the position on Somali refugees within the region as at November 2007 is shown in Figure 10. The very approximate numbers and locations of the current IDP population (as at February 2008) are shown in Figure 11.

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185 UNDP (2001), quoting a 1987 UNICEF report.
186 Kibreab (1993) is an important discussion of the long-term dynamics of the Ogaden War camps, with analysis that is still relevant to displacement in and out of Somalia today. See also Brons (2001), Ciabarri (2008) and, on the pitfalls of "resettling" the Ogaden refugees and pastoralists generally, a similarly relevant article by Schraeder (1986).
187 See Gundel (2002).
188 The 1988–1991 civil war in the north was very bloody – see Ahmed and Green (1999). Gersony (1989) is a report for the US State Department's refugee programme containing detailed accounts of violence by all sides.
189 UNDP (2001), quoting a 1987 UNICEF report.

190 See Ambroso (2002) for a detailed and useful discussion of the camps in Ethiopia, their social dynamics, and the mechanics of the return processes, as well as Brons (2001), who carried out fieldwork there in 1991. Again, much remains relevant today.
191 Bradbury (2008).

Figure 10: Map of Somali refugee populations in adjoining countries

RECENT PROFILING INFORMATION

Profiling of displaced people in Somalia has always been highly problematic. The literature from the 1970s and 1980s notes the frequent euphemistic descriptions of Somali displaced as a "difficult" caseload because of their propensity for and skill at "working the system" to extract as much assistance as possible. It was for example common for households to register all family members at a site or camp and then leave women and children there to enjoy access to rations, healthcare, and education while adult men returned home to work their farms, find employment, or even take part in the fighting.

Then, as now, the respective governments had every incentive to maximize the recorded numbers so as to ensure as much foreign aid (particularly food) as possible. There are vivid descriptions[192] of chaotic scenes as UNHCR sought to revalidate numbers while the displaced (with government connivance) evaded the controls put in place. Ambroso[193] for example notes that probably only around 40 percent of the registered refugees in Ethiopia from the 1988 attacks on Hargeisa were actually "there" when it came to repatriation, with the remainder crossing and recrossing the porous border to maximize their livelihood opportunities. Both in the 1990s and today, observers have noted that gatekeepers or "black cats" have sometimes controlled, moved, or even "created" displaced communities to benefit from aid diversion.

The general caveats about gathering data of any sort in Somalia (as noted in Section 1 above) apply with particular force to IDP numbers, descriptions of needs and problems, and reported preferences for particular durable solutions; a huge amount depends on who asks the questions and the context in which they are asked. In addition, it is very difficult to distinguish (in relation to both data gathering and provision of assistance) between refugee returnees, IDP returnees, urban poor, economic migrants, and pastoralists who moved into urban centres following droughts or other disasters that led to loss of livestock. More recently, security constraints have of course been a major issue in terms of access to displaced populations in south central Somalia. With these considerable limitations in mind, this section will summarize the results of all known IDP profiling from 2002 onwards[194], in terms of reported land issues and related protection concerns.

July 2002 report on Somalia IDPs by UNCU/OCHA[195]: This contained no questions on land issues. IDPs and returnees in Hargeisa and Bossaso were working mostly as unskilled labour or in "petty trades", with very little access to remittances. There was much less access for southern IDPs to the economic sector in Burao due to exclusion by local clan networks. The report contained general comment but no statistical data for other areas.

January 2005 report on IDPs/returnees in State House Park, Hargeisa by Dareen (for Norwegian Refugee Council)[196]: Casual trading and day labour were key livelihoods. Ninety-seven percent would return to their places of origin (which seemed to be mostly round Hargeisa) if their economic situation improved. Ninety-seven percent obtained water from municipal kiosks; only 31 percent had (very basic) toilets, and it was estimated that roughly 40 families shared each toilet.

May 2005 assessment of IDPs/returnees in Bossaso by Somali Women's Reunification Union (for UNDP)[197]: Predominant places

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192 See Kibreab (1993) and (2004), who argues that the so-called "dependency syndrome" among Somali refugees was a misunderstanding of a much more complex situation; see also Ciabarri (2008).
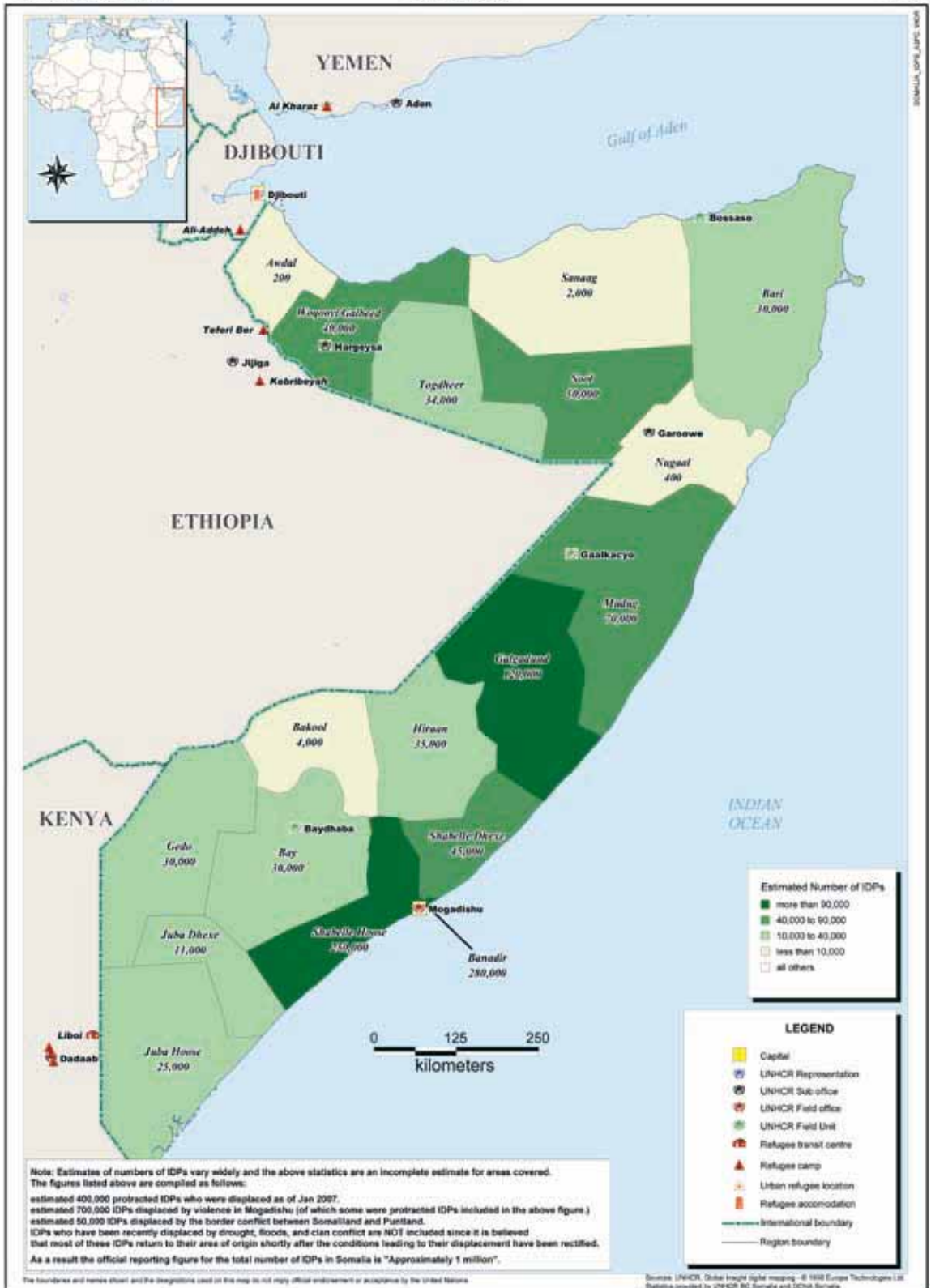193 Ambroso (2002).

194 See also UNHCR (2007a), the "lessons learned" document from UNHCR's 2007 profiling in Galkayo.
195 UNCU and OCHA (2002).
196 Norwegian Refugee Council (2005).
197 UNDP (2005a).

Figure 11: Map of IDPs in Somalia

of origin were Mogadishu (30 percent), Ethiopia[198] (28 percent), and Bay (16 percent); 24 percent were Rahanweyn and 48 percent were "the socially poor and marginalized groups from the minority clans". Sixty-seven percent obtained water from vendors, which was reportedly "contaminated", as was the well water (18 percent); 76 percent had no latrine. Ninety percent had no fixed assets (land, houses, or farms) before the war. In terms of rent for their shelters, 5 percent paid nothing, 28 percent paid up to 30,000 shillings per month, and 62 percent paid 30,000 to 60,000 shillings. Fifty percent had been displaced for economic or financial reasons and 32 percent due to armed conflict.

June 2005 assessment of "vulnerable populations" in Garowe by Guardian (for UNDP)[199]: Darod (36 percent), Rahanweyn (29 percent), and "Jareer" (28 percent) clans formed the substantial majority of the population, which had come largely (49 percent) from Mogadishu. Sixteen percent had no shelter at all, and 75 percent of households had no access to sanitation. Seventy-nine percent lived on private land and 20 percent in public buildings; only 8 percent paid no rent, which would suggest that someone was receiving money to allow people to stay in public buildings. Before the war, 50 percent had owned farmland and 39 percent had owned houses. Thirty-seven percent had moved due to natural disasters, with 5 percent moving for economic reasons and 13 percent for "basic needs"; the balance had moved due to the conflict or for protection.

June 2005 refugee returnee monitoring in Puntland by UNHCR[200]: Only a "very small percentage" had actually returned to their pre-war places of origin (most had lived in the

Benadir region). Forty-two percent bought water from vendors, and 32 percent had no access to toilets. Eighty-two percent had not owned property before going abroad, and of those that had owned property, 95 percent had not been able to retrieve it, mostly due to "looting". A majority had lived in stone or brick houses before the war but were now in "bush" (i.e. makeshift) shelters.

May 2007 IDP profiling by Danish Refugee Council (for UNHCR)[201]: This recent and relatively detailed exercise was done in a standard format across several locations, and the same data will be summarized for each one. There were a number of regional peculiarities (e.g. in Burao), and the full reports should be consulted for details.

Average household size
Baidoa: 6.9 persons, using 2.12 housing units.
Bossaso: 5.3 persons, using 1.32 housing units.
Burao: 7.4 persons, using 1.76 housing units.
Galkayo: 7 persons, using 1.1 housing units.
Mogadishu: 6.9 persons using 2.07 housing units.

Percentage paying rent
Baidoa: 3% paid rent.
Bossaso: 56% paid rent.
Burao: 25% paid rent.
Galkayo: 66% paid rent.
Mogadishu: Land questions too sensitive.

Owner of land lived on by IDPs
Baidoa: 77% lived on government land, with 19% on municipality land; only 2% reported problems with landlords (5% reported eviction threats). but 28% gave no answer.
Bossaso: 93% lived on private land; only 1% reported difficulties and 0.8% eviction.
Burao: 74% lived on their own land; 2% reported difficulties and 3% eviction.
Galkayo: 72% lived on private land and 20% lived on their own land; 1% reported

198 Bossaso is a key route for "mixed migration" flows to Yemen and has a very mixed population of migrants, displaced persons, and asylum seekers, including a fair number of Oromos and Ogadeni from Ethiopia.
199 UNDP (2005b).
200 UNHCR (2005a).

201 UNHCR and Danish Refugee Council (2007).

difficulties and 3% eviction.
Mogadishu: Land questions too sensitive, but 4.8% reported eviction.

Predominant clan makeup[202]
Baidoa: 40% were Rahanweyn.
Bossaso: 42 different clan affiliations given, including "Jareer" and Rahanweyn (16% each).
Burao: 86% were Isaaq.
Galkayo: 35 different affiliations given, including "Jareer" and Hawiye (18% and 25%).
Mogadishu: 39% were Hawiye and 22 % were Rahanweyn.

Predominant place of origin
Baidoa: 59% came from Bay.
Bossaso: 24% came from Benadir.
Burao: 80% came from Togdheer.
Galkayo: 39% came from Benadir.
Mogadishu: 28% came from Bay.

Reasons for flight[203]
Baidoa: 50% fled due to violence, 26% due to floods or drought, and 22% due to "eviction and relocation".
Bossaso: 44% fled due to conflict or violence and 54% due to flood, drought, or economic reasons.
Burao: 91% fled due to violence.
Galkayo: 67% fled due to violence and 32% due to drought, floods, or poverty.
Mogadishu: 58% fled due to violence and 41% due to drought or floods.

Previous and current employment
Baidoa: 33% had worked the land and 27% owned livestock; now 62% had "casual employment".
Bossaso: 43% had worked the land and 14% owned livestock; now 65% carried out "market activities".

Burao: 49% had depended on casual employment and 18% owned livestock; now 36% were in casual employment and 20% in "small-scale trade".
Galkayo: 24% had worked the land and 18% owned livestock; now 66% had casual employment.
Mogadishu: 42% had worked the land and 32% owned livestock; now 76% had casual employment.

Ownership of land or houses in their place of origin
Baidoa: 51% had owned property.
Bossaso: 59% had owned property.
Burao: 24% had owned property.
Galkayo: 44% had owned property.
Mogadishu: 58% had owned property.

System to which legal issues over reclaiming their land would be referred
Baidoa: 77% would refer to the customary system and 21% to sharia courts, with only 7% referring to secular courts.
Bossaso: 59% customary system, 38% sharia, 2% secular courts.
Burao: 36% customary system, 20% sharia, 37% secular courts.
Galkayo: 83% customary system, 43% sharia, 4% secular courts.
Mogadishu: 97% customary system.

June 2007 visual assessment of Mogadishu IDP sites by SAACID (for UNHCR)[204]: Twenty-eight percent of settlements were in privately owned buildings, and 31 percent were in public buildings (see Figure 12). Twenty-nine percent were made of "makeshift plastic". Since an assessment in January 2007, latrine conditions had worsened in 74 percent of settlements, and shelter conditions had worsened in 50 percent.

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202 As the reports note, this is a highly problematic question to ask Somalis and answers should be interpreted accordingly.
203 The reports note that multiple and or overlapping answers were often given.

204 UNHCR (2007b). SAACID also carried out a large number of focus group interviews and interviewed "key local leader informants"; both reports provide more detail on property matters but do not contain relevant statistics.

Figure 12: Map showing Mogadishu public buildings occupied by IDPs
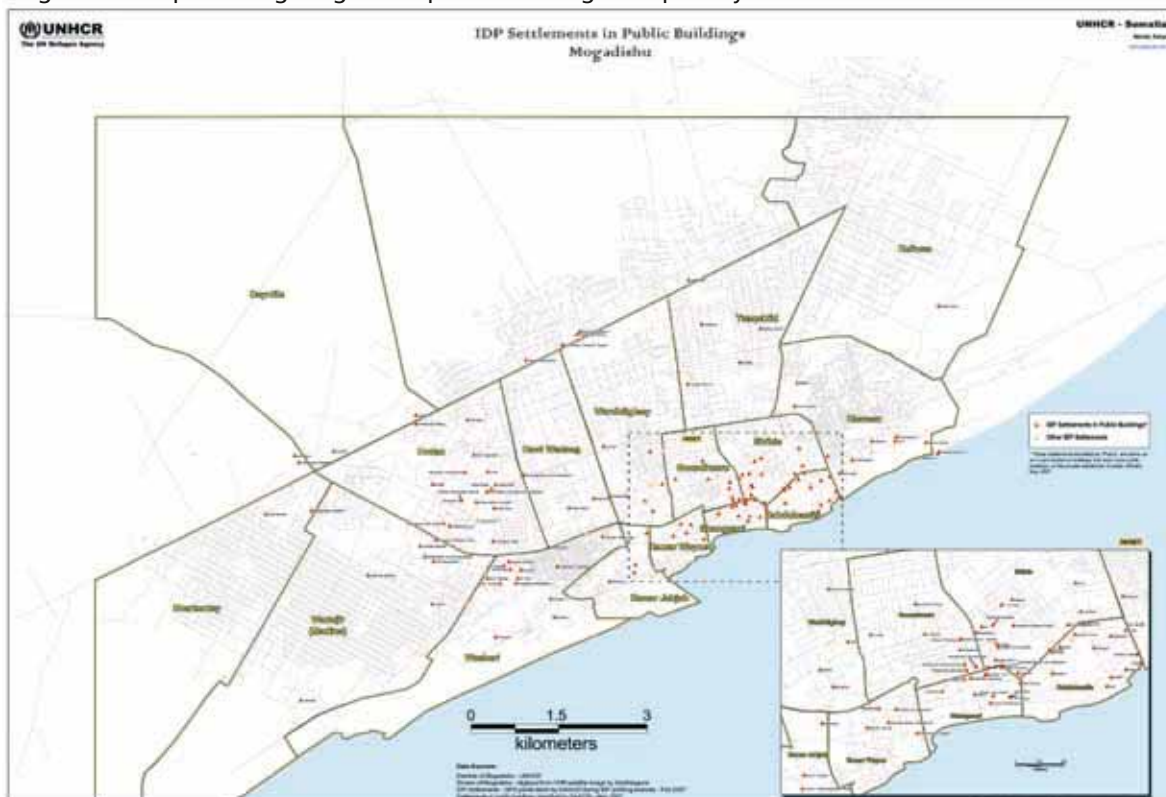
LIVELIHOOD SECURITY AND HOUSEHOLD VULNERABILITY

In Somalia, the recurring high levels of need arise both from fluctuating conditions of acute humanitarian crisis (whether man-made or caused by natural disaster) and from long-term structural causes of poverty. The 2001 Human Development Report notes "certain key economic factors" that "sustain high malnutrition rates and the chronically poor socio-economic indicators across the country", which include:

- Lack of infrastructure and social services
- Depletion of household assets
- Lack of labour opportunities
- Limited benefits to the poor from economic growth
- Lack of macroeconomic management
- Dependency on a single export market

The report continues: "Among northern pastoralists, the main threats to livelihood security are long-term trends in the commercialization of livestock production and environmental change. The expansion of the livestock trade since colonial times and the commercialization of livestock production have involved a historic decline in semi-subsistence production, which has affected herd investment strategies, land use patterns, intra-group relations and the environment. Fluctuating environmental and market conditions make it essential for poor Somali households to be able to capitalize on temporary improvements in food security conditions in order to rebuild their asset bases. Current conditions, however, make this difficult, as one of the effects of the war has been to entrench differential access to assets such as land."

Household surveys suggest that the poorest 30 percent of the population receives only 7.8 percent of the total income generated in Somalia, whereas the richest 10 percent of the population receives 35.6 percent of the total income[205]: "Current economic development programmes operate on an assumption that increased private sector activity will lead to poverty reduction. However, wealth accumulation by merchant classes does not necessarily 'trickle down' to benefit the poor in any substantial manner. On the contrary, vulnerability is sustained by decades of economic stratification, devastated household asset bases, a lack of basic social services, and the alienation of producers from the country's productive resource base. In order to prevent recurrent emergency needs and to sustain human development, these underlying structural factors need to be addressed." Surveys of urban household economies have been carried out in Hargeisa and Mogadishu and provide useful information on wealth breakdowns, income sources, expenditure patterns, and potential shocks[206].

Le Sage and Majid have produced a key article[207] on the "livelihoods gap" and the economic dynamics of vulnerability in Somalia. They comment that good rainfall and harvest production "do not enable the poorest and most destitute populations to improve their situation given their almost total lack of ownership of productive assets (land, animals, labour, and cash). Gains made by those vulnerable populations that are slightly better off are consumed by the repayment of debt or the inevitable recurrence of drought and flood conditions. Such new stresses re-exhaust asset bases that Somalis are able to accumulate during good times and the seasonal cycle of 'boom and bust' continues. Power struggles between [the] elites enflame competition for

resources and survival, which in turn guarantees a minimum level of support for the militias. In this struggle no groups or individuals can claim outright victory. In fact many appear content with the functional status quo of competition. Yet large numbers of outright losers are produced. People's livelihoods collapse and their vulnerability rises as a result of increasing powerlessness in the face of political and criminal violence, lack of access to productive resources and biased and unstable markets." They provide a detailed analysis of factors that undermine the key livelihood groups and the strategies that sustain them and suggest ways of improving household income and rebuilding asset bases.

DIFFICULTIES OF HUMANITARIAN ASSISTANCE

Narbeth and McLean's paper[208] on assistance to vulnerable IDPs in Kismayo is another key study, which emphasizes the importance of integrating livelihoods and protection together: "The incentive of humanitarian assistance provides an opportunity to put across more assertively the need for protection for vulnerable groups and to improve the protective environment. But how does the international community work with or around entrenched socio-ethnic divisions to ensure that aid resources most benefit those targeted?" They go on to summarize many of the pitfalls of providing humanitarian or longer-term development assistance in Somalia, such as the "aid gatekeepers" who position themselves prior to the delivery of assistance to the camps to take advantage of potentially valuable resources[209].

Although such aid diversion appears criminal to non-Somalis, the authors note that it is

205 World Bank and UNDP (2002).
206 FEWS-Net (2003) is a detailed survey, while Marchal (2002) contains only a "tentative household survey".
207 Le Sage and Majid (2002).
208 Narbeth and McLean (2003). See also the thought provoking "background paper" on humanitarian needs assessments and resources in Somalia by Bradbury et al. (2003).
209 One of their interviewees suggested that the gatekeepers took as much as 75 percent of the aid delivered to the camps.

relatively common for members of weak clans to seek protection from a strong one[210], which may be through *sheegad* (adoption and client status) or through gatekeeping. Even though living conditions were extremely poor, many of the displaced felt safer as part of a group in a camp, with a Marehan gatekeeper who provided "protection" and received a portion of the assistance packages allocated to the displaced in lieu of "rent"[211].

The two authors note that aid resources can be a source of dispute, destabilizing an already fragile environment and reinforcing the existing socio-ethnic divisions and patterns of power. In addition, the involvement of an international NGO with a local power structure may serve as reinforcement or legitimatization of their claim of authority in the wider Somali political arena. The international community is then no longer perceived to be neutral in its engagement in the region, especially if assistance is concentrated in one area to the exclusion of other clans and clan areas. They argue that to counter this, "a much more transparent and inclusive approach to engagement in the region, not just in Kismayo, is required. All clan parties in the region, *guri* and *galti* [resident and incomer[212]], must be approached and brought into negotiations on the provision of assistance. This is a much higher tier of engagement than that normally considered in Somalia (where negotiations are held with local authorities only)."

They suggest that the international aid community in Somalia falls somewhere between operational pragmatism and a principled approach ("principled pragmatism"): "The bottom line below which agencies suspend activities or withdraw is rarely defined, and the

negative impacts of aid are rarely monitored. Consequently, the boundaries of operational pragmatism continually shift. Although this lack of clarity and consistency allows the international community to continue working in contested environments, this comes at a cost: It allows those seeking to manipulate the resources of aid to operate between these fuzzy boundaries." They argue that international assistance must be sensitive to multi-clan topography, which means "thinking multi-clan" at several levels:

- Agencies have a responsibility to ensure that, in the hiring of national staff, vehicles, and security guards, clan affiliation is taken into consideration. For example, the hiring of vehicles from only one clan in a multi-clan environment will exacerbate underlying clan tensions, increase the competition for resources, and reinforce existing power and wealth structures within the community. Lack of sensitivity has led to threats of violence against national and international staff.
- Agencies should take care to determine clan "boundaries" in geographic terms and in terms of the clan make-up of, for example, administrations, local NGOs, and community-based organizations to inform initial access negotiations and in the provision of assistance.
- Multi-clan projects should be considered, following the example of several private enterprises in Kismayo (e.g. in the telecommunications and remittance sector), which have proven less prone to looting during conflict, as the interests of several clans are affected.

The World Bank conflict analysis[213] contains some very relevant advice on "conflict-sensitive assistance", along with a checklist of operational issues to consider. These are set out below as Figure 13.

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210 The report cites the Somali proverb *ama buur ahaw ama mid ku-tiirsanaw* ("either be a mountain or lean on one").
211 They also noted that some economic migrants possibly saw living in a camp as low-cost housing, since rents for a wooden shack were reportedly around 40–60,000 Somali shillings per month, and a room in a stone house would cost 100,000 Somali shillings per month.
212 Refer to page 84 of Part D on the *guri* and *galti* concept.

213 World Bank (2005c).

Figure 13: Operational issues to consider in programme design and implementation

a. **Where is the project located?** Examine the chief conflicts prevalent in the area of the project. This will provide the sociopolitical context and highlight the potential tensions that may arise. The teams should also be cognizant that the conflicts could influence the outcome of the project.

b. **Who are the main beneficiaries or target groups** of the project? The teams should take special care to understand the clan basis of the groups.

c. **What are the relationships among the main target groups?** Here it may be useful to examine current relationships as well as a brief history of the relationships.

d. **Who are the main stakeholder groups in the area?** What is their relationship with the target groups of the project? In what ways, if any, would the project create or increase differential access to opportunities within and between target and stakeholder groups?

e. **What are perceived as wins and losses arising from the project?** Is it perceived as a zero-sum outcome by certain groups? Will it create competition within target groups and between target groups and others?

f. **How will the project affect traditional power structures?** How will it affect traditional authority and decision making? How does it threaten the vested interests of certain groups who are not the beneficiaries of the project?

g. **Does the project contribute to collaboration among groups?** How will it serve to be a bridge between groups? How will it lead to cooperation and reduction of tensions?

h. **How can local conflict management institutions and processes serve as constructive influences?**

i. If the project creates unnecessary tensions, **what kind of contingency plans have been designed**? What kind of explicit mechanisms have been put in place to address the conflict dimensions that may arise during project implementation?

j. **How is the client staff represented in the project?** Is it representative of the groups affected by the project, or does it go beyond directly affected groups?

k. **Who makes decisions on issues** such as staffing, allocation of funds, and project resources? How may these decisions affect relations among groups?

l. **Who makes decisions on contracts**, including the choice of contractors and resources such as building materials, cement, gravel, and so on?

In a 2003 "situation analysis and trend assessment" for UNHCR[214], Menkhaus summarises the practical difficulties of running assistance programmes in the complex and volatile environment of Somalia from country offices based in Nairobi; his comments (which are borne out by the author's interviews with field based agency staff) are worth repeating here, as they help to explain the limitations of the international response to Somalia. He notes that Nairobi-based "international and local staff, including Somali nationals, are isolated from day-to-day life and contacts with Somalis in the country", and that they have only "limited opportunities to make short field site visits":

"This can create serious problems related to adequate understanding of and information about Somalia, and can in some pathological cases produce a situation in which Somalia can appear incidental to internal Nairobi office politics. This phenomenon has produced an acute 'field versus headquarters' tension in almost every aid agency working in Somalia.

214 Menkhaus (2003b). See also the jaundiced but substantially accurate report on Somalia development aid by Hashi (2005), which contains some important commentary on local perceptions of agencies and their practices.

Finally, the concentration of decision-making power in Nairobi makes it even harder to increase the Somali voice in and ownership of relief and rehabilitation policies affecting their communities. At the field level, a different set of challenges exist. As security for international aid agency personnel has worsened since the mid-1990s, agencies have responded by dramatically reducing international staff and relying primarily on national staff to run field operations. Ensuring the security of international and national staff has become a much more difficult and more expensive proposition[215].

"The physical isolation of international field staff, combined with the chronic insecurity and difficult work environment, has led to very high turnover rates and resulting low institutional memory for all but a few fortunate agencies. For national staff, the increased responsibilities

also increase local pressure on them to provide employment or contracts, and have in a number of instances resulted in threats, assaults, and deaths of national staff. Field offices also face the unenviable task of operating in a context of state collapse, where much energy must be devoted to managing relations with a range of non-state actors, some constructive partners and other predators. The lack of a national government deprives aid agencies of the coordinating body that a functioning ministry would typically provide, and increases the difficulty of maximizing local ownership of policies and projects. In addition, the complex and insecure operating environment in most of southern Somalia and to a lesser extent in Puntland and Somaliland invariably yields a much higher project failure rate than most agencies and donors are comfortable with. This makes agencies less willing to share experiences and lessons learned, and more distrustful of one another. It also makes a posting to Somalia a less attractive career option for aid personnel."

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215 For a recent and detailed report on security challenges, agency policy, and operational implications, see Gundel (2006b).

PART D: HOUSING, LAND, AND PROPERTY IN SOMALIA

SECTION 1: CHANGING PATTERNS OF RURAL LAND OWNERSHIP

INTRODUCTION

The key text for an understanding of the importance and relevance of land in southern Somalia is undoubtedly the collection of studies edited by Catherine Besteman and Lee Cassanelli[216] and this report will quote or summarize its conclusions in some detail. As the title indicates ("The Struggle for Land in Southern Somalia: The War behind the War"), they argue convincingly that competition for land and other rural resources was a key cause

of the civil wars[217]. As Cassanelli comments in the 2003 preface, the case studies show "how politics at many levels – local, regional and national – were closely tied up with land allocation and use. They illustrate how Siyad used land legislation as part of a strategy to consolidate the regime's control over the countryside, and how many of the 'warlords' who emerged in the post-Siyad years engaged

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216 Besteman and Cassanelli (2003) – the book was first published in 1996 and reprinted with a new preface in 2003.

217 It should perhaps be noted that the first external commentator to highlight the issue and significance of land grabbing through 1980s registrations and subsequently by militias in the civil war was Alex de Waal in de Waal (1993b), a report based on interviews in the riverine valleys in 1992–1993, which was first published by African Rights.

Figure 14: Map showing humanitarian agency access
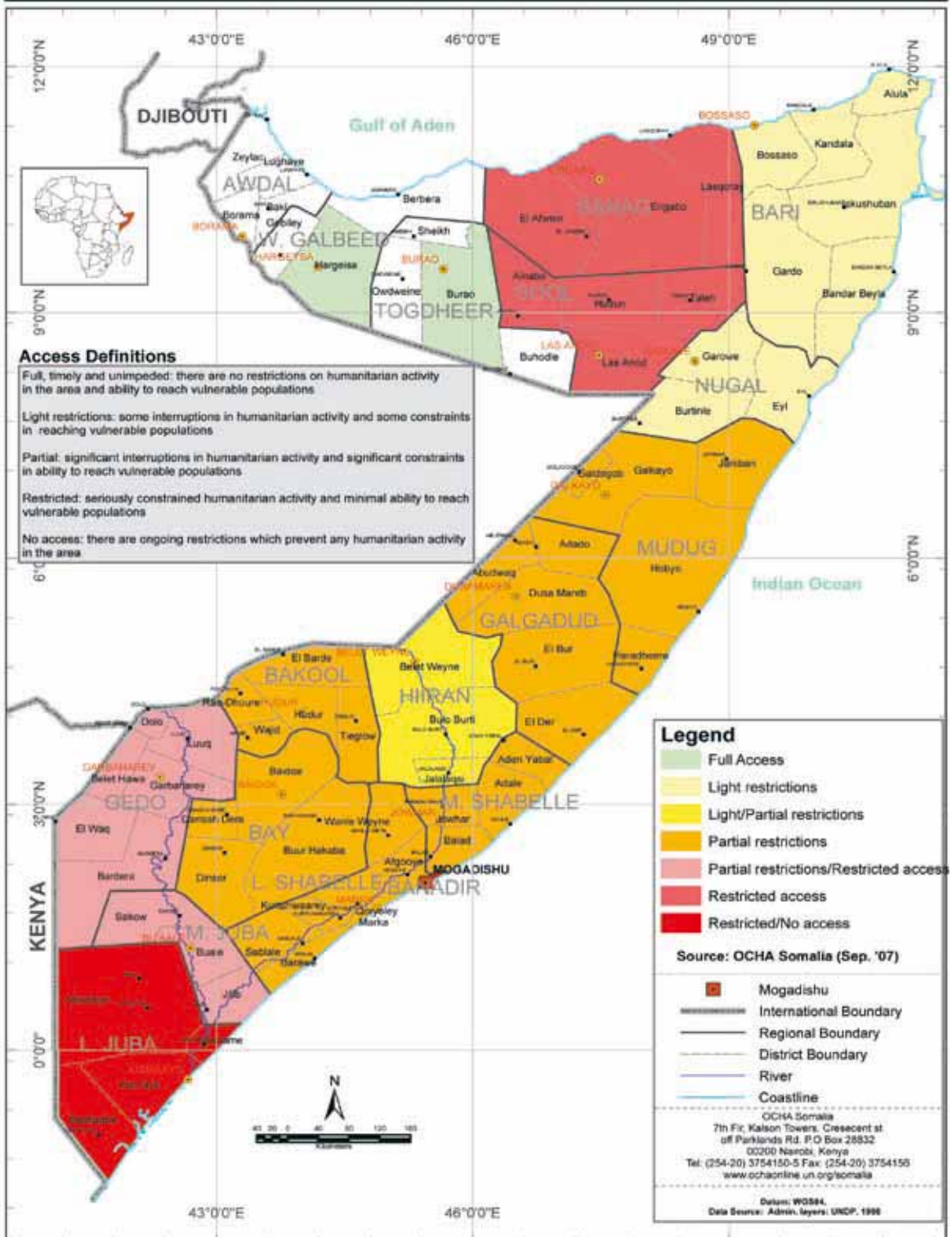
in rural land grabbing as a way of building up their own regional power."

The 1975 Land Law had a huge impact on smallholder agriculture: "By eradicating the legitimacy of customary land tenure and making state leasehold title the only legal method of claiming land rights, the law tipped the balance of tenure claims in favour of those with privileged access to the mechanisms of registration. The new legislation transformed complex systems of land tenure and use rights that had been worked out, often over several generations, to manage local land, livestock and food resources[218]." As Cassanelli[219] notes, "Apart from the local consequences of land registration, the promise of future profits for titleholders led those in power to tighten their hold over ministries and agencies associated with land registration and development."

The same dynamic of course continues today, along with attempts to establish "facts on the ground" that would support future land claims, by de facto occupation of valuable land and other forms of fixed assets, such as urban real estate, trading and fishing cooperatives, seaports, and airports. For detailed discussion on the complex, fluid, and highly contentious historic patterns of landholding (and land conquest) within and between regions in the south, the important and very detailed UNDOS governance studies are highly recommended, although unfortunately they appear to be very difficult to find.

This section concentrates on developments in southern Somalia, partly because they have the greatest relevance to the ongoing civil wars in the south and partly because much less is known about developments in northern Somalia in the period before the civil wars. The Barre regime had fairly systematically neglected the northern areas in terms of agricultural development and investment, which also meant

that there were far fewer foreign consultants monitoring programmes there and reporting what they found. Similarly, the centralization of decision making and land administration structures in Mogadishu (and the state's more limited powers of law enforcement in northern areas) seems to have restricted the practical application of government policies in the north. In addition, because the fighting in the north ended relatively quickly, there was much less large-scale land theft. Paradoxically, while we know a fair amount about the position in the south in the 1980s, we have much less systematic knowledge of the current situation there, mostly because of the endemic conflict and lawlessness. It seems likely that many of the traditional agricultural practices and customary land tenure systems outlined below have persisted (not least because much of the modern agricultural infrastructure has fallen into disrepair and formal governance is very limited), but we do not know in detail how the civil wars and the major changes in control over land have affected them.

CLANS AND LAND

Before looking at the historical background, it is worth examining the nature of the links between particular clans and particular areas of land, which is often a highly charged, contentious, and political issue involving rival "historical" narratives. In a rather densely argued article[220], Barnes suggests that there are two rival scholarly paradigms in Somali studies: "territorial discourses" (i.e. Besteman's argument that the war and the collapse of the state were related to resource conflict and factors of class and race) and "genealogical discourses" (i.e. Lewis's view that the collapse was basically the operation of segmentary clan politics on a national stage). He argues that the Somali phrase "*u dhashay – ku dhashay*" ("born *to* a family/clan" versus "born *in* a place/region") reflects the tension between the two

218 Besteman and Cassanelli (1996).
219 Cassanelli (1996).

220 Barnes (2006).

views; it also to some extent reflects differences in the formation of political identity between the north (where pastoral clan identity is less tied up with land) and the south (where agricultural clans define themselves by their landholdings[221]).

Barnes believes it likely that "traditional 'segmentary' genealogical-based political identity has at certain historical moments chimed with territorial identity in the Somali-speaking lands, matching clan (family) to a territorial base. Moreover, although colonialism and its direct and indirect effects may have encouraged and entrenched the identification of clan and territory for its own bureaucratic convenience, it certainly did not invent the periodic 'match' (however generalized) of clan (or clan-family) with territory. Lewis' work demonstrated that the more 'pastoral' (i.e. transhumant camel and cattle herding) a Somali lineage, the less clearly defined is territorial ownership, and the greater territorial mixing of genealogically diverse lineages occurs where the practicalities of sharing resources take precedent, except in a situation where violent competition between lineages is likely. In many areas, clan presence and territorial ownership do not exactly match. However, at a higher level in areas dominated by pastoralists there is a general convergence between clan and territory, often defined by important resources, though over time this ownership may change. Nevertheless, historically, broad ideas and traditions of clan territorial domination persist."

A recent International Crisis Group report[222] highlighted these two phrases (and the phrase *ku dhaqmay* – something like "live anywhere") in the context of future political solutions, commenting that "both of these concepts

suggest a form of decentralization – possibly federalism – in which citizens born in certain areas or belonging to certain areas enjoy fuller political, economic and social rights in those areas than 'alien' Somalis. They imply limitations on the right of a person to vote, hold public office, or possibly even own land and property in an area in which their clan is not 'indigenous'. The term *ku dhaqmay* implies a form of naturalization, meaning that all Somalis may settle and enjoy equal rights everywhere within the country, regardless of where they are born or their clan affiliation. While most Somalis agree in principle with this 'nationalist' position, many also feel that it has been exploited by members of some groups at the expense of others. Many Rahanweyn, for example, believe that they have suffered at the hands of their Hawiye and Darod neighbours and would like a degree of legal and political protection to ensure that abuses are not repeated. The expansion of Habr Gedir militia and commercial interests into the Lower Shabelle and Jubba valley since 1991 is also widely perceived as having exploited the principle of *ku dhaqmay* at the expense of the residents of those areas."

The concept of *deegaan* is central to this debate and to the conflict. As Farah et al. note in an important article[223] that focuses on *deegaan*, politics, and war in "Jubbaland", "To Somalis, it connotes exclusive control by a group sharing similar language, identity or clan affiliation of a land area and the natural resources found there. *Deegaan* can further include an area where one lives, operates a business, and feels secure enough because of the presence of a large number of one's clansmen in the wider physical area. *Deegaan* is synonymous with entitlement, security, usage and identity. The process of acquiring *deegaan* is delicate and complex and involves continuous negotiation between different sub-clans and groups for access to specific *deegaan*. Such 'interaction sequences'

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221 Many groups in the south are named for the area they live in, using the construction "**Reer** [people of] place name", such as the Reer Hamar or Reer Brava, but conversely some "Reer" group names relate to lineage or descent from a particular ancestor.
222 International Crisis Group (2004b).

223 Farah et al. (2002).

typically include several factors that shape the outcome of conflict or peace, including transhumant grazing, trading activities between two sub-clans and intermarriages that eventually blur group identities and claims to own particular *deegaan*.

"*Deegaan* is acquired by various means ranging from peaceful bargaining to actual military conquest. The process of acquiring *deegaan* more often results in conflicts between various would-be claimants of the land. Occupancy of uninhabited land was considered a legitimate way to claim *deegaan* historically. Defence of these lands by occupants was perceived as legitimate. Similarly, if a clan has inhabited a particular area for generations, then their rights to ownership of land are stronger. Another way of gaining access to land and resources was to become a client of a land-owning clan, or *sheegad*, while trying to enlarge claims to land and resources. Becoming *sheegad* is still a common strategy to secure land and resource rights in Somalia today, particularly among weaker clans which are unable to defend their claims and do not enter into protective alliances with stronger clans with whom they share *deegaan*. Force is also used to stake new claims to *deegaan*, as well as to protect historic claims; heavily armed and powerful groups and sub-clans have formed a number of alliances to claim *deegaan*. In Somalia it is widely accepted that land and natural resources are gifts from God and, therefore, that no one individual or group should claim exclusive control. Cultural attitudes such as these have stoked competing claims to *deegaan*."

The *guri–galti* (resident–newcomer) dynamic (see pages 102–103 below) is also very much relevant, both between and within clans. As Menkhaus[224] comments, "In Somalia, when issues of political representation and control at the local (municipal, district or regional) level are discussed, they typically involve a clash over three conflicting types of claims. One is the majoritarian claim – i.e., we are the most numerous group in this area, hence we have the right to the largest share of the 'cake' (positions on a district council, jobs, contracts, land, voice in assembly decisions, etc.). This claim is considered valid regardless of whether the group is newly arrived or consists of long-time residents. A second is a power politics claim; here, groups lay claim to political and economic rights by dint of their superior militia firepower and/or economic resources. This assertion is sometimes camouflaged under various guises, such as the claim that a group 'liberated' a certain area and therefore enjoys special prerogatives there, but the underlying premise that 'might makes right' is not far from the surface. Finally, there is a claim based on 'right of domain'; that is, 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 made by newcomers, regardless of the number of guns or people they possess. It is this last claim that touches most powerfully on the implications of *guri* and *galti* status."

The map of clan "areas" shown in Figure 15 (produced by the Food Security Assessment Unit) is widely circulated. However, it is far from clear how the unit decided on the distribution of clans, and (given the above discussion) considerable caution should be exercised when relying on any such map.
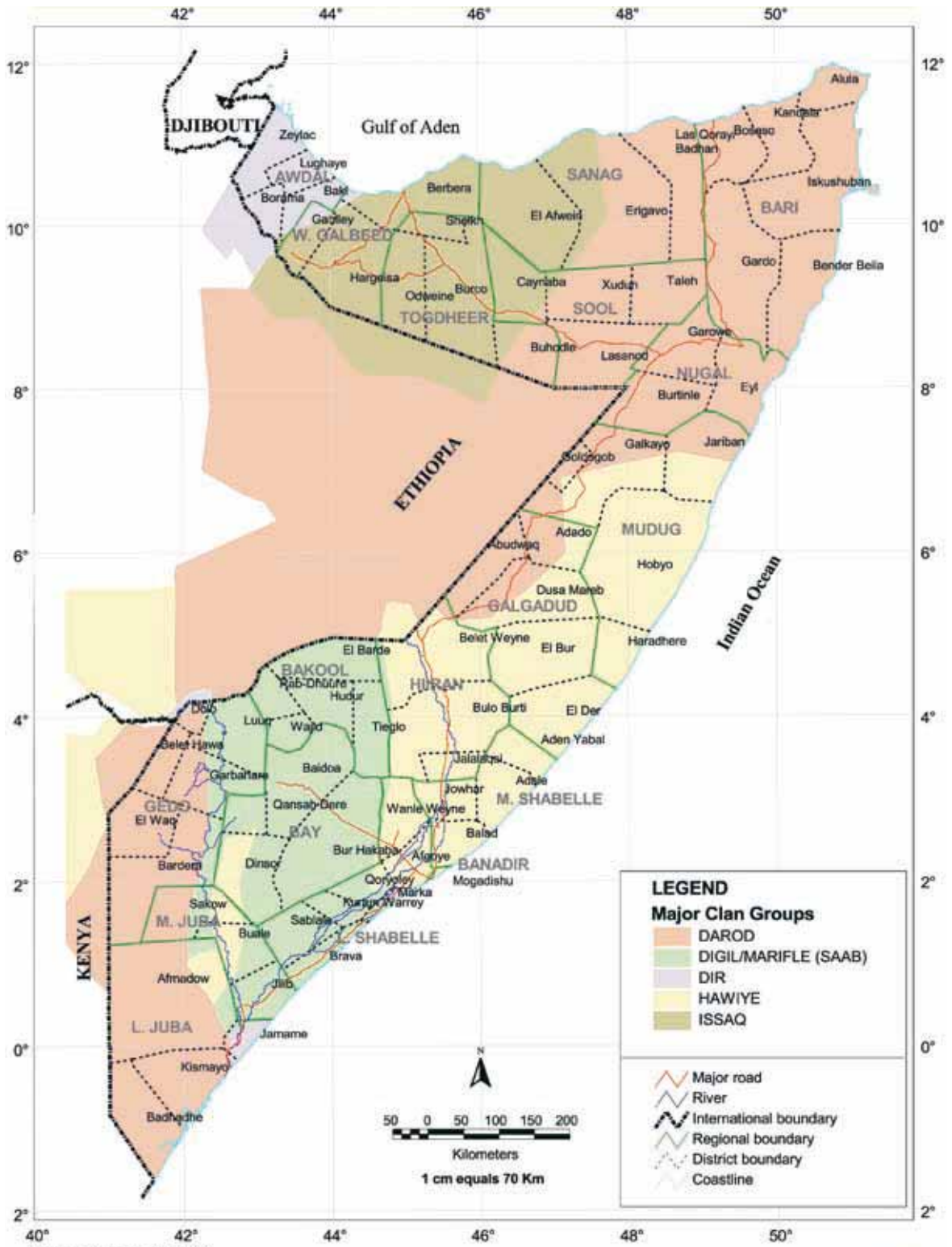
THE COLONIAL ERA AND INDEPENDENCE

Somaliland

An Academy for Peace and Development report[225] on the livestock sector comments that "the socio-economic changes that began after the Second World War were spearheaded

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224 UNDOS (1998).

225 Academy for Peace and Development (2002c).

Figure 15: Map showing "clan areas"

by increased employment opportunities for Somalis in public service with the British Administration in Somaliland. The salaries and other benefits received by the newly employed civil servants provided opportunities for new forms of wealth accumulation. Urban administrative and trade centres developed with new public services and, as Somalis travelled abroad, a significant diaspora evolved. Despite the trend towards urbanization, most of the resources were channelled back to the rural areas. Urbanized Somalis maintained links with their rural kinsmen and invested in buying herds or constructing water cisterns (*berkado*) or small dams (*balliyo*). A major source of wealth was the increased commercialization of livestock production, which was fuelled further in the 1950s by the oil boom and the growth in the number of Muslims going on the Haj[226], creating an annual demand for meat. As the trade in livestock grew, traders invested in trucks to transport animals, water and animal fodder. The income from livestock exports was also invested in building *berkado* and *balliyo*. The development of livestock trade stimulated the expansion of towns, communications, and the import of consumer goods, such as trucks, clothes, sugar and cereals."

