

Hosts and Guests

*A historical interpretation of
land conflicts in southern and
central Somalia*

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Map 1. Somalia

- - - International boundary
 . . . Disputed boundary
 ★ National capital
 ■ Capital
 □ Chief town
 ● Other town or village
 — Road
 — Selected river
 — Lake
 Boundaries are approximate

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Summary

Conflicts over land in contemporary Somalia are attracting growing attention from policymakers, jurists, and human rights advocates concerned with promoting peace, democratic institutions, and the rule of law. While recent military and political trends have exacerbated land issues in Somalia, many of the conflicts are rooted in longer histories of competition over land and water between neighbouring communities, or in struggles between local land-holders and a predatory state.

When Siyad Barre's military government collapsed in 1991, competing militias drove Somalia into serial civil conflicts, in which they attempted not just to control state institutions but also seize land and natural resources. Restoring an effective central government remains a work in progress; hundreds of thousands of Somali citizens have been displaced from their homes or have found their ancestral lands occupied by armed outsiders. Currently, there is little hope of redress from a federal government that has thus far been either inept or complicit in upholding the status quo.

International actors attempting to address land conflicts tend to invoke universally acknowledged rights of restitution of property seized unlawfully from individuals and groups. Circumstances in Somalia, however, make it extremely difficult to apply international norms in the allocation of rights and protection to those who have been forcibly deprived of their homes and properties. Nonetheless, local traditions of resource-sharing, the incorporation of newcomers into established land-holding communities, and the continual building of cross-clan alliances in the quest for security suggest that Somali communities have their own histories of dealing with changing relations in power and property.

Land and resources have changed hands frequently in the past, and Somalis' long collective experience of securing productive resources, defending them from rival groups, and, when necessary, accommodating the arrival of new power brokers on the scene,

is reflected in both *xeer* (customary law) and local adaptations of Islamic Shari'a. Historically, both systems of jurisprudence acknowledge proprietary rights, use rights, and compensatory rights, and so can perhaps contribute substantively and procedurally to the development of a locally acceptable national land policy.

Because customary tenure, formal titling, and effective occupation by the strong constitute three contending sources of claims to the rightful 'ownership' of land, any comprehensive land policy for Somalia will require negotiations among parties with rather different notions of legitimacy. In addition, the strength of local *xeer* can vary from district to district, depending in part on the extent to which 'traditional' residents have been displaced or co-opted by recent newcomers. Possession of individual title deeds was largely confined to urbanized and politically-connected elites and their cronies—and such deeds probably cover less than ten per cent of the land currently in dispute. Even claims based on effective armed occupation by factional militias since the collapse of the state in 1991 are rarely uncontested by other powerful coalitions or disgruntled local groups. In these circumstances, external intervention will invariably favour, or be perceived as favouring, one contending party's claim over another's, and may well prove counter-productive to the emergence of consensus-based resolution.

While a brief review of traditional territorial disputes and their resolution cannot provide a blueprint for resolving contemporary land conflicts in Somalia—too much has changed in the demographic and political landscape since 1991—a historical perspective focusing on local notions of rights to land and resources may help us conceive other constructive ways of thinking about ownership, access, and security for those who have gained or lost land since the 1970s. By drawing on indigenous and historically-grounded patterns of resource sharing by 'hosts' and 'guests', it may be possible gradually to reinvigorate the notion—rooted both in local and Islamic tradition—that land and resources are gifts from God to all Somalis, and in doing so diminish a reliance on clan exclusivity as the primary principle for defining rights to territory.

1. Introduction

Old images may die hard, but Somalia is no longer the ‘pastoral democracy’ described by I.M. Lewis in the early 1960s.¹ Nor are the seasonal treks of Somali herdsmen in search of pasture and water for their livestock the sole movements affecting life and livelihoods in the country. Nowadays, throughout much of Somalia, governance by the gun has replaced the writ of customary law, while population shifts associated with urbanization, war-induced displacement, and transnational commerce have replaced pastoral migrations as the major drivers of change and conflict in the region.

More than two decades of conflict have created a sizable Somali diaspora of refugees and émigrés throughout eastern Africa, as well as outside the continent, many of whom are now seeking to invest in real estate in their homeland. Ironically, while this cosmopolitan diaspora has given Somalis a global presence, struggles over resources *within* Somalia have tended to intensify parochial loyalties and harden notions of clan exclusivity. The combination of conflict, increased economic mobility, and narrowing definitions of citizenship have transformed land ownership and land use practices virtually everywhere in the country.