Islamic farming cooperatives

Allan Hoben[227] argues that the *tariigas* (Islamic fraternities – *tariqqas* in Arabic), which have been active in Somalia for centuries, had an important influence on the development of land tenure: "With the suppression of slavery and subsequent disruptions caused by Italian attempts to recruit forced labour, a large number of former slaves and low-status client cultivators resettled themselves in towns formed earlier by runaway slaves and in religious communities led by sheiks following one of the *tariigas* active in southern Somalia." According to him, these communities

(sometimes known as *jamaa*) became the focus of "significant agricultural settlements" in the middle years of the 19th century and came into existence in large numbers in the first 2 decades of the 20th century. Those decades were of course the heyday of the "dervish" battles for independence from Britain and Italy, led by Sayyid Muhammed Abdille Hassan, the Somali independence fighter and so-called "Mad Mullah"[228]. The founders of the settlements sometimes received land from lineage heads or were given land to establish a buffer between rival lineages, whose disputes they mediated; the land was owned collectively but cultivated individually. The settlements reportedly ranged in size from a few hundred to over 8,000 members and together encompassed 20,000 to 40,000 individuals in the period from around 1900 to 1940.

Hoben claims that the lasting significance of these settlements is that they established "an alternative model of land tenure and social political relations to the dominant, faction-ridden clan model" and "provided security and access to resources for displaced, low-status people, who could not easily obtain resources and be absorbed into the overarching clan system". He argues that "this alternative paradigm for political community and land tenure has influenced reformist thinking in independent Somalia" (though he does not show exactly how), noting that such communities have more recently "proven effective agents of settlement and agricultural innovation" in all areas and have "been the most effective form of organization for spontaneous refugee settlement".

There is relatively little comment on this development in the general historical and land-related literature on Somalia, although Seger[229], a 1980s German Agency for Technical

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226 The pilgrimage to Mecca, which is one of the five duties of all Muslims.
227 Hoben (1988).

228 See Chapter IV of Lewis (2002). See also Mukhtar (1996), who argues that the role of the southern communities (and the *jamaa* in particular) in resisting Italian colonialism has not been sufficiently recognized by historians.
229 See Seger (1986).

Cooperation land consultant, described a visit to a development project in Mubaarak in the Lower Shabelle that seems to have been based on a religious settlement founded by a sheikh in 1818 "to overcome tribalism and to lead a congenial community life as had been laid down in Islamic thought". Seger reported a (perhaps slightly idealized) picture of individual land cultivation within a supportive and integrated community framework, along with collectively organized irrigation works and water distribution, commenting that "women owning land are, within limits, treated equally before the law".

Adam[230] describes the Sheikh Banaaney cooperative (based near Baidoa but with three "religious/economic centres" south of Mogadishu) as farming 22,525 hectares and owning 10,000 head of livestock in 1987. Roth[231] also refers to "religious communes" (*xerta*) as being able to register land under the 1975 Land Law, and Menkhaus and Craven[232] state that "the powerful religious community at Baladu Raxmaan on Labadaad Island" was able to prevent its land being expropriated for the Jubba Sugar Project. It would certainly be interesting and perhaps relevant to modern Somalia for future researchers to investigate this more deeply.

The Jubba and Shabelle Rivers

As Besteman and Cassanelli[233] note, until the Barre regime began to focus on the potential for irrigated agriculture in the area, the Jubba valley was comparatively marginal to Somalia's political economy. Up to 1925 (when "Jubbaland" was transferred to Italy by Britain[234]) the Jubba River was the border between Britain's Kenya colony and Italian

Somalia and, as a territorial frontier, did not attract commercial investment or public works: "Investment capital was limited in both colonial territories and, without an infrastructure of hard roads and extension services, the Jubba valley could not compete as a centre of commercial plantation agriculture".

The world depression and fascist Italy's invasion of Ethiopia in 1935 diverted investment and attention away from the area and there was equally little development during the period of British military administration from 1942 to 1949. In the 1950s, the Italian trusteeship (under UN supervision) "preferred small-scale projects that would realize immediate benefits rather than larger investments that might, over the long run, have integrated the Jubba valley more fully into the national economy"[235]. The 1960s saw a similar period of "benign neglect" by the state and shortage of investment capital: "The absence of any significant manufacturing sector and the relatively modest growth of Somalia's urban centres (in comparison with that of other African cities) in the early 1960s meant that there was little pressure to expand food production and energy resources (wood fuel and water power) beyond what the Shabelle valley could provide."[236]

Decades of neglect meant that the Jubba valley inhabitants were socially, culturally, and politically isolated and had little input into the development decisions that were made from the 1970s onwards. Besteman and Cassanelli argue that the inhabitants' "local religious practices (albeit somewhat Islamized), sedentary way of life and (for some) slave ancestry all perpetuated the notion that they were somehow different from (and inferior to) the majority of Somalis". They also suggest that these marginalizing factors served to reinforce valley dwellers' "sense of self-reliance and their tendency to resolve resource-related disputes through local judicial institutions", while also

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230 Adam (1995).
231 Roth (1993).
232 Menkhaus and Craven (1996).
233 Besteman and Cassanelli (1996).
234 According to Little (2003), this was done "in exchange for Italian assistance in World War I and for agreeing to withdraw further claims to territories in Northern Somalia".
235 Besteman and Cassanelli (1996).
236 Besteman and Cassanelli (1996).

perhaps giving them "a false sense that their land tenure was secure, that their assets were of limited market value and that their best interests lay in avoiding rather than engaging the state and its institutions". However, Mukhtar[237] suggests that the "land rush" had started as early as the 1960s, when "the Somali government collaborated with former Italian concessionaires to take over the majority of shares in the banana, sugar and livestock estates in the south, [which] was followed by a policy of forcing small farmers of the region to sell their land to state officials and army officers".

THE BARRE REGIME

State agricultural policies and their results

Before examining in detail the changes in landholding during the Barre regime, the general background to this in terms of state agricultural policy and its failings in practice also needs to be understood, not least because many of the serious deficiencies identified continue to this day[238]. The implementation of "scientific socialism" by the Barre regime in the 1970s led to concentration on "large-scale state farming, nationalization of export crop production, centralization and control of marketing and state control of input supply"[239]. The state Agricultural Development Corporation played a major role as sole agent for purchase of the national grain production[240]. In practice, the corporation saw its role as keeping urban food prices low by setting low producer prices. Smallholders, who produced the majority of the food, simply reverted to subsistence farming or to crops like fruit and vegetables whose marketing was not controlled by the

Agricultural Development Corporation[241]. In 1983–1984, producer prices were liberalized and grain prices in 1984 reached levels around ten times higher than fixed prices previously paid by the corporation. The government launched a cooperative movement in 1973 which was intended "to replace the abolished system of clan land tenure and promote rural and agricultural development" by ultimately becoming (through priority receipt of government services) the only or main form of organization of small-scale production in all sectors[242]. The government also instituted "Agricultural Crash Programmes", which were "designed to turn unemployed urban youth into productive agriculturalists, to settle nomads, eliminate poverty and inculcate a spirit of self-reliance and self-discipline among its volunteers"[243].

Agriculture expanded rapidly (in terms of cropped areas and production[244]) in the mid-1980s but was still dominated by smallholders: von Boguslawski estimated then that roughly 25 percent of the entire population depended on smallholder farms, of which there were around 185,000[245] with holdings of up to 6 hectares. However, supplies of the necessary inputs (diesel fuel, improved seeds, fertilizers, irrigation pump and tractor parts, etc.) were in practice very limited and a black market therefore developed. Agricultural methods were very basic, relying mostly on use of the hand-held hoe in southern Somalia and on ox-drawn ploughs in the north; cultivation

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237 Mukhtar (1996).
238 A useful collection of studies on land and agricultural policies in Somalia by German Agency for Technical Cooperation agricultural experts from the early to mid-1980s is contained in Conze and Labahn (1986).
239 Von Boguslawski (1986).
240 Under "Law No.51 of July 22, 1971".

241 See Labahn (1986) for detailed commentary and statistics. See also Farzin (1988) on the economic distortions caused to the domestic market by government agricultural policies and Somalia's dependence on food aid.
242 Hoben (1988).
243 Hoben (1988). Von Boguslawski (1986) gives figures of 2,000 to 3,000 Agricultural Crash Programme tenants on state farms and also lists 7 programme farms with cultivable land allocations totalling 12,590 hectares, although in 1984 only 700 hectares of this was actually being cultivated. This would suggest that the programme was not very successful; see also Hitchcock and Hussein (1987), who state that "this effort unfortunately had relatively little impact on agricultural productivity and employment creation".
244 See Roth (1993).
245 180,000 (described as "mainly rain-fed farms") were unregistered then and only 4,683 (described as "mainly flood irrigation farms") were registered.

occurred in small squares of around two metres by two metres, designed to catch and retain rainwater. There was a significant lack of "medium-term credits for small- and medium-sized farmers for the purpose of land and irrigation system development as well as various forms of mechanization", and von Boguslawski commented that "no solutions to overcome the problem of collaterals have been developed, as valid land certificates are rare and land titles are only issued on leasehold basis"[246].

He also noted the following: "There exists no clearly defined responsibility for irrigation water management and irrigation infrastructure maintenance. The existing infrastructure especially at the Shabelle River is in very poor condition with regard to weirs, water-intakes and canals. Canal de-silting is not controlled and water losses are high. So far no water charges are collected. Whosoever has access to irrigation water can derive whatever he can manage, often in excess." He described the land registration system succinctly as "entirely out of function". In relation to pastoralism, Janzen[247] examined processes of sedentarization and suggested that the 1974–1975 drought, the increasing commercialization and market orientation of the livestock sector, and the state's policy (particularly during the major rural literacy campaign of 1974–1975) of establishing new government posts, watering places, and other infrastructure all contributed to a tendency for nomads to settle for at least some of the time, often around traffic routes and junctions on the new tarmac roads.

Drought and war in the 1970s

Following the major drought of 1973–1974, which resulted in massive loss of livestock, the government resettled some 300,000[248] displaced nomads from the central and northern regions in production cooperatives along the lower Shabelle and middle Jubba Rivers[249]. "To eradicate the vestiges of kin and clan ties, a socio-political system based on an arbitrary hierarchical division of the population was imposed", with all agricultural decisions being made by management[250]. The farming system employed was expensively (but very inefficiently) mechanized and was labour intensive; donor evaluations described the settlements as "economically and ecologically destructive"[251]. Cassanelli[252] notes that although more than half of the residents "left the resettlement sites over the next several years to return to their home districts or to seek employment in the Persian Gulf, the land remained at least theoretically in state hands".

The settlements were intended to be self-supporting economic units but in practice became heavily dependent on WFP rations, which were still being distributed (at reduced levels) in 1986. Many men left their wives and children in the settlements to enjoy the free rations and access to education systems and medical care but later returned to reassert their claims to land there. The government also

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246 In theory (and in fully functional and efficient land and credit markets), leasehold titles can in fact be acceptable collateral; a leasehold of sufficient length with acceptable security from forfeiture (termination) is an asset with capital value and indeed in England almost all residential flats and many urban renewal developments are long leasehold title. The issue in Somalia was no doubt the risk that the government would terminate the lease if its development or other conditions were not complied with, but there are legal ways (in English law at least) to mitigate that risk. This issue is relevant to Somaliland today, given the provisions of its 2001 Land Management Law.
247 Janzen (1986).

248 The overall numbers are not entirely clear. Gunn (1990) reports that 120,000 "refugees" were moved by the government from camps in the north to 3 agricultural and 5 fishing projects in the south; Janzen (1986) says that "more than 110,000" were settled in initially 3 agricultural and 3 fishing projects. Hoben (1988) says that "some 270,000 nomads were crowded into twenty refugee camps in June 1975. As the camps were disbanded, 120,000 drought refugees agreed to be settled in 3 agricultural settlements and 15,000 in 3 smaller fishing cooperatives". Besteman (1999) describes a major site at Dujuuma in the mid-Jubba valley, where 55,000 refugees were reportedly resettled, but Hitchcock and Hussein (1987) say there were 25,000 original settlers there, of whom only 4,500 remained in 1982.
249 Janzen (1986) suggests that the mass resettlement was influenced by the Soviet Union's enforced resettlement of nomads in its southern republics.
250 Hoben (1988).
251 Hitchcock and Hussein (1987).
252 Cassanelli (1996).

used the resettlement and drought recovery programmes to launch a major rural literacy campaign to teach nomads the new Somali script, but the materials used were in *af-maxay* Somali, which further excluded those who spoke *af-may* Somali. Ahmed and Green[253] note that the effects of the drought on food security were "further exacerbated by the failure of the food rationing system, introduced by the government to replace the free market system. Hundreds of government-owned shops selling food items at fixed prices were opened in major towns and villages. Residents were issued with identity cards to buy fixed amounts of food every week, but because of a shortage of supplies, only small numbers of people managed to buy sufficient food in these shops. In rural areas, unregistered pastoralists relied on food purchased on the black market at exorbitant prices."

The 1977 Ogaden War also had a significant effect on inhabitants of the riverine areas: "They were conscripted into the army, much of their surplus was confiscated for the war effort, and their lands and resources bore the brunt of accommodating post-war Ogadeni refugees, who flocked to official refugee camps or struggled to live off the land." Over a million refugees reportedly fled from Ethiopia into Somalia[254], and in 1986 there were still reported to be around 700,000 displaced people in 36 camps across north-west and southern Somalia, 90 percent of whom were women in children[255]. Hoben[256] reports that "to foster self-reliance and produce food, over fifty small farms were established near war refugee

camps throughout Somalia, twenty-seven of them on land cleared by the Russians for state farms and later turned over to the police". The camps and farms had a generally negative impact on the environment in terms of tree loss (for firewood), erosion, vegetation damage (from livestock), and poor water management (leading to increasing salinity)[257].

Developments in northern Somalia

Registration and development investment also had an impact in northern Somalia, though not to the extent reported below in the south. Hoben[258] has this comment: "The expropriation of land for a large state farm at Tug Wajale in the 1960s and 1970s made local inhabitants suspicious of government agrarian policy, although most of the land has since been abandoned and repossessed by pastoralists and agro-pastoralists. This experience, and the establishment of several small government experimental farms, raised the fear that agricultural land would be taken by the World Bank's Northwest Development Programme."

The grazing reserves granted to the government Livestock Development Agency under the Northern Rangelands Development Project caused similar resentment and Hoben reports claims that "several 400 square kilometre town and village reserves established by the project have benefited townsmen and project officials who are also livestock owners rather than pastoralists, who believe the land theirs by clan right". In addition, private concessions for irrigated agriculture were granted over land (mostly dry season pasture) in the north-west; some was developed but much was fenced and held for speculation. Hoben noted that "the conflict between state and clan authority has also reportedly inhibited land registration and applications for assistance with the expansion

253 Ahmed and Green (1999).
254 Hoben (1988). Ganzglass (1979) confirms the overall figure of at least 1 million but suggests that only 350,000 were registered in the initial 22 camps (of which only 50,000 were women), with the remainder in host families.
255 Janzen (1986). See also Young (1985), who gives the same figures in 1982 and provides a detailed account of the camps. Needless to say, the true figures are heavily disputed, as the Barre regime sought to inflate them: Sommer (1994) suggests (quoting UNHCR) that the "real" refugee number was around 300,000. See Maren (1997) for a polemically damning indictment of the corrupted institutions and dubious practices that grew up around the long-term refugee population.
256 Hoben (1988).

257 See Young (1985) for details.
258 Hoben (1988). See also Schraeder (1986) on the pitfalls of resettlement, especially in relation to pastoralists.

of agriculture in the cultivated region round Hargeisa", with villagers fearing that applying for a lease would draw government attention to the fact that there was uncultivated land there that could then be allocated to strangers.

The Academy for Peace and Development livestock sector report[259] also discusses these issues: "Though the 1975 law made private ownership of rangelands illegal, private enclosures for cooperative ranching were allowed. Thousands of square kilometres of formerly public rangeland came under private control. Around Ceerigaabo, for example, some 3,000 square kilometres of common range was privatized. These development policies further incorporated pastoralists into the national economy, without consideration for ecological factors. The net result was the marginalization of pastoralists, both politically and economically, and continued environmental degradation. Other criticisms levelled against the Northern Rangelands Development Project were that it favoured non-pastoral people, giving them large private enclosures, drilling wells for them and providing them with other services not available to pastoralists. It also gave people who were close to the government, or who had political influence, the opportunity to enclose large grazing areas."

Similar issues are noted in the Academy for Peace and Development's recent resource conflict research[260]: "During the 1970s, the Siyad Barre government allowed the formation of pastoralist cooperatives in Sanag Region. The best grazing areas were earmarked for the coops at 16 locations on the outskirts of Erigavo District. A coop consisted of 45 households, each contributing 10 shoats[261] and one cow; the total 450 shoats and 45 cows formed the core of the coop's property. Those who could not afford the contribution sold their livestock allocation to richer members of the coop, and so many of the coops ended up being dominated by wealthy members. The Agriculture Ministry's regional representative emphasized that 'these were coops for the rich where the poor had no role; the majority were urban elites and rich merchants with no pastoral background. They took away the best grazing land for private use and production was minimal. This instigated the land-grab fever in which everybody claimed personal plots at the expense of the pastoral population.'"

Increasing competition for resources in the south

In the 1980s the struggle for resources moved from a local to a national level, where the Barre regime was, "through its monopoly of force, its strategic positioning in the cold war struggle and the capacity of its leader to manipulate domestic politics more successfully than any of his predecessors, well positioned to exploit the possibilities". Cassanelli identifies five trends that converged to intensify this competition for resources:

- Agricultural land became more valuable in relation to other sources of investment and speculation. This commodification of land of course occurred elsewhere in Africa too, usually in response to growing population pressure and increasing demand for both food and agricultural crops. In Somalia, it was driven by high inflation rates[262] that encouraged investment in secure and durable assets[263], a decline in the overseas markets for Somali livestock[264], the return of Somali labourers from the Gulf with capital to invest, the abolition of price

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259 Academy for Peace and Development (2002c).
260 Academy for Peace and Development (2006b).
261 "Shoats" is a word often used in reports on the livestock sector as meaning "sheep and/or goats", though technically a shoat is a young male pig.

262 Besteman (1999) reports that inflation increased from 46 percent per annum between 1980 and 1985 to over 300 percent per annum in the late 1980s.
263 Roth (1993) calculates that investing financial assets in the form of bank deposits would have yielded a 31 percent *negative* return in 1985 and notes that a number of banks collapsed in 1987.
264 Saudi Arabia, which accounted for 95 percent of the external market for Somali livestock in the early 1980s, banned Somali cattle imports from 1983 onwards due to (seemingly unfounded) fears of the cattle disease rinderpest.

controls on grains, and the growing demand for fruits and vegetables in Somalia's burgeoning urban centres. The possibility of the Baardheere Dam across the Jubba actually being constructed (symbolized by the creation of the Ministry of Jubba Valley Development) also fuelled speculation in land.

- New wealth in the form of foreign aid, overseas remittances, livestock export earnings, and military subsidies accelerated the process of class formation. Export-import merchants, livestock traders, overseas workers, and in particular those (in Cassanelli's words) who milked "the cows of international refugee relief, foreign development aid and military assistance" became considerably wealthy.

- The growing concentration of state power in the hands of one segment of the Somali population (Barre's clan member and cronies) led other segments to seek alternative sources of wealth and power. The regime was never entirely successful in monopolizing all of the productive sectors of the Somali economy, in particular the transborder networks involved in livestock exports, remittances, and *qat* trading, and therefore arguably sought to maximize its control of Somalia's fixed assets in land and water, to use them to buy political support.

- The militarization of the Horn of Africa resulting from the Ogaden War and the Cold War produced an environment in which the transfer of resources by force became more common.

- The urbanization of Somali society (symbolized by the explosion of Mogadishu's population) intensified regional migration and put new demands on the country's natural resources. Mogadishu's population grew from 50,000 in 1960 to over a million in the 1980s, and land values there rose accordingly; the demand was fuelled by the growth in international funds (in the form of expatriate relief organizations,

military missions, and technical assistance programmes) seeking rental properties and other amenities.

As they are among the best reports available on landholding patterns in southern Somalia immediately prior to and during the civil wars, each of the Besteman and Cassanelli case studies will be summarized as briefly as possible in the following sections. The research (funded predominantly by United States Agency for International Development) was carried out in the late 1980s, mostly by consultants attached to the University of Wisconsin's Land Tenure Centre, and in some cases was slightly updated in the 1990s; several of the authors also reported and expanded on their findings in other literature, and these are also summarized where relevant. Other authors (most notably Michael Roth and Allan Hoben) also carried out agency-funded land research that was not included in the Besteman and Cassanelli book, and their case studies (on the Shabelle) are summarized towards the end of this part.

Title registration in the Middle Jubba Valley[265]

In the area studied by Besteman[266], effectively permanent interests in land were predominantly acquired by inheritance or by allocation through the village council, but there was also frequent reciprocal lending and borrowing of land on a seasonal basis and much of the *jiimo* land was generally used as a common area for short-term access. Families would own or farm a range of different types of land to suit prevailing climatic conditions of drought or flood:

- *Dhasheeg* land in low-lying inland depressions, which collected and held

265 This section draws primarily on Besteman (1996c); however, much of the content of that study is reprised or set out in greater detail in Besteman (1994), Besteman (1995), and Besteman (1999), and these studies are also summarized here.
266 The exact location is not known – Besteman gave the area a pseudonym ("Loc").

floodwater, rainwater, runoff, and underground flow from the river for long periods of time.

- *Doonk* land on higher ground, which flooded less often and drained more easily.
- *Jiimo* land on riverbanks, which had water near the ground surface (*siimow*).

The availability of family labour (older children, other wives) was a key factor (along with the general level of household indebtedness) in deciding which and how many areas an extended household would cultivate; at certain times, some areas would be allowed to revert to bush while still being seen as in the household's ownership. Women rarely inherited land[267] and had little authority over what was grown and how the proceeds were spent; however, they were often able to "borrow" land from friends and relatives and cultivate this for their own purposes. In addition, senior wives often sought to establish working relationships with landowning sons over whom the husband or father had no authority or control[268]. As can be seen, these various processes and the flexibility to cultivate certain areas or grow certain crops (such as maize for subsistence or sesame for cash) in response to the "highly variable conditions of life (and health) and climate" were heavily dependent on an adequate land supply.

The 1975 Land Law nationalized all land in Somalia and required farmers to apply to the state for leasehold titles, which were granted for 50 years. Individuals, private companies, cooperatives, autonomous agencies, and state farms could lease land, but only one title per household was allowed. Compulsory registration of land meant that a family could only legally farm one piece of land, since the

only legal way to claim rights to land was through the registration process; any farmer who had not registered the land he was farming held no claim to that land, even if it had been in his family for generations. This made it extremely difficult for farmers in the area to exercise the risk-minimization strategies of diversification discussed above, since they would have to choose only one piece of land to register; women's customary tenure was also endangered[269].

Since registered land left idle could theoretically be repossessed, the tactics of maintaining bushland as a reserve and borrowing land when needed were also problematic. The costs of registration were relatively substantial: Farmers reported that the registration would cost between US$30 and 80 per plot, covering "unofficial gratuities, payments to witnesses and the draughtsman and a possible trip to Mogadishu to complete the process". Besteman estimates that a smallholder family's annual income was usually less than US$1,000, with little left after meeting expenses for seeds, hired labour, tractor time, purchased food, and medical needs. In addition, most farmers lacked familiarity with government bureaucracy and many were illiterate.

Besteman[270] summarizes the very complicated multi-departmental bureaucratic procedures required to register land and also notes that the process was substantially underfunded, so that applicants had to meet almost all the official costs involved. There also seems to have been an understandable reluctance to draw the attention of the authorities to the existence of fertile agricultural land, either because individual officials might seek to register it in their own name or because it might then attract government land tax[271].

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267 Nancy Merryman reported similar findings in the study summarized later in this section: Only 14 percent of women she surveyed owned land, and less than half of that small proportion had inherited it.
268 Besteman (1995). The study also notes the very high local divorce rate (60 percent of adults had been divorced at least once), which must have complicated family relationships further.

269 Besteman (1999) notes that in 1987–1988 "Loc" households held an average of 3.8 parcels each, cultivating "an average of 3.4 hectares per household scattered through the village land base".
270 Besteman (1999).
271 See also Conze (1986) on land taxes, the registration process, and state interference in land generally.

For all these reasons, there was very little registration by local farmers but unfortunately a significant amount by well-connected outsiders. Besteman[272] describes how wealthy businessmen and government officials from the city with clan affiliations to villages in the Jubba would "legitimately" acquire a small plot by purchase or allocation and then register a much larger area, often by describing themselves as a company or by forming a fictitious "cooperative", since these were entitled to register more land than individuals.

In "Loc", outsiders registered 9 farms, comprising almost 60 percent of the total land area[273]; 20 percent of households were immediately dispossessed and, since the actual boundaries of the plots were substantially exaggerated in the registration process, many more could have been. The registration process was clearly particularly deficient in relation to plans – Besteman[274] notes that "in scrutinizing the registry, it became apparent that several people could file rough maps, which they themselves drew, delineating overlapping areas of land to which each claimed, under the law, sole title".

Since the Land Law theoretically required "development" of the land within two years of registration, many titleholders deforested and bulldozed their land, which further contributed to land degradation and soil erosion. The registered farms were notably unproductive: During 1987 and 1988, "registered farms produced about *half* as much maize and sesame per cultivated area as unregistered Loc farmers produced on their farms"[275].

As Besteman notes, "The economic consequences of the land law contradicted policy intentions and predictions." Although it was intended to stimulate investment and thus productivity, the law forbade economic value being ascribed to land by prohibiting resale, and in practice some cultivated land was actually withdrawn from production because land speculators left their property idle[276]. Land speculation "introduced competing perceptions of what land, especially cleared land, might be worth on the national market – and neither the buyers nor the sellers had standardized ideas of prices or value". The government froze all registration of title in the Jubba valley in 1988, pending revision of the law to tackle some of these issues, but the civil wars then intervened.

Agro-pastoralism in the Bay region[277]

At the time of the study, the Rahanweyn clans in the Bay region were mostly engaged in various forms of agro-pastoralism, "combining transhumant herding of camels, cattle, and small stock with sedentary cultivation of rain-fed sorghum, maize and legumes". Labour sharing and division of labour among polygynous sibling groups were vital at various stages of the production cycle and often involved migration to make use of geographically dispersed kin relationships. Migration might also be triggered by issues relating to the division of inheritances of land and livestock; as the actual division was often postponed until late in the children's life, so that unsettled inheritance claims were themselves inherited, these were often highly complex.

Since the Rahanweyn have traditionally been flexible towards the assimilation of members of other clans (the practice known as *sheegad*), "entry into new communities was eased by the extensive networks of relatives

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272 See Besteman (1999) and Besteman (1994).
273 Besteman (1994) notes that, according to the registry, registered farmers claimed an average of 43 hectares each – this concentration of land ownership shows a significant disparity with the average 3.4-hectare plot of unregistered farmers.
274 Besteman (1999).
275 Besteman (1999) – emphasis in original. As she points out in Besteman (1994), which contains the detailed figures, the overall picture is actually even worse because many absentee landlords were not farming "their" land at all.

276 Besteman (1994) estimates that at most 12 percent of registered land in the area of study was actually cleared and planted.
277 Helander (1996a). His studies there are also detailed in Helander (1986).

belonging to different clans and by cultural institutions that facilitated both migration and changes of clan identity". In addition, the land supply was relatively abundant, although the implementation of the 1975 Land Law began to affect this.

Helander stresses the importance to the Rahanweyn of mobility and the ability to react to changes by shifting locations and hence the vulnerability of their livelihood framework to outside shocks: "The labour constraints inherent in their system of agro-pastoral production, in combination with the life cycles of domestic groups, made mobility an essential ingredient in household strategies. Furthermore, to make optimal use of inherited property in which one might only hold partial rights, heirs could use migration to redistribute property according to their different needs. Any political situation that constrained mobility, be it warfare or legislation, reduced households' ability to adapt and increased the risk that people would be forced out of agricultural production and into wage labour or the urban sector".

Smallholder irrigation in the Gedo region[278]

Due to the significant droughts of the 1960s and 1970s, the Gedo region experienced an increasing trend away from pastoralism towards permanent settlement and agro-pastoralism, with an expansion of small-scale irrigation and major cash cropping. Pressure on land was increased by the government's expropriation of several thousand hectares on the west bank of the Jubba for refugee camps in the late 1970s, by land speculation relating to the Baardheere dam (with its promise of "flood control, predictable water for irrigation and development of roads and ancillary infrastructure"), and by the general factors stimulating agricultural investment highlighted in the introduction to this section. Merryman suggests that although drought "seems to be a natural and recurrent

feature of Somalia's climactic cycles, several sociological and political forces appear to have contributed to an intensification of drought's impact in recent years". He argues that when the Barre government granted "free movement and protection to all Somalis and expanded the number of government-provided wells and *waaro* (catchment ponds to retain water), Somali clans were left with little incentive to protect traditional grazing reserve areas".

Merryman comments that agro-pastoralists "tend to be marginal [i.e. limited] agriculturalists and livestock keepers because fixed residence and the labour demands of a mixed economy act as constraints to maximizing investment in either sector". On the other hand, agro-pastoralism also maximized subsistence and, through use of underground grain pits (*bakaar*) to store surpluses that could be traded or consumed, provided insurance against seasonal environmental fluctuations.

Pump irrigation significantly increased overall agricultural productivity, though Merryman stresses that this economic dynamism was built primarily on small group irrigation ("typified by low overhead costs, low input levels and low-technology solutions to engineering and maintenance problems") and not on large-scale schemes which, as will be seen, were thoroughly unsuccessful. However, commercialization of crop production was also accompanied by "increased economic differentiation, social stratification and political conflict". This was because the relatively high capital cost of pumps required farmers to borrow from wealthier townspeople or to enter into sharecropping arrangements with pump owners: "As Marehan clanspeople and other politically powerful individuals began to move into the region, share-cropping arrangements with outsiders became more common, and with them the potential for extraction and exploitation."

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278 James Merryman (1996).

Livestock trade in southern Somalia[279]

The livestock (and particularly cattle) trade boomed in Somalia from the 1960s onwards[280], which "transformed regional production practices so that wage labour for herding and the development of private watering points grew in importance". Little describes four types of market within the cattle trade at the time of his study:

- The regional domestic market, concentrated in towns such as Kismayo.
- The national domestic market, located in Mogadishu.
- The "unofficial" cross-border trade with Kenya, particularly through the town of Garissa.
- The overseas export trade with the Middle East.

He notes considerable differentiation among the parties involved in the cattle trade: "bush traders", middlemen (*jeeble*), market brokers (*dilaal*)[281], agents of large traders (referred to as *wakil* in some areas), and the major export traders themselves. Each category was differently affected by the 1983 Saudi cattle ban, but the overall trade was characteristically flexible, reacting to the Saudi ban by redeploying into the Kenyan market[282]. These parties were often partly dependent on clan social relations for access to markets, networks of credit, safe passage, or guarantees of transactions; however, clan (and possibly trading rivalries) also acted as a factor for conflict as market groups became aligned with factions in the civil war[283].

Elsewhere[284], Little also describes the Trans-Jubba Livestock Project, a US$10 million World Bank project intended to "improve livestock infrastructure, increase animal exports from the region and bring economic benefits to herders", which was eventually characterized by the World Bank as "a failure in almost all its aspects". The project constructed several thousand water points, which allowed herders and traders to overuse pastures during dry seasons when they would normally have migrated out of the area; the water points also attracted non-local herders and created tensions that contributed to the violent conflict in the area when the civil wars broke out. Similarly, an American-funded project installed expensive modern infrastructure for cattle export in Kismayo (later heavily damaged in the civil wars), with the result that "marketed animals had better access to safe drinking water than did the local human population".

A side effect of borehole water development schemes was that herd composition shifted "from more drought-resistant animals such as camels and small ruminants towards less drought-resistant but more marketable cattle", so that "herds – and livelihoods – therefore became more profitable but also more vulnerable to droughts and market dynamics"[285]. In addition, the increased number of boreholes reduced pastoralists' reliance on relationships with the settled agriculturalists of the riverine area.

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279 Little (1996). The subject is also dealt with at considerable length in Little (2003).

280 Little (2003) states that cattle exports from Kismayo to Saudi Arabia more than tripled from the late 1960s to the late 1970s, driven by the general oil boom of the 1970s and early 1980s and the growing popularity of the *haj* pilgrimage.

281 In Little (2003), he explains that the *dilaal* "insures the validity of market transactions and guards against sales of stolen animals and products".

282 Little (2003) notes that political and economic instability have made the livestock trade highly volatile for more or less the last century, with trade flows between Kenya and Somalia periodically reversing themselves.

283 The Maxamed Zubeer sub-clan of the Ogaden clan, based in Afmadow district, were predominantly pastoralists and became involved with Omar Jess's Somali Patriotic Movement; the Harti sub-clan of the Majerteen clan, based in Kismayo district, were mostly involved with the livestock trade and other businesses and became involved with the Somali National Front forces of "General Morgan".

284 Little (2003).

285 Adams et al. (2006).

Smallholders and pastoralists in the Lower Shabelle[286]

Much of the Lower Shabelle was developed for irrigated agriculture by Italian colonists in the 1920s and 1930s, but following their departure in the 1960s, irrigation infrastructure and management deteriorated considerably, water allocation between small and large farmers became relatively uncoordinated, and seasonal water shortages became serious. In the area of study (Shalambood) large farmer and plantation sites lay along the river and the primary canals, where access to water was relatively secure, and smallholder sites were further from the river. The area also had one of the highest livestock densities in the country in the 1980s because of dry season livestock migrations into the area. Issues of resource sharing, equally relevant today, were therefore key[287].

Traditionally, there were fairly successful arrangements between farmers and pastoralists, and livestock was given a relatively high priority in terms of access to both water and grazing land. Unruh suggests that this was partly due to the long-standing and intimate ties between the two groups and the fact that "local farmers were descended from and related to pastoralists and raised animals themselves", which made them knowledgeable about the importance of dry season access for livestock. There were also various mutually beneficial linkages between the groups:

- In exchange for access to fodder, livestock producers provided meat, milk, manure, hides, and leather products.
- During dry seasons and droughts, local farmers provided most of the market for herders' weakened animals, which were sold to purchase grain.
- Farmers found livestock to be a relatively secure investment following a good harvest and often hired pastoralists to herd their animals in the interior.
- Some farmers gained income from selling crop remnants to herders during the dry season or utilized pastoralist labour.

As Unruh comments, "Agreements granting pastoralists access to farmers' land served to build relationships between clans, sub-clans, lineages and families that could be activated for mutual benefit in less favourable times such as those of drought, famine and conflict." However, Unruh found a significant difference in the amounts of fodder-producing land made available to herders by small and large farmers (in particular the plantation farmers who excluded all livestock). He suggests that this was because "large farmers tended to practice more intensive agriculture and, because they were more likely to be producing for export, had only minimal market relationships with neighbouring pastoralists. Moreover, to the extent that many of [the area's] large farmers were "outsiders" to the region, they shared none of the history or reciprocal exchange relationships that had linked farmers and herders in the past."

This led to increased livestock density in the smallholder areas and intensified competition for dry-season resources there, particularly as farmers then tended to pasture their own herds on their land, and also led to the rapid degradation of marginal zones. The 1975 Land Law was primarily formulated to give advantage to state enterprises and mechanized agricultural schemes, with limited rights for small farmers and no rights for pastoralists[288]. The operation of the law in the 1980s, along with the initiation

286 Unruh (1996).
287 Unruh (1991) is a highly technical discussion of the complex variables involved here, and Unruh (1993b) expands and applies the analysis of his Shalambood data to land use planning for possible resettlement schemes in pastoral areas. Unruh (1993a) does the same for the restocking of pastoralists' herds upon resettlement.

288 According to Besteman (1999), private individual leases were limited to a maximum of 30 hectares of irrigated land or 60 hectares of rain-fed land; however, banana plantations could register up to 100 hectares, and there were no size limitations on cooperatives, state farms, private companies, or autonomous agencies.

of a large irrigation rehabilitation project in the area, allowed "outsiders" to gain control of significant areas of land.

Land alienation and state farms in the Lower Jubba[289]

Menkhaus suggests that the processes by which the inhabitants of the Lower Jubba lost their land over time demonstrate that community's powerlessness on three different levels: as a rural peasantry's losing struggle against a colonial and post-colonial state, as the vulnerability of a minority group (the Gosha [Bantu]) to the powerful interests of a "hegemonic" ethnic majority (the Somali), and as a contest between smallholders and internationally financed commercial and parastatal agriculture. As with the Middle Jubba, the Gosha communities had engaged in irrigated riverbank farming, flood-recession farming in *dhasheego*, and rain-fed cultivation, and had achieved diversified and extensive production. This was however dependent on easy access to quality land, which became increasingly problematic as the more fertile areas were gradually alienated from the community.

During the colonial period, the authorities promoted plantation agriculture heavily but were unable to find sufficient labour (because farmers preferred to work their own smallholdings) until forced labour and mass (uncompensated) expropriation schemes (known to the Somalis as *kolonya*) were introduced in the 1930s to enable export production of bananas. Somewhat ironically, the Italian post-war trusteeship of Somalia did much to repair the damage caused to the smallholding sector by the plantation system but, following a lull in the 1960s, the subsequent decades saw massive land grabbing (using the 1975 Land Law) by Mogadishu

elites linked to the government and substantial expropriation of land for state farm schemes.

The three state farms[290] in the Lower Jubba "alienated nearly 17,000 hectares of the finest riverine agricultural land in Southern Somalia". It is not clear whether any compensation was paid for the loss of land and crops; possibly only registered landowners received payments. Menkhaus and Craven state that the "dispossessed farmers were offered compensation neither for their expropriated land nor for the loss of their crops. As 'squatters' they had no legal basis for such demands and as Gosha they had no political leverage with which to advance claims successfully." De Waal[291] comments that the Central Bank of Kuwait paid the compensation, "but while several large Harti landowners and Somalfruit [the parastatal agency responsible for fruit exports] were able to benefit from this, nothing reached the Bantu farmers". Smallholder agriculture continued to exist but only on marginal rain-fed plots that were subject to drought; some villages lost all or most of their land to the projects[292] and were reduced to serving as labour reserves. In addition, the Fanoole Rice Farm barrage and the Jubba Sugar Project canals and other irrigation works disrupted agriculture and caused increased flooding and erosion in some areas.

As Menkhaus and Craven comment, "International financial backers for the projects expected that high yields from large-scale, capital-intensive farming would eliminate Somalia's dependence on imported sugar and rice and would thus reduce the country's chronic trade deficit and debt. The projects, however, did not perform well. In some cases they actually produced smaller yields than had the smallholders they replaced, at not only a staggering financial cost in foreign aid but

289 The first part of this section summarizes Menkhaus (1996), whose study in Besteman and Cassanelli (2003) draws on the detailed historical research contained in his PhD thesis on the area. The second part summarizes Menkhaus and Craven (1996).

290 These were the Fanoole Rice Farm, the Mogambo Irrigation Project, and the Jubba Sugar Project.
291 De Waal (1993b).
292 Menkhaus and Craven estimate that around 18 percent of smallholder land was lost to the projects.

also an incalculable social and economic cost to the villagers." Around 30,000 hectares were allocated for the projects[293] but only around 11,000 hectares were "improved" and 7,500 hectares were actually cropped (as of 1988). The overall costs were around US$360 million and, since the percentage of land cropped was so small[294], the capital costs per hectare were astronomical[295], given the generally low productivity achieved. Many of the senior Somali officials involved drew off funds through control of the budget in Mogadishu (diversion of development loans, kickbacks from contractors delivering overpriced goods, and theft of imported project inputs) and by profiteering on the differential between the artificially low fixed prices for sale of project production and the true black market prices. In addition, allocation at the local level of the unused project land (often for sharecropping or wage labour on exploitative terms) and of the Mogambo Irrigation Project land to be used for "settlers" (who were reportedly almost all Marehan and Dulbahante, clans loyal to Barre, from outside the local area[296]) provided lucrative incomes for some project staff.

The authors conclude that the state farms (like many others throughout Africa) served "principally as rental havens for an opportunistic class of civil servants and top political figures from the capital, at the expense of local villagers". They also suggest that this massive expropriation and monopolization of agricultural profits by the Mogadishu elite "represented the first phase of a significant, historical and probably irreversible demographic shift – the occupation of riverine land in southern Somalia by immigrating, expansionist pastoral clans from other parts of the country at the expense of local agricultural groups".

Land tenure in the Lower Shabelle[297]

The area of study was the same as that studied by Jon Unruh (see above). Land distribution was skewed towards large state farms (especially the Agricultural Crash Programme, which controlled almost a quarter of all land), cooperatives, and private farms[298]. Of the smallholder owners sampled, 21 percent were women, although they tended to hold fewer parcels and less land. Despite the provisions of the Land Law, multiple parcel ownership by smallholders was common, although subsequent research showed that one-third of those interviewed had falsely reported (under-reported) their number of parcels. Few of the individual farmers had registered their land (16 percent) and of those who claimed to have registered their titles, only 5 percent actually had state leases, since "farmers claimed that land was registered on the basis of paid land tax receipts or court summaries of disputes decided in their favour". (As the author can testify from experiences elsewhere, this reflects a common experience of those investigating the practical extent of land registration and possession of title documents and demonstrates the importance of actually seeing the beneficiary's "title deed".) High costs[299] (33 percent), complicated procedures (21 percent), and lack of familiarity with registration procedures (17 percent) were among the reasons cited for non-registration.

The more detailed study of registration in the area showed that "compared to unregistered smallholder households, families of registered households tend to be better educated, to

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293 It seems that not all of this was actually alienated, as later phases of the Jubba Sugar Project and Mogambo Irrigation Project did not proceed.
294 Ten percent of Fanoole Rice Farm, 16 percent of Jubba Sugar Project, and 29 percent of Mogambo Irrigation Project.
295 US$110,600 per hectare at Fanoole Rice Farm, $47,800 at Jubba Sugar Project, and $28,600 at Mogambo Irrigation project.
296 De Waal (1993b).

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297 The first part of this section draws on Roth (1993) and the second part draws on Roth et al. (1994).
298 One of the private farms was apparently owned by the Palestinian Liberation Organization.
299 As Roth (1993) notes, "At salary levels of US$20 to $30 a month, there is an incentive for civil servants to extract a portion of the high economic rent associated with leasehold title".

control more land, to have greater experience of government administration and bureaucracy, to have come from outside the area and to have more non-farm experience". In addition, while 16.9 percent of unregistered smallholders were women, the figure among registered smallholders was only 2.8 percent. Registrants reported having to visit the district land registry office an average of 7.2 times and Mogadishu (8 hours by bus) 5.9 times, with an average overall registration cost of nearly US$1,200. A third of the unregistered smallholders had applied for title but received nothing. The study also looked in detail at the effects of registration on tenure security, investment, and access to credit, three areas where formalization of titles is often claimed to bring benefits (see Section 5 below). The positive effects were very limited, although slightly better for large farms (whose owners would probably be expected to perform better in these areas anyway), and registered farms in fact experienced higher levels of land disputes.

THE CIVIL WARS AND THEIR AFTERMATH

Conflict in the north[300]

The first major fighting occurred in the north from 1988 to 1991, as the Barre regime sought to crush the Somali National Movement rebellion. Up to 50,000 people are believed to have lost their lives in the main city, Hargeisa, as a result of summary executions, aerial bombardments, and ground attacks carried out by government troops. Some of the more brutal acts occurred in rural villages and were carried out by special troops known as the "Isaaq Exterminating Wing", who were reportedly recruited from among the Ogaden refugees. Targeting herders and farmers perceived as being affiliated with

the Somali National Movement, they destroyed or poisoned wells – vital for the pastoral economy – seized livestock, and burned down entire villages to deprive the rural population of its basic means of livelihood. Although the exact number of animals lost as a result of the war is still unknown, it is estimated that more then half of the country's total livestock population was killed either directly or indirectly.

The troops destroyed water sources by blowing up or draining water reservoirs. In some areas, open wells were poisoned, while others were contaminated with corpses. The extensive planting of mines in rural areas was also partly responsible for animal losses. Another contributing factor was the distress sale of livestock by pastoralists.

The war disrupted the merchant-based network that transmitted remittances from Gulf states. It devastated crop production, since all farmers were forced to abandon cultivation for the four years of conflict. The war also destroyed market centres, while mining of transport routes virtually shut down trade. This was accompanied by the closure of the Berbera port for animal exports from the second half of 1988 to 1991. An average of 1.2 million animals used to be exported per annum through Berbera. Because market exchange was central to the survival of rural households, the closure of Berbera port and the collapse of local markets for meat had a devastating effect, forcing many to dispose of large numbers of their animals.

Conflict in the south[301]

The second wave of fighting occurred from 1991 onwards as the Barre regime collapsed and rival faction leaders fought for control. It

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300 This section repeats a summary of the impact of the war in Somaliland contained in Ahmed and Green (1999), which draws on the Africa Watch reports produced at the time and on Gersony (1989), an investigation for the US State Department.

301 This section repeats the summary of the fighting in the south contained in Cassanelli (1995), which in turn drew heavily on contemporary accounts produced by Prendergast, Menkhaus, and de Waal and Omaar, which are not easily available. Some are listed in this report's bibliography. See also Cassanelli's contribution to Clarke and Herbst (1997).

is estimated that around 40,000 were killed between 1991 and 1992 and that around 240,000 to 280,000 died from starvation and disease[302]. As Menkhaus[303] comments, "Historians have coined the expression 'shatter zone' to describe a region between which two or more large kingdoms, empires, or civilizations repeatedly clash. These fault lines between major politico-military powers are prone to recurring devastation from wars in which local populations rarely participate, except as victims. The notion of 'shatter zone' helps to describe the situation of much of southern Somalia over the period of the 1990s, and places some of the Jubba region's problems in context."

The period from the ouster of Siyad Barre in January 1991 to the launching of Operation Restore Hope in December 1992 witnessed the forcible and systematic displacement by Hawiye clan militias of tens of thousands of Darods (Marehan, Dulbahante, and Majerteen) from the capital city and the lower Shabelle valley. Hawiye control (shared by various clans) of Mogadishu and virtually the entire Shabelle valley was the outcome. Darod civilians and soldiers fled south to Kismayo, Bardera, and Kenya, or to their clan homelands in the north and northeast.

From their territorial bases in the Shabelle valley and central rangelands, Hawiye militias also advanced into the inter-river regions (Bay and Bakool). The sedentary and semi-sedentary inhabitants of these regions had not played a major role in either the Barre government or the military rebellions against it. Nonetheless, in 1991–1992 they found themselves in the middle of a struggle between three heavily

armed factional coalitions: the Hawiye militias of the United Somali Congress, retreating government (predominantly Marehan) forces that sought to regroup in the Gedo region under the banner of the Somali National Front, and Ogaden-dominated militias based in the Lower Jubba and Afmadow areas that claimed to back the Somali Patriotic Movement. The Bay, Bakool, and Lower Shabelle regions became major battlegrounds where contending militias and their offshoots swept back and forth, confiscating livestock and food supplies, and looting water pumps, tools, and even household furniture to sell for hard currency. The resulting anarchy disrupted planting and harvesting and produced widespread famine in the region, which became known as the "triangle of death".

Thousands of Bay and Bakool region residents died, and thousands more fled to relief camps in Baidoa and Hoddur. Although it involved tens of thousands of people, the displacement of these predominantly Rahanweyn clans was largely internal to the inter-river region, since the area was landlocked and relatively few Rahanweyn had established substantial support networks beyond Somalia. The Rahanweyn Digil clans displaced from the lower Shabelle valley sought refuge in the bush or in Mogadishu, whose population of impoverished ex-farmers swelled despite the Hawiye factional violence that continued there. From the lower Jubba, thousands of Bantu farmers fled across the border to Kenya, where they joined Darod victims of the earlier purges. Finally, the struggle for control of Kismayo, the major port for the entire lower Jubba region, pitted militias of the Somali National Front (Marehan and Majerteen), Somali Patriotic Movement (Ogaden), Somali Salvation Democratic Front (representing the Harti Majerteen in the Kismayo region), and Somali National Alliance (the largely Hawiye coalition that succeeded the United Somali Congress) against each other. The prize was not

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302 These figures come from the 2001 Human Development Report, quoting a widely accepted study (Hansch, S., Lillibridge, S., Egeland, G., Teller, C., and Toole, M. (1994) *Lives Lost, Lives Saved: Excess Mortality and the Impact of Health Interventions in the Somali Emergency*. Washington). Some estimates place the death toll from starvation and disease as high as 500,000. See also de Waal (2002) on the famine.
303 UNDOS (1998).

just Kismayo but the routes used by livestock traders on the west bank and commercial farmers along the lower Jubba to move their products to port.

Kismayo became a crucial objective for Darod clansmen of all factions (Somali National Front, Somali Patriotic Movement, and Somali Salvation Democratic Front) because of their expulsion and total exclusion from Mogadishu and environs. All sides suffered heavy casualties, both among soldiers and civilians, but the most consistent victims were the small farmers of the area – Bantu minorities – whose grain stores and personal possessions were stripped by the armed factions that criss-crossed the valley. With few guns and no organized militias of their own, the Bantu farmers were virtually defenceless, and the large number of Bantu refugees in the Kenya camps attested to their continuing sense of insecurity. This insecurity to a large extent continued even after the launch of Operation Restore Hope, because US and UN forces were not deployed to many areas of the Jubba and Shabelle. De Waal reports that in 1993 many of the Marehan "owners" of land in the Upper Jubba returned as part of UNHCR repatriation programmes and then proceeded to claim that all of the land in the area had been registered and was owned exclusively by Marehan farmers, so that "the very existence of Gabaweyn [Bantu] villages was denied".

Menkhaus[304] commented in 1998 that in parts of the lower Jubba valley, "militias now 'tax' half the villagers' harvest in exchange for guarding them against other armed bandits. As the symbiotic relationship between gunman and villager evolves, the line between extortion and taxation, between protection racket and police force, is blurred and a system of governance within anarchy is born. For their part, surviving militiamen have grown more risk-averse, sometimes even marrying into local farming communities and becoming a part

of, rather than feeding on, villages they once terrorized."

Underlying dynamics

Cassanelli suggests[305] that "one does not have to look very far beneath the rhetoric and personality politics to realize that ongoing rivalries within and between southern Somali factions were really about rival claims to productive land, water rights and revenues – whether in Kismayo and the Jubba valley, Merka and the adjacent Shabelle plantation districts, or the region served by the inland town of Baidoa". He argues that there are several reasons for the persistence of conflict in the south after 1995: "The region contained the best agricultural land in the country – both irrigable and rain-fed – as well as excellent grazing, and valuable if limited fuel wood supplies. It also contained the most densely populated districts in the peninsula, including many whose farming families had for generations produced generous harvests under arduous conditions." There were also two underlying reasons.

Firstly, as Cassanelli notes, the south had for centuries been a refuge zone for migrants from other more arid parts of the country: "In the long historical record of settlement, established local residents (*guri*) typically incorporated newcomers or 'outsiders' (*galti*) into their communities by granting them conditional use of land resources in exchange for the newcomers' deference to local authorities and local customs. However, the massive displacement of people during the recent civil war shattered the old rules. Armed bands of 'outsiders' spawned by the chaos ignored or usurped the rights of the *guri* to allocate land and adjudicate claims within their communities. Where the *galti* belonged to clans backed by powerful regional warlords – as was the case in much of the Bay, Lower Shabelle and Lower Jubba regions – the local residents regarded

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304 Menkhaus (1998).

305 Cassanelli (2003).

them as little more than oppressive foreign invaders." While in some cases the *guri–galti* dynamic was successfully invoked to legitimate their presence or the traditional systems were able to mediate disputes, in many others the local residents mobilized their own militias (such as the Rahanweyn Resistance Army) to resist the incomers and factional fighting thus continued.

Secondly, Cassanelli suggests that the "social demography" of the region was a cause of the persistent instability, since much of the area was inhabited and worked by "minorities" who were particularly vulnerable and unable to mount sustained collective resistance in such a way as to produce a military balance of power and thus a cessation of fighting. He notes that "the land they inhabited and the labour they contributed as construction workers, artisans or skilled farmers were extremely valuable assets in the power struggles among the major armed factions. Successive waves of occupying militias extorted food, service and women from these minority communities. Their value as workers and producers of food, combined with their military vulnerability and low social status, subjected their villages to repeated invasions by militia forces". As Cassanelli[306] also notes, the opposition groups that drove out Barre's forces had acquired weapons from external sources and also inherited the stockpiled artillery and other military equipment left behind. "These groups had the upper hand militarily in the subsequent struggle for power: they had weapons, re-supply networks from outside and control over the ports through which relief supplies ultimately had to pass".

These dynamics continue to have an effect on current Somali politics and proposals for the structure of an eventual peace settlement. As Menkhaus[307] comments, "Among Somalis, preference for either a decentralized or centralized Somali state tends to be closely

linked to the perceived advantages the options afford one's lineage. Clans such as the Rahanweyn, which are relatively weak politically but claim as their home territory some of the most valuable riverine and agricultural land in the country, strongly support a federal solution. They view self-rule as their only form of protection against the land hunger of more powerful clans. Conversely, some lineages, especially the Hawiye clan-family, dominate the political and economic life of the capital city, Mogadishu, and have come to occupy some of the most valuable riverine land in Somalia; they view federalism as a thinly veiled attempt to rob them of the fruits of victory."

The major state farm projects

In terms of the state farms in the Lower Jubba discussed above, all of them were attacked and systematically looted during the civil wars, with the factories being dismantled and reportedly sold for scrap in Kenya for less than US$1 million. The area was heavily fought over by the opposing clan militias of the Hawiye (the United Somali Congress) and the Darod (the Somali Patriotic Movement), and during this period of intense insecurity there was only limited and highly localized farming by local inhabitants, along with a reversion to grazing land for pastoralists in certain areas of the Mogambo Irrigation Project and Fanoole Rice Farm project land. In the medium term, once the area came under the control of the Somali National Alliance, much of the land seems to have been appropriated by powerful clan interests behind the militias (Habr Gedir at the Mogambo site and Ogadeni at the Jubba Sugar Project[308]).

As Menkhaus and Craven note, this was part of a pattern of appropriating national assets in southern Somalia for private gain, with

306 Cassanelli (1996).
307 Menkhaus (2007a).

308 Menkhaus and Craven (1996) report that "with apparently no sense of irony" the same faction leaders who profited from selling the state farm factories for scrap approached foreign donors and international sugar companies for assistance to rebuild the Jubba Sugar Project.

occupied state and private farms along the Lower Shabelle being expropriated by the Habr Gedir clan and converted into militia-controlled plantations, mostly for the export production of bananas. The Joint Needs Assessment productive sectors report[309] states that one priority of the reconstruction effort should be "the rehabilitation of Fanoole Dam and irrigation system, the Jubba and Jowhar Sugar Estates (in the medium term – with private investment), and the Mogambo Rice Project, involving farmers associations. Long-term goals include development of the Baardheere Dam in order to achieve flood control in the Jubba Valley, expand irrigation, and generate electricity to meet the growing energy requirements and reduce the use of charcoal." This would suggest that a willingness to support or at least consider major agricultural development projects still lingers among the key donors, despite the lessons of the past.

"Post-war" landholding and agriculture on the Shabelle River

Webersik[310] carried out field research in 2002 in the Shalambood area of the Shabelle valley, which Unruh researched in the 1980s. In 1991, Hawiye clan militia had "liberated" farms previously "owned" by Darod clan families, claiming a moral right to take over previously state-owned farms since they had defeated the former regime. As one local resident put it, "In the past, land was seized with the pen; today, land is seized by gunpoint." Although the majority of landowners were Marehan and Dulbahante, some landowners were also Majerteen; businessmen from all clans, and even minority clans such as the Bantu, were also represented in the class of landowners. Webersik estimated that only 20 to 30 percent of the land was still being used for irrigation agriculture: The newcomers from the central regions had occupied plantation farms and expelled their owners, but because they lacked

309 Joint Needs Assessment (2006d).
310 See Webersik (2005).

expertise to grow cash crops, land suited for irrigation was left uncultivated.

Most banana growers had abandoned their farms and, as a consequence, the plantations and the irrigation infrastructure deteriorated. Irrigation infrastructure, such as pumps and tractors, was looted by advancing militias. Despite the recorded incidents of looting, killing and rape, Webersik argued that there was "little evidence of specific conflicts over the occupation of land. Roving militias were more interested in movable assets and food items. Advancing militias mainly occupied banana plantations owned by the former elite and foreigners who had fled the area rather than the smaller holdings." During the 1990s, the banana plantations and the Merka seaport through which the crop was exported had been the scene of violent clashes (dubbed the "banana wars") between rival clan militias supplying two international fruit companies; there were also widespread allegations of forced labour, including children[311].

Webersik commented that insecurity (especially looting) had a significant effect on the storage and selling of grain and also limited long-term investments in food-processing facilities. In order to prevent armed militias from controlling irrigation water, farmers deliberately destroyed floodgates, further weakening the existing infrastructure and then themselves resorted to the use of arms to extract water to irrigate their fields. He reported that it was common in Lower Shabelle for large-scale plantation farmers to maintain their own militia to protect their property and business activities. High taxes collected at numerous checkpoints, unusable roads, and high transaction costs inhibited traders from reaching markets for their produce, and rice and sugar, once locally produced, had to be

311 Banana exports effectively came to an end after the 1998 floods. In addition, Somalia no longer has privileged access to world fruit markets in the same way as it used to have (as a former Italian colony).

imported at a high cost. Large-scale farmers, whose plantations were in the vicinity of the main canals, did not see any moral obligation to cooperate with smallholders who live at the periphery of the irrigation system. Since ownership over land was often disputed, plantation farmers did not find it worthwhile to invest in capital-intensive activities such as excavating canals, and uncertainty diminished the incentive to cooperate with smallholders.

SECTION 2: HOUSING, SETTLEMENTS, AND INFRASTRUCTURE

KEY LAND-RELATED INDICATORS

The Millennium Development Goal targets most relevant to land and shelter are set out under Goal 7 ("to ensure environmental sustainability"). Target 7C is *"to halve, by 2015, the proportion of people without sustainable access to safe drinking water and basic sanitation"*. This is to be measured by the proportion of the population using an "improved" drinking water supply (defined as piped water, public tap, borehole, pump, protected well, protected spring, or rainwater) or an "improved" sanitation facility (defined as non-public facilities such as sewers or septic tanks, pour-flush latrines, and simple pit or ventilated improved pit latrines). Target 7D is *"by 2020, to have achieved a significant improvement in the lives of at least 100 million slum dwellers"*. This is to be measured by the proportion of urban populations living in "slums", which are households with at least one of the four following characteristics:

1. Lack of access to improved water supply.
2. Lack of access to improved sanitation.
3. Overcrowding (three or more persons per room).
4. Dwellings made of non-durable material.

The Sphere standards set out basic benchmarks for the provision of shelter, water, and sanitation in emergency situations. From the author's observations and agency reports on the subject, the vast majority of peri-urban "informal" settlements in Somalia (particularly those containing IDPs or returnees) fail to meet these standards. Following are a few of the key ones:

- Average water use for drinking, cooking, and personal hygiene in any household is at least 15 litres per person per day. The maximum distance from any household to the nearest water point is 500 metres.
- A maximum of 20 people use each toilet. Toilets are no more than 50 metres from dwellings.
- Household waste is put in containers daily for regular collection or is burned or buried in a specified refuse pit. All households have access to a refuse container and/or are no more than 100 metres from a communal refuse pit.
- The initial covered floor area per person is at least 3.5m². The covered area enables safe separation and privacy between the sexes, between different age groups, and between separate families within a given household as required.

URBAN SETTLEMENTS

We do not have particularly detailed information on the state of housing in Somalia or on the levels of homelessness and secondary occupation; the settlements survey carried out by UNDP in 2006 does not seem to be generally available. A full-scale baseline survey or some statistically significant sampling would be advisable as and when peace and security permit. According to the 2007 Millennium Development Goal report for Somalia[312], "Access to water is limited to an average 23% of the population in Somalia, but varies according

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312 UNDP (2007). The Millennium Development Goal targets for water, sanitation, and housing are set out in Section 5 below.

to regions. In the Northwest there is 31% access, compared to 26% in the Northeast, and 18% in Central South Somalia. As the population has increased, so has contamination of surface water supplies. About one third of the population has access to piped water in urban areas, compared to 3.8% in non-urban areas. Less than 50% of the population of Somalia lives in households with sanitary means of excreta disposal. In addition, water prices are unregulated, and there is a general lack of permanent water sources due to geographical and climatic conditions. Only 24% of the population has access to permanent housing (60% in urban and 6% in rural areas)."

According to the major 2002 World Bank and UNDP socio-economic survey, about 24 percent of houses in Somalia are constructed with durable materials and can be classified as permanent structures. Around 56 percent have walls or roofs constructed utilizing semi-durable materials. The remaining 20 percent are categorized as temporary, as they are makeshift houses utilizing sticks, plastic sheets, and similar materials; in Puntland (and probably elsewhere) these are generally occupied by IDPs from the south or refugees from Zone 5 of Ethiopia, according to Puntland Development and Research Centre[313]. There is a marked difference in the quality of houses in urban and other settlements, with only 6 percent of the houses in rural and nomadic areas classified as permanent compared with 60 percent of the houses in urban areas.

The survey also found significant differences in the ownership pattern of houses between urban and non-urban settlements. Whereas the inhabitants in urban areas own less than 60 percent of houses, over 90 percent in rural and nomadic areas are owner occupied. One in every 4 houses is rented in urban areas, as against 1 in 25 houses in rural and nomadic areas. The survey noted that the housing

problem in urban areas is accentuated by the growing migration from rural to urban areas, displaced persons, and returning refugees, with one-third of the households in urban areas having two or more families staying in the same house and slightly over half of them sharing single-roomed houses. It also notes that around 18 percent of families occupy rent-free houses, vacant houses, or public places, which is described as "a potential source of instability".

The Puntland Development and Research Centre report mentioned above provides some further analysis of these statistics in the Puntland context, which may be of wider application. It suggests that the families occupying "rent-free" properties (estimated at 7,720 families or 57,000 persons) are "destitute returnees who cannot afford paying rents and [are] temporarily sheltered in houses that belong to their respective relatives, through the consent of the owners". It comments that "this is a reflection of the endurance of the traditional social obligation demanding from the relatively better-off sectors of the society to assist disadvantaged categories of the population, mostly through kinship networks of reciprocal solidarity" and that probably "this category of the urban population depends on that traditional support system for most of their other essential needs" as well. It also foresees the likelihood of increased evictions if the demand for rented houses keeps growing and landlords of "rent-free" properties are faced with economic difficulties.

The report suggests that the fact that fewer than 1 percent of households are occupants of "vacant" houses demonstrates "the previous neglect in Puntland regions by former Somali governments as well as colonial authorities", who marginalized these regions in terms of provision of essential services so that investment in government buildings was negligible. It notes that "most of the state-owned buildings that existed in the region before the collapse of

313 Puntland Development Research Centre (2004).

the national government, which are very few in numbers, were initially occupied by returnees from other regions of Somalia" but have since been emptied and rehabilitated.

URBAN INFRASTRUCTURE

In 2002, the European Commission financed the "Somalia Urban Sector Profile Study" by UN-HABITAT[314], which contains significant amounts of information on the then current situation and detailed recommendations in relation to future programming. Despite its title, it concentrated largely on Somaliland (because of security difficulties in other areas) though it recorded the results of surveys conducted in Kismayo, Mogadishu, Beletweyne, and Galkayo by a consultant national NGO (Forum for Peace and Governance). It highlighted "two strategically important gaps which are not adequately being filled: municipal capacity, and urban planning and land registries" and recommended intervention programmes in "urban governance" (training and technical advice on, for example, tax and revenue or administration and finance) and "urban management" (urban planning and land management gaps, as well as "hardware" elements of urban services and infrastructure). It also looked at the revenue position of urban councils and other sources of programme finance. The report's detailed urban profiles provide a very useful level of baseline data but are too lengthy to relate here. However, its general analysis of the urban sector can be (very briefly) summarized as follows:

- Regulatory and legal frameworks were poorly developed.
- "Ownership of some public infrastructure (e.g. water) is another area of dispute between central and local authorities, deriving in great part [from] the collapse of former authority in Mogadishu. This and other confused regulatory aspects have resulted in uncertain authority and responsibility, development inaction and power struggles."
- Water production and supply were inadequate, with water quality a reported concern in many locations. Municipal and community efforts in solid waste collection and disposal were also "obviously inadequate"; however, "institutionally, joint public and private responsibility appears viable but requires regularizing and strengthening to [the] point of sustainability and effective impact". Electricity supplies were also limited and largely private.
- Urban master plans and urban planning capacity were more or less non-existent.
- Public control over land management was also lacking, as were resources to repair and maintain public areas such as streets: "With rapid and uncontrolled urban growth, the lack of urban plans, inadequate land registries and other management tools, the frequent results have been encroachments, loss of vital open and recreational space, land disputes, poorly serviced subdivisions and inefficient spatial development. A disproportionate amount of municipality time is spent on land dispute resolution. Disputes too often turn violent and require supportive mediation by central government and civil society. Some inefficient layouts and surfacing conditions plague both old and new streets in most cities. There are obvious problems with original construction standards, lack of proper street drainage in design, and poor maintenance and repair throughout."

The Joint Needs Assessment infrastructure report[315] contains considerable detail on the general infrastructure of Somalia (roads, bridges, ports, energy generation and transmission, etc.) and its deficiencies, along with rough costings of the necessary reconstruction and development. It also does the same for urban infrastructure such as the

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314 European Commission (2002).

315 Joint Needs Assessment (2006b).

electricity and water supply, waste management and street maintenance. The 2001 Human Development Report gives a general and fairly poor assessment of the position in south central:

"The economic infrastructure in the south is in a state of accelerating deterioration, and in some locations has become an impediment to commerce. Merka was particularly affected by the decline in the banana trade [and] the all-weather seaport at Kismayo is partially functional, but commerce is constrained by chronic insecurity in and around the city. Throughout the south, airstrips are in a variable but generally worsening condition. Economic infrastructure in the riverine agricultural areas, consisting of irrigation canals, river embankments, and other flood control devices have also suffered from damage and neglect. Much of the damage caused by the 1997/98 floods has been repaired, notably in the Lower Shabelle valley. However, without sustained support and an authority to regulate land and water use, there is a continued risk of flooding beyond normal flood recession agriculture. The worst aspect of southern Somalia's economic infrastructure is the road system. Due to lack of investment in the 1980s, many of the all-weather roads in southern Somalia had already fallen into a state of disrepair before the civil war. These roads have now been rendered virtually unusable due to war damage, floods, and lack of maintenance, forcing vehicles to use dirt track roads. During the rainy seasons this can leave agricultural communities cut off for months. Due to chronic insecurity, repair efforts have been minimal."

MINES AND OTHER EXPLOSIVE REMNANTS OF WAR

According to the UNDP Mine Action website[316], the first mine laying occurred in Somalia during the 1964 and 1977 Ogaden wars, when minefields were laid along the Ethiopian border[317]. The mining of strategic facilities, camps, and towns followed in the 1970s and 1980s during the Somali Salvation Democratic Front insurgency in Puntland and during the 1988–1991 war in Somaliland. Mines were also "widely used" in the 1990s inter-clan fighting[318].

The 2001 Human Development Report states that "in the early 1990s, Somaliland was considered one of the most heavily mined countries in the world, with estimates of up to one million mines laid during the war by the Somali National Army and the [Somali National Movement]. The mines were used not only with military objectives but also as weapons of terror against civilians, planted on agricultural land, on access routes, around water resources, and in people's homes. Most were planted without markings or record keeping." However, a "feasibility study" carried out for UNICEF in 2000 was very sceptical of claims of this sort, describing numerical estimates of mine contamination in Somalia as "questionably calculated and implausibly high"[319].

Little[320] suggests that "certain grazing areas of the Upper Jubba" were planted with mines by Barre's forces as they fled. Although data on the extent and location of mines in the south is sketchy, a report in 2004 by Geneva Call suggested in terms of general trends that "pockets of both antipersonnel and anti-tank mines are scattered inside Somalia around strategically important towns, military installations and key civilian infrastructure

316 www.mineaction.org/country.asp?c=23, last accessed 2 May 2008.

317 Geneva Call (2004) reports that the US State Department has estimated that 70 percent of all landmines in Somalia are laid within these barrier minefields. The 2001 Human Development Report suggests that mines were also laid along the Kenyan border during the 1960s fighting.
318 Geneva Call (2004) suggests that the United Somali Congress, Somali National Alliance, Rahanweyn Resistance Army, Jubba Valley Alliance, and Somali Patriotic Movement (among others) have all used mines in various areas of the south, including Hiran, Bay, Bakool, and Lower Jubba (near Kismayo).
319 See Taylor (2000).
320 Little (2003).

such as water sources, airstrips and bridges. Many secondary roads connecting villages to cities and one region to another are closed or go unused due to the suspected presence of anti-tank mines." It noted reports that "landmines have been used also for economic purposes. For example, it was reported to the mission that militia in Bay and Bakool used to lay mines as roadblocks to tax travellers. In southern Somalia, farmers have allegedly laid mines to protect their crops from livestock. The Landmine Monitor also reported that camel herders were using landmines to stop the widespread cutting of trees – a source of food for nomadic people – by charcoal smugglers".

In the 2 years preceding Phase I (covering Somaliland) of UNDP's Landmine Impact Survey, there were 276 casualties – see the map at Figure 16 for details and distribution. Phase II of the survey (covering Puntland) found contamination primarily along the Ethiopian border and in the Galkayo district[321]. The 2007 Landmine Monitor Report[322] (produced by the International Campaign to Ban Landmines) lists 359 casualties overall and 2,487 "estimated mine [and explosive remnants of war] survivors" and indicates that most casualties are due to unexploded ordnance and other explosive remnants of war rather than traditional minefields. It also reports a former Transitional Federal Government minister as estimating that militia in Mogadishu alone held at least 10,000 anti-personnel mines, although it comments that anti-personnel landmines (in the strict sense of pressure-detonated mines hidden in the ground) have not really been used in the Transitional Federal Government and Islamic Courts Union fighting, as opposed to improvised explosive devices and command-detonated mines. The UN monitoring group

for the arms embargo have reported[323] that anti-personnel and anti-vehicle mines have been provided to protagonists by countries in the Horn of Africa and elsewhere.

SECTION 3: CURRENT LAND ADMINISTRATION AND MANAGEMENT STRUCTURES

Some of the information that follows comes from Bruyas's useful situation analysis of the "land legal framework" in Somaliland and Puntland, which is based on four months' research (structured interviews and a desk review of literature) carried out for UN-HABITAT's Land and Tenure Section in 2006 and should be consulted for a detailed explanation of land registration and administration procedures. The remainder comes from the author's own research. To avoid excessive use of quotation marks and footnoting, it should be assumed that any information *without* a source comes from Bruyas; the author's research is footnoted in the usual way.

LAND TITLING AND REGISTRATION SYSTEMS

For details of the land titling and registration systems that were in operation in Somalia during the Barre regime, see Section 1 above (which summarizes detailed local case studies of the effects of its operation) and Section 1 of Part E (which summarizes information on the more technical aspects of the law and its overall implementation). Existing laws on registration in Somaliland and Puntland are summarized in Section 1 of Part E. Land ownership in Somaliland and Puntland is currently recorded using a manual paper-based system by municipal staff with a chronic shortage of tools. In both regions, the registration system has been largely destroyed and operates on

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321 Geneva Call (2004) suggests that the Somali Salvation Democratic Front and United Somali Congress both laid mines along the so-called "green line" that formed the de facto Puntland border.
322 Available at www.icbl.org/lm/2007/somalia (last accessed 1 February 2008). See also UN (2007b), the detailed report of a 2007 UN inter-agency mine assessment mission to Somalia.

323 UNSC (2004).

Figure 16: Landmine Impact Survey for Somaliland

a very basic model[324]. The Hargeisa Land Department is facing extremely rapid growth of the city and does not have the capacity to respond adequately. The link between the registration office and the mapping section is very weak[325]. The mapping section employs two staff to develop basic maps of Hargeisa, on which appears very little information.

A UNDP-supported cadastral survey project implemented by the well-known author and expert on Somali affairs, John Drysdale, has reportedly eased tensions significantly in and around Gabiley District and dramatically reduced conflicts over land issues. Somaliland Cadastral Surveys Limited has surveyed over 10,800 rain-fed and irrigated farms, producing maps, certificates of registration, title deeds, computerized photo IDs, and boundary markings. The maps are posted at relevant government offices, such as the Ministries of Agriculture and Planning. However, Gabiley is one of the most settled communities in Somalia and has not experienced open conflict for more than ten years. It is also clear that Drysdale's in-depth knowledge of the people of the area and the community-based methodology (involving elders in verification) were crucial to the success of the programme and its impact on peace[326]. It is less clear whether this methodology would

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324 The European Commission urban profiling study (European Commission [2002]) noted that "land registries are essentially intact in Borama, Gabiley and Sheikh". The author has seen some data from the Borama registry, which lists various properties and records plot number, size and village, as well as "lessee" (which may suggest that Barre era long leases are still being used) and some changes of ownership.

325 The 2003 Hargeisa statistical abstract (Municipality of Hargeisa [2003]) showed that only a few hundred title deeds were being issued every year and commented in a rather plaintive footnote that "it was simple to have a new title deed issued before 2000. However, due to land disputes, the issuance of new title deeds now requires lengthy procedures to be followed".

326 Interview 20.

work in urban areas, where boundaries and ownership are much more contested.

In Bossaso, the registration office has the authority to register ownership, land taxation, and rehabilitation authorization documents, as well as building permits and inheritance certificates, but this is not a compulsory process. The system has a very low degree of accuracy with respect to parcels and rights. Any parcels are delineated on diagrams or plans framed by land surveyors and the plan does not have to be approved by the office, since it is only a matter of getting an official stamp that certifies that the document has been recorded. More worrying is the fact that land information collected by the different registration offices is not shared among them. Each office must transfer land information to the district responsible for the updating. Lack of updating leads to mistakes about the identity of the owner. The Islamic Court in Bossaso is also authorized to register the same range of legal documents, and this is commonly done to ensure recognition of people's rights under the Islamic law. Research for this report in Puntland indicates that there were deed archives or title registers at municipalities and other government offices before the civil wars but that these were looted (in some cases registrars took away documents themselves).

Almost nothing is known about the status or location of the land registration records that once existed in south central Somalia, both at the district or regional level and in Mogadishu. Centre for Research and Developent research for this report suggests that some former municipal officials in Mogadishu have taken possession of at least some of the records and that these are used in dispute resolution and possibly to verify ownership on purchase. Public notaries also have copies of some property documents. However, Centre for Research and Development also note that forged title deeds are widespread and are easily

purchased in the Abdullah Shideeye section of Mogadishu's central Bakara market[327]. A source mentioned in a Home Office report[328] stated in 2007 that the Islamic Courts Union had "begun a register of property according to sharia law" but nothing more is known of this.

LAND GOVERNANCE STRUCTURES

South central Somalia

There are no land laws under development. No institutions exist at a regional level. At the local level, land management decisions are made as need arises by authorization of the controlling group or governor, or between competing informal authorities. In Kismayo, the controlling group authorizes municipal decisions on an ad hoc basis; there are no municipal regulations, nor does public revenue collection exist on land and properties. In some areas in Mogadishu, land allocation for public purposes is managed at the neighbourhood level, focusing on negotiations among the community members themselves. The Transitional Federal Government has stated that it will engage directly in land reform as soon as it has established a seat in Somalia, using land records remaining from the pre-war time as a basis, together with traditional conflict resolution mechanisms. See also Section 4 below on the conclusions of the Somali National Reconciliation Conference's land committee.

Puntland

In Bossaso, the land department is in charge of land allocation, planning, land regulation, and other such activities. There is a critical need for computers, printers, mapping equipment, and office stationery. Despite having only eight staff, the land department theoretically comprises a

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327 Marchal (2002) confirms this and reports 10 to 20 "shops" where forgeries of all kinds are available.
328 Home Office (2007).

land section (land allocation, registration, and records keeping), a planning section (planning and mapping by surveyors), and a monitoring section (to check compliance with the regulations). The department reportedly uses the Barre era land laws as a basis for operation and by 2006 had registered approximately 6,000 plots. It was reported that approximately 200 plots are registered every year for building permits.

The legal framework for the land administration institutions remains unclear – see Section 1 of Part E on the land laws of Puntland. The Ministry of Local Government seems to be the national authority responsible for land, but the local government structures of the district have been empowered to deal with land management. The mayor, with the approval of the municipal council, has the authority to grant permanent ownership over land, and this authority can be delegated to a committee appointed by the mayor. A technical committee, whose responsibility it is to analyse and make recommendations on the general town plan, construction layout, and all other relevant issues concerning the land for settlement, also assists the local government. It is not clear what role the Ministry of Public Works plays in the land management system.

Somaliland

In Hargeisa, the municipality has a land department, which is in charge of land regulation and allocation, a second section in charge of transfer of ownership and building permit registration, and a third independent department that is responsible for the issuance of title deeds. The building permit is a compulsory document that is evidence of an owner's permission to develop and construct a building, but it is not compulsory to register the title to the building or land. Many do not register the property title, so that the two separate record-keeping systems end

up diverging. The potential for duplication, inaccuracy, and confusion is obvious and substantial. In 2006, Hargeisa had 60,000 developed properties, but only 3,000 titles had been allocated. All private land transactions are subject to notification and registration with a public notary.

SECTION 4: LAND- AND RESOURCE-BASED CONFLICTS

Space does not permit a detailed historical description of the ebb and flow of Somalia's innumerable land disputes, and in any event almost every party to a dispute will have their own competing historical narrative as to their entitlement to occupy, control, or profit from an area of land. The UNDOS governance studies provide detailed background on most of the contested areas of the south and are highly recommended, although unfortunately most are not easily available. This section will summarize some of the key underlying dynamics and look at the dispute resolution mechanisms that are available.

CAUSES AND DYNAMICS

Mostly due to security issues, there have been almost no studies or research on the specifics of lower-level land conflict outside Somaliland. For that reason, this section draws almost entirely on material relating to Somaliland[329]; it is, however, likely that similar issues apply in Puntland and, to a lesser extent, in the south central regions. Research for this report in Puntland confirmed that many clans and sub-clans are still seeking to appropriate revenue from previously public infrastructure such as seaports, airstrips, and roads. It also listed a number of public buildings that had either been appropriated by private individuals or companies or simply knocked down and

329 This section repeats parts of Academy for Peace and Development (2006b) and (2007a), two useful reports by Academy for Peace and Development on resource conflicts and land conflicts.

replaced by private buildings[330], as well as buildings alleged to have been illegally sold to individuals by the local authorities. "Land grabbing" was reported to be widespread there too, with "owners" marking their land in various ways, such as low walls or bulldozed piles of soil; often the walls or columns erected by previous "owners" are bulldozed. The World Bank conflict analysis[331] highlights three key regional conflicts as being potentially the most destructive to Somalia's future stability: the Lower Jubba region (with Kismayo), the Mudug region, and the regions of Sool and Sanag.

Rural land conflicts

"Because of strong clan solidarity, and facilitated by the link between private land ownership and the '*deegaan*' principle, local land disputes between individuals or families over access to natural resources bear a high potential to escalate into wider inter-community conflicts that involve clan segments of both parties. Consequently, all conflicts in Somaliland contain a clan component. Such tendencies are forced by the fact that conflicts over natural resources often intermingle with other clan interests, including political and economic issues, as well as the collective memories of past events in clan relations. For instance, when it comes to the establishment of new administrative units or the positioning of polling stations, local conflicts over land ownership or the control over land are usually not primarily a livelihood issue of nomads and farmers, but an instrument of politicians to gain influence in politics. (This dynamic was confirmed by one interviewee[332], who commented that neutral or communal areas were sometimes encroached on due to the operation of the current electoral system – sub-

clans sought to create new villages because the number and distribution of parliamentarians was related to the location of settlements.)

"In the context of Somaliland's decentralization and democratization process, the occurrence of such 'multi-dimensional conflicts' is likely to continue or increase. Furthermore, the state can hardly remain outside of clan politics over land. To the contrary, its institutions, e.g. security forces, ministries, the judiciary, regional and local administrations, are composed of clan members who in the case of inter-clan conflict can hardly maintain neutrality. This is one of the reasons limiting the state's ability to resolve such conflicts.

"The revival of clan-based politics and reduced public confidence in the supremacy of the rule of law has emboldened the claiming of communal pastoral land as the traditional homeland of a specific clan. The traditional clan homeland (*deegaan*) is set to specify the clan's image and importance in the wider society. As some clans seek to expand their territory, others become marginalized. A striking example of this scenario is the fact that the water sources in the hinterland of Borama were blown up with explosives in the course of a conflict over land a few years ago. It was part of an effort of a local clan group to claim ownership of this area, which they say is their farmland on their traditional homeland. In the Togwachale plain, the Barre regime had nationalized large swathes of agricultural prime land and designated it to labour intensive farming schemes.

"After the fall of the regime, the Somaliland government did not set up a privatization plan for the formerly state owned areas. The vacated land was arbitrarily occupied by neighbouring clan communities. They legitimize their expansion into the former state farm by referring to ancestral claims and assertion to have owned the land before it was nationalized. There exist no documents that prove their legal

330 The researchers list a number of specific buildings, including theatres, a state utility company building, military camps, national security offices, and agricultural development buildings.
331 World Bank (2005c).
332 Interview 8.

claims. In the Sanag region, enclosures take the form of *ceshimo*, expanses of prime grazing area claimed by individuals or families. Some *ceshimo* have their roots in colonial British Fodder Reserves; others appeared after the illegal seizure of former cooperative land, designated as such during Barre's 'socialist' era. Regardless of origin, however, claims of outsider trespassing on *ceshimo* have been a source of much violent dispute and several deaths in Sanag. Reconciliation conferences held in Erigavo in the early 1990s settled many of these disputes amicably, but certain clans in the area claims [sic] still linger on, unresolved."

Urban conflicts

"If rural conflicts are fought mainly for control of natural resources, urban struggles are most often over real estate. The city of Hargeisa has seen violent struggles over government buildings and property. In Burao, the airport recently became the centre of a struggle between same-clan affiliates. The Borama and Erigavo grazing reserves are now in the process of being grabbed by real estate dealers. Previously, most of these properties were either nationalized by the state or confiscated by the Central Bank for default loans. Others were seized by the former Barre government and often 'nationalized' for a specific purpose, such as building a factory or establishing an agricultural cooperative. In the aftermath of the fall of the Barre regime and subsequent breakdown of authority, such properties become the focus of fierce contests. Properties auctioned by the bank often became sources of conflict between the old and new owners.

"Currently, there are still squatters occupying government buildings, reflecting the reluctance of authorities to assert themselves forcefully. Fortune-seeking brokers and certain officials grab plots of land on the periphery of old colonial bungalows with impunity[333]. Plots owned by senior figures in the Barre regime became the prize in a long contest of loud claims and counter-claims to ownership made both in court and on property sites. Conflicting ownership certificates can be issued by different government bodies, such as the Ministry of Agriculture, the Ministry of Public Works or the municipal government, or can simply be forged outright by one of the above." For these reasons, a sensible buyer of a plot of land would assemble all those with an interest in the land (neighbours, family members of the vendor, clan elders of the area) to confirm that all of them are in agreement, which could well involve additional money changing hands[334]. Land values in Hargeisa are increasing rapidly though erratically: Bradbury[335] reports that between 1992 and 2003 a plot of land 18 by 24 metres near the Mansur Hotel had risen from US$300 to $9,000 in value, with values in other areas going up by at least 10 times over the same period.

Water issues

Water rights of course have been a major cause of conflicts between groups of pastoralists, often exacerbated by externally funded water development schemes. As Adams et al.[336] point out, on Somali ranges the only "public goods" (using that phrase in its technical economic meaning) open to all herders and herds are natural water sources, but donors and agencies have (in the past at least) designed and implemented new water investments as public goods open to all, thus disrupting the "market": "Grazing areas that had traditionally

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333 This has been clearly demonstrated in a project undertaken by Hargeisa Municipality (with technical assistance from UN-HABITAT) to verify the location and occupants of all public buildings in the city, which revealed evidence of considerable encroachment within compounds through occupation of existing outbuildings, erection of new ones (often **buuls**), or unauthorized extensions, or through subdivision and construction of substantial new private villas (Interview 12).
334 Interviews 6 and 7.
335 Bradbury (2008).
336 Adams et al. (2006).

been associated with the specific pastoral group who had control of [and had probably established] the local man-made water source then became openly accessible to all herders, creating tensions between different pastoralist groups and between them and the agencies responsible for the particular schemes". Shepherd[337] reported similar issues in relation to general grazing rights and the felling of trees for charcoal in the Bay region back in 1988.

The Academy for Peace and Development livestock sector report[338] notes that "in a land where ground water can be 500–600 metres deep, *berkads* [water cisterns] are the prime source of water for both animals and the inhabitants of dry nomadic areas. They provide a reliable supply of water to the people and the livestock during the dry seasons, while the surplus water can be also sold for profit. They maximize rainfall harvesting, control run-off and relieve pressure on groundwater. While some argue that the *berkads* accelerate the process of rangeland degradation, others argue that the multiplication of *berkads* ensures the wide distribution of the human and livestock population and prevents the concentration of people and animals around a few water points during the dry season. Beginning with the colonial period, the creation of permanent water points in arid zones such as Hawd has altered grazing patterns and cyclical migrations. Waterless areas that previously could be grazed only during the wet season could be grazed all year round. Migrations became more localized and the range was given little time to regenerate. The availability of water meant that animals could be watered more frequently, and did not need to move far from the water points. The social stratification that has accompanied the commercialization of livestock production poses a challenge to the traditional leadership and land use control. This trend is not new. Since the mid-1980s wealthy livestock owners have been able to pursue

their own private economic interests without community consultation, setting up enclosures and constructing *berkads* on communal grazing land that was previously managed on the basis of community interest and customary law."

Elsewhere[339], the Academy for Peace and Development has suggested that an inherent motive of sedentarization is to increase the control over common grazing lands with the aim of extending a clan's territory (*deegaan*), often leading to competing land claims.

Puntland Development and Research Centre's report[340] on the socio-economic situation in Puntland makes similar points, arguing that *berkad*-driven villagization is an ongoing process that continues to absorb sizable portions of the land at the expense of the communal grazing fields. Private ownership of the *berkads* means that a family will settle down to protect the *berkad* and sell the water; a settlement may grow up around them, which becomes a trading centre; other settlements grow up nearby and soon an area becomes a permanent grazing area. Accessibility of water eased by the frequent construction of *berkads* has increased livestock numbers to unprecedented levels. Moreover, instead of the long migratory pattern from and to long distances in search of water and pasture, the recent upsurge of *berkads* narrowed the movement of the animals, which now linger in a very circumscribed area.

Villagization also leads to the cutting of trees for charcoal production, housing, fencing, and *berkad*-covering materials. As a result of the depletion of animal feeding in the region, the productivity of the livestock has enormously declined. Puntland Development and Research Centre reports that since 2001 livestock have reproduced less profusely, milk production has been scarce, and there has been negative weight gain among all species of herds, particularly camels. The decline in

337 Shepherd (1988).
338 Academy for Peace and Development (2002c).
339 Academy for Peace and Development (2007a).
340 Puntland Development and Research Centre (2004).

livestock productivity deprived the herders of sufficient milk and meat for household use, as well as the essential cash flow needed to cover fast-growing expenditures (e.g. water and veterinary drugs). This situation has led many poor pastoral households to relinquish the herding of animals. It was thought unlikely that even wealthy nomads could in the long run afford to continue to sustain the current deficit spending on animal husbandry. The factors that favoured increased livestock numbers between 1990 and 1998 have since reversed, with poor rainfall and the Saudi livestock ban.

Weapons

Widespread ownership of small arms and light weapons[341] in Somalia is unquestionably a factor in land conflicts, and a UNDP-funded small arms and light weapons survey in Somaliland[342] provides some interesting data, which would no doubt be significantly worse in south central. Of the 699 respondents, 46 percent reported that they own one or another type of firearms (mostly automatic rifles such as the AK-47 or pistols or revolvers). When asked why people keep firearms, 60 percent used personal protection for justification, 12 percent cited property protection, and 10 percent affirmed that their firearms were left from the war. This question allowed multiple responses and half of the respondents provided a second answer, of which 40 percent justified keeping firearms for property protection[343]. The World Bank conflict analysis[344] notes

341 "SALW" in the jargon of "DDR" (disarmament, demobilization, and reintegration) specialists.
342 CCS (2004a).
343 The regional breakdowns of the responses show differing levels of security even within relatively peaceful Somaliland, from insecure Togdheer and Sool in the east to the safer urbanized areas around Hargeisa (north-west) and Borama (Awdal). Seventy-two percent in Togdheer, 43 percent in the north-west, 42 percent in Sool, and 34 percent in Awdal admitted that they own firearms. Forty-one percent in Togdheer, 23 percent in the north-west, 20 percent in Sool, and 14 percent in Awdal affirmed that they own automatic rifles such as AK-47s. Sixty-nine percent of Sool, 58 percent of Togdheer, 33 percent of the north-west, and only 11 percent of Awdal residents justified keeping firearms for property protection.
344 World Bank (2005c). It is not clear whether this was a countrywide survey.

a 2003 survey in which 60 percent of respondents thought that people kept firearms for the protection of property. A 2001 survey estimated that "80% of able-bodied males in Somaliland possess a small arm [sic] of one kind or another, suggesting that there might be as many as 300,000 guns"; 17 different types of small arms and light weapons were identified, which demonstrated the variety and scale of arms supplies[345].

DISPUTE RESOLUTION MECHANISMS

National level

The Somali National Reconciliation Conference held in Eldoret and Mbagathi in Kenya in 2002–2003 led to the creation of the Transtition Federal Government. The second phase of the conference included a committee on land and property rights, which was assisted by Günther Schlee, a German Agency for Technical Cooperation consultant appointed as resource person. Schlee described the proceedings in a report[346] that also sets out the (verbatim) agreed positions of the committee in a somewhat briefer format than its official report, which is in any case not widely available. This section repeats those positions, by way of summary of what seems to be the nearest thing to the government's policy position on land issues. They can be broadly grouped into the following categories, by rearranging the committee's own words.

Statement of principles: This committee was unanimous in its conviction that the prolongation of injustice, that leaving property in the hands of those who have taken it by force, would lay the seed for the next conflict. A lasting peace can only be built on justice,

345 The report (Omar (2002)) noted that one key source was the group of 50,000 armed personnel (regular army and armed Ogadeni refugee settlers) stationed in Somaliland by order of the Barre regime during the 1998–1991 war: "These forces disintegrated and resorted to selling their personal weapons for food and transport to get out of Somaliland".
346 Schlee (2003).

and that is giving property back to those from whom it was taken by force. As no ordinary judiciary will be able to deal with the number of cases of contested property that can be expected in Somalia, special committees are to be set up. Apart from different branches of the administration, the police, local dignitaries, and elders are represented on these committees. These committees have the power to summon the parties to the conflict and witnesses, and to call for expert advice. Within a period of ten days, appeals to a competent court can be made against the ruling of the committee; otherwise the ruling of the committee is final.