A number of recent trends make land issues far more visible and volatile than they were half a century ago. The influx of Somalis and international aid personnel into cities and towns has increased the demand for urban and peri-urban real estate, while the need for food and fuel to supply these town-dwellers has also raised the value of nearby farmland and woodland. The growing concentration of Somalia’s commercial livestock in the hands of wealthy owners and exporters has accelerated the privatization of pastoral resources and the increasing enclosure of rural rangelands. In some regions, environmental degradation has pushed individuals and communities to seek land in districts with better water supplies, promising more sustainable livelihoods. Despite the changing circumstances—or perhaps because

¹ I. M. Lewis, *A Pastoral Democracy: A Study of Pastoralism and Politics among the Northern Somali of the Horn of Africa* (Oxford: Oxford University Press/International African Institute, 1961).

of their uncertain outcomes—‘traditional’ ideas about land rights continue to inform the attitudes and behaviour of contemporary Somali actors, even as global legal norms are increasingly invoked by international voices.

Many of the conflicts we see today are rooted in longer histories of disputes between neighbouring clans over land and water. Local rivalries often intersect with more recent political squabbles at the regional or national level, where factional leaders strive to mobilize kinsmen behind their various political agendas. Realignments of power among the country’s political elites can and do affect claims to resource rights in the rural peripheries, just as rural struggles for control of strategic resources reshape alliances at the centre. When clans or sub-clans compete for power at the national level, the immediate target may be a seat in parliament or a ministerial appointment, but the ultimate goal is almost invariably the ability to access and allocate the resources that control of state institutions confer. Access to land, as a source of security, status, and revenue, is an emotive issue which politicians at all levels use to secure the support of their kinsmen and constituents.

This paper focuses on southern and central Somalia, where contemporary land disputes are arguably the most acute. While the region’s customary tenure regimes and land use practices have much in common with those in other parts of the country, southern and central Somalia’s complex clan demography, varied resource base, and recent civil war experience present special challenges for those who seek to establish an effective, equitable, and locally acceptable land rights regime.

2. Historical land issues and cultural legacies

Competition over land is nothing new in Somalia. Current ideas and practices surrounding land rights have been shaped by the collective experience of communities, which have in many instances been contesting such rights for generations. While the historical record for pre-colonial Somalia is fragmentary, we can find examples from the past of what clearly were conflicts over territory between established residents and immigrant newcomers. For example, oral traditions tell of the occupation of Mogadishu by Abgaal pastoralists in the seventeenth century. After a series of wars with the previous rulers of the region, remembered in tradition as the Silcis or Ajuraan, one section of the Abgaal clan occupied the city. Shangani, in today's north Mogadishu, subsequently became the headquarters of the Abgaal imam, the titular head of the entire clan. The Abgaal still invoke these traditional narratives to buttress their contemporary claims to hereditary rights in the capital.²

Oral traditions also recall the mid-nineteenth century settlement of Harti traders from north-eastern Somalia in the old fishing village of Kismaayo, where they initially served as commercial agents for the merchant princes of Zanzibar. As Harti immigration increased towards the end of the century, the newcomers came into conflict with local Ogadeni residents, themselves relatively recent arrivals, over control of the port and of adjacent pasturelands and livestock routes to the interior. Early British colonial records document the recurrent struggles between them as they sought to establish their claims to local resources in the Lower Jubba region. Competition between these two communities has continued in various forms up to the present.

The nineteenth century witnessed a steady southward migration of pastoralist Somalis from the arid central regions of the Horn to the better-watered lands between the Shabeele and Jubba rivers. Driven by periodic drought, population growth and, towards the end of the century, by Ethiopian military raids into

² For example, Cedric Barnes, 'U dhashay—Ku dhashay: Genealogical and Territorial Discourse in Somali History,' *Social Identities* 12/4 (2006), pp. 490–1.

3 Massimo Colucci, *Principi di diritto consuetudinario della Somalia italiana meridionale i gruppi sociali, la proprietà con dieci tavole dimostrative, sotto gli auspici del governo della Somalia italiana* (Florence, La Voce, 1924).

the Ogaden, these migrants sought refuge and resources for their herds in the regions known today as Bay, Bakool, Gedo, and Middle Jubba, where Digil and Mirifle (Rahanweyn) agro-pastoralists had long been settled. In a scenario that foreshadowed what would happen a century later, some of the migrants settled as ‘guests’ on the lands of the local residents, while others continued their movements into what would eventually become the British colony of Kenya, where they displaced Oromo cattle keepers with their own mixed herds of camels and goats.

In the 1920s, the Italian colonial scholar, Ernesto Colucci, published a detailed study of customary land law in southern Somalia.³ It documented the mechanisms by which ‘outsiders’ were incorporated into local communities as *sheegad* (clients), and illustrated how the rights and obligations of newcomers became embedded in the local *xeer* of their Rahanweyn hosts. Italian colonial records contain numerous examples of local disputes over water catchment zones or rainy season pastures, from the district of Galkayo to the Shabeele River valley to the hinterlands of Kismaayo. In all these instances, colonial authorities seeking to mediate the disputes drew upon local oral narratives of settlement, conflict, and customary law, invoked by the various parties to justify their competing claims.

The notion of ‘home territory’

While genealogical, kinship-based loyalties and geographical mobility are the best-known features of traditional Somali society, the notion of ‘home territory’ has also always been a key component of Somalis’ clan identity. For pastoral populations in northern and central Somalia, the home territory was centred on permanent water sources—the home wells—where the clan’s livestock assets were concentrated during the annual *jilaal* (long dry) season. Although nomadic pastoralists typically spent only a few months of the year in their vicinity, the home wells were critical to the sustenance of the herds. They also served as central sites of social reproduction, where clan marriages were contracted, life-cycle rituals enacted, and *xeer* agreements renegotiated.

In times of war, the home wells and grazing reserves were and still are the most fiercely guarded of pastoral resources. Clansmen

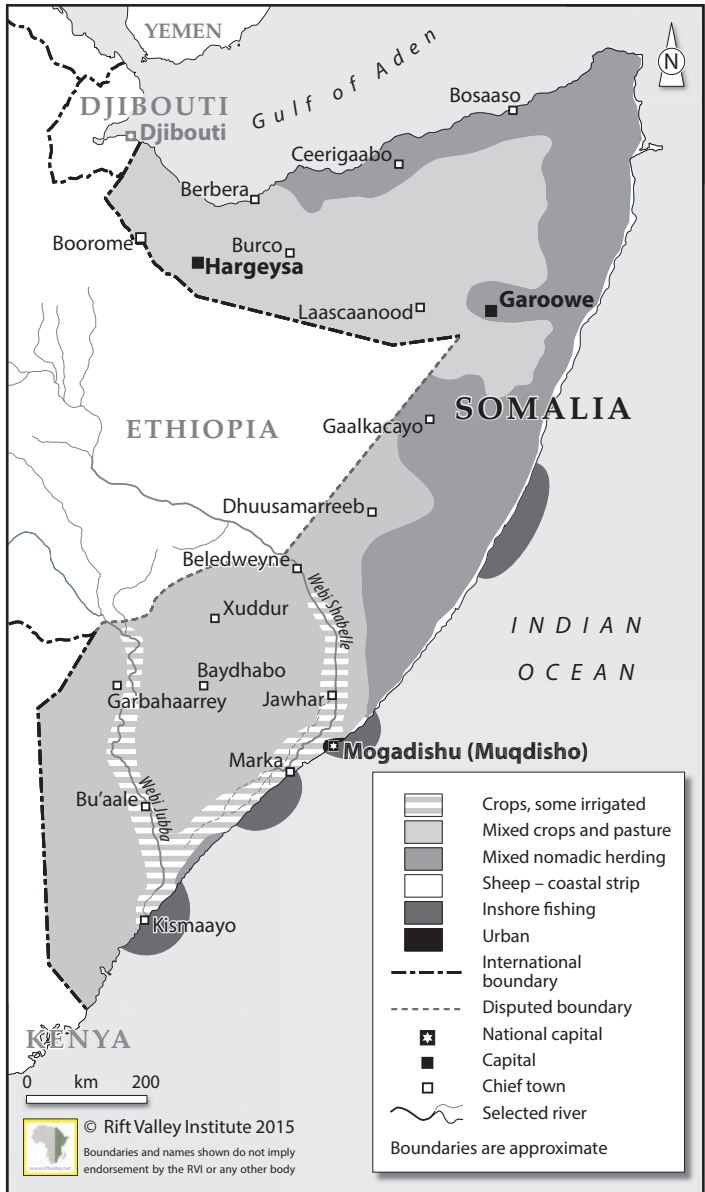
who have settled in other parts of the country or who live in cities still identify with their home territories and can be called upon to help defend the collective rights of their clan to its resources. The essential link between home territory and clan survival was sharply illustrated with the flight of Isaaq Somalis to Somaliland in the 1980s, and of displaced Darood Somalis to Puntland when the central Somali state collapsed in 1991. In essence, those who shared a genealogical identity had returned to their territorial heartlands.