The colonial period: The alienation of land and other forms of property in Somalia did not start in 1991. The committee has insisted on a substantial historical first part to this document, which speaks of expropriations throughout the colonial period. To deal with the colonial legacy, the government will constitute a committee in which a number of ministries and an expert on colonial history and public and international law are represented. This committee will conduct research on Italian and British colonialism in Somalia. It will assess violations of property rights and environmental damage and see whether compensations for these have been paid and, if not, how claims for compensations can be established.

The period from independence to 1991: As to the post-colonial governments, the laws that were valid then are recognized. Land transactions that were legal at the time will not be reversed. But there was misuse of power. Government officials or their cronies illegally acquired land belonging to smallholders and these lands are to be given back. Regional or district courts will deal with cases of deliberate or habitual abuses in the domain of land management and property rights by the government or by individuals in positions of government authority or people close to them.

The period from 1991: Unlike thieves, who hide what they have stolen, today there are people in Somalia who have acquired land or other properties at gunpoint, with all sorts of human rights violations, who have subdued the former owners of their farms and reduced them to forced labour, and who enjoy the properties they have unlawfully acquired openly – in open defiance of the principles of justice, the teachings of Islam, and any form of human decency. These people will have to give back what they have taken by force. With regard to violations of property rights, at first an appeal should be made to all those who hold property illegally to return those properties to their rightful owners within a specific period. Those who do not comply expose themselves to punishment. A special problem is the occupied and disputed areas. We speak of occupation where the indigenous population has been expelled; in other areas, those we call disputed, the original inhabitants can still be found but are marginalized and intimidated. Such matters need to be taken up by the federal government. It shall name a neutral and impartial administration for the contested regions for a transitional period not exceeding six months. The head of state shall nominate a committee composed of key ministries and the police to deal with these matters. All militias who hold occupied territories by force shall be ordered to withdraw, so that evidence on rightful ownership can be gathered without intimidation.

Government property: The federal government is called upon to form a committee with the task of repossessing all government assets – public buildings, national reserves, ships, aeroplanes, transport infrastructure, and all government industries. Those who have benefited from the illegal use of these properties will have to account for their benefits or will be exposed to the full force of law. Also, at the regional and district levels, such committees will be formed to trace and reclaim

state property. There are cases where people have illegally appropriated offices, banks, hotels, petrol stations, and other facilities that belonged to the government. Special attention will have to be paid to the properties of the Italian Trusteeship Administration, which should have been given back to the people of Somalia. Often such properties have been taken over by influential individuals who have managed to destroy the records that prove the public status of these properties. In this, as in other cases, oral evidence will be important for establishing the truth so that the regional governments can repossess these properties.

National land policy: The question of rights in property is closely related to the productive use of property. Land that was rightfully confiscated for public interest in earlier periods should be put to productive use. If not redistributed to the landless, it should be used to attract foreign investment in production for international markets. Also, the mineral resources have to be brought under government control. If the federal government derives benefits from these, it should give the regional administration of the areas where the mining takes place the opportunity to participate in the planning, conclude the mining contracts, and share in the eventual gains. The administration of land use and range management is in the hands of the regional administration. If land is needed for federal institutions, it has to be requested from the regional administration for a specific use and needs to be given back when no longer needed for that specific use.

In his report, Schlee also replies to the comments of an International Crisis Group report[347] that came out just after the committee reported, which highlighted some of the problems with the land issue. The group's report stated "Wisely, the Reconciliation Committee for Land and Property approached its work by attempting to categorize the various types of

land and property disputes and the possible mechanisms for their resolution, rather than passing judgement on which historical period to consider. Focusing exclusively on disputes since Barre's fall would appear to reward those who had profited from the old regime, while punishing the 'liberators'. Extending the remit to cover disputes since independence might appear more even-handed but would also require more cumbersome bureaucratic and legal machinery for investigating titles awarded under previous governments. Extending the committee's horizon further back to, say, the clan zones demarcated by the colonial powers – as some members of the Committee have suggested – would risk opening a Pandora's box of irreconcilable claims and counter claims."

Schlee comments in response that this issue of competing clan claims was "one of the reasons why one does not find the names of clans in the whole of the report. The level of agreement on the principles of land ownership reached would never have been achieved if it had been attempted to attribute in the official report any form of collective guilt to any named clan group, or to point to territorial gains by any clan at the expense of any other, even if phrased in a way which sounds morally neutral to outsiders. For a Somali reader it is clear anyhow, to which cases the various sections of the report refer."

The International Crisis Group report was also somewhat critical of the proposed system of national and local level committees, which it felt "would require the leadership of a fairly robust and impartial central government" and hoped that "with further deliberation, a more pragmatic system that gives greater responsibility to local authorities might emerge". Schlee explains that it was the task of the committee "to design a policy which would be implemented *after* the government which would be formed as a result of the peace process would have moved to Mogadishu". Since the constitutional issues were being negotiated in parallel with the land issues, for the committee

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347 International Crisis Group (2003a).

"no shape of a future government, whether more centralist or more federal, was even vaguely discernible" at the time.

As the International Crisis Group report rightly noted, "The committee's boldest – and potentially most controversial – assertion is that all militias occupying areas by force should withdraw prior to negotiation or arbitration. Although no specific cases are mentioned in the draft, this recommendation has greatest import for the Habr Gedir militia strung out between Mogadishu and Kismayo, and its Marehan partners in the Jubba Valley Alliance. Difficult as it may be, the issue must be squarely addressed now that it has been tabled. The Lower Shabelle and Lower Jubba are unlikely to know lasting peace as long as their leaders impose themselves by force." It argued that now that "Somalis have spoken clearly, the international community – which has for too long resisted taking a position – should feel emboldened to do likewise".

Puntland

Bruyas reports that, according to the Municipality of Bossaso, someone who wants to develop land that may have been illegally obtained needs first to get a title. The applicants can submit the matter to the Islamic court, which could deliver an order of ownership confirmation with the condition that the claimant must be assisted by four witnesses who are able to swear on the Quran. (This sounds somewhat like the *mewat* doctrine of sharia law – see Section 2 of Part E.) The municipality will also regularize the situation on application by a claimant within some rather unclear time limits, but claimants have to pay the relevant arrears of property tax, which many will be unable to afford. The land in such cases will probably go back to the municipality, which could evict the occupants. The Islamic court has the ability to hear land disputes over built plots, but for cases involving undeveloped plots, the municipality's land committee has

to be involved. However, in Garowe the land committee is only at an "embryonic" stage. The Islamic court reportedly applies sharia principles to settle land conflicts, such as holding that the person who has developed the land should be deemed to be the owner – see Section 1 of Part E. However, it also considers secular law and the legal documents provided by the parties. Land disputes can also be brought to the religious authorities for an apparently less formal Islamic arbitration process. (This may be the *tahkim* process of arbitration.)

Somaliland[348]

The 1993 Reconciliation Conference held in Borama, Awdal region, concluded with an agreement that "permanent" properties were to be returned to their rightful owners. Parties generally complied, except for a few cases where original ownership was in dispute. A lengthy series of negotiations between elders of the Isaaq (Habr Yunis and Habr Jalo) and Darod (Dulbahante and Warsengeli) clan families in the Sanag region led to significant success in solving a wide range of disputes relating to land and resource issues and other matters and have been held up by many as being a textbook example of traditional dispute resolution[349].

However, as the Academy for Peace and Development reports note, since then land ownership issues have continued to present increasingly complex challenges: "Land related disputes make up the majority of the civil cases that come before courts. Overlapping individual claims are the most common nature of such cases. Due to bureaucratic hassles inherent in the system it is often difficult to resolve such land disputes quickly. Land cases can languish in courts for many years. The fact that the property documents are easily forged

348 This section repeats parts of Academy for Peace and Development (2006b) and (2007a), two useful reports by the academy on resource conflicts and land conflicts.
349 See Bradbury (2008) for a detailed account of the peace agreements negotiated in Erigavo in 1992–1993.

and corruption is rampant in the system poses another challenge to the judiciary. For many ordinary people, the courts appear expensive, time-consuming, unpredictable and sometimes even corrupt. The language of lawyers and judge appears alien and complex. Although a number of judges have been removed from the bench, the courts are still not widely regarded as a venue for just settlement of disputes over natural resources.

"The judiciary tends to be soft on conflict issues, generally preferring to defer to and seek mediation from the elders instead. After mediation, the courts announce the decisions. The decisions may not be in line with procedures, but what is decided by the elders 'for the common good' is usually adopted. This reduces public confidence in the judicial system and the stature of the court, rendering its decisions ineffective and sometimes unjust. It allows powerful figures to capitalize on the weakness of the system, encouraging false claims. The popular notion of '*ku qabso ku qadimayside*,' or 'make a claim, albeit unjust, and you shall end up gaining something,' is a direct product of this weakness in the judicial system. As a result of this bad reputation of the formal system, people look for alternative conflict resolution mechanisms.

"Apart from the judiciary, the local councils have a role to play in the resolution of land issues. According to the Regions and Districts Law[350], the local district councils shall have sub-committees for peace and conciliation (responsible for the resolution of disputes arising within the district and for the maintenance of the public order) and land (responsible for the use of land for all purposes). However, in practice, much [sic] of these tasks are actually not fulfilled properly, or are concentrated in the hands of the mayors and executive secretaries. The ability of local councils to solve conflicts and manage land issues seems to be very

limited[351]. Traditional conflict management is used in all kinds of conflicts, mainly to resolve inter-clan issues, with conflict resolution committees, consisting of recognized elders and religious authorities, set up to mediate between the conflicting parties. These councils are not formally established and only come together on an ad hoc basis. In principle, their effectiveness is based on traditional legitimacy and the mutual trust of the disputants.

"However, the drawbacks of traditional conflict resolution institution include:

- In practice, the members of the mediation committee often represent the interests of the opposing parties, leaving its integrity questionable and undermining their claim to neutrality.
- Traditional mediation is re-active rather than pro-active. *Xeer* is much better equipped to negotiate blood compensation than to build consensus over competing land claims.
- Traditional conflict resolution is slow and often late: Raising awareness of a conflict, mobilizing the elders, and finding means of transport and communication over the distance from rural areas consumes a lot of valuable time during which conflicts often continue or escalate unnecessarily.
- The verdicts are not necessarily binding as there is no neutral institution to enforce them. To become effective, both parties need to accept the judgement and implement it.

"In Somaliland, the enforcement of legal evictions remains very weak. State institutions lack financial and human capacity to effectively enact sanctions against culprits. Particularly in the periphery, security forces do not have the material means (vehicles, fuel) to restore security and maintain authority. Furthermore, they may be compromised by clan affiliation

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350 See Section 1 of Part E on land laws in Somaliland.

351 Municipality of Hargeisa (2003), which is a statistical abstract, records 40 to 50 cases a year going to the municipality's appeal committee.

and involvement. Military action needs careful consideration of its implications as it can cause wider armed confrontation, which could disrupt the public order. Somaliland's police force and local authorities have not been very effective in resolving land-based conflicts. In some cases their forceful evictions resulted in confrontation with armed groups that were defending the disputed land. The lack of enforcement may take some weary plaintiffs to resort to armed confrontation to secure their rights and thereby capitalizing on clan mobilization. Traditional institutions are only partially able to fill the vacuum. Their authority relies on the acceptance by the opposing parties. They normally do not have an armed force at their disposal to enact judgments, and given their ad hoc nature, follow-up capacity is generally weak."

SECTION 5: HOUSING, LAND, AND PROPERTY "THEORY" AND POLICY DEBATES

THE HUMAN RIGHTS FRAMEWORK FOR HOUSING, LAND, AND PROPERTY

Somalia has at various times signed or acceded to a number of the key UN and regional human rights instruments, as indeed has Somaliland. Details are given in Section 1 of Part E, along with comment on the legal obligations of Somalia (and Somaliland) under international human rights law. This section sets out briefly the general human rights framework in relation to housing, land, and property, as background for rights-based programming; given the current situation in Somalia and the practical improbability of enforcing such rights, they are not likely to be of immediate assistance to the civilian population.

The Universal Declaration of Human Rights[352] states that "everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status". The rights set out in the declaration include the right to equality before the law and to equal protection, the right to equality with respect to marriage, the right to own property, and the right to an adequate standard of living, including the right to adequate housing[353].

The International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights elaborate and codify the rights set out in the declaration and also explicitly recognize the right to equality between men and women and the right to non-discrimination[354]. However, it should be noted that the right to *own* property is not expressly granted by either of these instruments. The Convention on the Elimination of All Forms of Discrimination Against Women sets out detailed measures to be taken by states to combat discrimination against women[355] and also requires[356] that states "modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or superiority of either of the sexes or on stereotyped roles for men and women".

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352 Article 2.

353 Articles 7, 16, 17, and 25.
354 International Covenant on Civil and Political Rights Articles 2, 3, and 26; International Covenant on Economic, Social, and Cultural Rights Articles 2, 3, and 11(1). See also General Comment 28 of the UN Human Rights Committee on Article 3 of the International Covenant on Civil and Political Rights and, for a more detailed analysis of women's human rights in relation to property and inheritance, Centre on Housing Rights and Eviction (2004). UN-HABITAT (2007b) provides a "policy makers' guide to women's land, property and housing rights across the world".
355 See Article 2.
356 Article 5. On inheritance rights, see also Article 16 of Convention on the Elimination of All Forms of Discrimination Against Women and General Recommendation 21 by the UN Committee on the Elimination of Discrimination Against Women.

Similar non-discrimination provisions are set out in the African Charter on Human and Peoples' Rights and in the Protocol to the African Charter on the Rights of Women in Africa[357]. Rights contained in the African charter may be enforced before the African Court of Human Rights, under the Optional Protocol to the African Charter. The League of Arab States' revised Arab Charter on Human Rights grants everyone the right to own private property and to an adequate standard of living (which includes housing). However the charter is not yet in force, as insufficient countries have ratified it[358]. The elements[359] of

the right to adequate housing are explicated in Figure 17[360].

As is well known, the Guiding Principles on Internal Displacement[361] draw on the general principles of international human rights and humanitarian law to set out a protective framework for IDPs that prohibits arbitrary displacement. Relevant principles include the following.

Principle 18

1. All internally displaced persons have the right to an adequate standard of living.
2. At the minimum, regardless of the circumstances, and without discrimination, competent authorities shall provide internally displaced persons with and ensure safe access to:

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357 See Articles 2 and 18(3) of the African charter and Articles 16 and 21 of the protocol.

358 For the charter to enter into force, seven ratifications are necessary. As of 2006, although five states had signed it (Algeria, Egypt, Saudi Arabia, Tunisia, and Yemen), only Jordan had ratified it.

359 As articulated in Paragraph 8 of the General Comment 4 by the Committee on Economic, Social, and Cultural Rights.

360 The final paragraph in the box refers to Paragraph 7 of General Comment 4.

361 UN document reference E/CN.4/1998/53/Add.2

Figure 17: The right to adequate housing

The right to adequate housing includes seven elements:

1. **Security of tenure**: All persons should possess a degree of security of tenure, which "guarantees legal protection against forced eviction, harassment and other threats."
2. **Availability of services**: "An adequate house must contain certain facilities essential for health, security, comfort and nutrition." As women are often responsible for food procurement, cooking, household care, and providing their own and their children's sanitation, it is necessary that these services not only be available, but also be close at hand and easily accessible.
3. **Habitability**: Housing must be habitable, protecting the inhabitants and providing them with adequate space, heating, and shelter from the elements. It must also be structurally sound, and safe from disease.
4. **Accessibility**: This relates to "disadvantaged groups" having full and sustainable access to adequate housing resources. Adequate housing must be made accessible to all those who are entitled to it.
5. **Affordability**: The right to adequate housing requires that costs associated with housing should be at "such a level that the attainment and satisfaction of other basic needs are not threatened or compromised." However, as women typically earn less than men do, this aspect of adequacy requires special attention on behalf of women.
6. **Location**: Housing must be close to employment options, as well as health care, education, childcare, and other social facilities, in both urban and rural areas.
7. **Cultural adequacy**: Housing should reflect the culture of the person living in it and enable the expression of cultural identity.

The committee stressed that states should not interpret the right to adequate housing narrowly or restrictively: It should not be seen as "merely having a roof over one's head or view[ed]... as a commodity. Rather it should be seen as the right to live somewhere in security, peace and dignity."

(a) Essential food and potable water

(b) Basic shelter and housing

(c) Appropriate clothing

(d) Essential medical services and sanitation

3. Special efforts should be made to ensure the full participation of women in the planning and distribution of these basic supplies.

Principle 21

1. No one shall be arbitrarily deprived of property and possessions.

2. The property and possessions of internally displaced persons shall in all circumstances be protected, in particular, against the following acts:

(a) Pillage

(b) Direct or indiscriminate attacks or other acts of violence

(c) Being used to shield military operations or objectives

(d) Being made the object of reprisal

(e) Being destroyed or appropriated as a form of collective punishment

3. Property and possessions left behind by internally displaced persons should be protected against destruction and arbitrary and illegal appropriation, occupation, or use.

Principle 29

1. Internally displaced persons who have returned to their homes or places of habitual residence or who have resettled in another part of the country shall not be discriminated against as a result of their having been displaced. They shall have the right to participate fully and equally in public affairs at all levels and have equal access to public services.

2. Competent authorities have the duty and responsibility to assist returned and/or resettled internally displaced persons to recover, to the extent possible, their property and possessions that they left behind or were dispossessed of upon their displacement. When recovery of such property and possessions is not possible, competent authorities shall provide or assist these persons in obtaining

appropriate compensation or another form of just reparation.

The underlying theme of these principles is "restitution", a concept defined in the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights and Serious Violations of International Humanitarian Law[362]. With respect to restitution, the basic principles state that it "should, whenever possible, restore the victim to the original situation before the gross violations of human rights law or serious violations of international humanitarian law occurred. Restitution includes, as appropriate: restoration of liberty, enjoyment of human rights, identity, family life and citizenship; return to one's place of residence, restoration of employment and return of property." The practical implications of this are more fully explored in the "Pinheiro Principles" on housing and property restitution for refugees and displaced persons, which are set out and discussed at length in a recent multi-agency handbook[363]. Full-scale restitution in the Somali context would be a huge undertaking and, in interviews for this report, it was suggested by some that the concept of restitution was not one that Somalis readily accepted as being appropriate to their situation.

AFRICAN LAND REFORM, CUSTOMARY TENURE, AND INDIVIDUAL TITLING

Introduction

Land reform in sub-Saharan Africa has been an intensely contentious issue for many years and the literature on its various branches is vast and ever increasing. Since these debates reflect (and occasionally affect) important political and economic trends in the wider world as

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362 UN document reference A/RES/60/147.

363 UNHCR et al. (2007). See also Williams (2007), a detailed study on property restitution in the context of transitional justice.

> **Figure 18: Some housing, land, and property technical terms**
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> **Common property:** In natural resource management literature, this term is used to describe a "managed commons", where a defined group owns a piece of land and uses it simultaneously or sequentially, as opposed to "open access". It is also used more generally to describe community ownership of land (a "common property regime"), within which both group and individual property rights can exist.
>
> **Land administration:** institutions and processes associated with land rights regulation and recording and registration of land rights.
>
> **Land management:** regulation of land use (e.g. zoning, conditions of use, and environmental protection measures).
>
> **Land policy:** a policy that aims to achieve certain objectives relating to the security and distribution of land rights, land use, and land management and to access to land, including the forms of tenure under which it is held.
>
> **Land registration:** This is a system for recording land rights and associated transactions. It is important to distinguish between title registration, which involves the registration of land rights and leads to "indefeasible" registered titles (i.e. the registered title is the sole record and proof of ownership and cannot be defeated by other documents or evidence), and deeds registration, which records successive transfers of a piece of land and the actual legal documents relating to it.
>
> **Land tenure:** a system of access to and control over land and related resources.
>
> **Legal pluralism:** a situation where a range of customary, statutory, and hybrid institutions (often including Islamic bodies) and regulations with legal or practical authority over land co-exist in the same territory.
>
> **Open access:** "free for all" access to a piece of land by everyone, whether or not they are associated with the area or are members of a defined group, without social mechanisms of control.
>
> **Peri-urban areas:** areas on the periphery of urban settlements, which are often a focus of land disputes, rapid urbanization, and the consequent growth of informal settlements.
>
> **Property rights:** This is a set of social relations that define what an individual, a community, or the state can and cannot do with a certain commodity, and what needs to be respected by others. They are often conceptualized as a "bundle" of rights in relation to accessing a particular piece of land, which may include use rights, control rights, or transfer rights.
>
> **Security of tenure:** the right (which should be understood in terms of degrees) to hold and use (and perhaps ultimately transfer) a piece of land without outside interference and to reap the benefits that accrue from investing labour or capital in that land.
>
> **Usufruct:** a term from Roman law meaning the right to use the fruits of someone else's land, sometimes by way of a lease or similar arrangement.

well as major donor policy, it is important to understand the key arguments and trends. As Lund[364] notes, there is a considerable tendency in development for explanatory "development narratives" to arise, which then have the effect of standardizing, packaging, and labelling development problems and justifying very simple and standard off-the-peg solutions. The phenomenon of "policy transfer" commented on by Larmour[365], whereby dominant policy paradigms of this kind tend to spread inexorably around the world, means that these policies may well be applied to Somalia as and when sustainable peace and major reconstruction occurs. As has been seen, many of the policy "lessons learned" (i.e. failures) are also directly relevant to Somalia and have been demonstrated in its past history, particularly in

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364 Lund (2000).

365 Larmour (2002). See also Roe (1991) on "blueprint development" driven by development narratives.

relation to land registration[366] and major land development projects. Some key technical terms used in the various debates are set out in Figure 18[367].

Customary tenure

In sub-Saharan Africa, formally codified property rights regimes are still quite rare and the majority of land falls under various forms of customary tenure: In 2003 the World Bank[368] estimated that only between 2 percent and 10 percent of land in sub-Saharan Africa is held under formal freehold title. Fitzpatrick[369] helpfully defines customary tenure as including

the following elements, all of which can be found in Somalia: "community 'rights' of control over land disposal (sometimes delegated to traditional leaders); kinship- or territory-based criteria for land access; community-based restrictions on dealings in land with outsiders; and principles of reversion of unused land to community control".

He also notes that the situation in the developing world is unique: "In relation to land, law is simply one factor in a process of strategic interaction between and among private land users and the State itself (in all its myriad, decentralized and at times rapacious forms). These interactions take place in an often bewildering context of legal, normative and institutional pluralism." Fitzpatrick also discusses a number of options for recognizing customary tenure, all of which have been used at some time or other in various African

366 Besteman (1994) sets the disastrous Somalia land registration programme of the 1970s and 1980s in the context of much of the scholarship on title/tenure formalization projects in Africa. She concludes that persisting with a land registration programme in post-war Somalia would be "irresponsible and foolhardy".
367 Most of these definitions are drawn from World Bank (2006c), European Union (2004), International Institute for Environment and Development (2004), and McAuslan (2006).
368 In its research report "Land Policies for Growth and Poverty Reduction".
369 Fitzpatrick (2005).

Figure 19: Options for recognizing customary tenure

- **The minimalist approach (Mozambique):** Customary rights are recognized in law and relevant areas are simply described in land registry maps as "customary land", with no attempt to define which groups held what customary land and no legal intrusion into areas governed by customary law: "All issues – internal and external – would be determined by customary authorities utilizing customary processes, and so the only involvement of the State would be in establishing and enforcing the external boundaries of customary land".
- **The agency method (colonial Nigeria):** Identified agents legally represent their group in transactions. Given the risks of suddenly thrusting money and formal legal authority on a customary group leader, "tried and tested external models for reducing agency risk – such as democratic elections or the corporate form – may prove to be necessary elements of any legal recognition of customary tenure".
- **Group incorporation (South Africa):** A customary group is incorporated as a formal legal entity with the capacity to hold, manage, and deal with land in its own right. This requires some level of state interference in the internal legal processes of the group "if there is a high risk of abuse of power, either through appropriation of benefits or denial of rights to women and other less powerful members of the group".
- **Land boards (Botswana, Lesotho, and Tanzania):** Decentralized local bodies allocate land, adjudicate disputes, and implement government land use policies. There are risks of exploitation and inappropriate state intervention and problems of limited institutional capacity (and funding) and lack of information or knowledge.

countries; these are set out in Figure 19[370] and could be considered in the Somali context.

In colonial and post-colonial Africa (and in Somalia) it was generally argued that customary tenure was insecure and anachronistic and retarded the march of progress. Even today, what Platteau[371] has dubbed the "evolutionary theory of land rights" underlies much of the policy discourse: that customary tenure (under the influence of technological innovation, population pressure, or commercialization) will eventually develop into a modern, equitable, and adaptable system and ultimately into private property rights. However, a key 1993 collection of African land studies came to the conclusion that in fact "the security provided by customary tenure is quite strong and customary tenure has evolved to meet new needs, such as making land tradable. The existing property rights systems in many rural areas do not seem to be in need of wholesale replacement with new property rights regimes. Titling programmes may be needed for most urban, peri-urban and high-intensity agricultural areas, but alternative policies are needed to strengthen security of tenure in most rural areas"[372]. The authors of the study argued for recognition by the state of customary tenure systems and increased formalization of those systems.

On the other hand, others[373] have more recently argued that "pervasive competition and conflict over land call into question the image of relatively open, negotiable and adaptive customary systems of land holding and land use and, instead, reveal processes of exclusion,

deepening social divisions and class formation". Similarly, Platteau argues[374] that "many existing customary or local sets of land tenure embody considerable inequality, intra- and inter-group conflict, illegal sales by traditional leaders and appropriation for private use by representatives of the state".

Chimhowu and Woodhouse[375] suggest that access to land under customary tenure does not always operate on non-market principles and highlight an increasing commoditization of land through the development of "vernacular" land markets, fuelled by migration and urbanization. It has also been noted[376] that "many studies of customary tenure find that investment in observable land improvements – building houses, planting economic trees, fencing off plots – is rewarded with strong and often heritable individual land rights". As the studies set out in Section 1 above demonstrate, many of these issues can be seen in the Somali context.

Land reform: old and new orthodoxies

From the 1960s to the 1980s, the orthodoxy among most development practitioners in Africa and elsewhere was that "optimal" property rights "were best guaranteed under a formalized (that is, documented) and private property regime and that economic growth and environmental stewardship would be promoted by making the bundle of rights as large as possible, territorially exclusive, of infinite duration and fully tradable"[377]. Land registration would also provide governments with information on landholders and landholdings, which could inform land use planning and provide the basis for a system of property taxes. Not unsurprisingly, this concept bore a striking resemblance to the land systems of the Western donors funding agricultural development. However, the orthodoxy was

370 On the land boards described in Figure 19, see Quan's chapter on southern Africa land boards in Toulmin and Quan (2000).

371 On the "evolutionary theory" and its critics, see Platteau (1995) and Platteau's chapter in Toulmin and Quan (2000), as well as Firmin-Sellars and Sellars (1999) and Fitzpatrick (2005).

372 World Bank (2006c), summarizing the conclusions of the 1993 collection of studies edited by Bruce and Migot-Adholla, which is listed in the last part of the bibliography for this report.

373 See Peters (2004).

374 Quoted in Peters (2007).

375 Chimhowu and Woodhouse (2006). See also Place (2000).

376 See Fitzpatrick (2005).

377 World Bank (2006c).

not entirely based on doctrinaire donor policy prescriptions: Population growth and increased market access was leading to intensification of agriculture, which in turn was causing individualization. According to the orthodoxy:

- Formalization would ensure that farmers had the necessary security of tenure to invest in improving their land or in plant, machinery and other inputs and thus increase agricultural productivity.
- Security of tenure would enable farmers to use their land as collateral for loans to improve their land, thus increasing productivity still further.
- Individual property rights should be fully tradable to ensure maximum economic efficiency, on the basis that if a particular owner was unable to extract maximum profits from the land, then it would be sold to someone who could and potentially consolidated into a larger and more efficient holding.

Under the influence of this orthodoxy, land formalization and individual registration projects went ahead across most of sub-Saharan Africa and the results were almost entirely bad. The expected increases in agricultural investment and productivity were not achieved[378]. The programmes "frequently exacerbated conflicts by ignoring overlapping and multiple rights and uses of land and led to or reinforced patterns of unequal access to land based on gender, age, ethnicity and class"[379]. As a recent World Bank paper[380] notes, with the rueful benefit of hindsight, "Title deeds create room for opportunistic behaviour. Political and economic elites can use their influence with the land administration agencies to acquire title deeds in a non-transparent manner, confiscating existing informal property rights

of local communities or unregistered state land." As we have seen in Section 1, Somalia is a classic demonstration of all of these trends.

However, the agenda of formalization and individualization has recently resurfaced thanks to the highly influential writings of the Peruvian economist Hernando de Soto[381], who is co-chair of the Commission for the Legal Empowerment of the Poor[382]. De Soto's arguments are part of a wider recent emphasis by donors on land as an instrument for poverty reduction, in which land policies must be "pro-poor". De Soto argues that a large proportion of the population in the developing world are unable to make their way out of poverty because they cannot access the considerable "dead capital" locked up in their informally owned assets. He suggests in particular that they cannot use those assets as collateral to raise money but also argues that they achieve a lower price on any sale of their land because the buyer does not know what he is getting and because the rental market is thus not fully developed.

The World Bank's researchers[383] now summarize what they describe as a new "policy consensus on property rights in land" as follows:

- "Property rights are rules that govern relations between individuals with respect to land, and they should therefore be defined by the polity – the community or the state – to which such individuals belong.
- Property rights need to be clearly defined, well understood, and accepted by those who have to abide by them – and strictly enforced.
- Property rights need *not* always confer full "ownership" and be individual – they can, and should, be individual, common or public, depending on the circumstances.

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378 See for example the influential study of land rights systems in Kenya, Ghana, and Rwanda by Migot-Adholla et al. (1991).
379 Peters (2007).
380 World Bank (2006c).

381 See in particular de Soto (2000).
382 The commission is hosted by UNDP (see www.legalempowerment.undp.org) and has attracted support and funding from a wide range of donors. Its final report is due in June 2008.
383 World Bank (2006c).

- Most important for sustainable development is that property rights are deemed secure."

The European Union's land policy guidelines[384] take a slightly more nuanced approach:

"Land issues are rarely the only limiting factor in raising productivity. Reasonable crop prices, access to inputs, availability of credit, and the organization of markets and processing are important features of the agricultural sector. Working to improve these issues may be a priority before addressing land matters. When there are significant imperfections in related markets (e.g. credit, labour, products), liberalizing land markets will not improve efficiency and may be counterproductive, leading to land concentration, exclusion of small farmers and less intensive practices. Land titling is not always the best way of increasing tenure security, and nor does it automatically lead to greater investment and productivity. In many places, land is held through unwritten, customary means, but it is not subject to insecurity. Formal credit may not be available and much investment in land in small family farms is based on labour effort rather than capital".

Criticisms

The formalization orthodoxy of the "land reform" decades (1960s to 1980s) came in for heavy criticism from many commentators, who argued that it was based on a number of misunderstandings about African land tenure. Their criticisms are equally applicable in the Somali context:

- The emphasis on security of tenure overlooked the practical relevance of the use to which the land would be put. A short lease, for example, would be sufficient to reap the full benefits of investing in maize production, although it would not be enough for hardwood production.

- The emphasis on individualization ignored the fact that African common property regimes acted as risk insurance or a social safety net, since individual community members could claim access to land for farming when necessary.
- The operation of an entirely efficient land market requires an adequately resourced and maintained land administration that is free from corruption and rent seeking[385]. However, in practice African credit markets were highly limited and imperfect, and formalization did not significantly increase access to and uptake of credit.
- Social prohibitions on land sales to outsiders (or weaknesses in the judicial system) made foreclosure by banks very difficult in practice, and in an unpredictable and fluctuating environment some risk-averse landowners avoided credit altogether on the basis that debt might result in loss of land.

Similarly, de Soto (or more accurately his perceived focus on formalization of title) is strongly opposed by some practitioners and NGOs working in development. His critics argue (again, in terms applicable to Somalia) a number of points:

- De Soto is wrongly describing customary legal tenure as "informal" or "extra-legal", when it in fact provides an adequate level of security of tenure, and is equating "formal property" with individual private property[386].
- Registration does not overcome the issues relating to transaction and information costs and risk, which are said to reduce the efficiency of land markets or access to credit, although clearer demarcation or adjudication of boundaries has been of assistance to farmers[387].

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384 European Union (2004). The guidelines appear to have been drafted by Camilla Toulmin and Philippe Lavigne-Delville, who have both written literature critical of the old pro-formalization orthodoxy.

385 Adams and Turner (2005).
386 See in particular Nyamu-Musembi (2006).
387 See Atwood (1990), Barrows and Roth (1990), Firmin-Sellars and Sellars (1999), Nyamu-Musembi (2006), Pinckney and Kimuyu (1994), Smith (2003), and Cousins et al. (2005).

- A move to market-based land transfers will increase "distress sales", as the poorest farmers sell their land to obtain shorter-term necessities such as food or education for their children.

- Since it is in practice almost impossible to register all of the rights affecting a piece of land, land titling generally involves registering only "primary" (i.e. cultivation) rights and excluding "secondary", informal, or seasonal rights such as grazing, collecting firewood, and gathering wild food, which are likely to be important "safety net" activities for the poor and disadvantaged (especially women) under customary tenure[388].

- "Most developing country bureaucrats are under-financed, poorly trained and often corrupt... [and] therefore lack the technical capacity to survey land, adjudicate disputes and maintain adequate records – all prerequisites to a successful titling programme."[389] Formalization creates title registers that rapidly go out of date due to the lack of incentive for landowners to register subsequent transactions and devolutions of title. Initial and subsequent costs (in cash and time) and bureaucratic obstacles are too high for many of the poor.

- Individuals, rather than being the autonomous and rational decision makers envisaged by economists and evolutionary theorists, "make choices contingent upon the preferences and actions of other community members, and their property rights are socially constructed by their communities"[390]. Thus "property rights exist in a meaningful sense only when community members recognize and accept them as legitimate".

Gender issues

There are also significant criticisms from those campaigning for greater gender equality, who argue that in the transformation of customary tenure into market-based individual tenure

systems, women's limited but recognized property rights may be ignored and consequently lost. (We have seen in Section 1 above that Somali customary tenure did offer a few opportunities to women to cultivate land or harvest crops independently.) In addition, land reforms rarely involve consideration of or changes to family law, even though this often has the greatest impact on women's rights to use or own property.

Some suggest that there has also been a slightly simplistic emphasis on the "household" as a socio-economic unit, without exploring the complexities of this: Yngstrom[391] argues that "the historically informed organization of marriage and descent, and gender ideologies implied therein, are central to understanding the dynamic changes that landholding systems undergo with greater market integration". According to one study[392], "During the transition (be it through land reform, market forces or a land titling project), men and particularly male heads of household acquire total, legal ownership of household land". It argues that most smallholder women "are unable to participate fully in the market system because of little or no education, low monetary income, little capital, low social status, little political power, and imperfect factor markets. Consequently, not only do women find themselves losing the few rights to land they could claim under customary tenure systems, but also find that gender bias remains prevalent in the private property system and market economy."

In a generally critical analysis[393] of the gender equality impact of "rule of law" reforms (including property law) in sub-Saharan Africa, which is also applicable to the situation in Somalia, Nyamu-Musembi has a three-point argument:

388 Toulmin and Quan (2000). See also Platteau (1995).
389 Firmin-Sellars and Sellars (1999).
390 As summarized in Firmin-Sellars and Sellars (1999).

391 Yngstrom (2002).
392 Lastarra-Cornhiel (1997).
393 Nyamu-Musembi (2005).

- "Constitutional guarantees of rights have only a limited reach, particularly where customary and religious laws are not only allowed to regulate family matters but to supersede anti-discrimination laws.
- Reforms to property law have at worst deepened gender inequality and at best left existing biases intact.
- The rule of law reform agenda lacks any serious engagement with informal or quasi-formal institutions, yet these play a key role in making decisions and resolving disputes (particularly intra-family ones), and have far more impact than formal justice institutions in shaping gender relations."

URBAN TITLING

Urban land titling programmes are often inspired by rural titling programmes or seen as extensions of national titling programmes. Although the underlying dynamics can be very different, policy debates on urban titling have tended to revolve around similar questions of security of tenure and formalization of title. As with rural land policy, the pendulum has swung to and fro: A recent major review of studies[394] indicated that urban titling increases security of tenure (both legal and perceived) and housing renovation but is not necessarily the only or the most effective way of doing so. Its conclusions are important and worth reviewing in detail because of their general relevance for any such projects in Somalia, since it is probably more likely that titling will go ahead in urban areas:

- Attention has focused excessively on the impact of titling on newly titled households and insufficiently on the social and economic impacts on other households such as tenants, women, and other vulnerable groups.
- Focus on land titling as the most appropriate way for securing tenure has had a negative impact on the exploration of other options for securing tenure security.

- The lack of formal title is a price that the urban poor pay to gain access to residential plots that they could not otherwise afford.
- Formalization also generally increases the value of urban land, but this may then exclude the poorest households from the housing market due to the rise in house prices or increase segregation at the city level[395].
- Titling on its own will not create a land market; nor will a land administration system unless it is connected with the way participants think about and organize their land.
- The ability of the poor to interact with the formal real estate market to their own benefit once they obtain ownership documents is a fundamental question that is yet to be resolved.
- A policy approach that emphasizes the benefits of owner-occupation, and provides various incentives for it, may result in the creation of a large underclass that is denied access to any form of affordable or acceptable housing. This fails to take into adequate account the variety of legal and socially accepted traditions in land tenure systems, and distorts land markets in favour of one system at the expense of all others.
- As the most vulnerable group, tenants are usually not eligible for and are economically excluded from tenure regularization and resettlement, and cannot apply for compensation in case of forced removal. They are exposed to the arbitrary decision of their land or shelter owner, generally with no recourse to legal advice. Being the poorest among the urban poor, they are unable to meet the costs incurred by land titling.
- Titling is often a costly process, and the costs of adjudicating claims may abrogate the gains from it. Assessing the cost of titling programmes is difficult, as there are many upstream costs (e.g. land administration

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394 Durand-Lasserve and Payne (2006).

395 It has also been argued that poor beneficiaries of land titling programmes may come under pressure to sell off their holdings to developers and slumlords – see Manders (2004).

reform, setting up of appropriate land information and land registration systems that must be updated, land survey, resolution of land related disputes, and adjudication).

- Land titling programmes impose a heavy burden on administrative agencies to identify, survey, issue, and record titles and to maintain registers. In many cases, this burden proves beyond local capacity to deliver or sustain. Procedures for allocating and registering titles are often overly complex, and failure to maintain accurate and up-to-date records results in titles losing essential legal certainty.

- The form of financial institution or lending programme has more influence than titles in accessing formal credit.

Many African cities are expanding rapidly under the pressure of increased migration and urbanization. A recent study by Rakodi and Leduka[396] makes clear that what they call "informal land delivery systems" play an important role in the administration of residential land in such cities. In comparison with the generally cumbersome and costly regulatory procedures of formal systems (i.e. legally approved commercial purchase), informal systems (such as subdivision or squatting) are often relatively effective because of their user-friendly characteristics and general legitimacy, which "derives from the widely understood and accepted social institutions that regulate transactions in these informal systems".

Rather than carrying out wholesale titling (for many of the reasons listed above), the authors recommend that the strengths of informal systems should be recognized and built upon and their shortcomings identified and addressed, while also ensuring that residents in informal settlements have at least basic short-term security. In the Somali context, we have little or no knowledge on how the informal land delivery systems (which undoubtedly do exist) operate, and detailed fieldwork on this by Somali-speaking researchers who can thoroughly understand the social context is urgently required.

COMMUNAL LAND USE

The policy debate on how to manage rural areas used by a range of different groups has also been affected by a compelling "development narrative", which again has come in for recent criticism. Garrett Hardin's 1968 article[397] describing the so-called "tragedy of the commons" was hugely influential in natural resource management for several decades, although he was in fact more concerned with the rapid population growth rate (an issue causing considerable anxiety at the time) than with common property. The "tragedy" was supposedly that "as population and pressure on resources grew, the users of resources that were held in common would eventually, and inevitably, overexploit and degrade those resources, because they had no individual incentive to use them carefully"[398]. However, more recent scholarship[399] (drawing on "new institutional economics") distinguishes "open access" situations, where there is no social control over use of resources and where overuse may be likely, from "common property", where the defined group of owners has an incentive to regulate resource use, "because the costs and benefits of disciplined, sustainable use are internalized to the group". Bruce[400] proposes the concept of overlapping "tenure niches", where different resources are used by different groups on different terms, ranging from open access to common property and individual or family property.

Given the dominance of pastoralism in Somalia, and the range of different tenure

396 Rakodi and Leduka (2003). The study examined cities in Kenya, Nigeria, Botswana, Uganda, Zambia, and Lesotho.

397 Hardin (1968). See Shepherd (1988) for a specific response from Somalia.
398 Bruce (2000).
399 As summarized in Bruce (2000).
400 Bruce (2000).

niches that exist there, it is important to understand a little about the theoretical debates in this area of study as well. The ebb and flow of development policy orthodoxy on natural resource management is well summarized in a recent International Institute for Environment and Development[401] study, which is worth quoting in detail because of its application to the Somali "non-equilibrium" environment:

"Governments and donors... sought to control rangeland degradation through the regulation of livestock numbers. The concept of carrying capacity, largely developed on the basis of North American range science, provided the scientific basis on which planning and management decisions were made. Herders and the number of livestock they kept had to be controlled, as did their movements. They were encouraged to 'modernize', to settle down and raise fewer animals more intensively. During this period, governments with donor support experimented with State-owned ranches for research and production, and range management projects under systems of private or group tenure.

"The focus for all these initiatives was on capital investments and infrastructure (fencing, water, roads, markets), stratification of production, intensification through sedentarization, and herd size control. Few if any of these policies contributed to sustainable rangeland management or improved pastoral livelihoods. They were Western-inspired and technologically driven, seeking to control the vagaries of dryland environments rather than adapt to them. In 'non-equilibrium ecosystems' with scarce and erratic rainfalls, herd mobility is a vital strategy for rational herd and pasture management. In these contexts, commons enclosure and Western-style ranches hinder mobility and may be inappropriate and damage the livelihoods of pastoralists.

"Recent work on the dynamics of range ecology has demonstrated the importance of understanding the non-equilibrium character of plant-moisture-grazing relations. It is now widely accepted that rainfall variability is the primary driving force behind fluctuations in pasture productivity in arid and semi-arid areas, with grazing pressure rarely a significant factor, given highly mobile, seasonal patterns of resource use. Opportunistic management, allowing pastoralists rapidly to respond to changing grazing conditions and fodder availability through mobility or the opportunity to off-load or re-stock livestock, is now recognized as a key requirement for the sustainable management of rangelands in dryland areas. Ensuring periodic access by herders to strategic resources such as water, dry season grazing or livestock corridors is fundamental to such a system."

BEST PRACTICE IN LAND ADMINISTRATION AND LAND REFORM

Introduction

As can be imagined, the literature on what land administration (and land reform) *should* involve is almost as large as the literature (summarized above) on what it should *not*; on the other hand, it is unfortunately rather non-specific in terms of recommending exactly *how* this should be done in a given country. Many donors and agencies are only now coming to an understanding of the importance of housing, land, and property programming in post-conflict countries[402], and the focus of post-conflict programming has largely been on countries (especially in the Balkans and eastern Europe) with good land registration and cadastral coverage[403]. The "best practice" summarized below is therefore somewhat centred round the "normal" development process of reforming or improving existing

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401 International Institute for Environment and Development (2004). See also Scoones and Graham (1994).

402 See Hurwitz et al. (2005).
403 See for example UN-HABITAT (2007a), which is described (and heavily watermarked) as a "work in progress".

systems, rather than a post-conflict scenario of reconstructing (or indeed creating) systems more or less from scratch, as is the case in Somalia. Nevertheless, these lessons are broadly relevant to Somalia, as general recommendations or matters to bear in mind when planning or evaluating land policies and programming.

Land policy design

The 1996 UN-HABITAT Declaration and Global Plan of Action, as an important instrument of "soft" (non-binding) international law, provides a useful framework for the process of land policy design. The European Union's current land policy guidelines[404] are also very pertinent to Somalia and contains precepts for successful land policy design:

- **Long-term processes.** Processes of land reform are likely to be long-term, complex, and highly political, with consequences for the distribution of economic and political power and access to economic opportunity for decades to come. Governments, donors, and other groups involved in supporting these processes must be willing to take a long-term strategic approach and make a commitment to see it through.
- **Promote inter-ministerial work, with in-depth analysis of current situations.** Land issues are multidisciplinary and involve different ministries and institutions. The range of sectoral policies that have a bearing on land needs harmonizing to avoid fragmentation and contradictions.
- **Promote a participatory approach to policymaking.** Governments must engage with different actors and understand the diverse range of interests at stake, providing the actors with a platform for discussion of policy options. If tenure policy is to be effective on the ground, it needs to respond to and be "owned" by the many land users that it will affect.

- **Take into account the distance between statutory law and local practice.** Legal changes are more effective when they recognize and support broader social changes and can guide behaviour in directions sought by government. New legislative provisions must take into account current land practices, aiming at their progressive adaptation rather than their mere replacement.
- **Identify key principles and allow for diverse solutions within them.** Land issues differ widely within a single country, as regards the pattern of land use, population density, strength of local structures, and systems for regulating land rights.
- **Take implementation costs into account in the design of land tenure reform measures.** A balance needs to be sought between designing a comprehensive but costly set of structures and processes and a minimalist approach, which is affordable. It may be better to build on existing institutions, where possible, and establish pilots to test approaches for later replication, focusing on areas of greatest priority rather than trying for universal coverage. Choice of technology will have to consider accessibility, effective use, the level of capacities needed, and the recurrent costs that it will generate.
- **Carefully craft the rules and tools.** Rules, tools, and procedures have to be carefully discussed, designed and tested, to avoid loopholes that could make the reform collapse or lead to unintended negative effects. Simple and robust methods are the key, while remembering that different stakeholders are likely to try to manipulate procedures to further their own interests.
- **Recognize that the impact of reform depends on changes in practices and not on the legal texts alone.** A change in legislation is not in itself sufficient to achieve the broader objectives sought by many reforms to land policy.