The notion of home territory is perhaps best captured by the Somali term *deegaan*, which translates roughly as ‘stronghold’ or ‘turf’. Referring to the situation in the southern region of Jubba-land, Ibrahim Farah and his fellow authors describe *deegaan* as the place where those who share a common clan affiliation can claim ultimate authority over the land and its natural resources. *Deegaan* also connotes the ‘area where one lives, operates a business, and feels secure enough because of the presence of one’s clansmen in the wider physical area. The nearest western concept to *deegaan* is land tenure and it is ‘synonymous with entitlement, security, usage, and identity’.⁴

It was not uncommon historically for segments of neighbouring clans to settle within the recognized boundaries of another clan’s *deegaan* with the formal or tacit approval of the latter, so that most of the home territories of the major clans included pockets of ‘outsiders’ residing within them. Today, as in the past, smaller or weaker clans look to strike alliances with more powerful clans to enable them to utilize the latter’s resources. The frequency with which outsiders in need were permitted access to the *deegaan* of their hosts seems to reflect what was once a widespread Somali view that land and natural resources are gifts from God and that no one individual or group should claim exclusive rights over their usage.

In the current context of population growth and perceived land scarcity, however, such sentiments may be changing. The tendency nowadays is for wealthy families or individuals to enclose dry-season pastures and exact rent for the use of wells or boreholes in their home territories. While there have always been inequalities in wealth among clansmen living in the same

4 Ibrahim Farah, Abdirashi Hussein, and Jeremy Lind, *Deegaan, Politics and War in Somalia* (Nairobi: African Centre for Technology Studies, 2002), p. 20.



Map 2. Land use in Somalia

deegaan, privatization has tended to further economic differentiation in most parts of the country, and has even contributed to the weakening of clan-based welfare obligations. In districts where Shari'a-based governance is adopted or imposed, local authorities are more likely to recognize individual titles to land or infrastructure which has been improved by the owners, while at the same time urging the wealthy to provide for the needy in their communities through *zakat* (obligatory alms) or *sadaqat* (voluntary contributions).

While most of the larger well complexes have remained under the proprietorship of the same dominant clans since at least the early twentieth century, when they were first mapped by the British Protectorate government in Somaliland and by the Italians in north-central Somalia, oral traditions vividly recall instances when wells were lost to rivals or transferred by colonial administrators to other clans.⁵ In Kenya, British authorities at the start of the twentieth century halted Somalis' pastoral expansion at the Tana River and subsequently sought to demarcate the territorial confines of the various clans that had expanded into the region. Today, those same clans claim the zones as their *deegaan* and seek to secure them through alliances with neighbouring groups and, when necessary, to defend them with armed force.

While home wells and pastures were central to the economic security of pastoral clans, they were only one component of what we might call 'regional resource systems'.⁶ These systems included the dispersed complex of natural resources (seasonal water courses, pastures with diverse grasses, salt licks, and wood reserves), and economic outlets (settlements or market centres where livestock products could be exchanged for basic commodities), all of which were essential for sustaining the pastoral enterprise through good years and bad. It was in times of local scarcity that livestock owners needed to call upon the full range of regional resources available within their home territories, and even to access pastures or watercourses controlled by groups outside their acknowledged *deegaan*. In later times, clan elders often signed treaties with colonial authorities, agreeing to support the administration in exchange for government backing for their

5 For example, Barnes, 'U dhashay—Ku dhashay', p. 493

6 Lee Cassanelli, *The Shaping of Somali Society* (Philadelphia, University of Pennsylvania Press, 1982), pp. 67–83.

claims to disputed wells or for assured transit rights through other clans' territories.

Most of the customary alliances forged between neighbouring clans or sub-clans within a given region—via intermarriage, *diyaa* (blood compensation) contracts, or religiously-sanctioned *xeer* agreements—reflect a recognition that clan survival in the long term depended on access to multiple resources outside one's home territory. Women were central to the building of cross-clan alliances; while they remained 'daughters' of their father's clan, they resided with their husband's kin group and served as important go-betweens in inter-clan relations.

Among the agro-pastoral and farming communities of southern Somalia—home to the many groups belonging to the Rahanweyn clan family—the boundaries of *deegaan* were more limited. Extended families marked their claims by erecting permanent homesteads, constructing *wars* (depressions to collect and store rainwater), and building thorn fences at the boundaries of their rain-fed farms and grazing reserves. Each sub-clan identified with one or more 'home villages,' as did the scattered Somali Bantu farming communities whose plots were typically marked by irrigation canals or clusters of fruit trees along the banks of the Shabeele and Jubba rivers.

On the whole, the inter-riverine populations were more densely settled and less dependent on external markets than their pastoral counterparts in northern and central Somalia. They remained economically self-sufficient through the first three-quarters of the twentieth century and were largely insulated from national politics. Only with the growing encroachment by outside investors and state authorities in the 1970s and 1980s did these southern Somali communities face serious threats to the customary tenure rights they had enjoyed in their home territories—which helps account for their belated embrace of the 'armed militia' politics of the late 1980s and 1990s in defence of those rights.

Finally, for the sedentary residents of Somalia's old coastal towns, 'home' was limited to the neighbourhoods where their homes and shops were located. This observation applies especially to those long-resident urban families known as the Benadiri, or more specifically as Reer Hamar, Reer Marka and others whose

assets were largely limited to the towns. While a few Benadiri historically owned properties along the nearby Shabeele River, they were distinct from the wealthy land and livestock owners who came to settle in Mogadishu during the later colonial era and particularly after Somalia's independence in 1960. The latter maintained their rights to resources in their 'home territories' whereas the majority of the Benadiri did not have secure tenure rights outside the towns or cities, and their sole recourse during the civil war was to seek sanctuary beyond the borders of Somalia.

In the case of the Benadiri, clusters of related families typically lived in the same urban quarters, where the wealthier ones often funded the construction of local mosques or shrines to venerated saints, structures which in turn became part of their patrimony. Local cemeteries where ancestors were buried constituted another marker of a family's attachment to a specific quarter. These urban spaces were typically recognized by other town dwellers as 'home territories' of the families which had founded them and which maintained the stone houses and shops where they lived and worked. At the same time, urban real estate was not as readily defensible as the wells and farmlands of rural Somalis when the civil war broke out. Many urban families were forced to flee as refugees to neighbouring countries when the state collapsed in 1991, leaving their property and possessions to the armed militias.

To highlight the importance of the notion of 'home territory' as a fundamental source of identity and security in Somali society, we need only look at the one major exception: the so-called 'outcaste' groups found not only in Somalia but through much of the Horn. It was only the outcaste groups—formerly known as Midgan, Tumul, and Yibir, and today more commonly known as Madhiban—who historically had no recognized home territories of their own. Rather they practised their occupational specialties (as hunters, tanners, metal workers, and midwives) for the dominant clans among whom they lived. While particular outcaste lineages came to be associated with one or more 'noble' clans for whom they performed essential services, they were not entitled to either land or livestock. Indeed it may have been the inability of the Madhiban to claim or defend a fixed 'home territory' that defined them as 'outcastes' and caused them to live as

7 Ken Menkhaus, 'Kenya-Somalia Border Conflict Analysis', US Agency for International Development (USAID)/Conflict Prevention, Mitigation, and Response Program for East and Southern Africa (CPMR/ESA), Nairobi, 2002.

marginalized minorities throughout the Horn of Africa. In this way, they resembled the 'Falashas' and other marginalized occupational groups in Ethiopia, who did not own plots of land or enjoy the tenancy rights that served to define a 'free' person.

'Hosts' and 'guests'

Given the long history of population movements in the Somali peninsula—the result at different times and places of environmental pressure, demographic growth and, more recently, conflict and militia occupation—it is not surprising that disputes over land between long-time occupants and immigrant arrivals have been a recurrent feature of Somali life. The incessant movements in search of economic security gave rise to institutional arrangements governing the allocation of land rights—and serving to regulate relations among 'hosts' and 'guests' who shared access to local resources.