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404 European Union (2004).

- **Ensure widespread dissemination of information on the scope and content of the reform, as well as on the policy, legislation, and procedures.** Failure to disseminate information properly about such laws negates the whole purpose of the reforms. New provisions must be translated into appropriate local languages and terms and, given the high level of illiteracy among rural populations and particularly among women, non-written means of communication will be required.

- **Gender issues need a careful approach.** Typically, women and men uphold traditional gender roles and relationships rather than formal rights, and women lack the confidence, information, experience, and resources to get what they are entitled to by law, although the knowledge that they can ultimately turn to the law may help strengthen their negotiations.

- **The rights of minorities and indigenous peoples are to be adequately recognized.** Capacity-building measures may be required to overcome entrenched prejudices in national or local administrations and to allow effective participation of these groups in the design and implementation of policy and legal reforms.

- **Land policy has to include sound land use planning.** Land is hugely variable, whether in quality, value, location, or vulnerability to degradation. Land policy needs to take such diversity into account, in terms of tailoring rules and procedures for particular settings.

The European Union land policy guidelines also set out detailed and comprehensive operational guidelines to assist in carrying out situation analysis, assessing national policies, legislation, and institutional frameworks, identifying opportunities for change, and considering the adequacy, affordability, and sustainability of land interventions. They contain very sound advice for donors on defining a response strategy and a range of interventions, monitoring and evaluation, and the role of the various stakeholders in the process[405].

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405 Daley and Hobley (2005), a "think piece" which does not necessarily reflect Department for International Development policy, also provides useful and detailed advice to donors, emphasising the "pro-poor" approach. The Organization for Economic Cooperation and Development working paper on "land, violent conflict and development" (Pons-Vignon and Lecomte [2004]) advises donors from the conflict prevention and mitigation angle.

PART E: LEGAL FRAMEWORKS IN SOMALIA

SECTION 1: "SECULAR" LAW[406]

HISTORICAL BACKGROUND AND DEVELOPMENTS

Much of the relevant historical information on the Somali legal systems is set out in a detailed 1999 study carried out in Somaliland for UNDOS by two Italian experts[407], which has the added benefit of summarizing some of the literature in Italian on the subject. The quotations in this section are drawn from that study, unless otherwise indicated. Until their respective declarations of independence (and

the subsequent merger), Somaliland followed the British common law system (which, in very brief summary, is governed by various legislative acts but also follows precedents established by judges in individual cases), and Somalia followed the Italian civil law system (which is based on laws consolidated into codes)[408].

Both had dual systems with separate courts for matters governed by sharia, which were

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406 This term is used in much of the literature on the legal systems of Somalia to describe the general state legal system (e.g. the laws passed by the legislature, the court system, etc.) as opposed to the sharia and customary systems.
407 Battera and Campo (2001).

408 One Somaliland interviewee (Interview 17) commented that nowadays the civil law system encourages corruption because judges can decide each case differently without having to follow precedent.

predominantly marriage, divorce, family relationships, *waqf* (see Section 2 below), succession, and wills. However, the Italian system allowed litigants to choose the secular courts for these matters, which were then judged under secular law. Customary law overlapped considerably (but not very precisely) with sharia law and the British granted limited judicial powers to the *aqils* (recognized clan elders who provided a link between the district commissioners and the people). In terms of laws, the British system was based on the Indian Penal and Criminal Procedure Codes, and the Italian system was based on a civil code derived from the Italian model.

At independence, there was something of a debate between "traditionalists" and "modernists" (and between respective supporters of the British and Italian systems) as to the best way to integrate the systems[409]. Since the independence movement was largely secular and progressive nationalist in character, the modernizers won the day and the *qaadi* courts were abolished, thus (officially at least) marginalizing sharia and customary law. However, "de facto the competencies of sharia or/and customary laws were extended to all matters in which civil and penal laws of the country were silent or wherever the parties were able to avoid 'official' justice". The penal code of the new republic was based on the Italian legal system, but the criminal procedure code was based on the Anglo-Indian legislation.

The Barre regime introduced a civil code in 1973 based on the 1947 Egyptian Civil Code (which came from the civil law tradition) and a civil procedure code based on the Italian model, while commercial law remained largely regulated by the previous Italian civil code of 1942. The practical integration of the two systems was made more difficult by the lack of knowledge the legal professionals in each

system had of the other system and the fact that the Somaliland lawyers and judges could generally speak English but very little Italian, while the *qaadi* judges (mostly educated in Arabic only) who were transferred into the main court system had to deal with non-sharia matters in foreign languages: "The judicial practice of lower courts in Somaliland continued to follow the English common law model. Italian and English remained the official legal languages even after the introduction of written Somali in 1973. Later, efforts were made to produce a legal Somali [language], but with no great results."

As discussed elsewhere in this report, the Barre regime initially sought to outlaw the clan system and its related dispute resolution mechanisms, which proved to be impossible. The government eventually relented and began formally to register, incorporate, and enforce the settlements reached in informal *xeer* proceedings[410].

GENERAL STRUCTURE

Somalia

The Transitional Federal Charter, adopted at the peace talks in Nairobi in 2004, is theoretically the current constitution of the Somali Republic, though given the current position of the Transitional Federal Government the likelihood of its provisions becoming legally binding and being applied in practice across the country is relatively small. The relevant provisions of the Transitional Federal Charter for the purposes of this report are:

- If any law is inconsistent with the charter then the charter prevails (Article 2). A

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409 Contini (1967) contains a detailed discussion of the integration issues, subsequently expanded into a book. See also Cotran (1963) for some of the more abstruse legal issues arising from the merger of Somaliland and Somalia.

410 According to Puntland Development and Research Centre (2003), Law No. 19 of July 1974 amended the Somali civil code as follows: "The extra-judicial conciliations concluded between the parties spontaneously or through the representatives of the political offices of the city, the villages and settlements, do acquire legal validity and executive efficacy via the chancery of the District Tribunal of the place in which the conciliation occurred."

person may bring an action in the Supreme Court for a declaration that any law or action of the state is inconsistent with or in contravention of the charter (Article 4). Sharia is "the basic source for national legislation" (Article 8).

- The Transitional Federal Government shall have "a decentralized system of administration based on federalism"; Article 11 goes on to detail various steps to be taken by the government and parliament to bring this into existence within a set timescale, many of which have not yet occurred. Schedule II lists the powers and functions to be allocated to the individual federal states, which include housing, agricultural development, water management, livestock and rangeland development, town planning, and construction permits. The government is to have authority over "natural resources" (not defined). The government shall pass legislation "ensuring equitable appropriation and allocation of resources in the country" and shall ensure that appointments in government service "shall be based on qualifications and fair distribution among the citizens" (Article 13).

- The republic shall recognize and enforce all international human rights conventions and treaties to which it is a party (Article 14). Citizens are equal before the law and "have the right to equal protection and equal benefit of the law without distinction of race, birth, language, religion, sex or political affiliation" (Article 15).

- Every person shall have the right "to institute legal proceedings in a competent court", though that phrase is not explained, and the Transitional Federal Government "shall guarantee free legal services for individual citizens who cannot afford them" (Article 17).

- "Any political party of a military character or tribal nature shall be prohibited" (Article 21)[411].

- "The right to own private property shall be guaranteed by law, which shall define its contents and the limits of its exercise". However, "personal property may be expropriated for public interest in exchange for equitable and timely compensation" (Article 27).

- The President shall appoint "the President of the Supreme Court and other Judicial Officers on the proposal of the Judicial Service Council" (Article 44) and the appointment of judges shall be "based on legal qualifications and competence" (Article 58). The council will be comprised of the President, the Attorney-General, three judges, and four lawyers (Article 63). It seems that the parliament cannot question or block judicial appointments. The court system will consist of the Supreme Court, the Appeal Court, and "other courts established by law" (Article 60).

- "Land, being Somalia's primary resource and the basis of livelihood for the people, shall be held, used and managed in a manner which is equitable, efficient, productive and sustainable. The Government shall define and keep constant the national land policy and framework of the land in the Somali Republic which shall ensure the registration, use, ownership, access, occupation, management rights, security, interests and title of the land" (Article 66). It is not clear whether the mention of registration represents a state commitment to complete title registration, which, as we have seen, would be a huge and highly problematic undertaking.

- Article 68 requires the establishment of a number of independent commissions by the government, with the approval of the parliament, although it is thought that few have in fact been established[412]. Some are potentially relevant to this report:

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411 Article 21 also has the classically Somali proviso that "political parties shall have the right to form alliances before, during and after the election periods".

412 The Joint Needs Assessment rule of law report (Joint Needs Assessment [2006a]) stated in relation to the National Commission for Reconciliation that the Transitional Federal Government nominated members to it in July 2005 and that the parliament's approval was awaited. It noted that the parliament had established its own 12-member "Committee for Reconciliation and Property Restitution" in March 2006.

- National Commission for Reconciliation
- National Population and Demographic Census Commission
- National Commission for the Recovery and Registration of Public and Private Property

  State Boundary Demarcation Commission

  Land and Property Disputes Commission
- Article 71 states that in the "transitional period" (presumably until adoption of a permanent federal constitution), "The 1960 Somalia constitution and other national laws shall apply in respect of all matters not covered and not inconsistent with this Charter." While pragmatic, this is also very unclear, as in theory it could leave many of the Barre regime laws in place. In practice, therefore, it would seem that the various codes of the 1960s and 1970s set out above remain in force. The provisions of the 1960 constitution (at least in relation to many of the matters covered above) are relatively similar to the Transitional Federal Charter and indeed the charter has adopted some of the language.
- Article 71 also states (among other things) that the Transitional Federal Government shall (presumably during the transitional period):
  - "endeavour to repossess and restore to the state all public properties, either movable or immovable, within or outside the country";
  - endeavour to restore "private property currently held illegally" to the "rightful owners";
  - "make necessary efforts to resettle refugees and displaced persons"; and
  - "take all necessary measures to combat tribalism, nepotism, looting of public properties, corruption and all fraudulent activities which may undermine the functioning of state organs and decent traditions of the society".

Puntland

The constitutional position in Puntland is not entirely clear. The "Puntland State of Somalia" was established in 1998 by a constitutional conference that produced a provisional charter, although copies of it are not easily available. In 2001, the government produced a new constitution, which has not yet been approved by referendum and so does not seem to be law yet. According to Le Sage's very useful report[413] on "formal and informal rule of law initiatives", Puntland re-established its judicial system based on the law on the judiciary adopted by the National Assembly of Somalia in 1962. The Puntland charter made the standard caveat, however, that no earlier laws would be applicable if they contradicted either sharia or other articles of the charter.

According to the Puntland charter, "Laws and regulations legally enacted by the previous governments provisionally remain in force until they are replaced by new legislation," but the new constitution does not contain this statement. Both the charter and the constitution accept the decisions of customary dispute resolution bodies as being law, equivalent to the decision of the lowest level of the court. Traditional leaders are recognized as having a role to play, particularly in mediation, but do not have allocated political or legislative functions in the same way as the House of *Guurti* in Somaliland.

Somaliland[414]

The current Somaliland constitution was adopted in 1997 and ratified by public referendum in 2001; it replaced the 1993 Borama Charter, which had been adopted at the beginning of Somaliland's separation

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413 Le Sage (2005).

414 For any matters relating to law in Somaliland, the "Somaliland Law" website (www.somalilandlaw.com) is an invaluable resource, as it contains the current constitution (and the 1960 constitutions of Somalia and Somaliland) and most of the laws passed since separation from Somalia (including some in English translation), plus commentary on legal developments.

from Somalia. The key provisions of the constitution[415] for the purposes of this report are as follows:

- The laws of the nation are to be grounded on and shall not be contrary to sharia (Article 5). The constitution shall be "based on Islamic principles" and any law not conforming to the constitution is null and void (Article 128).
- All citizens "shall enjoy equal rights and obligations before the law and shall not be accorded precedence on grounds of colour, clan, birth, language, gender, property, status, opinion, etc." (note that religion is not included here); "precedence and discrimination on the grounds of ethnicity, clan affiliation, birth and residence is prohibited and at the same time programmes aimed at eradicating long-lasting bad practices shall be a national obligation" (Article 8).
- Somaliland will observe all treaties and agreements entered into by the former state of Somalia with foreign countries and corporations if they do not conflict with its "interests and concerns" (Article 10). It also recognizes and will act in conformity with the UN Charter and international law and will respect the Universal Declaration of Human Rights[416].
- Article 12 contains the provisions related to land, which are too detailed to be set out here but in essence give the state control over land and natural resources, subject to the law.
- "Usury and commercial practices which are against the interests of the society and unlawful enrichment are prohibited"

(Article 14). This relates to the Islamic prohibition on charging interest (*riba*) but of course has an impact on the structuring of and potential for loans secured on land.
- Every person has the right to initiate proceedings in a competent court in accordance with the law or to defend himself in court; "the state shall provide free legal defence in matters which are determined by the law and court fees may be waived for the indigent" (Article 28).
- Every person has the right to own private property, if it is acquired lawfully, and it may not be expropriated except for reasons of public interest and subject to payment of proper compensation (Article 31).
- Under Article 36, women and men are to enjoy equally the rights, freedoms, and duties laid down in the constitution, "save for matters which are specifically ordained in Islamic Sharia". The government shall encourage and shall legislate for "the right for women to be free of practices which are contrary to sharia and which are injurious to their person and dignity"; women have the right to "own, manage, oversee, trade in or pass on property in accordance with the law".
- Article 115 establishes an independent "Ulema Council" (in Islam, the *ulema* are religious scholars or clerical leaders), which among other things will formulate formal declarations on religious disagreements that may arise and on questions as to whether a matter is contrary to sharia.
- Existing laws (presumably including those from before 1991) that do not conflict with sharia or with individual rights and fundamental freedoms guaranteed by the constitution remain in force until new laws are promulgated (Article 130). In practice, therefore, the various codes of the 1960s and 1970s set out above remain in force.

In practice, the supremacy of sharia has limited effect: One participant at an Academy for Peace and Development workshop on the judicial

415 The English translation used here comes from the Somaliland Law website and is not an official one. The website's very useful annotations and explanatory notes on the constitution (prepared by Ibrahim Hashi Jama) should also be consulted.
416 In addition, the fundamental rights and freedoms granted by the constitution are to be interpreted in a manner consistent with international conventions on human rights and the international laws referred to in the constitution (Article 21). This would seem to include those not signed by the government of Somalia, as well as regional instruments.

system in 2002 commented that "the stipulation of Islamic jurisprudence as the 'basis' of law is just lip service and nobody applies it; its verbal affirmation only appeases the religious groups and the populace at large"[417].

As the workshop report[418] noted, "the primacy of positive [i.e. secular, written] law in practice is reinforced by the existence of a complementary law enforcement and penal system. Thus the courts, police, and legal professionals (defence lawyers and public prosecutors) all rely on the positive laws. In contrast, judges are unfamiliar with the interpretation and application of the sharia legal code. Customary law has not been codified, and its application is even more ad hoc and inconsistent than that of the sharia". It also commented that the few laws that have been passed (like Bill 80/96, which concerns land disputes[419]) "are poorly enforced, largely because legislation is not gazetted or otherwise made available to jurists, lawyers or members of the public. Overall, participants in the workshop agreed that the system is not dynamic and that it has not evolved to keep pace with the changing social, economic and political context."

The Academy for Peace and Development report also noted "The process of drafting new legislation proved to be a contentious issue. Between 1997 and 2002, only twenty-two bills were passed by the Parliament, all of them initiated by the Executive Branch. This practice has been a source of concern for some participants, particularly with respect to legislation governing the judicial system itself, which has been put forward by the Ministry of Justice. This is in part a reflection of the fact that most Somaliland parliamentarians know

little about law. Some workshop participants asserted that until Parliament becomes more effective, it should be the responsibility of jurists to prepare legislation and pass it on to the lawmakers. Likewise, they suggested that lawmakers should seek the inputs and advice of the judicial community in the legislative process."

According to the Joint Needs Assessment rule of law report[420], "A Law Review Commission was established in October 2003 with the mandate of collecting and compiling the different existing laws. Despite the lack of legal training of most of its members, this commission has succeeded in collecting a large number of customary practices and operating secular laws. It has also reviewed the Children's Bill and examined approximately 80% of the penal code." Battera and Campo report that some legal Somaliland professionals with strong views in favour of Somaliland's independence and separation from Somalia argue that it should revert to the common law system: "A nationalistic attitude looks at the Anglo-Indian tradition as another opportunity to cut away from the rest of Somalia and to be linked to the Commonwealth." They note however that knowledge of common law is limited nowadays, as is the existence of relevant legal materials.

JUDICIAL SYSTEMS

Somalia

Le Sage states the following: "Officially, the [Transitional National Government] judiciary system was structured ambitiously to provide for law and order across Somalia. However, since the [Transitional National Government] was never able to expand its presence outside Mogadishu, the system grew to comprise only the following elements: the Minister of Justice, Attorney General, police force, supreme court

417 This was confirmed in interviews 13 and 17 for this report: One interviewee noted that most of the (British) Penal Code did not accord with sharia but that no one was suggesting that the Penal Code be suspended. He saw the supremacy of sharia as more of a "directive principle".
418 Academy for Peace and Development (2002a).
419 It has not been possible to find any further information on this law, which rather supports the conclusion of the workshop.

420 Joint Needs Assessment (2006a).

(including four judges), the regional court for the Benadir/Mogadishu area, six district courts (all operating in Mogadishu), [and] the Mogadishu Central Prison and its custodial police force."

The Joint Needs Assessment rule of law report[421] notes that some militia factions "that control enough contiguous territory established formal judicial administrations along the lines of Somaliland and Puntland. The more striking examples are the administrative structures set up by the Rahanweyn Resistance Army in the Bay and Bakool regions between 1999 and 2002, and the Lower Shabelle administration, which has been proclaimed by its "governor" since 2003. The systems adopted include courts of first instance, which apply secular laws for penal and commercial cases, and sharia law for private civil matters. These courts are overseen by an appellate court reporting directly to the militia faction's executive. The Middle Shabelle administration set up a judiciary system in 2002 with an appellate court, a regional court, six district courts, and six police stations. The courts are staffed by three ex-judges; the others were appointed on the basis of sharia knowledge."

In addition, "The private sector is attempting to play an increased role in justice matters. Businesses, communities, and factions hire ex-government judges and lawyers, who are asked to settle important legal disputes on the basis of some pre-agreed combination of state law, clan *xeer*, and sharia. Private lawyers are involved in drawing up contracts for private companies and doing arbitration for land and commercial disputes."

Puntland

According to Le Sage's report, "The Puntland judicial system is composed of three levels: the supreme court located in the Puntland capital

of Garowe, the courts of appeal in each region, and courts of first instance at the regional and district levels. In addition, a separate constitutional court was established. Seven courts now exist in Puntland, including the supreme court in Garowe, three courts of appeal in the regional capitals of Garowe, Bossaso and Galkayo, and three courts of first instance in the same cities. Rural areas are served by a large number – in the dozens – of Justices of the Peace, who are mandated to settle minor civil disputes. Following the procedure from 1962, sharia law is used for personal civil matters dealing with marriage, divorce, inheritance, etc. Three judges (including a mix of secular and sharia jurists) were expected to sit on each court, and to rule by majority. According to assessments conducted in 2003, only 45 judges are currently serving in Puntland. Of these, approximately 18 (about 40%) have a university degree in either secular or sharia law. The remainder generally have 'traditional' and 'non-formal' qualifications, including locally acquired knowledge of sharia and 'on-the-job' experience in the courts system under previous Somali governments."

The Joint Needs Assessment rule of law report[422] estimated that "more than 75% of Puntland has no functioning primary courts, limiting the accessibility of justice to urban centres. Judges, prosecutors, and support staff have low salaries and are paid irregularly, sometimes going for months without pay. Fees have to be paid for civil cases (about 3–5% of the value of the case), and survivors have to pay the costs in criminal trials. Monies collected are transferred to the Ministry of Finance, and the court has complained about a lack of basic necessities, such as electricity or a filing system. Local district courts are funded by local authorities, and judges tend to have been trained only in sharia, as opposed to secular law." The Puntland justice sector was allocated 1.4 percent of the budget in 2004[423].

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421 Joint Needs Assessment (2006a).

422 Joint Needs Assessment (2006a).
423 World Bank (2006a).

Somaliland

The exact legal position on the structure of the judiciary in Somaliland is slightly unclear, as the Organization of the Judiciary Law is not yet in force[424]. However, this law in practice merely consolidates the provisions of the laws of the same name passed by the parliaments of the Somali Republic and Somaliland[425]. According to these laws, the judicial process comprises three levels: the Supreme Court, the Court of Appeal, and the Regional and District Courts. The territory of Somaliland is composed of 6 regions and 41 districts, with each region having its own District Courts, Regional Court, and a Court of Appeal. The Supreme Court sits in the capital city of Hargeisa, and has jurisdiction over the whole territory. Battera and Campo surveyed the various courts in considerable detail and comment that "although the material condition of the system is widely recognized as poor, the courts recorded different performances, depending on the level of experience and the background of judges. Generally speaking, the more peripheral areas seem to suffer the worst conditions." Outside Hargeisa, most of the judges were not law graduates.

In many of the peripheral areas the position of the judges seemed to verge on the notarial; in the Awdal region, Battera and Campo quote Menkhaus'[426] comment that "the role of the district court judge is overshadowed by the elders, who mediate or arbitrate most local disputes, sending the results of their deliberation to the district court for recording". In these areas, almost all criminal cases and most of the major civil cases seemed to be handled by customary structures, though the remaining

caseload of minor civil and criminal matters still appeared to be more than the judges, who were very few in number, could handle.

They also noted that in case of disputes concerning estates, "the Municipality of Hargeisa is entrusted with jurisdiction over the territory of the whole district. The Supreme Court has appellate jurisdiction against the verdict of the Municipality. This extraordinary involvement of the Municipality in the administration of justice is the result of the peculiar status of Hargeisa after the civil war. The majority of the buildings of the city, indeed, have been destroyed, and only city planners have the instruments and knowledge to identify the owners of the plots and buildings. Similar provisions were adopted for other important municipalities, like Borama and Berbera, but at the moment no data is available."

Battera and Campo report that all of the Supreme Court judges are "law graduates from reputable universities such as the Universita' Nazionale Somala (Mogadishu) or al-Azhar (Cairo), and have a proven track record in judicial matters. Furthermore, they have a good command of English, Arabic and Italian. The judicial support staff, such as registrars and bailiffs, are also qualified and have experience in judicial administration. The Supreme Court has jurisdiction over constitutional matters, [which] is a new important function for the Court. Indeed, if a law, or provision having force of law, is declared unconstitutional, it ceases to be in force on the day when the judgement declaring its unconstitutionality is published. However, due to the fact that a Constitutional Court has never been established in Somalia, the judges of the Supreme Court are not confident in constitutional matters and no cases have been heard so far."

An Academy for Peace and Development report[427] on the Somaliland judicial system

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424 Law No. 24 of 2003. There have been lengthy disputes between the parliament and the executive over its content, particularly in relation to the appointment of Supreme Court judges; the current position at time of writing was that it had been approved in revised form by the parliament in March 2008 and sent to the President for approval.

425 Legislative Decree No. 3 of 12 June 1962 and Law No. 41 of 11 August 1993.

426 An excerpt from the 1997 Menkhaus report on governance in Awdal for UNDOS.

427 Academy for Peace and Development (2002a).

reported that until 2002 there was no formal evaluation system for judges and "judges are often promoted or demoted according to the number of cases they win or lose on appeal". In 2002, a review of the system was initiated, including an evaluation system, which resulted in the appointment of a new Chief Justice and the replacement of around 45 judges. The report noted that "firing a judge is very difficult, even if he is known to be corrupt or incompetent, because of interference from his clan". According to one participant in the workshop, "He (the judge) is protected by his clan and believes he is there to serve them; others in his clan think they own his seat as though they have struggled and paid a price for it." Although the constitution stipulates the separation of powers and the existence of an independent judiciary, this is often problematic in practice, with several confrontations between the judiciary and the Ministry of Justice and also disputes between the President and parliament over the appointment of the Chief Justice. According to Ministry of Finance figures collated by the Academy for Peace and Development, only 2.16 percent of the 2000 national budget was allocated to the justice system (the courts, Ministry of Justice, and Attorney General). The academy reported complaints of low remuneration for judges and court staff, as well as very limited resources in terms of equipment, facilities, and legal materials; the same applied to the institutions required to enforce the law.

LAWS RELATING TO LAND

It would be fair to say that the overall Somali legal framework relating to land is exceptionally patchy, especially to those Westerners who (like the author) are more used to a detailed and fully integrated system of laws that covers all aspects of land and its use. It is impossible to say with complete certainty what "the law" says about ownership of land, about creating interests in or over land (such as leases) and

the terms on which this can be done, about the sale or devolution of such interests, about the registration of title or transactions, or about the state's power to acquire land or control people's use of it[428]. To state the problem more accurately, it is very difficult to find out what the law says, even when it does exist and covers an issue properly, because even lawyers and those who work with land professionally do not know what the law is[429].

At a theoretical level, a law arguably "exists" if it was passed by a legitimate government and its provisions have not been formally revoked by a government with sovereign power to do so, but these two provisos immediately raise complex questions by themselves, given Somalia's post-independence history and the current status of Somaliland and Puntland. If one accepts for the sake of argument that all of the legislation of the Barre regime and the "governments" of Puntland and Somaliland is valid (which is a big "if"), the immediate problem is how to reconcile the different laws when they contradict each other.

For example, the Somali National Reconciliation Conference land committee (see Section 4 of Part D) states that the laws of the post-colonial governments "which were valid then are recognized", which might suggest (contrary to reality) that the Somali state still owns all rural land and grants fifty-year leases of it, as provided for by the 1975 Land Law[430]. Even the Somaliland constitution, which one might expect to nullify the Barre regime's legislation, states that "all the laws which were current" remain in force unless

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428 Terms like "ownership" and "lease" are of course all Western legal concepts, but any formal legal system will need to have some sort of equivalent to them, in terms of a permanent right to occupy land or a right to occupy land temporarily.

429 This was clear from a number of interviews carried out, in which practising Somaliland lawyers admitted that they knew little about the 2001 Land Management Law, which was relatively recent, let alone the historic legislation.

430 The Transitional Federal Charter states "The 1960 Somalia constitution and other national laws shall apply in respect of all matters not covered and not inconsistent with this Charter."

inconsistent with sharia or until superseded by new laws. This is of course a pragmatic acceptance of the fact that it is better to have some sort of legal framework that people are more or less familiar with, even if it contradicts itself, than to have no laws at all and be forced to start from scratch again. However, what this means in practice is that very few people actually know what laws exist, what they say, and which parts of them have precedence over other laws, which is a particular problem when it comes to land titling.

The practical effect of this situation in Somalia seems to be that people have tended to stick with laws that they know and understand, which explains why British colonial "ordinances" and even Barre-era laws are apparently being applied in some areas. It may well be the case at a technical level that "law" exists, in the sense that it has been written down somewhere, but if no one knows about it and it is never applied then its existence is really no more than theoretical. An example of this is the fact that the Somali Civil Code apparently contains detailed provisions in relation to the legal doctrine of "prescription", which (in short) says that land may become the property of another person if the original owner has been away from it for a sufficiently long period[431]. However, for reasons that should now be clear (in terms of Somali views on land ownership), it is highly unlikely that these provisions will ever be applied in practice, and it is also doubtful that many Somalis know that this is the law.

Somalia

In terms of Italian colonial legislation in the south, Roth reports that two decrees[432] "collectively established the Italian state's right of sovereignty over vacant lands (i.e. those in excess of the current population's present and future needs) and its right to grant agricultural concessions out of state domain for Italian citizens or others of foreign nationality"[433]. Hoben[434] reports that on the eve of independence, the Somali legislative assembly "formally abolished the status of client clan, abolished clan control over unused land and thus guaranteed each citizen the right to live and farm wherever he chose, regardless of clan affiliation. The new law[435] clashed with tribal [clan] rights but was stated as a 'general principle', leaving the government much discretion in implementation", which was just as well since "the new regime had no more effective control over tribal areas than the colonial government". He also notes that during the 1960s no new land law was passed, although land reform laws based on earlier thinking were drafted in 1960, 1967, and 1969.

By contrast, the new Barre regime enacted some 22 laws regulating the agricultural sector between 1970 and 1976. One of its first acts was to pass the Law for Social Protection[436] to abolish the clan structure in Somali society (see Section 4 of Part C), under which "all forms of tribal association, rights and privileges, including rights over land and water, were abolished and claimed by the state". In 1973, it extended state control over *waqf* properties (see Section 2 below) and launched the cooperative movement with the Law on Cooperative Development. The government also reportedly passed a law on urban land use in 1973, but there is almost no detail on this in the literature[437]; it must of course be remembered that the 1975 Land Law applied only to agricultural land. The Italian law-based civil code introduced by the

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431 Articles 371 to 385 of the code, according to Centre for Research and Development research material. See below for more detail on land in the Somali Civil Code.
432 Royal Decree 695 of 8 June 1911 and the Governor's Decree 815 of 19 January 1912 – see Roth (1993).

433 Despite this legal framework, Gunn (1990) describes the tenure of the Italian-owned banana plantations as "always ambiguous" and reports that only 22 of the 220 Italian banana growers in 1960 held title to their land.
434 Hoben (1988).
435 Law No. 13 of 2 March 1960.
436 Law No. 67 of 1 November 1970.
437 Mattei (1990) mentions this law and refers to Italian literature on it (see the third part of this report's bibliography).

government in 1973 apparently contained a very large number of articles relating to land and property but seems to have played a curiously limited role in the practical evolution and application of land law[438].

The practical application of the notorious 1975 Land Law[439] has been discussed at length in Section 1 of Part C, and those details will not be repeated here. Hoben and Roth[440] provide some further technical details:

- Leases to individuals were renewable and could be inherited by "immediate kin", although the meaning of this in the context of Somali kinship and marriage was not spelled out.
- Corporate or private organizations, cooperatives, state farms, local government, and public agencies were not limited in the extent or duration of leases. Under the 1976 decree, national agencies, including agribusiness companies in which the government was part owner, were excluded from the workings of the law.
- The state could expropriate or repossess land in excess of established limits, land left idle for two successive years, land not developed in accordance with the terms contained in the lease[441], or land needed for public purposes. Roth comments that "weak enforcement of these provisions results in wide disparities in land use and allocation under state leasehold tenure and customary tenure arrangements"; the same applies today in relation to the enforcement of similar provisions in the 2001 Somaliland Land Management Law.
- All land currently being used (other than

cooperative land) had to be registered within six months. Hoben noted that this condition "has not generally been met, leaving much land, in principle, with unclear legal status, potentially vulnerable to registration by another party".
- Land transfers were severely restricted and rental, sharecropping, subletting, and sale were all prohibited.
- Disputes over "usufruct" (lease) rights were in the first instance dealt with by the Ministry of Agriculture (through a "District Agricultural Coordinator") and not by the courts, generally through protracted mediation and negotiation rather than adjudication. Hoben comments that where the land was unregistered, "general principles of justice" were supposed to be applied, which usually meant deciding in favour of the party with the longest record of use. However, in practice, settlements were ultimately political in character, since they were "affected by the political influence of the parties concerned as well as by the provisions of the law and traditional notions of equity and clan right". A similar dynamic continues to this day, in terms of mediation efforts (legal or informal) by local municipalities in land disputes.

The overall picture of the extent of title registration under the 1975 Land Law is somewhat confused[442], and one suspects that the rather patchy official statistics may not have been entirely reliable. However, the very limited uptake of registration described in the case studies of the Jubba and Shabelle (see Section 1 of Part C) seems to have been replicated at both regional and national levels, with only 0.5 percent of Somalia's total land area having been registered by 1986 and 0.6 percent by 1988[443]. Of course a significant proportion

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438 See Mattei (1990), who says that there were 252 articles relating to land and property.
439 The Agricultural Land Law (No. 73) of 1975, as amended by subsequent decrees, including Law No. 23 of 1976.
440 See Hoben (1988) and Roth et al. (1994); the latter draws on an English translation of the law by the University of Wisconsin, which would be worth obtaining.
441 These seem to have included requirements to use the land for agricultural purposes only and to achieve maximum productivity; also landholdings could not be "unnecessarily fragmented". See Appendix 1 to Roth et al. (1994).

442 The outline figures as of 1984 in Conze (1986) bear little relation to the detailed figures as of 1986 in Roth (1993), even allowing for the passage of time. Roth's classification of "irrigable" land (within close proximity to a river but not necessarily irrigated) also blurs the categories somewhat.
443 Roth et al. (1994).

of Somalia is not cultivated or cultivable and so the percentage of these categories actually registered is rather higher, especially in relation to "irrigable land" – see the detailed regional breakdowns in Roth's study. Roth's analysis of a random sample of 722 entries in the central land registry in Mogadishu revealed some interesting results:

- A large proportion of titles was registered by private companies, and the average size of their titles (194 hectares) was considerably larger than that of the individual titles (26.4) or the average farm size in Somalia (3.8).
- A suspiciously high proportion (23.3 percent) of the titles were round figures of 30, 60, or 100 hectares (the exact ceilings for different categories of land holdings, depending on the land type and applicant), which strongly suggested that instructions had been given from Mogadishu that favoured individuals be allocated the maximum available to them[444].
- A number (54) of the titles greatly exceeded the 100-hectare general ceiling, since the applicants fell into categories for which the law set no ceiling. Forty of these titles were between 500 and 1,000 hectares and one was 7,000 hectares. The contrast with the average farm size is striking.
- Of the individual titleholders, 92.7 percent were men.

Needless to say, there is very little available information on whether any of the former land laws of Somalia are applied in practice in the south central region nowadays. Research for this report by the Centre for Research and Development reveals some knowledge of the Somali Civil Code but also indicates that customary and traditional norms are widely used, so that "ownership" could be acquired through developing a piece of land by building on it or planting trees. Lawyers interviewed by the Centre for Research and Development referred to provisions in the Somali Civil Code that appeared to relate to the legal doctrine of "prescription", whereby ownership of a piece of land could pass to another person after 10 or 15 years if the original owner did not claim it, though this was obviously very problematic given current circumstances. The Somali Penal Code[445], which is used in Somaliland at least, has some relatively tough provisions in relation to crimes against property by means of violence:

- Removing or altering boundaries of land with intent to appropriate it for oneself or another is punishable by up to three years' imprisonment and a fine (Article 487).
- Trespass on public or private lands or buildings in order to occupy them or obtain gain from them is punishable by up to two years' imprisonment or a fine; if the act is committed by more than five people, one of whom is armed, then the state can prosecute without the complaint of the relevant owner (Article 489).
- Violent disturbance of peaceful possession of land is punishable with up to two years' imprisonment and a fine (Article 490).
- Damage to property is punishable with up to one year's imprisonment; damage to certain classes of property (including public buildings and irrigation works) or damage with violence against the person is punishable by up to three years' imprisonment and can be prosecuted by the state without the owner's complaint (Article 491).

Puntland

Bruyas's description of the legal situation on land in Puntland is rather unclear. It seems that "the Islamic influence is more perceptible" there, especially in rural areas and that "Islamic concepts of access to land are taken into

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444 It is of course possible that their actual unregistered landholdings were higher than the ceilings and so they only registered land up to the level of the ceiling, but (given the very small size of the average landholding in Somalia and the other evidence for widespread land grabbing by the Mogadishu elite) this seems a less likely scenario.

445 Available in English in an edition prepared by Martin Ganzglass (1971), with case commentaries.

account". He seems to suggest that Islamic courts would place emphasis on the ability of a claimant to a piece of land to develop it, as evidenced by "demarcation and marking of the plot" (which confers a "right to use but not the full ownership") or by adding value to the land. This is supported by research carried out for this report, where local lawyers interviewed by the researchers commented that title could be acquired by developing land through planting trees, digging boreholes or *berkads*, or constructing buildings. They also confirmed that Islamic land principles such as the *mewat* doctrine (see Section 2 below) "are to some extent used in practice and particularly when land grabbing-related disputes occur", though less so in Bossaso.

Similarly, the *waqf* concept exists in Puntland and is used "not only for mosques, *madrassas* and graveyards but also for construction of schools, hospitals, houses for poor Muslims [and digging boreholes and bore wells]"; Islamic scholars commented that it could be used "for public and private services lawful in the eyes of Sharia". Generally speaking, sharia was reported as being used for a wide range of disputes and even commercial matters. In terms of registration of title or documents, the lawyers commented that these are supposed to be registered under Article 398 of the Somali Civil Code but that they "are now mostly registered at courts and public notaries under Articles 88 and 415" of the Civil Code. In the urban areas, Bruyas reported that "secular laws applied during the Barre regime are still valid and applicable despite the fact that laws are unclear and inadequate". His interviewees were not sure (for example) what the existing law on town planning was, referring both to an old 1950s Italian town planning law and to an integrated town planning law from the former Republic of Somalia (which may in fact be the Somaliland ordinance referred to below). They also referred to "an old land law of 13 September 1973" as still being valid; this may

be the Barre-era law on urban land (see above), about which little is known.

In 2005, the Government of Puntland issued a new land law, which appears to be based on the same structures, drafting, and principles as the Somaliland 2001 Land Management Law (see below) and therefore seems to suffer from the same deficiencies outlined above. It also apparently lacks clarity over the division of roles between the Ministry of Local Government and Rural Settlement and the local governments of the districts when it comes to the general master plan, which must classify land for residential, industrial, commercial, and public utility. A 2005 report[446] by researchers from Puntland Development and Research Centre and Academy for Peace and Development contains a list of all of the laws enacted by the Puntland parliament between 1999 and 2004, which includes the Regulation of Agricultural Lands Law (Law No. 3 of 2000) and the Urban Lands Law (Law No. 14 of 2000), but nothing more is known about their content or provisions. Puntland lawyers interviewed in Galkayo for this report apparently stated "unanimously" that the Puntland authorities do not have legal power to acquire land by compulsory purchase for public purposes; in other areas, it was thought that authorities did have theoretical powers under the civil code or constitution but that these were weak and rarely exercised. They also stated that the 2005 land law "prohibits courts to hear any land dispute-related cases unless local government issues a final ownership decision on that piece of land".

Somaliland

The 2001 Land Management Law[447] is the main law in relation to *urban* land in Somaliland. In essence, it states that all land belongs to the state but that plots can be allocated to individuals

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446 Osman and Ibrahim (2005).
447 Formally Law 17 of 2001 but also rather confusing referred to in some studies as Law 74 of 2003.

in accordance with a master plan, which will also determine generally what land is to be used for what purpose. Residential land can be allocated to individuals either for "permanent use" (which requires a permanent structure to be constructed within two years, failing which the land is confiscated) or "temporary use" (for "low-income people", who are to use more temporary materials). The law then goes on to deal (extremely briefly) with illegal construction, appropriation of land for public purposes, establishment of land registration, arbitration of land disputes by a committee, and the sale of government lands. UN-HABITAT commissioned a review of the key pieces of urban law in Somaliland (the Land Management Law, the 2002 Regions and Districts Law, and the City Charter for Hargeisa) by the development law specialist Patrick McAuslan in 2003–2004, which examines them in detail and will be briefly summarized here[448]. McAuslan assessed the Land Management Law against four ideal drafting criteria (clarity, coherence, comprehensiveness, and certainty) and against the following seven basic principles of substance for urban laws:

- "the establishment of management systems which are efficient, effective and economical (in management jargon, value for money management systems);
- decision and plan making which is inclusive and participative;
- central/local relations which are cooperative and complementary;
- regulatory activities of public agencies and officials to be exercised flexibly and in a way that facilitates and does not hinder private economic and social activity which is not anti-social or illegal;
- equity and social responsiveness;
- the application of administrative justice [i.e. the principles of openness, fairness, and impartiality]."

He concluded that the Land Management Law "needs to be revisited and revised as soon as possible" and drew attention to a number of deficiencies, both major and minor:

- The Land Management Law is in effect an outline law, with details to be filled by later regulations, but there are so many gaps and generalities that the regulations would in effect be filling in or writing primary legislation.
- The law is premised on the existence of a master plan that will guide the allocation of plots of land, but no such plan exists yet and there is no provision for what should happen without it.
- The process of making the master plan is highly non-participatory, and landowners or communities affected by it have no right to make representations and only limited rights to compensation. The master plan, once made, appears to be fixed and unchangeable, which McAuslan suggests is likely to impede urban development.
- Most of the powers that would be necessary for an effective urban planning authority are not mentioned in the law.
- The provisions for obtaining a plot and building permit are thoroughly unclear and deficient.
- The same applies to the provisions for establishing some form of land registration, which do not even oblige landowners or purchasers to register their land, or at least the title documents.
- The form and content of the type of ownership to be granted to someone who is allocated a plot and the attendant rights to sell or otherwise dispose of the plot are all thoroughly unclear. Similarly, there is virtually no explanation of what temporary occupation will involve in terms of maximum length of time, security of tenure, right to construct shelter, etc.
- The distinction between permanent and temporary use in effect discriminates

448 McAuslan (2003). On the Regions and Districts Law and Hargeisa Charter, see also Academy for Peace and Development (2004).

against the poor and seems to provide them with no security of tenure at all, which will discourage investment.

McAuslan suggests that the British colonial ordinances[449] on town planning and registration of documents could form a useful basis for drafting. Noting that the precise format of a land registration law would vary depending on whether its aim is to enable property taxation or to simplify and cheapen dealings with land, he comments that "a thriving urban land market already exists without any official form of registration. Only if registration can be shown to have demonstrable benefits will people use any system on offer. If they suspect that registration is a prelude to taxation, they will not use the system. If they can be shown that registration may help reduce the incidents of disputes about land – the major problem of land management at present – then they may begin to use the system. The [registration of documents] system fits the bill here and it could easily be decentralized to local authorities."

McAuslan is rather more complimentary about the Regions and Districts Law, though he comments that "it is marred by provisions which will create points of tension between the Ministry and district councils; which impose inflexible arrangements for sub-committees while at the same time not making provision for important matters on the functions of sub-committees, which may in turn lead to tension between the mayor and the councillors; and by a complete absence of general powers and arrangements for redress against the council, which will at one and the same time hinder the councils' performance of their functions and may lead to unnecessary tension between the citizen and the councils".

The draft Hargeisa City Charter that McAuslan examined contained a substantial amount of overlap with the Land Management Law and Regions and Districts Law (and therefore many of their deficiencies). He therefore recommended and provided a fairly comprehensive redrafting, which would also enable the municipality to work round some of the problems of the Land Management Law. The exact position on both this law and the charter was still not clear at the time of writing this report, due to lengthy delays in parliament and confusion over process. It is thought that a version of the charter, possibly incorporating some of McAuslan's amendments, has been enacted but that the Land Management Law is still undergoing unspecified revisions.

The author was not able to obtain an English copy of the Agricultural Land Ownership Law (Law No. 8/99), which is the main law dealing with *rural* land. However, its contents are summarized in an Academy for Peace and Development report on land conflicts[450]: "Agricultural land is defined as any land where farming is suitable (Article 1). The Ministry of Agriculture has the sole right to issue ownership titles for farms (Article 4). Individuals and families can acquire only one new title deed each and people who owned agricultural land before the enactment of this law are entitled to as many titles as their land amounts to (Article 6). The maximum plot size of new entitlement is restricted to eight hectares for rain-fed farms, while for irrigated farms the maximum plot size is four hectares. State-owned farms and companies are independent agencies and do not fall under this law (Article 7). If agricultural land is nationalized for public use, the state has to pay compensation to the previous owner within three months (Article 8). Only three years after the ownership title has been received, it is allowed to sell land with the approval of the Ministry of Agriculture. It is prohibited to enclose land (Article 9)

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449 The Town Planning Ordinance of 1947 (Cap. 83 of The Laws of the Somaliland Protectorate, 1950 edition) and the Registration of Documents Ordinance (Cap. 82 of the 1950 Laws of the Somaliland Protectorate). The author has not seen copies of these ordinances.

450 Academy for Peace and Development (2007a).

or to turn grazing land into rain-fed farms. Nevertheless, it is allowed to establish irrigated cultivation farms wherever it does not block roads, the movement of livestock or wells and *berkads* for watering livestock (Article 17)."

As the same report notes, this law does not define what pastoral land is and how its ownership is to be regulated, although the Law against Environmental Degradation and Deforestation endows the Ministry of Pastoral Development and the Environment with the task of conserving the environment: "In consultation with the Ministries of Water and Mineral Resources, Livestock, and Agriculture, it has the authority of allocating and confining grazing land for pastoralists and farming land (Article 9). Additionally, it is responsible for issuing permits for the construction of *berkads* and other water reserves in rural areas. The law prescribes that it is not allowed to build more than 35 *berkads* in an area after this law was signed and that illegal water installations shall be destroyed (Article 12)." According to the Academy for Peace and Development, the planned revisions to the Land Management Law mentioned above refer to the integration of farmland into urban areas but do not improve the general legal basis for the management of rural land.

As the Academy for Peace and Development report points out, "Pastoral grazing land as well as its ownership is not defined in any law. In the absence of a clear definition of grazing land, the right of the Ministry of Pastoral Development and the Environment to allocate grazing land to pastoralists can be used rather arbitrarily. As a result, land ownership and user rights of pastoralists are not secured within the legal system, making them particularly vulnerable for land grabbing by farmers, town dwellers or others. Because there is no clear demarcation between agricultural, pastoral and urban land, the domains of the different ministries

and state agencies overlap and may cause further land management problems. The law also clearly gives advantages to irrigated-farming activities in comparison to both rain-fed cultivation and livestock breeding in particular. While it is not allowed to turn grazing land into rain-fed farms, irrigated cultivation farms may be established wherever this does not block roads, the movement of livestock, or wells and *berkads* for watering livestock. But as these criteria can be handled in a very flexible manner, there is no effective legal protection for pastoral land. When expanding cities reach irrigated farmland, its owners are presented with the opportunity to keep it and convert it into a normal town plot. This urges people to grab grazing land at the fringes of cities as irrigated farming land to later convert it into urban housing land."