As described by Ken Menkhaus in the context of the trans-Jubba region, the distinction between *guri* (indigenous inhabitants) and *galti* (newcomers) has counterparts in most other regions of Somalia.⁷ In the past, newcomers seeking refuge or protection were frequently 'adopted' by the established residents as *sheegad*, receiving protection and limited rights to use of local resources in exchange for acknowledgement of the host clan's authority. There are parallels here with the venerable Somali institution of the *abbaan* (host or protector), who offered temporary shelter and security for traders or travellers whose business required them to spend time in another clan's territory. The *abbaan* and his kinsmen served as guarantors of the guests' safety for the duration of their stay; in turn, the patronage of the *abbaan* ensured that guests would conduct their business in the interests of their hosts. Nowadays, the *abbaan* might be termed a 'rentier' – offering outsiders protection and access to local resources in exchange for a 'service fee'.

This form of contractual clientship between established residents and newly-arrived clients allowed the hosts to increase their collective strength and *diya*-paying capacity, while providing the 'guests' with access to local pasture, water, and protection. Eventually, *xeer* served to formalize the arrangements and, especially

when blessed by local religious authorities, helped diffuse potential conflict and provide precedents for on-going negotiations between *guri* and *galti* parties.

In southern Somalia, *sheegad* arrangements between host and guest communities could endure for several generations: over time the guests might collectively be incorporated as a new 'lineage' in the genealogical structure of the host community. It appears that many of today's Rahanweyn clans are in fact amalgams of groups of different origins, who were absorbed into the communities of the original settlers, similar to 'naturalized' citizens within a host country.⁸ Alternatively, the immigrants might attract other members of their extended families to their new homes, causing friction with their hosts or building up their manpower to the point where they could renounce their client status. Local oral tradition relates cases where former client groups rejected the *sheegad* arrangements, and broke off relations with their hosts. In the past, former *sheegad* might move off in search of new land where they could settle and exercise more autonomy. Nowadays, they may seek alliances with powerful outside militia groups to help them assert claims to full rights over portions of the land of their former hosts. In some cases, it appears that adopted clans have 'rediscovered' their original identity and deployed it to strike alliances with the new power brokers in the land, enabling them to revoke their client status and lay claim to their former hosts' resources.

The historical rights of 'hosts' to first use of local resources, along with the authority to allocate use-rights to outsiders, derived from several sources. One was presumed primacy in settling the land: in southern Somalia, customary law typically recognized the rights of the *curad* (literally, 'first born'), or earliest settlers, to the first use of fresh pasture or the choicest plots along the riverine flood plains; rights to collect payments for the use of water and fodder reserves; and rights to allocate farm plots to newcomers to the community. In the past, these rights invariably required the consent of the elders who represented the leading *curad* families in the community.

A second source of legitimacy was more mystical or spiritual and could take several forms. One was the blessing of *wadaad*, or local Islamic sheikhs, who were frequently called upon to seal

⁸ See Colucci, *Principi di diritto consuetudinario*, for several examples of this process.

agreements between neighbouring clans or between hosts and guests. This typically involved washing the ink of a Qur'anic verse from a *loox* (wooden writing tablet) into a bowl, and then sharing out the holy water to be drunk by the 'signatories', thus binding them to the agreement. In addition, it was widely believed that those who had lived on the land for many generations could call upon the local *djinn* (spirits) for protection. Oral traditions attributed special powers to the Somali Bantu farmers of the Lower Shabeele and Jubba valleys, claiming that their magic enabled them to command crocodiles or swarms of bees to attack unwelcome outsiders. In these ways, indigenous rights to land could be safeguarded even by those who were demographically or militarily weak. Finally, local narratives of historical land claims helped to enshrine these rights in the collective memory and in the *xeer* of the indigenous occupants.

Customary rights to land for members of a 'host' community were thus based on a combination of acknowledged primacy in settling the land, on numerical strength, and on religious sanctions, all backed by the consensus of the community. Events over the past four decades have eroded these pillars. The introduction of national land titling in the 1970s and the militarization of Somalia since the 1980s have changed the rules of the game, giving 'outsiders'—in the form of state-backed elites or armed militias—a decided advantage over local landholders, and rendering customary practice increasingly irrelevant.

While armed land grabs have become the norm in recent decades (especially in southern Somalia), it is worth noting that forcible transfers of land to more powerful outsiders have occurred with regularity in the past. From the evidence available, such shifts in power on the ground were typically accompanied by the renegotiation of resource rights among local parties, by new *xeer* agreements, and eventually by reformulations of local collective histories to acknowledge the new power balance. Whether in deference to prevailing cultural norms, or simply to render co-existence possible, outsiders who seized control of local resources usually strove to legitimize their claims by 'customary' means: by marrying into local lineages, setting up businesses in the local economy, and inventing new 'histories' to reflect their

U dhashay, ku dhashay, ku dhaqmay: *Rights of blood, birth, or citizenship*

It is important to recognize that Somali discourses surrounding rights to land are not based solely on the logic of clan power or precedence in settlement. The notion that one has full rights to land and citizenship only in one's home region and nowhere else—*u dhashay* (born to a region)—was clearly not the sole norm in the ethnically heterogeneous districts of inter-riverine Somalia. There, the idea of *ku dhashay* (born in a region) typically extended use rights to the descendants of adopted outsiders, who might even acquire full tenure through incorporation into the host community's clan. In urban areas, the notion of *ku dhaqmay* (where one lives) acknowledged the property rights of all Somalis regardless of clan or place of birth—a kind of universal Somali citizenship. This cosmopolitan form of citizenship, with secure rights to residence and inheritance, appears to have operated in the pre-colonial coastal towns of Somalia, which were made up of families and communities of many origins. Even in these urban settings, however, the incorporation of newcomers into the civic community typically required the acquiescence of the founders who were usually the most powerful families. The collective identity of many towns was often framed in a clan idiom to express the solidarity of its multiple components.

Such consensus on co-existence rarely survived the exercise of force by the occupying militias after 1990. The former civic solidarity of the residents of Kismaayo—whose majority residents from the Absame and Harti clans were known collectively as the Reer Waamo—was shattered following the collapse of the state and subsequent clan realignments. The emergence of a Reer Luuq—embracing the Rahanweyn, Marehan, and Oromo residents of Luuq, an inland Jubba river town—did not prevent divisions, fuelled by alliances of town residents with their rural clansmen to pursue particular agendas.

While these contending notions of citizenship, with their associated property rights, suggest that 'traditional' Somali ideas of ownership are more heterogeneous than observers sometimes think, they have invariably suffered under the current realities of land grabbing and forced displacement. The current allocation of

land rights rests largely on the superiority of military force or the threat of its exercise, which dictates the law in regulating access to local land and resources. Historically, ‘effective occupancy’ has always been the starting point for claims to land.⁹ What has occurred over the past two decades is the start of a new wave of occupations by outsiders, or in some cases by former ‘guests’ in partnership with powerful outsiders, who have asserted their rights to local resources at the expense of groups who had previously enjoyed customary proprietorship.

If history is a guide, it should be anticipated that recent forced transfers of land will generate redefinitions of ‘customary’ rights which ultimately acknowledge the claims of the more powerful newcomers. Sometimes, small clans with customary or adoptive rights to land may ally with more powerful clans who lack customary rights in a district but who possess the power to ensure the small clan’s access. The alliance also confers legitimacy to the powerful clan and gives it leverage in future negotiations over rights in that district. As Farah et al. note, such alliances have been characteristic of the post-1990 situation, and help to determine the negotiating strength of coalitions at the regional or national levels.¹⁰ While the collective memory of those groups who have lost land or customary control over it may survive for many generations—particularly in cases where founding ancestors are buried on that land—the dominant group’s version will ultimately become the ‘official’ local history of the place. In the meantime, however, contending claims will be rampant, as international observers have observed all too well in present-day Somalia.

⁹ Colucci, *Principi di diritto consuetudinario*, p. 155, puts it succinctly: ‘Force is always the basis of the occupation of land.’ He distinguishes between occupation by war and occupation by more gradual penetration.

¹⁰ Farah, Hussein, and Lind, ‘Deegaan, Politics and War’, pp. 21–3.

3. The transformation of land rights

11 Barnes, 'U-dhashay—Ku-dhashay,' provides several examples.

12 For example, Virginia Luling, *Somali Sultanate: The Geledi City-State Over 150 Years* (Rutgers: Transaction Publishers, 2002), pp. 137–163. The fullest discussion of Italian colonial land legislation and its impact on customary tenure is Marco Guadagni, *Xeerka Beeraha. Diritto Fondiario Somalo* (Milan: Dott.A Giuffrè Editore, 1981), pp. 141–222.