INTERNATIONAL LAW ISSUES

Recognition of a Somali government

Somalia's continuing statelessness has created a number of legal difficulties in relation to international law. For example, courts in other jurisdictions have been required to decide how to deal with the various entities that, in the years since the collapse of the Barre regime, have claimed to be the "government" of Somalia. As can be imagined, the question of when and how to recognize a new regime as the official government of a state has always been a highly political and sensitive issue in international relations and international law. In the English case of Republic of Somalia v. Woodhouse Drake[451], it was held that the main deciding criterion (in the absence of official

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451 [1993] 1 All ER 1. The case dealt with the question of who was entitled to the proceeds of sale of a cargo of rice that had been bought and paid for by the Barre regime before its collapse but which could not be delivered due to the civil war and therefore had to be sold. Mr Justice Hobhouse held that neither the "interim government" that claimed to exist in 1992 nor any of the other warring factions could be regarded as the true government of Somalia, and so the money would be kept in court until an entity could prove to the court's satisfaction that it was indeed the government.

recognition by the British government[452]) was whether "the regime is able of itself to exercise effective control of the state concerned and is likely to continue to do so"[453].

However, there was a difference "between a constitutional government and an insurgent regime: although a loss of control by the constitutional government would not deprive it of its status, an insurgent regime must establish effective control before it can exist as a government. Furthermore, although recognition [by other states or the UN] is a relevant factor, it cannot rebut the overwhelming evidence that the regime exercised no administrative control over the territory." The case is of course only an authority in English law but it does to some extent reflect principles and policy issues of international customary law. On the other hand, as Aristodemou points out, the supposedly objective or factual test of effectiveness raises a number of problematic issues, which apply with particular force to Somalia:

- Is effectiveness to be equated with the "success" of the new regime and if so, is success to be assessed militarily or by the level of approval and acceptance of the regime by the people?
- How long does a regime have to survive before it can be judged "successful"?
- If effectiveness is equated with the "habitual obedience" of a regime by its people, how much popular support is required and how vocal could opposition to the regime be?
- If consent by the people is a requirement, how is this to be ascertained, given the difficulties of holding elections and assessing how free and fair they may be?
- How is it to be decided which facts are relevant and properly established and how

far any investigation into historical context and background should go?

There is a similar body of international law in relation to the recognition of new states that have seceded from previously existing states. This report will not examine the large and contentious issue of Somaliland's claims to independence[454]. However, it is worth noting that Somaliland has acceded to certain international human rights instruments, though the effect of this is debatable. The status and obligations of unrecognized de facto "states" in international law is far from clear but has been discussed in a recent book[455] that focuses on Somaliland and discusses some of the international humanitarian law issues set out below.

State failure and international law obligations

Koskenmäki[456] deals at some length with the international law implications for Somalia of state failure, in terms of (for example) the loss of international diplomatic representation and the status of state property in other countries. More relevantly to this report, she notes that no entity has the capacity to conclude treaties on behalf of the state during its collapse, which means that Somalia is unable to conclude international agreements with multilateral institutions such as the European Commission, World Bank, and International Monetary Fund. She also examines the question of whether state failure relieves a state of its general duty under international law (the principle of *pacta sunt servanda* – "agreements must be obeyed") to observe its treaty obligations and concludes that under the principle of continuity of

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452 In 1980, the British government formally announced that (like many other states) it would no longer officially recognize new governments and that the legal status of any new regime would have to be inferred from the nature of the dealings (if any) the government had with them.
453 Quotations come from the commentary of Aristodemou (1994) on the case.

454 See for example the analysis of international law in Carroll and Rajagopal (1993), the geopolitical assessment in Huliaras (2002), and the commentary in International Crisis Group (2003b) and (2006a).
455 Michael Schoiswohl's *Status and (Human Rights) Obligations of Non-Recognized De Facto Regimes in International Law: The Case of "Somaliland"* (2004, Leiden: Martinus Nijhoff Publishers). The book is rather critically reviewed in Ronen (2005). See also Pegg (1998).
456 Koskenmäki (2004).

states it does not, though obligations could be temporarily suspended. However, it might be possible to argue a fundamental change of circumstances[457] or the operation of force majeure (a legal doctrine relating to situations where an unforeseen external force prevents a contract from being fulfilled), although she suggests that complete state failure was never really envisaged in either case.

The question has relevance to this report because of the issue of Somalia's obligations (particularly in relation to housing and land) under the various international human rights and international humanitarian law instruments it has signed (see below). Koskenmäki suggests that these obligations may constitute a special case and thus not be suspended during state failure, though she notes that it is arguable that "people only have human rights only so far as actually implemented by states". On the other hand, Wallace-Bruce[458] argues that according to "international law principles of state extinction... one may conclude that the Republic of Somalia has ceased to be a state", though she notes the geopolitical realities that prevent the international community from declaring this.

The distinctive nature of the civil wars in Somalia requires some analysis of exactly which provisions of international humanitarian law apply to it. Somalia has signed the four Geneva Conventions but has not signed either of the additional protocols to the conventions. There has been some debate as to whether the Ethiopian intervention has made the fighting an "international" armed conflict for the purposes of the conventions (probably not, since they came at the request or at least concurrence of the Transitional Federal Government); on the assumption that it did not, probably only Common Article 3 (so called because it is common to all four conventions) applies.

Article 3 requires all parties to an internal armed conflict (including non-state actors) to respect certain minimum humanitarian rules (mostly in relation to violence against civilians and other non-combatants), but the question then arises as to whether all of the armed groups involved would qualify as "parties to the conflict". It is generally considered that an armed group must have a minimum degree of organization and discipline to be able (and to be required) to respect humanitarian law[459], but it seems likely that all the main armed factions could qualify, though individuals and groups using violence for "purely criminal or commercial ends" would not. In addition, for Common Article 3 to apply, the violence must be sufficiently intense to amount to an armed conflict, although many (including the International Court of Justice) have argued that the provisions of Article 3 constitute "elementary considerations of humanity" and thus apply in all situations.

There is a related question as to how long and where armed conflict can be said to have persisted in Somalia, given the sporadic and sometimes localised nature of the fighting, but case law from the International Criminal Tribunal for the former Yugoslavia suggests that international humanitarian law continues to apply until there is a peaceful settlement for the whole of the country[460]. Interestingly, Koskenmäki points out that under general principles of international law[461] "the conduct of an insurrectional movement which becomes the new Government of a State shall be considered an act of that State under international law", so that violations committed during state failure would have to be punished by the revived state.

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457 See Article 62 of the Vienna Convention on the Law of Treaties, which sets out general international law relating to treaties.
458 Wallace-Bruce (1996).
459 See Article 1(1) of the Second Additional Protocol.
460 The Tadi case (IT-94-1-AR72, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, 2 October 1995).
461 As set out in the International Legal Commission's "Articles on Responsibility on States for Internationally Wrongful Acts", Article 10.

The UN's special rapporteur on the situation of human rights in Somalia has stated (citing the Yugoslavia criminal tribunal case mentioned above) that "as long as the faction leaders, the militias and other irregular armed forces continue their conflict in Somalia and until a peaceful settlement is reached, international humanitarian law related to internal armed conflict applies in the whole territory of Somalia irrespective of whether the specific area is engulfed in active fighting. All parties to the conflict are, therefore, bound by customary international law related to internal armed conflict. These principles are aimed at protecting the civilian population from hostilities. They prohibit deliberate attacks upon civilians and outlaw indiscriminate attacks. They forbid attacks on non-military objectives and require precautions when attacking military targets. Moreover, the Somali warring factions are bound by [Common Article 3]. This absolutely binding provision is considered the backbone of humanitarian law pertinent to such situations and lays down the fundamental principles of protection applicable in non-international armed conflict. It constitutes customary international law or even *jus cogens*"[462].

She has also noted that the Rome Statute of the International Criminal Court "provides an indication of what constitutes customary international law norms with regard to war crimes committed in an armed conflict not of an international character"[463]. While Common Article 3 does not deal with any land-related matters, the Rome Statute includes war crimes such as "destroying or seizing the property of an adversary" and "pillaging a town or place", as well as crimes against humanity such as "forcible transfer of population" and "persecution"[464]. It should however be noted that Somalia is not a signatory to the Rome

Statute and that the International Criminal Court cannot investigate crimes pre-dating its creation in 2002.

SOMALIA'S HUMAN RIGHTS AND INTERNATIONAL HUMANITARIAN LAW RATIFICATIONS

The status of Somalia in terms of ratifications[465] of the major UN human rights instruments is set out in the table below[466]. In terms of international humanitarian law instruments, Somalia acceded to the four Geneva Conventions in July 1962 but has not signed the 1977 additional protocols, the Rome Statute of the International Criminal Court, or any of the weapons-related conventions. In terms of regional instruments, Somalia is a member of the League of Arab States but has not signed the revised (2004) Arab Charter on Human Rights. Somalia is also a member of the African Union and signed or acceded to the following instruments on the dates shown:

- The African Union's African Charter on Human and Peoples' Rights (February 1982) and the Protocol (to that charter) on the Rights of Women in Africa (February 2006) and the Protocol on the Establishment of an African Court on Human and Peoples' Rights (February 2006).
- The African Charter on the Rights and Welfare of the Child (June 1991[467]).
- The African Union Convention Governing the Specific Aspects of Refugee Problems in Africa (September 1969).

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462 UN (1997). *Jus cogens* is a overriding norm of international law (such as the prohibition on torture) from which no country can derogate, whatever the circumstances.
463 UN (1999).
464 See Articles 7 and 8(2)(e) of the Rome Statute.

465 Technically, a country either signs a treaty at the time it is agreed or "accedes" to it at a later date. Depending on the nature of a country's legal system, a treaty may take effect in domestic courts as soon as the country signs or accedes to it or may require domestic enabling legislation. Similarly, signature or accession may require "ratification" by the country's legislature. It is not entirely clear whether Somalia's legal system, past or present, requires ratification.
466 The data comes from the Office of the High Commissioner for Human Rights website (last accessed in February 2008).
467 This date is a little mysterious, given that the Barre regime collapsed in January 1991.

Figure 20: Somalia's ratification of UN human rights instruments

CONVENTION	STATUS	SIGNATURE DATE	EFFECTIVE DATE
CAT – Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment	Accession		23/02/1990
CAT-OP – Optional Protocol to the Convention Against Torture and Cruel, Inhuman, or Degrading Treatment or Punishment	No action		
CCPR – International Covenant on Civil and Political Rights	Accession		24/04/1990
CCPR-OP1 – Optional Protocol to the International Covenant on Civil and Political Rights	Accession		24/04/1990
CCPR-OP2 – Second Optional Protocol to the International Covenant on Civil and Political Rights	No action		
CED – Convention for the Protection of All Persons from Enforced Disappearance	No action		
CEDAW – Convention on the Elimination of All Forms of Discrimination against Women	No action		
CEDAW-OP – Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women	No action		
CERD – International Convention on the Elimination of All Forms of Racial Discrimination	Ratification	26/01/1967	25/09/1975
CESCR – International Covenant on Economic, Social, and Cultural Rights	Accesssion		24/04/1990
CMW – International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	No action		
CPD – Convention on the Rights of Persons with Disabilities	No action		
CPD-OP – Optional Protocol to the Convention on the Rights of Persons with Disabilities	No action		
CRC – Convention on the Rights of the Child	Signature only	09/05/2002	
CRC-OP-AC – Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict	Signature only	16/09/2005	
CRC-OP-SC – Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution, and child pornography	No action		

Somaliland acceded to the Convention on the Rights of the Child[468] in January 2001. In addition, Article 10 of Somaliland's constitution states that it recognizes and will act in conformity with the UN Charter and international law and will respect the Universal Declaration of Human Rights.

SECTION 2: SHARIA LAW

THE BASICS

Sharia has four main sources:

- The Quran (e.g. *sura* [verse] 4 on women and inheritance)
- The Prophet Mohammed's words and actions (the *Sunna*), as recorded in well-attested stories (*hadith*)
- Consensus of the learned (*ijma*)
- Reasoning by analogy (*qiyas*)

There are four main legal schools of interpretation (*maddhab*):

- Hanafi (Turkey, Syria, Balkans, Cyprus, Jordan, Palestine, India, Afghanistan)
- Maliki (Sudan, Gambia, Ghana, Nigeria, Senegal, Gulf states)
- Shafi'i (East Africa [including Somalia], Indonesia, Malaysia, Sri Lanka)
- Hanbali (Saudi Arabia)

According to one *hadith*, the Prophet Mohammed commented that "knowledge of the laws of inheritance constitutes half of all useful knowledge in the world". There are a large number of complex permutations, but essentially the estate is shared among the surviving parent(s), spouse, and children; women receive up to half the share of men. Under sharia, a man may initiate divorce at any time (*talaq*), but (broadly speaking) a woman can only obtain divorce by a judicial decree (*khula*).

Sharia courts, particularly in traditional areas, still tend to give primacy to oral procedure, and personal knowledge of the plaintiffs and defendants is vital to a sharia judge's role.

ISLAMIC LAND LAW PRINCIPLES[469]

Islamic land law is most relevant in Arab or formerly Ottoman countries (the Middle East and North Africa) that had well-developed land titling systems; elsewhere sharia is often limited to family and inheritance matters. Key principles include:

- Natural resources belong to God and all mankind should benefit from them; there is a strong redistributive message that land should be productive and should not be hoarded.
- The Muslim state often owns the majority of land (in the manner of a steward) and grants a variety of land tenure rights over it.
- *Maslaha* (public interest) and *shura* (consultation) should be exercised by the state in its actions relating to land.

Some of the key forms of Islamic land tenure include:

- *Mulk*: full ownership
- *Miri*: state land
- *Waqf*: similar to a trust, used to create charitable endowments in perpetuity (e.g. hospitals/schools)[470]
- *Mewat*: "dead land", which may be claimed by another for development

It was clear from a number of interviews (and from the Centre for Research and Development's research for this report) that while Islamic scholars in Somalia are aware of these principles and legal concepts, they have only limited practical application, although Puntland may be an exception to this. One

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468 At present Somalia and the United States of America are the only two countries in the world that are not parties to this convention.

469 See the invaluable book on this subject by Sait and Lim (2006).
470 See Kuran (2001) on the origins, impact, and limitations of the *waqf* system in the provision of "public goods".

Somaliland interviewee[471] thought that the *mewat* doctrine had been used in rural areas to claim land, by presenting the Ministry of Agriculture with some sort of sharia certificate, and that this is dealt with in the Agricultural Law. He confirmed that the *waqf* concept was used, but almost entirely for mosques and *madrassas*, in urban areas. When asked whether the *waqf* concept could potentially be used to underpin agency shelter or other building projects, interviewees were generally positive. Centre for Research and Development research for this report also mentioned suggestions that the *waqf* concept could be used to obtain private land for the resettlement of IDPs.

THE SHARIA COURTS

Given the rapid rise, fall, and possible rise again of the International Courts Union, it is worth looking briefly at the (non-criminal) legal functions that were apparently carried out by the sharia courts when they were in existence. Information on this is limited but is summarized very usefully in Le Sage's 2005 report on Somali legal systems:

"Most legal functions performed by the sharia courts are concerned with civil matters, including sanctifying marriages and divorces, determining inheritance rights, and settling business disputes. Court officials state that they prefer to hear cases from individuals who are already committed to the authority and Islamic precepts of the courts. Sharia judges assert that there is no conflict between Islamic law and traditional Somali clan law (*xeer*). They state that Somali culture was fully integrated into Islam and thus no conflict was possible. Most sharia judges were educated solely through informal religious studies in Somalia. However, a small number have formal training from Sudan, Egypt and Saudi Arabia, as well. None of Somalia's sharia courts appear to follow a specific *madhab* or school of Islamic

jurisprudence – they simply apply their personal reading according to their existing knowledge of the Quran and Islam. Due to the judges' lack of formal training, the sharia courts do not operate according to any formal procedure. Judges hear cases by asking questions of the claimant and defendant, calling any witnesses that the judges themselves deem necessary, and then pass their decision. Professional Somali lawyers[472] who have appeared before the courts argue that rules of evidence and procedure are the most required form of development and training that is required to prevent the sharia courts from causing harm. In reaching decisions that will satisfy their various constituents, the sharia courts have adopted the guiding principle of *suluh*, which roughly translates to 'resolution'. According to *suluh*, sharia, *xeer* and relevant state laws can be combined to find a workable, 'win–win' resolution to a case that all parties will accept."

Kassahun[473] interviewed a number of Mogadishu lawyers in relation to the sharia courts in existence in the mid-1990s. They confirmed that lawyers were not involved in the sharia court nor did they represent clients: "In one case of representation about title of land, the court rejected the title document and asked for witnesses, since written documents cannot be primary evidence under the Sharia". They saw "a role for lawyers in areas such as company law, labour issues, banking, maritime cases and international transactions, which require a positive [written] law system – something that the Sharia does not cover". In the Beletweyne sharia court, legal documents were "treated as secondary evidence. The documents must be authenticated and [the] prior owner has to testify regarding [the] authenticity of the document."

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471 E.g. Interview 13.

472 Other sources (see below) suggest that lawyers are not permitted to appear on behalf of clients, who must appear in person.

473 Kassahun (1997).

SECTION 3: CUSTOMARY LAW

Much of the information that follows comes from Le Sage's important 2005 report[474], which in turn draws heavily on the Puntland Development and Research Centre's essential study of customary law[475]. The remainder comes from the author's own research. To avoid excessive use of quotation marks and footnoting, it should be assumed that any detailed information that is *not* given a source comes from Le Sage; the author's research is footnoted in the usual way.

BASIC CONCEPTS AND STRUCTURES

Xeer is the set of rules and obligations developed between traditional elders to mediate peaceful relations between Somalia's competitive clans and sub-clans. The universality of *xeer* is contested. According to one point of view, all *xeer* is "localized", emanating from specific bilateral agreements between specific sub-clans that traditionally live adjacent to one another, and "application of its rule is flexible and varies from place to place depending on circumstances and situations". According to others, however, it is possible to refer to a single, general Somali *xeer*, given that the most significant principles of *xeer* are common across all Somali clans. These generally accepted principles of *xeer* are referred to as *xissi adkaaday* (the most fundamental, immutable aspects of *xeer* that have unquestionable hereditary precedents). They include the following:

- Collective payment of *diya*[476] (blood compensation, usually paid with camels and other livestock) for death, physical harm, theft, rape, and defamation, as well as the provision of assistance to relatives.
- Maintenance of inter-clan harmony by

sparing the lives of "socially respected groups" (including the elderly, the religious, women, children, poets, and guests – these groups are described as *birimageydo* ["saved from the spear"]), entering into negotiations with "peace emissaries" in good faith, and treating women fairly without abuse.
- Family obligations including payment of dowry, the inheritance of a widow by a dead husband's brother (*dumaal*), a widower's rights to marry a deceased wife's sister (*xigsiisan*), and the penalties for eloping.
- Resource-utilization rules regarding the use of water, pasture, and other natural resources; provision of financial support to newlyweds and married female relatives; and the temporary or permanent donation of livestock and other assets to the poor[477].

In addition to these general principles, it is commonly agreed that *xeer* can be divided into two broad categories: *guud* and *gaar*. *Xeer guud* includes the general aspects of traditional clan law that regulate common, day-to-day social interactions, civil affairs, and means of dispute settlement within a clan and between different clans. *Xeer gaar* includes specific laws that regulate localized economic production relations for clans and sub-clans specifically involved in pastoralism, fishing, frankincense harvesting, etc. *Xeer* has never been fully codified and remains an oral law passed down through generations. In terms of *diya* remuneration, the benchmark for compensation is the penalty apportioned for wrongly taking someone's life. In the case of a male, the *diya* is valued at 100 camels, while the life of a female is valued at 50 camels. Payment for the crime of an individual is made by that person's entire *diya* group.

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474 Le Sage (2005).
475 Puntland Development Research Centre, *Pastoral Justice: A Participatory Action Research Project on Harmonization of Somali Legal Traditions*, Garowe (2002).
476 On the *diya* system generally, see Gundel (2006a); for historical legal commentary see Contini (1971) and Muhammad (1967).

477 The Joint Needs Assessment report on livelihoods (Joint Needs Assessment 2006f) comments that "in the Somali "moral economy" a number of traditional restocking mechanisms protect destitute pastoralists (*caydh*), including free gifts (*xologoyo*), loans (*maalsiin*), marriage, alms giving, and incorporation through marriage of widow-headed households (*dumaal*)". However, it also notes that "impoverishment of pastoral society threatens to undermine the traditional support system for the destitute".

Dhaqasho – the civil code of *xeer* – can be broken down into four categories regulating issues of family (*xilo*), private property (*xoolo*), territory (*deegan*), and hospitality (*maamuusa*). Each of these aspects of *xeer* has multiple subdivisions. For instance, *xeer* relating to private property includes rules for the maintenance, allocation, and utilization of live animals, land, and inanimate materials, as well as rules governing inheritance, the giving of gifts, and the status of "lost and found" properties. *Xilo* and *xoolo* – respectively, matters of family relations, including marriage and divorce, and matters of private property – are the areas of *xeer* where sharia has been absorbed most completely.

There are two major decision-making criteria within *xeer*. Precedent is used when deciding on all common problems that a clan community has faced in the past, while jurisprudence – the informed reasoning of elders – is used to solve new problems for which no applicable precedent exists. In particularly challenging cases, elders traditionally opt to refer for advice to their clan's most respected religious leaders. It is widely accepted that all precedent has been "orally codified" in well-known proverbs. Knowledge of these, as well as personal abilities in patient mediation, traditionally served as the basis for an individual's selection as *xeer beegti* by other elders. The *xeer beegti* are usually are a mixed group drawn from the aggrieved clan, the offending clan, and possibly a neutral, third-party clan.

Xeer "does not recognize a professional group defined as lawyers. In practice, any adult who has the required merits in the eyes of his clan, including speaking and negotiating skills, and a reputation of propriety can act as a lawyer." Pleas of guilt and innocence, oral presentations of the case, the use of witnesses and evidence, and cross-examination are employed as in any secular court case. If a group rejects the decision of the elders, they may call for an appeal or new hearing up to three times, using different

xeer beegti. Persons who have close family relations with the parties, persons who have personal grievances against either party, and persons who have previously sat in judgment of the same case are all excluded. Women are discriminated against and are neither allowed to sit as *xeer beegti* nor to act as an advocate for either party. A Puntland Development Research Centre report[478] notes that "while the majority of research participants agreed that a woman can be called in by *xeer* juries as a witness whose testimony is given equal weight to that of a man – in contrast to sharia, under which two women equal one male witness – some participating elders nevertheless insisted that *xeer* also restricts women from testifying as witnesses before traditional juries".

PRINCIPLES RELATING TO LAND

The Puntland Development and Research Centre research study mentioned above contains a very detailed discussion of the norms of customary law. The rules set out below in relation to grazing land are extracted from the report and were the consensus findings of the surveys and workshops carried out as part of the study; the study also explores the complex specialized rules and contractual relationships relating to frankincense collection from trees and to the various maritime trades. Given what is said above about the flexible and generally bilateral nature of *xeer* and the fact that the research was carried out in Puntland, they should not be taken as ironbound rules applicable across the whole of Somalia. As has already been noted, much of the content of *xeer* relates to pastoralism and so is not always directly relevant to the more agricultural and urban parts of southern Somalia.

1) Land and any resource found on it is a common asset of the clan or the primary lineage that permanently lives on it.
2) Pasture is free for all pastoralists in time of need, irrespective of clan affiliation.

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478 Puntland Development and Research Centre (2003a).

3) Pastoralists should preserve, not burn, deserted thorn pens for animals – in order to avoid further cutting of trees and so safeguard the environment – and manure, because manure is useful for dry farming in some areas.

4) Generally nomadic hamlets cannot settle in the grazing valleys; however, in some regions, pastoral hamlets may be allowed to settle in the middle of grazing valleys.

5) Individual pastoralists should not destroy shared pasture and fruit-bearing trees by cutting, burning, or uprooting.

6) Neither "visiting" grazers nor local pastoralists may establish commercial camps – permanent or makeshift – on grazing lands.

7) Pastoralists should not establish private enclosures or farms on grazing land. In grazing areas, pastoral hamlets should position themselves at a distance of at least one kilometre from each other to allow space for livestock to graze in the morning and evening. No one is allowed to cut green grass and transport it to another area.

8) Visiting grazers must respect grazing *xeer* and maintain peaceful coexistence with host communities.

9) A committee of elders from the visiting group and the local community is empowered to resolve any differences that arise between the two communities.

The provisions of the *birimageydo* ("spared from the spear") code of "humanitarian" *xeer* (see page 157 above) should also be briefly noted, though its restraints are increasingly less respected. As the 2001 Human Development Report notes, summarizing an International Committee of the Red Cross publication on the subject[479], "The looting of camels and horses was permissible, but the economic impact of warfare was contained by prohibitions against the looting of those livestock and household assets essential to the sustenance of women and children. Public utilities such as wells that benefited all were protected."

In an interview[480] with elders in Baidoa for this report, they agreed that there is *xissi* [precedent] in relation to land, in terms of generally accepted principles of *xeer*. For example, there is a proverb that states "if a boundary is lost you retrieve it from the elders", meaning that in boundary disputes a range of community witnesses would be consulted to agree on a solution. Title registration had been very widespread in urban areas, going as far back as the British and Italian colonial periods, but many had lost their deeds. Elders would examine title deeds as evidence in disputes: A common scenario was that a building had been destroyed, the owner was in displacement, and someone would forge a title deed. Elders would consult the municipality and other witnesses on authenticity; in one case where there were competing and apparently authentic deeds, an Italian one was given preference over a Barre-era one.

LIMITATIONS AND PROBLEMS

As Menkhaus[481] comments, "Several necessary but not sufficient conditions must obtain for customary law to successfully maintain order. One is the restoration of authority and responsibility of clan elders, who negotiate all disputes. A second is the establishment of a rough balance of power within local clan groupings. The capacity of a lineage to seek revenge for a wrong committed is critical in inducing other clans to seek settlement of disputes through customary law. Very weak and powerless clans (including the minority or low-caste clans) rarely enjoy the protection of an enforced customary law; the best such lineages can do is seek client status with a more powerful clan and hope that that clan fulfils its obligations. In this sense, both lawful and predatory behaviour in contemporary Somalia

479 International Committee of the Red Cross, *Spared from the Spear: Traditional Somali Behaviour in Warfare*. Nairobi: ICRC Somalia Delegation, February 1997. The author was not able to obtain a copy of this publication.

480 Interview 23.
481 Menkhaus (2003a).

is much better understood through the lens of international relations theory – as patterns of cooperation and conflict in a context of anarchy. Clans constantly seek a rough balance of power both to avoid being overrun and to enhance enforcement of customary law and routinized patterns of cooperation, reinforced by repeated adherence by all sides – what international relations theorists would call 'regimes'."

The lack of impartial enforcement mechanisms may present problems when a militarily strong clan openly refuses to comply with a judgment that favours a militarily weak clan. As a result, Somali minority groups – particularly those of Bantu and Arab origin – are heavily discriminated against through *xeer* decision making. However, in cases involving clans of relatively equal standing, a number of factors work to ensure that the decisions of the *xeer beegti* are respected: "avoiding a future cycle of revenge; community or clan pressure; respect for the jury members and the relative strengths of the opposing parties", as well as "awareness that similar previous cases have been solved by the same ruling" and the threat of additional individual and collective punishments that the *xeer beegti* may apply to persons who ignore their ruling.

In addition, the role and status of Somali elders has changed. Traditionally, their role was paramount in pressuring conflicting parties to adopt a ceasefire, initiating negotiations between the parties, and passing a judgment according to *xeer*. However, their role was undermined and the elders themselves began to be perceived as corrupted when Somali governments, beginning in the colonial era, started to pay the elders to serve state interests in maintaining public order.

To increase their effectiveness, elders want an independent source of revenue – possibly from the government or from business groups – that

will reduce their need to undertake *shahad*, or solicitation of personal financial contributions from their clan members. Many elders are reliant on *shahad* as their primary source of household income, although such "begging" demeans them in the eyes of their clansmen and compromises their impartiality in settling disputes. Elders also seek training to understand the workings and principles of secular legal systems, and to enhance their ability to fashion new elements of *xeer* that would apply to new urban problems. Finally, some elders are willing to undertake an inter-clan dialogue on *xeer* reform, but require facilitation to begin.

The Danish Refugee Council carried out an interesting and innovative project in relation to some of these issues in the Togdheer area of Somaliland, working through a local agency called Haqsoor. The programme focused on peace advocacy and on eliminating customary practices that were incompatible with human rights (particularly in relation to women and forced marriages) and had some considerable initial success in reducing revenge killings, reducing land disputes, and improving women's rights[482]. This demonstrates the potential flexibility and capacity to change inherent in customary structures.

Xeer has not continued to develop as quickly as Somali society has changed. In particular, *xeer* is especially weak in urban contexts, where the new social mix of clans and sub-clans generates problems where no bilateral *xeer* exists between the opposed groups. Elders who used to make decisions based on detailed knowledge of local events now do not know many of the individuals that sit before them or what activities those individuals have been involved in across the city. Everyone from militia leaders and *mooryaan* (bandits) to secularized, Westernized returnees from the diaspora often rejects their clan's authority. New problems have arisen for which no *xeer* code

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482 See Danish Refugee Council (2004).

exists, including the irredentism of warlords seeking to take control of another clan's land and militia clashes over checkpoints and their revenues[483]. For some clans, the death toll from the civil war has resulted in enormous *diya* obligations that virtually no group is willing or able to pay.

Xeer has also failed to adapt to the modern economy. Explicit provisions exist for traditional, subsistence production relations, and they govern access to and use of land, water, and forestry resources, as well as farming, livestock rearing, and fishing. However, *xeer* is largely undeveloped in terms of the recognition of private property and lacks standards to regulate commercial activities[484]. Some interviewees[485] suggested that traditional dispute resolution was not always conceptually suited to urban land disputes, since it was less concerned with rights and wrongs and more with appropriate compensation. Land disputants were not always willing to accept a compromise or consensus decision and might want outright victory (e.g. a decision in their favour on ownership).

SECTION 4: THE OVERALL LEGAL PICTURE

INTER-RELATIONSHIPS AMONG THE THREE SYSTEMS

Figure 21[486] demonstrates vividly what a limited hold the secular judicial system has in Somalia.

An interview with *malakhs* (elders) in Baidoa for this report gave some useful examples of the inter-relationships between the three systems.
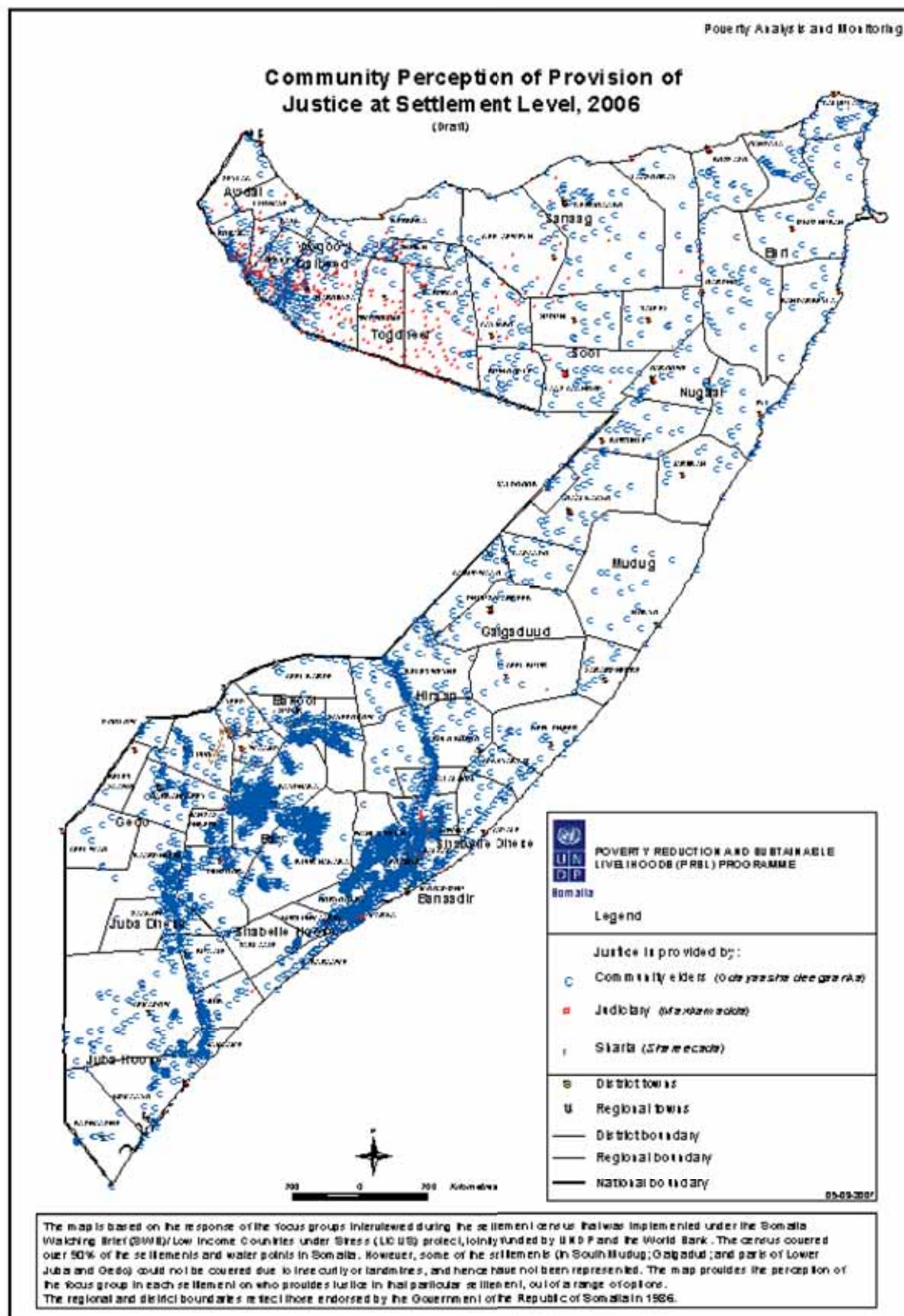
The formal justice system is being reconstructed in the area but is not yet particularly functional. The *malakhs* were happy for it to deal with some disputes to lighten their load, but noted that the traditional systems had been widely used even during the high point of strong central government during the Barre era, and this had only increased during the civil wars.

Sharia is applied by *qadis* in inheritance matters; while the *malakhs* emphasized that they apply sharia in their decision making on land issues (and generally), it seemed that they were not in fact using Islamic land law concepts but just general Quranic principles on, for example, the importance of trustworthy witnesses. They also acknowledged that in some cases sharia is not strictly speaking compatible with *xeer*; in addition, customary dispute resolution sought to solve problems and not necessarily to do the "right thing". There was a relationship between the systems in the sense that cases would be decided in the forum best suited to them: courts or *qadis* would refer cases to elders where they felt unable to handle them or where parties felt that they would get a better (i.e. probably more acceptable) ruling elsewhere. When asked about international agency-driven attempts to synthesize the systems, one *malakh* likened the systems to competing pastoral nomads all trying to sell their livestock in the same market.

The Shafi'i school of interpretation recognizes customary law as a possible source for sharia. One interviewee[487] commented that sharia has had a substantial influence on *xeer*, given the very long history of Islam in Somalia. Conversely, *xeer* plays a role in sharia as *urf* (one of the five pillars of Shafi'i interpretation), if there is no Quranic *sura* or *hadith* which expressly covers a point, though the custom in question must be acknowledged by or known to 70 percent or more of the community. He felt that the pressure for synthesis of the three

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483 One interviewee (Interview 8) gave the example of car accidents as matters for which there was no lengthy historical precedent.
484 However, one interviewee (Interview 8) commented that elders were willing to take the evidence of an expert witness on "modern" matters, such as a faulty computer.
485 Interviews 8 and 23.
486 The map comes from the Joint Needs Assessment rule of law report (Joint Needs Assessment [2006a]).

487 Interview 13.

Figure 21: Map showing provision of justice

systems mainly comes from the international community and that it was clear that the people want sharia law.

There seems to be a certain amount of "forum shopping" between sharia and customary law, depending on which produces an outcome (or penalty) more acceptable to one or other of the parties. The death penalty, for example, is theoretically more of a sharia punishment than a customary one, although of course the customary structures do accept that revenge killings may occur instead of the matter being brought before the elders. Similarly, sharia tends to focus more on individual responsibility, while in customary law liability lies corporately with the *diya*-paying group. There is some evidence that with general pressure growing on the *diya* system, elders are more inclined to impose penalties at the family or even individual level[488]. It has been suggested[489] that under sharia, payment of *diya* is a penal punishment, whereas customary law views *diya* in effect as compensation for a civil wrong.

WOMEN AND OTHER DISADVANTAGED GROUPS

A 2003 workshop and report[490] on the gender responsiveness of the justice system in Puntland (which also surveyed 126 women) produced some interesting results:

1. The commonest violation of women's rights was "dispossession of property" (37 percent), followed by "rape" (30 percent) and "domestic violence" (29 percent).
2. Key constraints to women's access to justice were "fear of cultural stigmatization of victim" (57 percent), "lack of education and knowledge in basic human rights" (44 percent), and "clan elders' interference in women's cases" (27 percent). The best way to promote awareness of women's rights was said to be "increased formal education opportunities for girls and women" (79 percent); similarly, the best way to promote inclusion of women in the administration of justice was said to be the provision of higher education opportunities for women by the government (70 percent).
3. The best ways to facilitate women's access to justice were said to be "provision of legal aid/assistance to women" (35 percent) and "inclusion of women in the administration of justice" (32 percent).

The report also states that "dispossession of women's property" occurs either by violent means or by "persuasion, deceit, and misinterpretation of sharia and customary law". It notes that denial or reduction of women's inheritance rights (e.g. cash or smaller livestock instead of camels) is still relatively common in pastoral communities[491]. In addition, traditional forms of mediation over property disputes typically produce a compromise favouring the male relatives because women cannot be part of the panel of elders. The key challenges[492] to gender responsiveness were highlighted as:

- Lack of knowledge of case presentation procedures
- Elders suppressing or interfering in women's cases
- Lack of confidence in justice institutions
- Poverty
- Cultural stigmatization of those who raise cases
- Absence of a united women's voice for campaigning

In relation to minorities and their access to justice, there is very little information in the literature, though the power politics element

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488 Interview 8; see also Battera and Campo (2001).
489 See for example Muhammad (1967).
490 Puntland Development and Research Centre (2003b).

491 Research for this report in Puntland supports this, since a number of interviewees confirmed that women were sometimes excluded from inheriting land and frankincense trees.
492 As one interviewee (Interview 10) pointed out, time and childcare are also major practical constraints on women's access to formal justice.

implicit in *xeer* deliberations would tend to suggest that weak or unprotected minority groups are less likely to be treated fairly. A 2004 report[493] relates a representative of a Somali human rights organization saying that "if a member of a minority group kills a member of one of the major clans, the murderer will lose his property and he may also be killed. The proverb *loma ooye* (meaning 'no one cries for him') reflects the lack of justice in such a situation. It was stated that even during the Barre regime, members of minority groups were judicially discriminated against, but that presently the situation was considerably worse. The right to property, and the right to defend oneself against killings, physical abuse and other human rights abuses, does not exist in Somalia for members of minority groups." The representative "strongly emphasized that it is only members of the majority clans that have access to judicial assistance"; there was no "possibility that a court in Somalia would secure a fair trial for a member of a minority group".

Another interviewee quoted in the report referred to the difficulties that even a "noble" clan member from the north might have in the south, outside his own clan areas, in terms of making *diya* payments. A related factor might also be that the two sub-clans involved in a dispute might not have bilateral *xeer* with each other because they are normally geographically separate from each other; alternatively, there might be arguments over whether the *xeer* of the area in which the dispute occurred takes precedent over the bilateral *xeer* between the two sub-clans[494].

In the author's interview[495] with minority representatives in Somaliland, several argued forcefully that the solution was a quota system in parliament, the security forces, the civil administration, and the judiciary, since getting

"their" people into these positions was the only way to ensure proper treatment. They did not seem to see equity and fair treatment for all Somali citizens as a viable alternative to this sort of patronage politics, which is perhaps borne out by the comments reported in Section 1 above as to the expectation that judges will show clan favouritism.

INTEGRATION AND OTHER WAYS FORWARD

Le Sage's report on formal and informal rule of law initiatives concluded that "several factors, such as respect for and acceptance of local culture, could be invoked to support the locally rooted informal judicial systems. Our research has also shown that the informal justice mechanisms in Somalia do not exist in competition with the formal structure. They are complementary in the sense that they cover the gaps left by it. They may overlap with the formal system in some cases. For the most part, though, they provide a modicum of justice and security to the population in areas where the formal system cannot. Furthermore, when other sectors are prioritized, and any given activity will only be allocated a small amount of resources, it would seem a waste not to take advantage of existing local structures. The fact that these may not correspond to our concept of justice, or fully comply with international standards, is in reality only another reason why we should engage them. If we are seeking to guarantee a quality of justice rather than just recreating a formal structure, work with the informal structures becomes an imperative."

The report made the following recommendations, particularly targeting international donors:

1. "Ground assistance in a broad-based dialogue to reach consensus between Somali political leaders and the Somali public on the

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493 Danish Immigration Service (2004).
494 A situation mentioned in Interview 23.
495 Interview 14.

need for harmonization of Somalia's formal and informal legal codes, in accord with basic international human rights standards, and support to the drafting of new legislation.

2. Once consensus has been reached, support for the structural reform of Somalia's justice system in accord with the harmonized legal code will be needed.

3. Build the capacity of Somalia's judicial system with training and equipment (including judicial institutions, legal professionals, legal education institutions).

4. Empower the Somali public legally through legal clinics, legal aid, translation and dissemination of laws and judicial procedures, and coordination with community-based justice initiatives.

5. Promote the establishment of a stable political environment for justice through a plan of action to address priority transitional justice issues.

6. Devote further efforts to mobilize prerequisite political and financial support for these efforts."

PART F: CONCLUSIONS

I shall revert to the first person in this part to make clear that the conclusions that follow are very much my own personal views and opinions, based on my study of Somalia, and do not necessarily represent the policy or position of Norwegian Refugee Council, UN-HABITAT, or UNHCR. I have grouped my conclusions around several key issues, but points made in one section will often apply to other sections.

THE CLAN SYSTEM

1. Any advice on programming in Somalia has to begin by tackling the vexed question of the clan system. As has been seen, it dominates social, economic, and political relations in Somalia and can have seriously adverse effects on all levels of agency programming. However, there is also a danger of **"clan determinism"** if one becomes too fixated on clan allegiances to the exclusion of other issues. As a number of commentators have made clear, clan identity is not the only identity that a person (or group)

may have, though it is unquestionably a powerful one. Agencies need to be sensitive to the other factors that affect Somali society: regional (especially rural–urban) difference, social class, and (most importantly) differentiated access to economic opportunity and social services.

2. **Clan allegiances do not exist in a vacuum:** It is very clear that the presence of outsiders with assistance and the creation of structures of representation are likely to lead to classic Somali zero-sum conflicts over who can legitimately speak for a grouping and therefore claim their share of entitlements. Examples from the UNOSOM period and afterwards demonstrate the fissile effect of such conflicts and also of course the immediately unifying effects of any external intervention in the conflict. It is also clear that clan identities should not always be taken at face value as being immutable: Relationships and allegiances among groups and branches of clans or clan "families" are immensely and bewilderingly fluid and volatile.

3. Similar points to those made above apply to the question of **minorities**. As Section 4 of Part C demonstrates, minority identities can be as fluid and reactive to the stimuli of representation issues and external assistance as clan identities, and of course there is considerable overlap between the two. As with women in Somali society, the process of cultural change to improve their treatment is likely to be a generational one.

4. The seductive discourse of *deegaan* (**"ancestral" clan land**) and the pseudo-historical narratives (or indeed maps) produced in support of it should also be treated with considerable care, since this may frequently mask naked land grabbing and exploitation. At the same time, the concept does reflect an inherent feature of Somali society and history, in terms of the movement of clans over the years and their tendency to assimilate other clans or be assimilated. There is a limit to the effectiveness with which the international community or the Somali government can stand in the way of such processes or seek to reverse them by putting the migration toothpaste back in the tube, so to speak. To do so is (to some extent) an acceptance of the *deegaan* concept since it suggests that every clan has its ancestral homeland, to which it can and should return. However, the danger of unrestricted *deegaan* dynamics is that the existing processes of solidifying clan associations with particular areas of land and thus with political power and representation will affect previously heterogeneous populations and perhaps eventually harden into federal "clanustans".

5. At a practical level, the multiple **"veto coalitions"** created by the clan system and the **"radical localization"** of Somali politics and governance are a reality that has to be worked with. Simply insisting on humanitarian principles of impartiality, neutrality, and equal treatment will not assist in delivering programming. Agencies

need to take considerable care to analyse and understand the political, economic, and social context within which they find themselves and the effects that their programming may have. It is essential that they consult and involve as widely as possible within existing power structures, while being mindful of the points made above in relation to these. While there is a danger that "operational pragmatism" may tip over into outright corruption (a "bottom line" clearly has to exist), agencies need to accept that they will not fundamentally change the Somali context merely through their presence. Working with the "system" rather than against it, by (for example) employing the "multi-clan" strategies described in Narbeth and McLean and the "conflict sensitive analysis" framework set out by the World Bank, is likely to have better results in the long run. There may also be a case for institutionalizing (and thus policing) the seemingly distasteful practices of "gatekeepers" and "black cats", since they are undoubtedly inherent features of Somali society today. At the very least, agencies should seek to understand how and why these practices occur and what can be done to control them.

LAND AND THE ENVIRONMENT

6. It will not come as any surprise to the reader of this report that **I would recommend the utmost caution in considering any process of land title registration in Somalia**, despite the recommendations contained in some donor documents and the commitment to registration that is implicit in the Transitional Federal Charter. As discussed at considerable length in Section 5 of Part D, the economic benefits of title registration are far from proven. While in the long run (and in a peaceful society with a prosperous, developed economy) registration certainly reduces the potential for land disputes, Somalia is a long way away from being ready for such a process. *Title* registration would in effect require the adjudication of every single disputed boundary

and land claim in the country or (to the extent that adjudication does not occur) would run the risk of making large-scale land theft permanent. The pitfalls and flaws in African land registration programmes elsewhere, in terms of elite capture, corruption, inequity, inefficiency, and failure to achieve their objectives, were present to a remarkable degree in Somalia's main attempt at title registration in the 1970s and 1980s. Given the present state of Somali governance, I have little reason to believe that things would be significantly different this time round. However, there may well be a place for limited programmes of land registration in rural areas where boundaries and ownership are comparatively settled (or at least the community can be brought to agree on them), provided that these programmes are very firmly rooted in community involvement (as is the case in Gabiley). In addition, existing *document* registration processes in urban areas (by municipalities or even, at the most basic level, by public notaries) do at least provide some evidence of land transactions and ownership of land and should be encouraged. As McAuslan has commented, a fairly simple and robust system would be best suited to this and there is certainly plenty of scope for improving the current processes in Somaliland and Puntland. It is also important that any process of registration does not occur at the same time as major legal changes to land tenure rights.

7. This report has detailed at some length the complex but effective patterns and processes by which Somali farmers and pastoralists extract value from the land and interact with each other. Any programme of land registration (or indeed general land reform, which the Transitional Federal Government seems to have some commitment to) needs to **take these patterns and processes into account** and not superimpose external ideas. It must also permit the maximum possible flexibility, so as to allow rural people to work within the considerable constraints of the Somali climate and environment to maximize production. Relatively few land programmes have done so in Somalia to date. Similarly, any plans for large-scale agricultural projects should be made with some care, given Somalia's exceptionally poor record in that area so far and the comparative efficiency and productive capacity of smallholder agriculture in the 1980s. There is however a danger of nostalgically romanticizing or idealizing customary land tenure (which has its own embedded inequities) and the situation of smallholder farmers: There is no doubt that commodification of land and other economic processes were at work in the 1970s and 1980s, and it seems likely that trends towards individualization of title and consolidation of ownership through economies of scale will continue.

8. This report has also looked at some of the complex dynamics of changing land and resource use in dryland grazing areas. I am not qualified to advise directly on such issues, but it is clear that a detailed understanding of traditional Somali **pastoral resource management systems** is required for any agency involved in these areas, along with considerable sensitivity to the conflict dynamics that lie very close to the surface. Somalia's natural resources are under huge pressure and require appropriate governance at a regional, national, and even international level (since the Jubba and Shabelle Rivers have their sources in Ethiopia) to ensure that they are used sustainably. The impact on the environment and on resources generally of major processes for return or resettlement of IDPs and refugees should also not be underestimated, given the experience of the past in relation to the 1974–1975 drought and the Ogaden War.

MAJOR LAND DISPUTES

9. As this report has documented, one reason for the long duration of Somalia's civil wars is that

some people are doing very well out of them (especially when it comes to land) or at least prefer them to what might come about if the wars end. The prospects for peace do not look particularly good at present, but if and when the wars end, it is likely to be because a political deal has been reached to bring on board those who are currently resisting a solution. Some sort of **settlement** will have to be reached regarding the major areas of disputed land in the south (mainly the Jubba and Shabelle) that is capable of satisfying most or all of the **three groups of potential claimants**: the original (predominantly "minority") inhabitants, those who obtained "ownership" of land between independence and the fall of the Barre regime, and the "liberating" Hawiye sub-clans who invaded in 1991. To put it bluntly, someone is going to have to lose out and the task of the international community is to help the Somali government and people ensure that this occurs with the minimum amount of injustice. It will also be an extremely difficult task to retrieve some of the more lucrative pieces of **public real estate** from their current warlord "owners". Additionally, with aid flows and international patience with Somalia diminishing, there is unlikely to be a "peace dividend" of major international aid and private sector investment on the scale that some still seem to expect, to compensate the warlords and business cartels for the loss of revenue. The origins of the current **"spoil politics"** of fighting over shares in the national pie for patrimonial distribution to one's own interest group go back many years, and it is likely to take a similar period to reorient Somali thinking about the role of the central state, given their experiences with it to date.

10. The stated policy of the Transitional Federal Government is (or was in 2003, at least) that all post-1991 **militia** conquests must be reversed and that all those who **unjustly enriched** themselves with land between 1960 and 1991 will have to hand it back. My personal view is that this is the fairest solution, but its implementation in practice will be fraught with enormous difficulties, both evidentially and in terms of the hornets' nest of clan disputes that it will upset. The **dispute resolution processes** involved will have to be, on the one hand, prompt, efficient, and sufficiently robust and powerful to overrule the more spurious claims and enforce their authority, without thereby constituting a new power base (or worse still an external intervention) that others perceive as a threat. On the other hand, they must also be properly rooted in local communities and traditional mediation systems to ensure the accuracy, sustainability, and legitimacy of their decisions in an area where communities have been fragmented and polarized and traditional structures have broken down or been corrupted. Given the current highly militarized situation in southern Somalia and the immense sensitivity of the links between clans and land, this is no mean task!

GENERAL PROGRAMMING ISSUES

11. **Any land-related programming will have to work within the constraints of a very limited government revenue framework and fairly poor levels of governance capacity.** To be sustainable, it will also have to pay more than lip service to the development mantra of the "participatory approach". Because of the difficulties of running "remote-managed" projects in the highly problematic Somali cultural and security environment, some programmes have tended towards top-down delivery, without engaging local communities, being transparent, managing expectations, or measuring impact. It is hardly surprising that many Somalis are cynical about assistance programmes and (given the very high levels of extreme and general poverty) are happy to "work the system". Somalia programmes also often suffer from **lack of institutional memory and experience**. Precisely because the context is so difficult, it is vital that agencies have a

detailed understanding of Somali history and social dynamics, since this explains so much about why Somalia is the way it is. I believe that a greater effort needs to be made to overcome the **structural problems of management from Nairobi**, by ensuring frequent visits of a reasonably long duration to Somalia and by requiring regular exchanges of staff between "the field" and Nairobi.

12. I would recommend that Somalia programming related to land and displacement, if it does not do so already, should contain some **integrated planning and analysis in relation to the livelihood and vulnerability effects of its activities**. Somalia is not just conflict affected, it is profoundly poor, and it is clear from profiling and other data that economic factors have (in the north at least) a significant effect on displacement and urbanization, which partly explains both the inextricably "mixed" caseloads that agencies are dealing with and the mushrooming growth in peri-urban informal settlements.

13. Although this report has noted the major difficulties of obtaining accurate profiling and statistics, there is also no substitute for a **detailed knowledge of the internally displaced caseload** in terms of its composition, locations, places of origin, reasons for displacement, material situation and household assets, protection difficulties, durable solutions, preferences, and so on. While a new profiling process might well be flawed and significantly constrained by security, it would also be of considerable assistance to agencies involved in the field. As and when peace and security permit, a detailed baseline survey or large-scale sampling exercise in relation to **the state of housing in Somalia and the levels of secondary occupation and homelessness** would be advisable.

14. I would also tentatively (and perhaps controversially) suggest that **more attention needs to be paid to Islamic structures in Somalia**. Leaving aside the fluctuating fortunes of the Islamic Courts Union, it is clear that Islamic structures, in terms either of religious, non-political figures with status in their communities or of Islamic or sharia-based "concepts" such as the *waqf* and the *tariqqa* or *jamaa*, have a degree of legitimacy among the Somali people in a way that most authority structures do not. It would be very interesting to understand more about them and to see whether they might represent methods of mobilizing improved community support and involvement for projects and programming. It would also be fair to say that relatively little is known (or at least has been published) on sharia law as it is applied in the different regions of Somalia. Further research in these areas, ideally by an Islamic scholar or jurist, is recommended.

15. While it may be more apparent than actual (given the short time frame and research focus of my consultancy), I perceived a certain **lack of effective coordination and information sharing among the various development agencies dealing with land and law issues** and also between these agencies and the humanitarian agencies working in the field. This is partly institutional in nature, due to the very different programming focuses, approaches, and project cycles that the two groups of agencies have, but some attention needs to be given to improving these mechanisms. Similarly, I would argue (perhaps predictably, given my background as a property lawyer) that there is a need for better integration of **legal knowledge** into land programming, and vice versa.

LAW AND LEGAL SYSTEMS

16. Although a number of agency reports have called for a much closer **integration of the three legal systems**, on the grounds that they overlap and thus cause confusion, my

personal view is that they complement each other more than they contradict each other. I would suggest that the need to *improve* the efficiency, effectiveness, and enforcement of the various systems is greater than the need to *integrate* them, if indeed that is possible. It would be a very challenging proposition to fully integrate the three systems, in the sense of having a unified legal code that one could consult for a single legal "answer" or a merged tribunal system that would be capable of applying aspects of all three forms of law. It is notable that the British and Italian colonial administrations were willing to have a dual court system and devolve at least some power to traditional or customary structures. The *xeer* system is deeply rooted in Somali society and provides a cheap, quick, and generally effective system of dispute resolution with a considerable degree of legitimacy. The sharia systems appear to deal competently with a discrete area of law and again are well rooted in society. The role of the formal justice sector is likely to grow in the long term, since the development of a modern, commercial, and urbanized society with international trade links will require, rightly or wrongly, a Western-style court system. The formal sector requires considerable capacity support, both to the court system and for the education and ongoing training of lawyers and judges, and the same applies to land-related professionals such as surveyors.

17. Given the complexity of Somalia's overlapping secular laws and the lack of detailed knowledge about them, it is hardly surprising that **public awareness** of them seems to be very limited. Improving legal awareness is a key step towards achieving better access to national protection mechanisms for vulnerable groups, but this of course goes hand in hand with actually finding out what the legal position is in the first place! Programmes of **legal education and legal assistance** should be strongly encouraged and particular attention should be given to women (especially in relation to their rights under sharia), although this would need to be handled very carefully, in view of the sensitivity of the issue.

18. Again, it is easy to idealize the "pastoral democracy" of the **customary system** and to overstate its capacity to resolve disputes. Its major **deficiencies** are the unequal treatment of women and minorities and the tendency of its compromise judgments to lean towards the stronger party; the cultural practices associated with some aspects of it (such as forced marriage) do not comply with international human rights standards. In addition, because of the decline in respect for traditional authority structures generally, the customary structures are not always able to obtain the parties' agreement to a consensus verdict or to **enforce** their verdict if a party disputes it. Existing programmes to "purify" *xeer* and make it more generally multilateral have had some success, but it is important that the momentum is kept up. It would also be helpful to record more of the **rules and precedents** that underlie *xeer*, especially those relating to land, and to understand the degree to which these vary across the country.

19. **Drafting and scrutiny of legislation in Somaliland and Puntland** seem to be something of a weakness and some technical assistance with this might be useful, especially in the area of land-related law. However, this can in some circumstances become a sensitive political issue of perceived infringement on sovereignty, or at worst an exercise in foisting European "model" legislation on an inappropriate context, and so needs to be done with caution. I hasten to add that I do not see McAuslan's advice on Somaliland urban law as falling into the latter category and I would recommend that his comments on the Land Management Law be taken into account, if possible, in its revision. Assistance or support should also be provided to those involved in drafting the **implementing regulations** for

the Land Management Law, which will fill out its rather sparse provisions. Those providing technical legal assistance should be aware of the social, political, and economic **context** within which they are working and should also focus on the **inter-relationship between urban and rural areas** (in terms of both the law and the practical situation), which are often wrongly dealt with separately.

AREAS FOR FURTHER RESEARCH

20. As this report has made clear, **the state of legal knowledge on Somalia is patchy**, to say the least. The frustrating fact from a research point of view is that quite a lot of legal knowledge almost certainly *does* exist. For example, there must still be physical copies somewhere of almost all of the various laws of Somalia (if one only knew where to find them), as well as well-qualified lawyers or judges who could explain their legal application. There are also no doubt pockets of legal knowledge and institutional memory within the agencies dealing with Somalia, but these are not widely disseminated or easily available. **A systematic gathering and sharing of knowledge and materials on the "secular" legal system** would be of considerable assistance.

21. The **Puntland legal system** has received much less detailed attention than the Somaliland system, and it would certainly be helpful to know more about the land laws there, particularly if they are more heavily influenced by **Islamic** land law principles, as research for this report suggests. While the three main areas of Somalia still have a considerable amount in common at the legal level, each area has its own distinctive set of social, political, and religious influences on the local legal systems, and so **"one size fits all" legal solutions will often not be appropriate**.

22. As noted in the report, we know very little about the **"informal land delivery mechanisms"** that exist in Somalia and about the general **social dynamics and interactions** that govern what happens in IDP sites and other peri-urban settlements. A quasi-anthropological investigation of these processes by Somali-speaking researchers that explains why they happen the way they do would clarify and inform agency programming considerably. A similar point applies to the **mechanisms of exclusion** that affect the access of women and minorities to land and the justice systems – while we know that this access is limited, we don't really know how and why.

PART G: EXPLANATIONS

LIST OF SOMALI WORDS

This list is mostly taken, with a little modification and some additions, from Gundel (2006a); most agricultural terms come from Besteman and Cassanelli (2003). Not all of these words are used in this report, but readers may find it useful to have a general Somali glossary in relation to law (*xeer*), land, and clan matters. It should be noted that there is considerable regional variation in the use of particular terms (e.g. those relating to sub-clan leaders), and so certain terms may not be used in all of Somalia. The (non-Somali speaking) author cannot warrant the accuracy of spelling or translation. The exact spelling of Somali words in the literature tends to vary among authors because of the difficulties of phonetic transcription. Two examples are the letter "x" (technically a voiceless pharyngeal fricative), which is pronounced somewhat like an "h" (so *xeer* is sometimes spelled *heer*), and the letter "c" (technically a voiced pharyngeal fricative, similar to the Arabic "ayn"), which is a slight guttural emphasis, often at the beginning of a word (so that *aqil* may be spelled *caqil*). Somali contains certain Arabic words, which are indicated in the list; there is also a separate short list of Arabic words used in relation to sharia law and land.

abbaan: protector of guests (*magan*)

adoon: slave; sometimes used as a derogatory term for the Gosha group

(af-)may: [central and northern region] Somali language

(af-)maxay: [southern region] Somali language

akhyaar: council of elders in south central Somalia

anno: revenge killing by one clan or sub-clan against another in the absence of *mag* payment

aqal: nomadic hut (often circular in shape)

aqil: (Arabic) an elder, often with judicial functions

bakaar: underground grain storage pits

balliyo: dams

barax: "mixing" of sharia with other law

barigooyo: "cutting off" the entire property: all a man's property will be handed over to the next of kin of the deceased

berkad: water cistern

bilis: "noble" lineage

birimageydo: untouchable group, "spared from the spear"

boon: "common" lineage

bud-dhigeyaal: guarantors that litigants will submit to the elders' ruling

buul: makeshift shelter (especially in Somaliland)

dabadheer: literally "long tail", often used to refer to the severe 1974–1975 drought

daqar: usufruct [right to use land]

deegaan: clan territory

deyr: shorter rainy season, lasting from mid-September to mid-December

dhalad: clan member by birth

dhaqan: clan member by culture or adoption

dhaqasho: aspects of *xeer guud* which apply to civil matters, including issues of family (*xilo*), private property (*xoolo*), territory (*deegaan*), and hospitality (*maamuus*)

dhasheeg: low-lying inland area of rich soils that captures and retains water from river overflow and rain

dhig: aspects of *xeer guud* which apply to penal matters, including murder (*qudh*), aggression (*qoon*), and thievery (*tuugo*)

dhiig: blood

dibaad: (diiqo) bride wealth (dowry); gift from the "affines" [maternal/woman's side] that may in fact be a repayment of part of the *yarad*

dibuheshiisiin: reconciliation

dilaal: cattle broker

diya: the Somali word for *mag*

doonk: dryland areas of rain-fed agriculture

duub: sub-clan leader in south central Somalia

dumaal: forcing a widow to marry the brother of her deceased husband

duq: elder

ergo: envoy

gacan: water drainage from rivers

galti: newcomer, guest (as opposed to *guri*)

ganaax: a fine

gar: making judgement, decision, or filing a complaint

garaad: sub-clan leader in Somaliland

gar dawe: a *xeer* proceeding that strictly applies customary law to determine guilt or innocence

garniqis: arbitration

gar sokeeye: literally a "brotherly court", a *xeer* proceeding based on mediation

gob: loosely, "aristocrat" or "royal lineage";

also applied as a term of praise to honour the accomplishment of admirable action or a person whose deeds notably sustain the ideal values of the pastoralists

godobtir: forcing a girl to marry the brother or next kin of a murdered man as an additional asset to *mag*

gu: main rainy season, lasting from mid-March to mid-June

guddi: committee, ad hoc panel of arbitrators

guddoomiye: chairman

guri: local inhabitant (as opposed to *galti*)

guurti: council of elders; the "House of Guurti" is the upper house of Somaliland's legislature

habr: signifies "uterine" [sons of a common mother] alliance (e.g. Habr Gedir clan)

hoola tiris: animal stock counting

issim: sub-clan leader in Puntland

jamaa: religious agricultural settlement

jareer: literally "hard hair" – the term used to describe Bantus

jeeble: middleman in cattle trade

jiffo: closer lineage, the family level below the *mag* group

jiffo wadaag: of the same *jiffo*

jilaal: dry season, lasting from mid-December to mid-March

jiimo: land used for irrigated riverbank farming

khilaaf: conflict

kolonya: describes the Italian colonial practice of forcing Somalis to work as labourers on Italian-owned plantations

laan dheere: larger branch (of lineage)

laan gaab: smaller branch (of lineage)

madani: neighbourhood-based "vigilant groups", which arm themselves to provide local security

mag: (Arabic) a main principle of *xeer*, this is the "blood compensation" (*diya* in Somali) paid by one *mag* group to another, usually in the form of camels; *mag*-paying groups are small social units that take collective responsibility for their own security, as well as undertaking an obligation to compensate other groups for any harm committed by one of their members

magan: protected guest

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496 See Green (1999) for a wide-ranging guide to **qat** and its effects.

malaakh: sub-clan leader in south central Somalia

mahar: husband's personal gift to his bride (comparable to *mehr* in Arabic), which is usually arranged before the engagement and is often not actually paid until divorce

markhaati: witness

masalaxo: a *xeer* proceeding that focuses on mediation to identify a solution that is acceptable to all parties

maslixid: mediation

mooryaan: young bandits or uncontrolled militia

nabadoon: peace-maker (a term imposed by the Barre regime as a substitute for banned clan-related terms relating to elders)

oday: an elder or elderly person

qaadi: judge (usually in relation to sharia matters)

qabiil: (qolo) clan

qat: a stimulant plant (*cathula edulis*), which is usually chewed[496]; also variably spelled *qaad*, *khat*, or *chat* and known in Kenya as *miraa*

qnac: acceptance of verdict

qoora tiris: literally, "penis counting": the method of establishing how many adult males a *mag*-paying group contains

qoordhiibasho: commitment to accept whatever the jury's judgement is

qoys: sets of families

reer: settling and moving together; also used to describe Somali groupings (e.g. Reer Hamar), by reference to their usual area of residence or to their ancestry

shahad: solicitation of financial and material support by Somali traditional elders

sharci darro: lawlessness

sheegad: the practice of affiliating with a clan other than that into which one was born

shir: council, meeting

siimow: underground water which percolates up where the water table is near the surface

suldaan: sub-clan head in Somaliland

suluh: broadly translated into English as "resolution", it is a practice applied by Somali sharia courts to integrate Islamic, traditional, and statutory laws into a single workable decision for a case

tariiga: an Islamic fraternity (*tariqqa* in Arabic)

tog: smaller, seasonal streams of intermittent flow (hence sometimes a dry riverbed)

tol: agnatic [patrilineal] kinship, lineage

ugaas: senior elder in some parts of south central Somalia

waaro: catchment ponds to retain water

wadaad: man of God, religious leader

waranleh: warriors

waxgaraad: wise men

xagaa: season of intermittent rainfall lasting from mid-June to mid-September

xaajo yaqaan: man with good problem-solving skills

xaal: payment of nominal material penalties or compensation

xaas, raas: family or household; a nuclear family – uterine mother with her children and their father

xeer: customary law, contract, treaty

xeer beegti: jury; respected and qualified elders who are entrusted to maintain knowledge of applying *xeer*

xeer dhaqan: social code

xeer dhiig: blood code

xeer gaar: specialized norms that regulate localized economic production relations for clans and sub-clans specifically involved in pastoralism, fishing, frankincense harvesting, etc.

xeer guud: generally applicable aspects of *xeer* across all Somali clans, which regulate day-to-day social life, civil and penal matters, and dispute settlement

xeer hoosaad: intra-clan code

xiddo: tradition

xidid: "affines" [maternal/woman's side of family]

xididtinimo: marriage link

xigsiisan: forcing a sister of a deceased wife to marry the widowed husband

xissi: the most fundamental stipulations of *xeer*, for which unquestioned historical precedent (*adkaaday*) exists

yarad: bride payment; gift to affines, in effect to compensate for loss of their daughter, which is usually reimbursed if the wife initiates divorce

LIST OF ARABIC WORDS

The following very brief list of Arabic words relating to sharia law and land is drawn from the much longer glossary contained in Sait and Lim (2006), an essential text on the subject.

adl: justice; one of the fundamental concepts in the Quran

fatwa: formal advice from a competent authority on a point of law

hadith: the recorded actions and sayings of the Prophet Muhammed

hawala: informal system of banking and debt transfer

ijma: consensus of opinion, one of the four main sources of sharia but supplementary to the Quran and *sunna*

ijtihad: personal reasoning or interpretation, a tool of Islamic jurisprudence

khula: a judicial divorce, granted through a decree

madhab: a school of legal thought with distinctive elements to its methodology, associated with a particular religious leader of the classical period

madrassa: a religious school

maslaha: Islamic public interest principle

mehr: the payment of money from husband to wife at the time of marriage

mewat: dead or empty land that can be reclaimed or revived

Minhaj: sourcebook of Shafi law, translated into English in 1914 by E. C. Howard

miri: (Ottoman) state land

mulk: land in full ownership

qiyas: reasoning or deduction by analogy, a source of sharia

ribas: usury; the Islamic prohibition of interest

shura: concept of consultation discussed in the Quran

sulah: conciliation; an Islamic dispute resolution technique that requires compromise between two parties

sunna: tradition, deeds, utterances, and tacit approvals of the Prophet Muhammed, a source of sharia

tahkim: arbitration; an Islamic dispute resolution technique that involves a mutually acceptable arbitrator

talaq: husband's unlimited right to divorce his wife

tanazul: a customary practice by which a woman renounces her inheritance rights

taqlid: adherence to a tradition, relying on the opinion of other jurists, not practising *ijtihad*

tariqqa: Islamic fraternity

ulema: clerical leadership, religious scholars

urf: custom

waqf: charitable endowment

zakat: obligation of general charitable payment, required of all Muslims

SOURCES AND BIBLIOGRAPHY

NOTE ON SOURCES

Not all of the texts cited in the second part of this section are directly quoted or referred to in this report, but all of them provide some kind of useful background on Somalia; it is hoped that this list may therefore serve as a form of general Somalia research bibliography. In the time available and without access to the paper holdings of a major library, it was not possible for the author to find a number of texts that are quoted or listed in the bibliographies of literature on Somalia or on housing, land, and property and that may contain information relevant to the matters discussed in this report. To assist future researchers, these texts are listed in the third part of this section. The author does not have sufficient Italian, French, or German to read any of the Somalia literature in those languages, but a few relevant Italian legal texts are also listed in the third part of this section.

Many of the reports produced by agencies can be found on two key websites: the "Somaliland CyberSpace Archive" (www.mbali.info), which was created by unknown persons and contains a wide and somewhat random collection of reports from the 1990s until around 2006, and the Joint Needs Assessment website (www.somali-jna.org), which was established during the Joint Needs Assessment process and contains a rather miscellaneous set of reports from around 2000 to 2005, organized under "cluster" and "cross-cutting theme" headings. It would certainly assist future researchers and improve knowledge sharing generally if the latter website could be improved and regularly updated with agency reports as they become available, or if some other central repository for information (such as the UNOCHA website) could be established.

TEXTS READ FOR THE REPORT

Academy for Peace and Development (2002a). "The Judicial System in Somaliland", report of workshop held in Hargeisa, Somaliland in April 2002.

Academy for Peace and Development (2002b). "Consolidation and Decentralization of Government Institutions", draft report.

Academy for Peace and Development (2002c). "Regulating the Livestock Economy of Somaliland", draft report.

Academy for Peace and Development (2002d). "Women's Rights in Islam and Somali Culture", report prepared for UNICEF.

Academy for Peace and Development (2004). "Somaliland Dialogue for Peace: Working Notes", unpublished document.

Academy for Peace and Development (2006a). "Local Solutions: Creating an Enabling Environment for Decentralisation in Somaliland".

Academy for Peace and Development (2006b). "From Plunder to Prosperity: Resolving Resource-based Conflict in Somaliland".

Academy for Peace and Development (2007a). "Land-based Conflict Project: Working Note".

Academy for Peace and Development (2007b). "The Status of Civic Education in Somaliland", report of workshop held in Hargeisa, Somaliland in October 2007.

Adam, Hussein M. (1992). "Somalia: Militarism, Warlordism or Democracy", *Review of African Political Economy*, 54, pp. 11–26.

Adam, Hussein M. (1994). "Formation and Recognition of New States: Somaliland in Contrast to Eritrea", *Review of African Political Economy*, no. 59, pp. 21–38.

Adam, Hussein M. (1995). "Islam and Politics in Somalia", *Journal of Islamic Studies*, 6:2, pp. 189–221.

Adam, Hussein M. and Richard Ford (editors) (1997). *Mending Rips in the Sky: Options for Somali Communities in the 21st Century*. The Red Sea Press: New Jersey and Asmara, Eritrea.

Adam, Hussein M. and Richard Ford (1998). "Removing Barricades in Somalia: Options for Peace and Rehabilitation", Peaceworks No. 24, United States Institute of Peace.

Adams, Martin, Jeremy Berkoff, and Elizabeth Daley (2006). "Land-Water Interactions: Opportunities and Threats to Water Entitlements of the Poor in Africa for Productive Use", Human Development Report Office Occasional Paper.

Adams, Martin and Stephen Turner (2005). "Legal Dualism and Land Policy in Eastern and Southern Africa", paper for UNDP and International Land Coalition workshop in Nairobi, October 2005.

African Centre for Technology Studies (2004). "Summary Report of the Conference on Land Tenure and Conflict in Africa: Prevention, Mitigation and Reconstruction", December 2004.

Ahmed, Ismail I. (2000). "Remittances and Their Economic Impact in Post-war Somaliland", *Disasters*, 24(4), pp. 380–389.

Ahmed, Ismail I. and Reginald Herbold Green (1999). "The Heritage of War and State Collapse in Somalia and Somaliland: Local-level effects, External Interventions and Reconstruction", *Third World Quarterly*, vol. 20, no. 1, pp. 113–127.

Ahmed, Sadia (1999). "Islam and Development: Opportunities and Constraints for Somali Women", *Gender and Development*, vol. 7, no. 1, pp. 69–72.

Al-Hibri, Azizah (1997). "Islam, Law and Custom: Redefining Muslim Women's Rights", *American University Journal of International Law & Policy*, 12, pp. 1–44.

Ambroso, Guido (2002). "Clanship, Conflict and Refugees: An Introduction to Somalis in the Horn of Africa", unpublished paper. [A shorter version was published in the UNHCR New Issues in Refugee Research series as "Pastoral Society and Transnational Refugees: Population Movements in Somaliland and Eastern Ethiopia 1988–2000", Working Paper No. 65.]

Aristodemou, Mària (1994). "Choice and Evasion in Judicial Recognition of Governments: Lessons from Somalia", *European Journal of International Law* 5, pp. 532–555.

Atwood, David A. (1990). "Land Registration in Africa: The Impact on Agricultural Production", *World Development*, vol. 18, no. 5, pp. 659–671.

Baker, Bruce (1999). "African Anarchy: Is it the States, Regimes or Societies that are Collapsing?", *Politics* 19(3), pp. 131–138.

Bakonyi, Jutta and Kirsti Stuvøy (2005). "Violence and Social Order Beyond the State: Somalia and Angola", *Review of African Political Economy*, no. 104 and no. 105, pp. 359-382.

Barise, Hassan (2001). "Money rules in Mogadishu", *The Unesco Courier*, February 2001.

Barnes, Cedric (2006). "U dhashay – Ku dhashay: Genealogical and Territorial Discourse in Somali History", *Social Identities*, vol. 12, no. 4, pp. 487–498.

Barnes, Cedric and Harun Hassan (2007). "The Rise and Fall of Mogadishu's Islamic Courts", Chatham House AFP BP 07/02.

Barrows, Richard and Michael Roth (1990). "Land Tenure and Investment in African Agriculture: Theory and Evidence", *The Journal of Modern African Studies*, vol. 28, no. 2, pp. 265–297.

Battera, Federico and Alessandro Campo (2001). "The Evolution and Integration of Different Legal Systems in the Horn of Africa: The Case of Somalia", *Global Jurist Topics* vol. 1, issue 1, article 4.

Berry, Sara (1989). "Social Institutions and Access to Resources", *Africa*, 59, pp. 41–55.

Berry, Sara (2002). "Debating the Land Question in Africa", *Comparative Studies in Society and History*, 44, pp. 638–668.

Besteman, Catherine (1993). "Public History and Private Knowledge: On Disputed History in Southern Somalia", *Ethnohistory*, 40:4, pp. 563–586.

Besteman, Catherine (1994). "Individualization and the Assault on Customary Tenure in Africa: Title Registration Programmes and the Case of Somalia", *Africa*, 64(4), pp. 484–515.

Besteman, Catherine (1995). "Polygyny, Women's Land Tenure, and the 'Mother-Son' Partnership in Southern Somalia", *Journal of Anthropological Research*, vol. 51, no. 3, pp. 193–213.

Besteman, Catherine (1996a). "Representing Violence and 'Othering' Somalia", *Cultural Anthropology*, 11(1), pp. 120–133.

Besteman, Catherine (1996b). "Violent Politics and the Politics of Violence", *American Ethnologist*, 23(3), pp. 579–596.

Besteman, Catherine (1996c). "Local Land Use Strategies and Outsider Politics: Title Registration in the Middle Jubba Valley", in Besteman and Cassanelli (2003).

Besteman, Catherine (1998). "Primordialist Blinkers: A Reply to I. M. Lewis", *Cultural Anthropology*, 13(1), pp. 109–120.

Besteman, Catherine (1999). *Unravelling Somalia. Race, Violence and the Legacy of Slavery*. University of Pennsylvania Press: Pennsylvania.

Besteman, Catherine (2000). "A Response to Helander's Critique of 'Violent Politics and the Politics of Violence'", *American Ethnologist*, 26(4), pp. 981–983.

Besteman, Catherine (2007). "Genocide in Somalia's Jubba Valley and Somali Bantu Refugees in the U.S.", available at http://hornofafrica.ssrc.org/besteman/printable.html (last accessed 7 February 2008).

Besteman, Catherine and Lee V. Cassanelli (1996). "Introduction: Politics and Production in Southern Somalia", in Besteman and Cassanelli (2003).

Besteman, Catherine and Lee V. Cassanelli (2003). *The Struggle for Land in Southern Somalia: The War Behind the War* (second [paperback] edition with additional preface). Haan Publishing, London.

Bradbury, Mark (1994). "The Case of the Yellow Settee: Experiences of Doing Development in Post-war Somaliland", *Community Development Journal*, vol. 9, no. 2, pp. 113–122.

Bradbury, Mark (1998). "Normalizing the Crisis in Africa", *Disasters*, 22(4), pp. 328–338.

Bradbury, Mark (2008). *Becoming Somaliland*. James Currey: Oxford.

Bradbury, Mark, Charles-Antoine Hofmann, Stephanie Maxwell, Dineke Venekamp, and Abigail Montani (2003). "Measuring Humanitarian Needs. Needs Assessment and Resource Allocation in Southern Sudan and Somalia", Humanitarian Policy Group Background Paper, Overseas Development Institute, London.

Brons, Maria H. (2001). *Society, Security, Sovereignty and the State: Somalia*. International Books: The Netherlands.

Bruce, John W. (2000). "African Tenure Models at the Turn of the Century: Individual Property Models and Common Property Models", *Land Reform*, 2000(1), pp. 17–27.

Bruyas, Florian (2006). "Somaliland [and] Puntland State of Somalia. The Land Legal Framework. Situation Analysis", report for UN-HABITAT.

Bryden, Matt (1999). "New Hope for Somalia? The Building Block Approach", *Review of African Political Economy*, vol. 26, no. 79, pp. 134–140.

Bryden, Matt (2003). "No Quick Fixes: Coming to Terms with Terrorism, Islam and Statelessness in Somalia", *Journal of Conflict Studies*, vol. xxiii, no. 2, pp. 24–56.

Bryden, Matt (2004). "Somalia and Somaliland: Envisioning a Dialogue on the Question of Somali Unity", *African Security Review*, 13(2), pp. 23–32.

Bryden, Matt and Marina I. Steiner (1998). "Somalia Between Peace and War. Somali Women on the Eve of the 21st Century", report commissioned by UNIFEM.

Carroll, Anthony J. and B. Rajagopal (1993). "The Case for the Independent Statehood of Somaliland", *American University Journal of International Law and Policy 8*, pp. 653-681.

Cassanelli, Lee V. (1995). "Victims and Vulnerable Groups in Southern Somalia", report commissioned by the Canadian Immigration and Refugee Board.

Cassanelli, Lee V. (1996). "Explaining the Somalia Crisis", in Besteman and Cassanelli (2003).

Cassanelli, Lee V. (2003). "Preface", in Besteman and Cassanelli (2003).

Cassanelli, Lee V. and Catherine Besteman (1996). "Conclusion: Politics, Land and War in Southern Somalia", in Besteman and Cassanelli (2003).

Centre for Creative Solutions (2004a). "Survey on Small Arms in Somaliland", report commissioned by UNDP.

Centre for Creative Solutions (2004b). "Ruin and Renewal: The Story of Somaliland", report commissioned by World Bank.

Centre for Research and Dialogue (2004a). "Conflict Analysis: South-Central Somalia", draft report for World Bank.

Centre for Research and Dialogue (2004b). "Analysis of Socio-economic Situation in South and Central Somalia", discussion paper for UNDP.

Centre for Research and Dialogue (2005). "Traditional Governance in Somalia: South-Central Somalia", draft report for World Bank.

Centre on Housing Rights and Eviction (2004). "Bringing Equality Home. Promoting and Protecting the Inheritance Rights of Women".

Chanock, Martin (1991). "A Peculiar Sharpness: An Essay on Property in the History of Customary Law in Colonial Africa", *Journal of African History*, 32, pp. 65–88.

Chimhowu, Admos and Phil Woodhouse. "Customary vs Private Property Rights? Dynamics and Trajectories of Vernacular Land Markets in Sub-Saharan Africa", *Journal of Agrarian Change*, vol. 6, no. 3, pp. 346–371.

Ciabarri, Luca (2008). "Productivity of Refugee Camps: Social and Political Dynamics from the Somaliland-Ethiopia Border (1988–2001)", article prepared for first edition of *Afrika Spectrum*.

Clarke, Walter and Jeffrey Herbst (editors) (1997). *Learning from Somalia: The Lessons of Armed Humanitarian Intervention*. Westview Press, Colorado.

Cliffe, Lionel (2005). "Armed Violence and Poverty in Somalia", case study for the Armed Violence and Poverty Initiative, University of Bradford, United Kingdom.

Compagnon, Daniel (1998). "Somali Armed Movements: The Interplay of Political Entrepreneurship and Clan-based Factions", in Christopher Clapham (editor), *African Guerrillas*, Oxford: James Currey.

Contini, Paolo (1967). "Integration of Legal Systems in the Somali Republic", *International and Comparative Law Quarterly*, vol. 16, pp. 1088–1105.

Contini, Paolo (1971). "The Evolution of Blood-Money for Homicide in Somalia". *Journal of African Law*, 15, pp. 77–84.

Conze, Peter (1986). "Institutional Aspects of Rural Development", in Conze and Labahn (1986a).

Conze, Peter and Thomas Labahn (editors) (1986a). *Somalia: Agriculture in the Winds of Change*. Epi Verlag GmbH, Germany.

Conze, Peter and Thomas Labahn (1986b). "From a Socialistic System to a Mixed Economy: The Changing Framework for Somali Agriculture", in Conze and Labahn (1986a).

Cotran, Eugene (1963). "Legal Problems Arising Out of the Formation of the Somali Republic", *International and Comparative Law Quarterly*, vol. 12, pp. 1010–1026.

Cousins, Ben, Tessa Cousins, Donna Hornby, Rosalie Kingwill, Lauren Royston and Warren Smit (2005). "Will Formalizing Property Rights Reduce Poverty in South Africa's 'Second Economy'?", PLAAS Policy Brief No. 18.

Coyne, Christopher J. (2006). "Reconstructing Weak and Failed States: Foreign Intervention and the Nirvana Fallacy", *Foreign Policy Analysis*, 2, pp. 343–360.

Daley, Elizabeth and Mary Hobley (2005). "Land: Changing Contexts, Changing Relationships, Changing Rights", paper commissioned by Department for International Development.

Danish Immigration Service (2000). "Report on Minority Groups in Somalia".

Danish Immigration Service (2002). "Report on Political, Security and Human Rights Developments in Southern and Central Somalia, including North West State of Somalia and Puntland State of Somalia".

Danish Immigration Service (2004). "Human Rights and Security in Central and Southern Somalia".

Danish Immigration Service (2007). "Human Rights and Security in Central and Southern Somalia".

Danish Refugee Council, (2004). "Human Rights and Peace Advocacy Impact on Somali Customary Law: the Togdheer Experience".

Davies, Jack L. (1994). "The Liberation Movements of Somalia", Civic Webs Virtual Library (http://www.civicwebs.com/cwvlib/africa/somalia/1994/lib_movments/lib_movements.htm#fn4), last accessed on 18 December 2007.

Del Buono, Michel and Jamil Mubarak (1999). "A Conceptual View of the Macroeconomy of Somalia", paper for UNDP.

Department for International Development (2007). "Land: Better Access and Secure Rights for Poor People".

de Soto, Hernando (2000). *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else*. London: Black Swan Press.

de Waal, Alex (1993a). "The Shadow Economy", *Africa Report*, 38:2, pp. 24–28.

de Waal, Alex (1993b). "Land Tenure, Famine and Peace in Somalia", published as African Rights Discussion Paper no. 1 and reprinted in M. A. Mohamed Salih and Lennart Wohlgemuth (editors) (1994), *Crisis Management and the Politics of Reconciliation in Somalia*, Uppsala: Nordiska Afrikainstitutet.

de Waal, Alex (2005). "Chasing Ghosts: Alex de Waal on the Rise and Fall of Militant Islam in the Horn of Africa", available at www.conflicts.ssrc.org/hornofafrica/chasing_ghosts/printable.html (last accessed 7 February 2008).

de Waal, Alex (2007). "Class and Power in a Stateless Somalia", available at http://hornofafrica.ssrc.org/dewaal/printable.html (last accessed 18 March 2008).

de Waal, Alex and Rakiya Omaar (1992). "The Lessons of Famine", *Africa Report*, 37:6, pp. 62–64.

de Waal, Alex and Rakiya Omaar (1993). "Doing Harm by Doing Good? The International Relief Effort in Somalia", *Current History*, 92, 574, pp. 198–202.

Doornbos, Martin (2002). "Somalia: Alternative Scenarios for Political Reconstruction", *African Affairs*, 101, pp. 93–107.

Doornbos, Martin and John Markakis (1994). "Society and State in Crisis: What Went Wrong in Somalia?", *Review of African Political Economy*, vol. 21, no. 59, pp. 82–88.

Duffield, Mark (1998). "Post-modern Conflict: Warlords, Post-adjustment States and Private Protection", *Civil Wars*, vol. 1, no. 1, pp. 65–102.

Durand-Lasserve, Alain and Geoffrey Payne (2006). "Evaluating Impacts of Urban Land Titling: Results and Implications: Preliminary Findings", report of research funded by Government of Norway.

Elmi, Afyare Abdi and Abdullahi Barise (2006). "The Somali Conflict: Root Causes, Obstacles and Peace-building Strategies", *African Security Review*, 15.1, pp. 32–54.

European Commission (2002). "Somalia Urban Sector Profile Study", report prepared by UN-Habitat for European Commission Somalia Unit.

European Commission (2003a). "An Urban Development Strategy for Somalia", report prepared by COWI for European Commission Somalia Unit.

European Commission (2003b). "An Urban Development Programme for the European Commission in Somalia", report prepared by COWI for European Commission Somalia Unit.

European Union (2004). "EU Land Policy Guidelines. Guidelines for Support to Land Policy Design and Land Policy Reform Processes in Developing Countries".

Famine Early Warning System Network (2003). "Hargeisa Urban Household Economy Assessment".

Farah, Ahmed Yusuf (2002). "African Conflicts, Their Management, Resolution and Post-Conflict Reconstruction", unpublished paper.

Farah, Ibrahim, Abdirashid Hussein, and Jeremy Lind (2002). "Deegaan, Politics and War in Somalia", in Jeremy Lind and Kathryn Sturman (editors), *Scarcity and Surfeit: The Ecology of African Conflicts*. Institute for Security Studies: South Africa.

Farzin, Y. Hossein (1988). "Food Import Dependence in Somalia. Magnitude, Causes and Policy Options", World Bank Discussion Paper 23.

Firmin-Sellars, Kathryn and Patrick Sellars (1999). "Expected Failures and Unexpected Successes of Land Titling in Africa", *World Development*, vol. 27, no. 7, pp. 1115–1128.

Fitzpatrick, Daniel (2005). "'Best Practice' Options for the Legal Recognition of Customary Tenure", *Development and Change*, 36(3), pp. 449–475.

Food and Agriculture Organization (2002). "Gender and Access to Land", Land Tenure Study 4.

Food and Agriculture Organization (2007). "Good Governance in Land Tenure and Administration", Land Tenure Study 9.

Food Security Analysis Unit (2002). "Livelihood Baseline Profiles", Nairobi.

Food Security Analysis Unit (2008a). "2007/8 Post-Deyr Analysis Technical Series", Nairobi.

Food Security Analysis Unit (2008b). "Food Security & Nutrition Quarterly Brief – Focus on Gu Season Early Warning", Nairobi.

Fortin, Elizabeth (2005). "Reforming Land Rights: The World Bank and the Globalization of Agriculture", *Social Legal Studies*, vol. 14(2), pp. 147–177.

Freedom House (2008). "Worst of the Worst 2008", extract from forthcoming "Freedom in the World 2008" report.

Ganzglass, Martin R. (1971). *The Penal Code of the Somali Democratic Republic*. Rutgers University Press, New Jersey.

Ganzglass, Martin R. (1979). "The Somali Refugees", *Human Rights*, 8, pp. 28–33.

Geneva Call (2004). "Landmines in Somalia. Report of the Geneva Call Follow-up Mission to Puntland, Hiran and Bakol Regions 15–27 September 2004".

Gomes, Nathalie (2006). "Access to Water, Pastoral Resource Management and Pastoralists' Livelihoods. Lessons Learned from Water Development in Selected Areas of Eastern Africa (Kenya, Ethiopia, Somalia)", Livelihood Support Programme Working Paper 26, Food and Agricultural Organization.

Green, Reginald Herbold (1999). "Khatt & the Realities of Somalis: Historic, Social, Household, Political & Economic", *Review of African Political Economy*, no. 79, pp. 33–49.

Greenfield, Richard (1991). "Somalia: Siad's Sad Legacy", *Africa Report,* 36:2, pp. 13–18.

Gros, Jean-Germain (1996). "Towards a Taxonomy of Failed States in the New World Order: Decaying Somalia, Liberia, Rwanda and Haiti", *Third World Quarterly*, vol. 17, no. 3, pp. 435–471.

Grosse-Kettler, Sabrina (2004). "External Actors in Stateless Somalia. A War Economy and its Promoters", paper 39, Bonn International Center for Conversion.

Gundel, Joakim (2002). "The Migration-Development Nexus: Somalia Case Study", *International Migration*, vol. 40(5), pp. 255–279.

Gundel, Joakim (2006a). "The Predicament of the 'Oday': The Role of Traditional Structures in Security, Rights, Law and Development in Somalia", report for Danish Refugee Council and Novib-Oxfam.

Gundel, Joakim (2006b). "Humanitarian Action in the New Security Environment: Policy and Operational Implications in Somalia and Somaliland", Humanitarian Policy Group Background Paper, Overseas Development Institute, London.

Gunn, Susan (1990). "Somalia", in John P. Powelson and Richard Stock (editors), *The Peasant Betrayed: Agriculture and Land Reform in the Third World*. Cato Institute: Washington DC.

Haglund, Roland and Richard Sannerholm (2002). "Comparative Law and Legal Development", report of a workshop held in Garowe, Puntland in November 2002, facilitated by Puntland Development and Research Centre.

Hagmann, Tobias and Markus V. Hoehne (2007). "Failed State or Failed Debate? Multiple Somali Political Orders within and beyond the Nation-state", *Politorbis* no. 42, pp. 20–26.

Hansen, Peter (2004). "Migrant Transfers as a Development Tool. The Case of Somaliland", Danish Institute for International Studies Working Paper no. 2004/15.

Hardin, Garrett (1968). "The Tragedy of the Commons", *Science*, vol. 162, pp. 1243–1248.

Hashi, A.M. (2005). "Somalia Development Aid – Way Forward", unpublished report prepared for "Consultants in Development and Environment".

Hassan, Harun and Cedric Barnes (2007). "A Return to Clan Politics (or Worse) in Southern Somalia?", available at http://hornofafrica.ssrc.org/Hassan_barnes/printable.html (last accessed 7 February 2008).

Helander, Bernhard (1986). "The Social Dynamics of Southern Somali Agro-pastoralism: A Regional Approach", in Conze and Labahn (1986a).

Helander, Bernhard (1995). "Building Peace from Below? A Critical Review of the District Councils in the Bay and Bakool Regions of Southern Somalia", report for the Life & Peace Institute, Uppsala, Sweden.

Helander, Bernhard (1996a). "The Hubeer in the Land of Plenty: Land, Labour and Vulnerability among a Southern Somali Clan", in Besteman and Cassanelli (2003).

Helander, Bernhard (1996b). "Rahanweyn Sociability: A Model for other Clans?", *African Languages and Culture*, supplement no. 3, pp. 195–204.

Helander, Bernhard (1998). "The Emperor's New Clothes Removed: A Critique of Besteman's 'Violent Politics and the Politics of Violence'", *American Ethnologist*, 25(3), pp. 489–501.

Hills, Alice (1997). "Warlords, Militia and Conflict in Contemporary Africa: A Re-examination of Terms", *Small Wars and Insurgencies*, vol. 8, no. 1, pp. 35–50.

Hitchcock, Robert K. and Hassan Hussein (1987). "Agricultural and Non-agricultural Settlements for Drought-affected Pastoralists in Somalia", *Disasters*, vol. 11, no.1, pp. 30–39.

Hoben, Allan (1988). "The Political Economy of Land Tenure in Somalia" in Richard Downs and Stephen Reyna (editors), *Land and Society in Contemporary Africa*, Hanover: University Press of New England.

Hoehne, Markus V. (2007). "Puntland and Somaliland Clashing in Northern Somalia: Who Cuts the Gordian Knot?", available at http://hornofafrica.ssrc.org/Hoehne/printable.html (last accessed 18 March 2008).

Home Office (2007). "Report of Fact-finding Mission 11–15 June 2007", by team from Border and Immigration Agency.

Huliaras, Astrid (2002). "The Viability of Somaliland: Internal Constraints and Regional Geopolitics", *Journal of Contemporary African Studies*, 20, 2, pp. 157–182.

Human Rights Internet (1994). "Women in Somalia", *Refugee Survey Quarterly*, vol. 13, no. 2 and no. 3, pp. 92–115.

Hurwitz, Agnès, Kaysie Studdard, and Rhodri Williams (2005). "Housing, Land, Property and Conflict Management: Identifying Policy Options for Rule of Law Programming", report for International Peace Academy, New York.

Ikdahl, Ingunn, Anne Hellum, Randi Kaarhus, Tor A. Benjaminsen, and Patricia Kameri-Mbote (2005). "Human rights, Formalization and Women's Land Rights in Southern and Eastern Africa", Studies in Women's Law no. 57, University of Oslo, Norway.

International Council on Human Rights Policy (2006). "Negotiating Justice? Human Rights and Peace Agreements".

International Crisis Group (2002a). "Somalia: Countering Terrorism in a Failed State", Africa Report no. 45, May 2002.

International Crisis Group (2002b). "Salvaging Somalia's Chance for Peace", Africa Briefing, December 2002.

International Crisis Group (2003a). "Negotiating a Blueprint for Peace in Somalia", Africa Report no. 59, March 2003.

International Crisis Group (2003b). "Somaliland: Democratization and its Discontents", Africa Report no. 66, July 2003.

International Crisis Group (2004a). "Biting the Somali Bullet", Africa Report no. 79, May 2004.

International Crisis Group (2004b). "Somalia: Continuation of War by other Means?", Africa Report no. 88, December 2004.

International Crisis Group (2005a). "Counter-Terrorism in Somalia: Losing Hearts and Minds?", Africa Report no. 95, July 2005.

International Crisis Group (2005b). "Somalia's Islamists", Africa Report no. 100, December 2005.

International Crisis Group (2006a). "Somaliland: Time for African Union Leadership", Africa Report no. 110, May 2006.

International Crisis Group (2006b). "Can the Somali Crisis be Contained?", Africa Report no. 116, August 2006.

International Crisis Group (2007). "Somalia: The Tough Part is Ahead", Africa Briefing no. 45, January 2007.

International Institute for Environment and Development (2003). "Governance and Land Relations: A Review of Decentralization of Land Administration and Management in Africa".

International Institute for Environment and Development (2004). "Land Tenure and Administration in Africa: Lessons of Experience and Emerging Issues".

International Institute for Environment and Development (2005). "Can Land Registration Serve Poor and Marginalized Groups?".

International Union for the Conservation of Nature (2006). "Country Environmental Profile for Somalia", report prepared for European Commission Somalia Operations Office.

Jama, Mohamud A. (2003). "Somalia and Somaliland: Strategies for Dialogue and Consensus on Governance and Democratic Transition", paper prepared for the UNDP Oslo Governance Centre.

Jamal, Vali (1988). "Somalia: Survival in a 'Doomed' Economy", *International Labour Review*, vol. 127, no. 6, pp. 783–812.

Janzen, Jörg (1986). "The Process of Nomadic Sedentarization – Distinguishing Features, Problems and Consequences for Somali Development Policy", in Conze and Labahn (1986a).

Jarabi, Ben Obonyo (2007). "Review of Various Population Estimates for Somaliland, Puntland and South-Central Somalia", consultancy report for UNDP and UNFPA.

Joint Needs Assessment (2006a). "Governance, Security and the Rule of Law", cluster report for the World Bank and UNDP.

Joint Needs Assessment (2006b). "Infrastructure", cluster report for the World Bank and UNDP.

Joint Needs Assessment (2006c). "Macroeconomic Policy Framework and Data Development", cluster report for the World Bank and UNDP.

Joint Needs Assessment (2006d). "Productive Sectors and Environment", cluster report for the World Bank and UNDP.

Joint Needs Assessment (2006e). "Social Services and Protection of Vulnerable Groups", cluster report for the World Bank and UNDP.

Joint Needs Assessment (2006f). "Livelihoods and Solutions for the Displaced", cluster report for the World Bank and UNDP.

Kanazawa, Satoshi and Debra Friedman (1999). "The State's Contribution to Social Order in National Societies: Somalia as an Illustrative Case", *Journal of Political and Military Sociology*, 27, 1, pp. 1–20.

Kassahun, Yohannes (1997). "The Courts: Problems, Prospects and Role in Somalia's Emerging Regions", report commissioned by the European Commission Somalia Unit.

Kibble, Steve (2001). "Somaliland: Surviving without Recognition; Somalia: Recognized but Failing?", *International Relations*, vol. 15(5), pp. 5–25.

Kibreab, Gaim (1993). "The Myth of Dependency among Camp Refugees in Somalia 1979–1989", *Journal of Refugee Studies*, vol. 6, no. 4, pp. 321–349.

Kibreab, Gaim (2004). "Pulling the Wool over the Eyes of the Strangers: Refugee Deceit and Trickery in Institutionalized Settings", *Journal of Refugee Studies*, vol. 17, no. 1, pp. 1–26.

Koskenmäki, Riikka (2004). "Legal Implication Resulting from State Failure in Light of the Case of Somalia", *Nordic Journal of International Law*, 73, pp. 1–36.

KPMG (2004). "Feasibility Study on Financial Services in Somalia", report to UNDP and European Commisson Somalia Unit.

Kuran, Timur (2001). "The Provision of Public Goods under Islamic Law: Origins, Impact and Limitations of the Waqf System", *Law and Society Review*, vol. 34, no. 4, pp. 841–897.

Labahn, Thomas (1986). "The Development of the Cultivated Areas of the Shabelle River and the Relationship between Smallholders and the State", in Conze and Labahn (1986a).

Laitin, David L. (1976). "The Political Economy of Military Rule in Somalia", *The Journal of Modern African Studies*, 14, 3, pp. 449–468.

Laitin, David L. and Said S. Samatar (1984). "Somalia and the World Economy", *Review of African Political Economy*, vol. 11, issue 30, pp. 58–72.

Larmour, Peter (2002). "Policy Transfer and Reversal: Customary Land Registration from Africa to Melanesia", *Public Administration and Development*, 22, 2, pp. 151–161.

Lastarra-Cornhiel, Susana (1997). "Impact of Privatization on Gender and Property Rights in Africa", *World Development*, vol. 25, no. 8, pp. 1317–1333.

Le Billon, Philippe (2000). "The Political Economy of War: What Relief Agencies Need to Know", Humanitarian Practice Network Paper 33, Overseas Development Institute, London.

Leeson, Peter T. (2007). "Better off Stateless: Somalia before and after Government Collapse", *Journal of Comparative Economics*, 35, pp. 689–710.

Le Sage, Andre (2001). "Prospects for Al Itihad & Islamist Radicalism in Somalia", *Review of African Political Economy*, vol. 27, no. 89, pp. 472–477.

Le Sage, Andre (2002). "Somalia: Sovereign Disguise for a Mogadishu Mafia", *Review of African Political Economy*, vol. 29, no. 91, pp. 132–138.

Le Sage, Andre (2005). "Stateless Justice in Somalia: Formal and Informal Rule of Law Initiatives", report for the Centre for Humanitarian Dialogue, Geneva.

Le Sage, Andre and Nisar Majid (2002). "The Livelihoods Gap: Responding to the Economic Dynamics of Vulnerability in Somalia", *Disasters*, 26(1), pp. 10–27.

Le Sage, Andre and Ken Menkhaus (2004). "The Rise of Islamic Charities in Somalia: An Assessment of Impact and Agendas", paper presented at the 45th Annual International Studies Association Convention, Montreal, March 2004.

Lewis, I. M. (1959). "Clanship and Contract in Northern Somaliland", *Africa*, 29:3, pp. 274–293.

Lewis, I. M. (1993). "Misunderstanding the Somali Crisis", *Anthropology Today*, vol. 9, no. 4, pp. 1–3.

Lewis, I. M. (1998). "Doing Violence to Ethnography: A Response to Catherine Besteman's 'Representing Violence and 'Othering' Somalia'", *Cultural Anthropology*, 13(1), pp. 100–108.

Lewis, I. M. (2002). *A Modern History of the Somali* (fourth edition). James Currey Limited: Oxford.

Lewis, I. M. (2004). "Visible and Invisible Differences: The Somali Paradox", *Africa*, 74, 4, pp. 489–515.

Lindley, Anna (2005). "Somalia Country Study", report commissioned by Department for International Development and others.

Lindley, Anna (2006). "Migrant Remittances in the Context of Crisis in Somali Society. A Case Study of Hargeisa", Humanitarian Policy Group Background Paper, Overseas Development Institute, London.

Little, Peter D. (1996). "Rural Herders and Urban Merchants: The Cattle Trade of Southern Somalia", in Besteman and Cassanelli (2003).

Little, Peter D. (2003). *Somalia: Economy without State*. The International African Institute.

Luling, Virginia (1997). "Come Back Somalia? Questioning a Collapsed State", *Third World Quarterly*, vol. 18, no. 2, pp. 287–302.

Luling, Virginia (2006). "Genealogy as Theory, Genealogy as Tool: Aspects of Somali 'Clanship'", *Social Identities*, vol. 12, no. 4, pp. 471–485.

Lund, Christian (2000). "African Land Tenure: Questioning Basic Assumptions", International Institute for Environment and Development Dryland Programme Issue Paper.

Lund, Christian, Rie Odgaard, and Espen Sjaastad (2006). "Land Rights and Land Conflicts in Africa: A Review of Issues and Experiences", Danish Institute for International Studies.

Maimbo, Samuel Munzele (2006), "Remittances and Economic Development in Somalia. An Overview", Social Development Papers, World Bank, Washington DC.

Manders, Jonathan (2004). "Sequencing Property Rights in the Context of Development: A Critique of the Writings of Hernando de Soto", *Cornell International Law Journal*, 37, pp. 177–198.

Marchal, Roland (1996). "Final Report on the Post-Civil War Somali Business Class", report for the European Commission Somali Unit.

Marchal, Roland (2002). "A Survey of Mogadishu's Economy", report for the European Commission Somali Unit.

Marchal, Roland (2007a). "Warlordism and Terrorism: How to Obscure an Already Confusing Crisis? The Case of Somalia", *International Affairs* 83:6, pp. 1091–1106.

Marchal, Roland (2007b). "Somalia: A New Front Against Terrorism?", available at http:// hornofafrica.ssrc.org/marchal/printable.html (last accessed 7 February 2008)

Marchal, Roland, J. A. Mubarak, M. Del Buono, and D. L. Manzolillo (2000). "Globalization and its Impact on Somalia", paper prepared for UNDP/UNDOS.

Maren, Michael (1997). *The Road to Hell: The Ravaging Effects of Foreign Aid and International Charity*. The Free Press: New York.

Markakis, John (2004). "Pastoralism on the Margin", report for Minority Rights Group International.

Mattei, Ugo (1990). "Socialist and Non-socialist Approaches to Land Law: Continuity and Change in Somalia and other African States", *Review of Socialist Law*, vol. 16, no. 1, pp. 17–55.

McAuslan, Patrick (1998). "Making Law Work: Restructuring Land Relations in Africa", *Development and Change*, vol. 29, pp. 525–552.

McAuslan, Patrick (2003). "Urban Law Reform in the Republic of Somaliland", unpublished report for UN-HABITAT.

McAuslan, Patrick (2005). "Legal Pluralism as a Policy Option: Is it Desirable, is it Doable?", paper for UNDP and International Land Coalition workshop in Nairobi, October 2005.

McAuslan, Patrick (2006). "Improving Tenure Security for the Poor in Africa", framework paper for the joint Food and Agriculture Organization-High Level Commission on Legal Empowerment of the Poor regional workshop.

Medani, Khalid M. (2002). "Financing Terrorism or Survival? Informal Finance and State Collapse in Somalia, and the US War on Terrorism", *Middle East Report,* 223, pp. 1–8.

Mehmet, Ozay (1971). "Effectiveness of Foreign Aid – the Case of Somalia", *The Journal of Modern African Studies*, 9, 1, pp. 31–47.

Menkhaus, Ken (1996). "From Feast to Famine: Land and the State in Somalia's Lower Jubba Valley", in Besteman and Cassanelli (2003).

Menkhaus, Ken (1998). "Somalia: Political Order in a Stateless Society", *Current History*, 97, 619, pp. 220–224.

Menkhaus, Ken (2000). "Somalia: A Situation Analysis", WriteNet Paper No. 07/2000 for UNHCR.

Menkhaus, Ken (2001). "Remittance Companies and Money Transfers in Somalia", unpublished briefing paper.

Menkhaus, Ken (2002a). "Somalia: Next Up in the War on Terrorism", *CSIS Africa Notes*, no. 6.

Menkhaus, Ken (2002b). "Local Governance and Provision of Social Services: Lessons from Somalia", paper commissioned by UNDP.

Menkhaus, Ken (2002c). "Political Islam in Somalia", *Middle East Policy*, vol. ix, no. 1, pp. 109–122.

Menkhaus, Ken (2002d). "Somalia: In the Crosshairs of the War on Terrorism", *Current History*, 101, 655, pp. 210–218.

Menkhaus, Ken (2003a). "State Collapse in Somalia: Second Thoughts", *Review of African Political Economy*, 97, pp. 405–422.

Menkhaus, Ken (2003b). "Somalia: A Situation Analysis and Trend Assessment", WriteNet Paper for UNHCR.

Menkhaus, Ken (2003c). "Warlords and Landlords: Non-state Actors and Humanitarian Norms in Somalia", paper presented at the "Curbing Human Rights Violations by Armed Groups" Conference, Canada, November 2003.

Menkhaus, Ken (2004a). "Somalia: State Collapse and the Threat of Terrorism", Adelphi Paper 364.

Menkhaus, Ken (2004b). "Vicious Circles and the Security Development Nexus in Somalia", *Conflict, Security & Development*, 4:2, pp. 149–165.

Menkhaus, Ken (2005). "Kenya-Somalia Border Conflict Analysis", report commissioned by United States Agency for International Development.

Menkhaus, Ken (2007a). "Governance without Government in Somalia", *International Security*, vol. 31, no. 3, pp. 74–106.

Menkhaus, Ken (2007b). "The Crisis in Somalia: Tragedy in Five Acts", *African Affairs*, 106/204, pp. 357–390.

Menkhaus, Ken and Kathryn Craven (1996). "Land Alienation and the Imposition of State Farms in the Lower Jubba Valley", in Besteman and Cassanelli (2003).

Menkhaus, Ken and John Prendergast (1995a). "Political Economy of Post-intervention Somalia", paper for Centre of Concern Somalia Taskforce, Washington DC.

Menkhaus, Ken and John Prendergast (1995b). "The Stateless State", *Africa Report*, 40:3, pp. 22–25.

Menkhaus, Ken and John Prendergast (1999). "Conflict and Crisis in the Greater Horn of Africa", *Current History*, 98, 628, pp. 213–217.

Merryman, James (1996). "The Economy of Geedo Region and the Rise of Smallholder Irrigation", in Besteman and Cassanelli (2003).

Merryman, Nancy Hawk (1996). "Women's Welfare in the Jubba Valley: Somali Socialism and After", in Besteman and Cassanelli (2003).

Migot-Adholla, Shem, Peter Hazell, Benoît Blarel, and Frank Place (1991). "Indigenous Land Rights Systems in Sub-Saharan Africa: A Constraint on Productivity?", *World Bank Economic Review*, vol. 3, no. 1, pp. 155–175.

Milas, Seifulaziz (2007). "Flawed Sheikhs and Failed Strategies: Lessons of the Jihadist Debacle in Somalia", available at http://hornofafrica.ssrc.org/milas/printable.html (last accessed 18 March 2008).

Minority Rights Group International (2007). "State of the World's Minorities 2007".

Minority Rights Group International (2008). "State of the World's Minorities 2008".

Montclos, Marc-Antoine Pérouse de (1997). "Exodus and Reconstruction of Identities: Somali 'Minority Refugees' in Mombasa", unpublished paper.

Mubarak, Jamil A. (1997). "The 'Hidden Hand' behind the Resilience of the Stateless Economy of Somalia", *World Development*, vol. 25, no. 12, pp. 2027–2041.

Mubarak, Jamil A. (2003). "A Case of Private Supply of Money in Stateless Somalia", *Journal of African Economies*, vol. 11, no. 3, pp. 309–325.

Muhammad, Haji N. A. Noor (1967). "Civil Wrongs under Customary Law in the Northern Regions of the Somali Republic", *Journal of African Law*, 11, pp. 99–118.

Mukhtar, Mohamed Haji (1996). "The Plight of the Agro-Pastoral Society of Somalia", *Review of African Political Economy*, 70, pp. 543–553.

Municipality of Hargeisa (2003). "Hargeisa Municipality Statistical Abstract Second Edition 2003".

Nakaya, Sumie (2003). "Women and Gender Equality in Peace Processes: From Women at the Negotiating Table to Post-war Structural Reforms in Guatemala and Somalia", *Global Governance*, 9, 4, pp. 459–476.

Narbeth, Simon and Calum McLean (2003). "Livelihoods and Protection: Displacement and Vulnerable Communities in Kismaayo, Southern Somalia", Humanitarian Practice Network Paper 44, Overseas Development Institute, London.

Norwegian Refugee Council (2005). "Survey Report: State House Park Temporary Settlement for IDPs/Returnees/Refugees", report by Dareen.

Nyamu-Musembi, Celestine (2005). "For or against Gender Equality? Evaluating the Post-Cold War 'Rule of Law' Reforms in Sub-Saharan Africa", Occasional Paper 7, UNRISD.

Nyamu-Musembi, Celestine (2006). "Breathing Life into Dead Theories about Property Rights: De Soto and Land Relations in Rural Africa", Institute of Development Studies Working Paper 272, University of Sussex, United Kingdom.

Office for the Coordination of Humanitarian Affairs (2008). "Somalia Consolidated Appeal 2008".

Omaar, Rakiya (1993). "Somalia: The Best Chance for Peace", *Africa Report*, 38:3, pp. 44–48.

Omaar, Rakiya (1994). "Somaliland: One Thorn Bush at a Time", *Current History*, 98, 583, pp. 232–236.

Omar, Mohamoud Jama (2002). "Management and Control of Small Arms: The Somaliland Experience", in Bonn International Centre for Conversion report "Small Arms in the Horn of Africa".

Osman, Abdirahman Abdulle and Mohammed Hassan Ibrahim (2005). "Strengthening the Role of Parliament in Constructive Conflict Management. Case Study of Somali Experiences", unpublished paper.

Pegg, Scott (1998). "De Facto States in the International System", Working Paper no. 21, Institute of International Relations, University of British Columbia.

Peters, Pauline E. (2004). "Inequality and Social Conflict Over Land in Africa", *Journal of Agrarian Change*, vol. 4, no. 3, pp. 269–314.

Peters, Pauline E. (2007). "Challenges in Land Tenure and Land Reform in Africa: An Anthropological Perspective", Centre for International Development Working Paper No. 141, Harvard University.

Pinckney, Thomas C. and Peter K. Kimuyu (1994). "Land Tenure Reform in East Africa: Good, Bad or Unimportant?", *Journal of African Economies*, vol. 3, no. 1, pp. 1–28.

Place, Frank (2002). "Land Markets in Africa: Pre-conditions, Potentials and Limitations", paper for regional workshop on land issues, Kampala, Uganda.

Platteau, Jean-Philippe (1995). "Reforming Land Rights in Sub-Saharan Africa: Issues of Efficiency and Equity", UNRISD Discussion Paper 60.

Pons-Vignon, Nicolas and Henri-Bernard Solignac Lecomte (2004). "Land, Violent Conflict and Development", Organization for Economic Cooperation and Development Development Centre Working Paper No. 233.

Prendergast, John (1994). "The Forgotten Agenda in Somalia", *Review of African Political Economy*, vol. 21, no. 59, pp. 66-71.

Prendergast, John (1995). "When the Troops Go Home: Somalia after the Intervention", *Review of African Political Economy*, vol. 22, no. 64, pp. 268–273.

Prendergast, John (2008). "15 Years after Black Hawk Down: Somalia's Chance?", ENOUGH Strategy Paper 18.

Prunier, Gérard (1995). "Somalia: Civil War, Intervention and Withdrawal 1990–1995", WriteNet paper for UNHCR.

Prunier, Gérard (1996). "Somalia: Update to End of August 1996", WriteNet paper for UNHCR.

Puntland Development Research Centre (2003a). "Integration of Customary Law into Sharia and Secular Law (Cross-sectional, Pastoral, Frankincense and Marine Norms)", report for Diakonia.

Puntland Development Research Centre (2003b). "Assessment of Gender Responsiveness to Justice", report commissioned by UNIFEM.

Puntland Development Research Centre (2004). "Analysis of Socio-economic Situation in Puntland", discussion paper for UNDP.

Puntland Development Research Centre (2006a). "Funding the Future: Laying the Foundations for the Equitable and Accountable Management of Public Funds in Somalia's Puntland State".

Puntland Development Research Centre (2006b). "Roots for Good Governance: Establishing the Legal Foundations for Local Government in Puntland".

Reno, William (2003). "Somalia and Survival in the Shadow of the Global Economy", Working Paper Number 100, Queen Elizabeth House, Oxford.

Rice, Susan E. and Stewart Patrick (2008). "Index of State Weakness in the Developing World", Brookings Institution, Washington DC.

Roe, Emery M. (1991). "Development Narratives, or Making the Best of Blueprint Development", *World Development*, vol. 19, no. 4, pp. 287–300.

Roth, Michael (1993). "Somalia Land Policies and Tenure Impacts: The Case of the Lower Shebelle", in Thomas J. Bassett and Donald E. Crummey (editors), *Land in African Agrarian Systems*, University of Wisconsin Press.

Roth, Michael, Jon Unruh and Richard Barrows (1994). "Land Registration, Tenure Security, Credit Use, and Investment in the Shebelle Region of Somalia", in John W. Bruce and Shem Migot-Adholla (editors) (1994), *Searching for Land Tenure Security in Africa*. Dubuque, Iowa: Kendall/Hunt Publishing Company.

Sait, Siraj and Hilary Lim (2006). *Land, Law and Islam: Property and Human Rights in the Muslim World*. London: Zed Books.

Samatar, Abdi Ismail (1987). "Merchant Capital, International Livestock Trade and Pastoral Development in Somalia", *Canadian Journal of African Studies*, vol. xxi:3, pp. 355–374.

Samatar, Abdi Ismail (1989). *The State and Rural Transformation in Northern Somalia 1884–1986*. University of Wisconsin Press.

Samatar, Abdi Ismail (1992). "Destruction of State and Society in Somalia: Beyond the Tribal Convention", *The Journal of Modern African Studies*, 30, 4. pp. 625–641.

Samatar, Abdi Ismail (1992). "Social Classes and Economic Restructuring in Pastoral Africa: Somali Notes", *African Studies Review*, vol. 35, no. 1, pp. 101–127.

Samatar, Abdi Ismail (1993). "Structural Adjustment as Development Strategy? Bananas, Boom and Poverty", *Economic Geography*, vol. 96, no. 1, pp. 25–43.

Samatar, Abdi Ismail (1997). "Leadership and Ethnicity in the Making of African State Models: Botswana versus Somalia", *Third World Quarterly*, vol. 18, no. 4, pp. 687–797.

Samatar, Abdi Ismail (2002). "Somalia's Reconstruction: Beyond IGAD and the European Union's Peace Dividend", unpublished paper.

Samatar, Abdi and A. I. Samatar (1987). "The Material Roots of the Suspended African State: Arguments from Somalia", *The Journal of Modern African Studies*, 25, 4, pp. 669–690.

Schlee, Günther (2001). "Regularity in Chaos: The Politics of Difference in the Recent History of Somalia", Max Planck Institute for Social Anthropology Working Paper no. 18, Halle/Saale.

Schlee, Günther (2003). "Consultancy Report to the Somali National Reconciliation Conference in Support of Committee 3 – Land and Property Rights", report to Inter-Governmental Authority on Development.

Schraeder, Peter J. (1986). "Involuntary Migration in Somalia: The Politics of Resettlement", *The Journal of Modern African Studies*, 24, 4, pp. 641–662.

Scoones, Ian and Olivia Graham (1994). "New Directions for Pastoral Research in Africa", *Development in Practice*, vol. 4, no. 3, pp. 188–198.

Seger, Norbert (1986). "Organization of the Irrigated Agricultural Economy amongst the Small Farmers of the Mubaraak/Lower Shabelle Region", in Conze and Labahn (1986a).

Senlis Council (2008). "Chronic Failures in the War on Terror: From Afghanistan to Somalia", Senlis Council, London.

Shank, Michael (2007). "Understanding Political Islam in Somalia", *Contemporary Islam*, vol. 1, no. 1, pp. 89–103.

Shinn, David (2002). "Somaliland: The Little Country that Could", *CSIS Africa Notes* no. 9.

Shepherd, Gill (1988). "The Reality of the Commons: Answering Hardin from Somalia", Social Forestry Network Paper, Overseas Development Institute, London.

Shipton, Parker and Mitzi Goheen (1992). "Understanding African Landholding: Power, Wealth and Meaning", *Africa*, 62(3), pp. 307–325.

Smith, Robert E. (2003). "Land Tenure Reform in Africa: A Shift to the Defensive", *Progress in Development Studies*, 3, 3, pp. 210–222.

Sommer, John G. (1994). "Hope Restored? Humanitarian Aid in Somalia, 1990–1994", report for Refugee Policy Group.

Sorens, Jason P. and Leonard Wantchekon (2000). "Social Order without the State: The Case of Somalia", African Studies Working Papers, Yale University.

Spears, Ian S. (2003). "Reflections on Somaliland and Africa's Territorial Order", *Review of African Political Economy*, no. 95, pp. 89–98.

Somalia Water and Land Information Management (2007). "Land Resources Assessment of Somalia", Technical Project Report L-13.

Taylor, Sebastian (2000). "Landmines and UXO in Somaliland, Puntland and Central & Southern Somalia. A Feasibility Study", report commissioned by UNICEF.

Toulmin, Camilla and Julian Quan (2000). *Evolving Land Rights, Policy and Tenure in Africa*. Department for International Development/International Institute for Environment and Development/National Resources Institute: London.

Transparency International (2007). "2007 Corruption Perceptions Index", Berlin and London.

United Nations (1997). "Report on the situation of human rights in Somalia, prepared by the Independent Expert of the Commission on Human Rights, Ms. Mona Rishmawi, pursuant to Commission resolution 1996/57 of 19 April 1996", UN document reference E/CN.4/1997/88.

United Nations (1999). "Report of the Special Rapporteur, Ms. Mona Rishmawi, submitted in accordance with Commission on Human Rights resolution 1998/59", UN document reference E/CN.4/1999/103.

United Nations (2003). "Indicators for Monitoring the Millennium Development Goals: Definitions, Rationale, Concepts and Sources".

United Nations (2007a). "United Nations Transition Plan for Somalia, 2008–2009".

United Nations (2007b). "Report from the Inter-Agency Mine Action Assessment Mission to Somalia (South Central)".

United Nations Childrens Fund (2004). "Children on the Brink. A Joint Report of New Orphan Estimates and a Framework for Action", jointly published with United States Agency for International Development and UNAIDS.

United Nations Childrens Fund (2006). "Somali 2006 Multiple Indicator Cluster Survey".

United Nations Coordination Unit and United Nations Office for the Coordination of Humanitarian Affairs (2000). "A Study on Minority Groups in Somalia".

United Nations Coordination Unit and United Nations Office for the Coordination of Humanitarian Affairs (2002). "Internally Displaced Persons Combined Report on Somalia".

United Nations Development Fund for Women (2001). "Women's Land and Property Rights in Situations of Conflict and Reconstruction".

United Nations Development Office for Somalia (1998). "Study on Governance in Gedo Region" [written by Ken Menkhaus].

United Nations Development Office for Somalia (1999). "Studies on Governance in Lower Jubba Region" [written by Ken Menkhaus]

United Nations Development Programme (2001). "Human Development Report 2001".

United Nations Development Programme (2005a). "An Assessment of Internally Displaced Persons/Returnees in Bossaso, Puntland State of Somalia", report by Somali Women's Reunification Union.

United Nations Development Programme (2005b). "An Assessment of Vulnerable Populations in Garowe", report by Guardian.

United Nations Development Programme (2006). "Land Rights Reform and Governance in Africa. How to Make it Work in the 21st Century?", report for UNDP Oslo Governance Centre.

United Nations Development Programme (2007). "Millennium Development Goals Report for Somalia".

United Nations Development Programme (2008). Official list of Millennium Development Goal indicators, effective 15 January 2008.

United Nations Environment Programme (2005). "The State of the Environment in Somalia. A Desk Study".

United Nations High Commissioner for Refugees (2005a). "Returnee Monitoring Analysis 2005: Puntland", unpublished document.

United Nations High Commissioner for Refugees (2005b). "2005 UNHCR Statistical Yearbook".

United Nations High Commissioner for Refugees (2007a). "Lessons Learned: Participatory Assessment as Part of IDP Profiling", unpublished document.

United Nations High Commissioner for Refugees (2007b). "Results of the SAACID Visual Assessment of IDP Locations in Mogadishu".

United Nations High Commissioner for Refugees and Danish Refugee Council (2007). "Report[s] on Profiling of Internally Displaced Persons" for Baidoa, Bossaso, Burao, Galkayo, and Mogadishu.

United Nations High Commissioner for Refugees, Food and Agriculture Organization, Norwegian Refugee Council, Office for the Coordination of Humanitarian Affairs, Office for the High Commissioner of Human Rights, and UN-HABITAT (2007). "Handbook on Housing and Property Restitution for Refugees and Displaced Persons. Implementing the 'Pinheiro Principles'".

United Nations Human Settlements Programme (2004). "Urban Land for All".

United Nations Human Settlement Programme (2007a). "Handbook on Post-conflict Land Administration and Peacebuilding".

United Nations Human Settlement Programme (2007b). "Policymakers Guide to Women's Land, Property and Housing Rights across the World".

United Nations Security Council (2002). "Report of the team of experts appointed pursuant to Security Council resolution 1407 (2002), paragraph 1, concerning Somalia", July 2002, UN document number S/2002/722.

United Nations Security Council (2003a). "Report of the Panel of Experts on Somalia pursuant to Security Council resolution 1425 (2002)", March 2003, UN document number S/2003/223.

United Nations Security Council (2003b). "Report of the Panel of Experts on Somalia pursuant to Security Council resolution 1474 (2003)", November 2003, UN document number S/2003/1035.

United Nations Security Council (2004). "Report of the Monitoring Group on Somalia pursuant to Security Council resolution 1519 (2003)", August 2004, UN document number S/2004/604.

United Nations Security Council (2005a). "Report of the Monitoring Group on Somalia pursuant to Security Council resolution 1558 (2004)", March 2005, UN document number S/2005/153.

United Nations Security Council (2005b). "Report of the Monitoring Group on Somalia pursuant to Security Council resolution 1587 (2005)", October 2005, UN document number S/2005/625.

United Nations Security Council (2006a). "Report of the Monitoring Group on Somalia pursuant to Security Council resolution 1630 (2005)", May 2006, UN document number S/2006/229.

United Nations Security Council (2006b). "Report of the Monitoring Group on Somalia pursuant to Security Council resolution 1676 (2006)", November 2006, UN document number S/2006/913.

United Nations Security Council (2007). "Report of the Monitoring Group on Somalia pursuant to Security Council resolution 1724 (2006)", July 2007, UN document number S/2007/436.

United Nations Security Council (2008). "Report of the Monitoring Group on Somalia pursuant to Security Council resolution 1766 (2007)", April 2008, UN document number S/2008/274.

United States Agency for International Development (2005). "Land and Conflict: A Toolkit for Intervention".

Unruh, Jon D. (1991). "Nomadic Pastoralism and Irrigated Agriculture in Somalia", *GeoJournal*, 25.1, pp. 91–108.

Unruh, Jon D. (1993a). "Restocking Refugee Pastoralists in the Horn of Africa", *Disasters*, volume 17, no. 4, pp. 305–320.

Unruh, Jon D. (1993b). "Refugee Resettlement on the Horn of Africa. The Integration of Host and Refugee Land Patterns", *Land Use Policy*, 10, pp. 49–66.

Unruh, Jon D. (1995). "The Relationship between Indigenous Pastoralist Resource Tenure and State Tenure in Somalia", *GeoJournal*, 36.1, pp. 19–26.

Unruh, Jon D. (1996). "Resource Sharing: Smallholders and Pastoralists in Shalambood, Lower Shabeelle Valley", in Besteman and Cassanelli (2003).

Unruh, Jon D. (2003). "Land Tenure and Legal Pluralism in the Peace Process", *Peace and Change*, vol. 28, no. 3, pp. 352–377.

Vinci, Anthony (2006). "An Analysis and Comparison of Armed Groups in Somalia", *African Security Review*, 15.1, pp. 76–90.

von Boguslawski, Michael (1986). "The Crop Production of Somalia", in Conze and Labahn (1986a).

von Hippel, Karin (2002). "The Roots of Terrorism: Probing the Myths", *The Political Quarterly*, vol. 73, issue 1, pp. 25–39.

Wallace-Bruce, Nii Lante (1997). "Taiwan and Somalia: International Legal Curiosities", *Queen's Law Journal*, 22, pp. 453–485.

Webersik, Christian (2001). "Reinterpreting Environmental Scarcity and Conflict: Evidence from Somalia", paper presented to the 4th Pan-European International Relations Conference, University of Kent at Canterbury, United Kingdom.

Webersik, Christian (2003). "Fighting for the Plenty: The Banana Trade in Southern Somalia", *Oxford Development Studies*, vol. 33, no. 1, pp 81-97.

Webersik, Christian (2004). "Differences that Matter: The Struggle of the Marginalized in Somalia", *Africa*, 74, 4, pp. 516–533.

Webersik, Christian (2006). "Mogadishu: An Economy without a State", *Third World Quarterly*, vol. 27, no. 8, pp. 1463–1480.

White, Philip and Lionel Cliffe (2000). "Matching Response to Context in Complex Political Emergencies: 'Relief', 'Development', 'Peace-building' or Something In-between?", *Disasters*, 24(4), pp. 314–342.

Whitehead, Ann and Dzodzi Tsikata (2003). "Policy Discourses on Women's Land Rights in Sub-Saharan Africa: The Implications of the Return to the Customary", *Journal of Agrarian Change*, vol. 3, no. 1 and no. 2, pp. 67–112.

Williams, Rhodri C. (2007). "The Contemporary Right to Property Restitution in the Context of Transitional Justice", International Centre for Transitional Justice Occasional Paper.

World Bank (2005a). "Anarchy and Invention: How Does Somalia's Private Sector Cope without Government?", Findings 254.

World Bank (2005b). "Gender Issues and Best Practice in Land Administration Projects".

World Bank (2005c). "Conflict in Somalia: Drivers and Dynamics".

World Bank (2006a). "Somalia: From Resilience towards Recovery and Development. A Country Economic Memorandum for Somalia", Nairobi.

World Bank (2006b). "Governance Matters VI: Aggregate and Individual Governance Indicators 1996–2006", Washington DC.

World Bank (2006c). "Consensus, Confusion and Controversy: Selected Land Reform Issues in Sub-Saharan Africa", Working Paper No. 71.

World Bank and United Nations Development Programme (2002). "Somalia Socio-economic Survey 2002".

World Bank and United Nations Development Programme (2003). "Country Re-Engagement Note: Somalia".

Yngstrom, Ingrid (2002). "Women, Wives, and Land Rights in Africa: Situating Gender beyond the Household in the Debate over Land Policy and Changing Tenure Systems", *Oxford Development Studies*, vol. 30, no. 1, pp. 21–40.

OTHER TEXTS

Bruce, John W. and Shem Migot-Adholla (editors) (1994). *Searching for Land Tenure Security in Africa*. Dubuque, Iowa: Kendall/Hunt Publishing Company.

Campo, Alessandro and Ahmed Haji Tahlil (1999). "Assessment of the Judiciary System of Puntland", unpublished report for UNDOS.

Campo, Alessandro and Ahmed Haji Tahlil (1999). "Assessment of the Judiciary System of Somaliland", unpublished report for UNDOS.

Cassanelli, Lee (1982). *The Shaping of Somali Society*. University of Pennsylvania.

Contini, Paolo (1969). *The Somali Republic: An Experiment in Legal Integration*. London: F. Cass & Co.

Dool, Abdullahi (1998). *Failed States: When Governance Goes Wrong*. London: Horn Heritage Publications.

Ekstrom, Carl D. (1993). "Budgetary Chaos and Evasion: The Case of Somalia", *International Journal of Public Administration*, 16(7), pp. 1053–1070.

Ellis, Stephen (1996). "Africa and the Cold War: New Patterns of Government and Politics", *Development and Change*, 27, pp. 1–28.

Ganzglass, Martin R. (1993). "Evaluation of the Judicial, Legal and Penal Systems of Somalia", unpublished report for USAID.

Gardner, J. and J. El Bushra (2004). *Somalia: The Untold Story. The War through the Eyes of Somali Women*. London: Pluto Press.

Guadagni, Marco (1981)[497]. *Xeerka Beeraha. Diritto fondario Somala: Le terre agricole dal regime consuetudinario e coloniale verso la riforma socialista*. Milan: Dott. A. Giuffrà Editore.

International Committee of the Red Cross (1997). *Spared from the Spear: Traditional Somali Behaviour in Warfare*. Nairobi: International Committee of the Red Cross Somalia Delegation.

Jamal, Vali (1988). "Somalia: Understanding an Unconventional Economy", *Development and Change*, 19, pp. 203–265.

Laitin, David and Said S. Samatar (1987). *Somalia: Nation in Search of a State*. Boulder, Colorado: Westview Press.

Lewis, I. M. (1961). *A Pastoral Democracy: A Study of Pastoralism and Politics among Northern Somali of the Horn of Africa*. London: Oxford University Press.

Lewis, I. M. (editor) (1975). *Abaar : The Somali Drought*. Oxford: Oxford University Press.

Luling, Virginia (2002). *Somali Sultanate: The Geledi City-State over 150 Years*. London: Haan

Marchal, Roland (2000). "The Private Sector: Its Role in Governance", unpublished report for UNDP.

Markakis, John (1994). "Ethnic Conflict and State in the Horn of Africa", in Katsuyoshi Fukui and John Markakis (editors), *Ethnicity and Conflict in the Horn of Africa*. Oxford: James Currey.

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[497] This may be based on Guadagni's 1979 PhD thesis ("Somali Land Law: Agricultural Land from Tribal Tenure and Colonial Administration to Socialist Reform") at the School of African and Oriental Studies, University of London, which was presumably in English and might be of use to future researchers.

Medani, Khalid (2000). "Report on Migration and Remittance Inflows: Northwest and Northeast Somalia." Nairobi: UNCU and Food Security Assessment Unit.

Menkhaus, Ken (1997). "U.S. Foreign Assistance to Somalia: Phoenix from the Ashes?", *Middle East Policy*, vol. 5, no. 1.

Mubarak, Jamil A. (1996). *From Bad Policy to Chaos: How an Economy Fell Apart*. Westport, Connecticut: Praeger.

Platteau, Jean-Philippe (1996). "The Evolutionary Theory of Land Rights as Applied to Sub-Saharan Africa: A Critical Assessment", *Development and Change*, 27(1), pp. 29-86.

Prendergast, John (1994). "The Bones of Our Children Are Not Yet Buried: The Looming Spectre of Famine and Massive Human Rights Abuse in Somalia", report for Centre of Concern, Washington DC.

Prendergast, John (1994). "The Gun Talks Louder than the Voice: Somalia's Continuing Cycles of Violence", report for Centre of Concern, Washington DC.

Puntland Development Research Centre (2002). *Pastoral Justice: A Participatory Action Research Project on Harmonization of Somali Legal Traditions*. Puntland: Garowe.

Sacco, R. (1984). *Le grandi linee del sistema giuridico somalo*. Milan.

Samatar, Ahmed I. (1988). *Socialist Somalia: Rhetoric and Reality*. London: Zed Books.

Samatar, Ahmed I. (editor) (1994). *The Somali Challenge: From Catastrophe to Renewal?* Boulder, Colorado: Lynne Rienner.

Simons, Anna (1995). *Networks of Dissolution: Somalia Undone*. Boulder, Colorado: Westview Press.

Tripodi, Paolo (1999). *The Colonial Legacy in Somalia*. New York: St. Martin's Press.

United Nations Development Office for Somalia[498] (1997). "Strategies on Governance: Awdal Region" [written by Ken Menkhaus].

United Nations Development Office for Somalia (1998). "Governance Study of Bari Region" [written by Bernhard Helander].

United Nations Development Office for Somalia (1998). "Governance Study of Lower Shabelle Region" [written by Roland Marchal].

United Nations Development Office for Somalia (1998). "Let's Talk about Governance in Somalia" [contains papers by Roland Marchal, Bernhard Helander, and Ken Menkhaus].

United Nations Development Office for Somalia (1998). "Regional Profile: Benadir Region of Somalia".

United Nations Development Office for Somalia (1999). "Governance Study of Hiran Region" [written by Ken Menkhaus].

United Nations Development Office for Somalia (1999). "Studies on Governance in Middle Jubba Region" [written by Ken Menkhaus].

United Nations Development Programme (1998). "Human Development Report 1998" [written by Ken Menkhaus and Roland Marchal].

498 The titles, authors, and dates for these various UNDOS reports may not be entirely accurate, as the author has not seen them and is relying on varying descriptions in the bibliographies of other documents.

RESEARCH MATERIALS

Interview 1: Agency international staff member, Nairobi, 25 January

Interview 2: International NGO consultant, Nairobi, 30 January

Interview 3: Agency meeting, Nairobi, 31 January

Interview 4: Agency international staff member, Nairobi, 1 February

Interview 5: Agency international staff member, Nairobi, 1 February

Interview 6: Agency national staff member, Hargeisa, 4 February and other dates

Interview 7: Agency international staff member, Hargeisa, 5 February and other dates

Interview 8: NGO staff member, Hargeisa, 7 February

Interview 9: NGO staff member, Hargeisa, 10 February

Interview 10: NGO staff member, Hargeisa, 10 February

Interview 11: Municipality staff member, Hargeisa, 11 February

Interview 12: Agency meeting, Hargeisa 14 February

Interview 13: Islamic scholar, Hargeisa, 18 February

Interview 14: Representatives of minority community, Hargeisa, 19 February

Interview 15: Representatives of IDP community, Hargeisa, 19 February

Interview 16: Agency international staff member, Hargeisa, 20 February

Interview 17: Lawyer, Hargeisa, 21 February

Interview 18: Agency meeting, Nairobi, 28 February

Interview 19: Agency international staff members, Nairobi, 29 February

Interview 20: Agency international staff member, Hargeisa, 6 March

Interview 21: Agency meeting, Nairobi, 20 March

Interview 22: NGO staff member, Baidoa, 18 April

Interview 23: Elders, Baidoa, 19 April

Interview 24: NGO staff member, Baidoa, 19 and 20 April

Interview 25: Agency international staff member, Baidoa, 20 April

Interview 26: Donor international staff member, Nairobi, 9 May

Interview 27: Agency international staff member, Nairobi, 12 May

Centre for Research and Development research reports 1 and 2
Puntland research report

Land, Property, and Housing in Somalia is a detailed and comprehensive report that focuses on the Somali legal frameworks and institutional systems relating to land and on the historical background of the current landholding and ownership patterns in Somalia. It also looks at a much wider range of social, cultural, political, economic, and environmental contexts and examines some of the theoretical debates on land issues.