13 Catherine Besteman and Lee Cassanelli, *The Struggle for Land in Southern Somalia: The War Behind the War* (Boulder: Westview Press, 1996) is a collection of essays documenting how several customary systems of land use and resource sharing were beginning to erode in the face of the state's attempts to establish collective farms and to allocate titles to political cronies.

Notions of customary tenure and patterns of host/guest relations which governed land use in the past have been complicated in the twentieth century by state policies—both during the colonial period and after independence—and by global economic trends, which have helped, among other things, to create a private market in land. Colonial administrations throughout the Somali lands sought to fix the boundaries of particular clans to facilitate governance and reduce inter-clan conflict, thereby reinforcing the identification of clans with specific 'home territories' even in highly mobile pastoral districts.¹¹ In the agricultural zones of Italian Somaliland, the colonial state itself appropriated irrigable land for expatriate farms and commercial plantations, often benefiting cooperative local elites while turning former smallholders into labourers or tenant farmers.¹²

Colonial-era boundary making or land expropriation invariably produced both winners and losers, extending the territories of some clans at the expense of others and, even within the same community, empowering some individuals at the expense of others. Similarly, land policies enacted during the Siyad Barre era (1969–1991), and efforts by subsequent power brokers to reverse the outcomes of those policies, have generated additional claims to tenure rights by new sets of groups and individuals favoured by whoever held authority at the time. The result has been a series of overlapping claims, dating to various historical periods and based on quite different senses of entitlement and methods of occupation, which persist into the contemporary period.¹³ The various contenders can all cite selective 'historical' evidence in support of their particular claims as legitimate owners or occupants of the land.

In southern and central Somalia, valuable farmland has been a magnet for profit-seeking outsiders from at least the mid-nineteenth century. Along the Shabeelle river, Somali landholders had used slaves imported from East Africa to harvest grain, sesame,

and *orchella* (a textile dye) for export to Zanzibar and the Middle East. Italian colonizers freed the slaves but conscripted them for work on colonial plantations carved from irrigable land along the Jubba and Shabeele rivers, appropriated by the state from local lineages.

The post-independence era

Following Somalia's independence in 1960, the farming communities of southern Somalia had little influence over national land legislation; indeed one of the singular features of land politics in southern Somalia is that the communities which traditionally inhabited the country's best agricultural land—the Rahanweyn clans and the Somali Bantu—played only a marginal role in Somalia's national political life. They continued to face social discrimination by the country's dominant clans, most of whose members came from pastoral backgrounds and saw farming as a demeaning occupation.

This was partly to do with their status as 'minorities', a relative term conventionally denoting clans or communities outside the four 'noble' clan families of Darood, Hawiye, Isaaq, and Dir. While some minority clans are indeed small, the agro-pastoral Rahanweyn in the Bay and Bakool regions consist of some three dozen clans and number over a million people. Collectively, the so-called minorities probably make up over one-third of the total Somali population, but until the civil war they had no sense of political solidarity or common 'minority' consciousness.

So, while some agrarian southerners played important roles in Somalia's early nationalist politics, they were effectively excluded from major posts in Somalia's post-independence governments—and, despite their customary role as caretakers of the country's agricultural breadbasket, southern clans saw their fortunes decline, first under a predatory Somali state and then under militia rule in the wake of the state's collapse.

Their fate in Somalia's public sector was effectively sealed after 1955, when the Italian Trusteeship Administration (1950-1960) abandoned its former support of the southern regional political parties in favour of rapprochement with the Somali Youth League (SYL). The SYL had its strongest following among

14 The following argument is presented in greater detail in Lee Cassanelli, 'Explaining the Somali Crisis', in Besteman and Cassanelli, *The Struggle for Land*, pp. 13-26.

Darood, Hawiye, and Isaaq clans, and it was these groups who came to dominate the national army, police force, and civil service as Somalia moved toward independence in 1960.

The interest of Somalia's new political elites in appropriating rural land for their own use had precedents in the 1950s and 1960s: investments by wealthy businessmen in cement water reservoirs, enclosed fodder reserves, and uncleared riverine land marked the earliest signs of privatization of rural productive assets. Some well-connected politicians bought banana plantations from departing Italians after independence, and members of the urban elite often purchased small plots of land near the river, erecting modest country homes as weekend retreats outside the city.

Land-grabbing by the state

In the early 1970s, competition for the resources of the southern riverine areas began in earnest, with the result that land and water rights, always objects of contestation at the local level, now became targets of state policies and programmes. While this phenomenon appeared to coincide with the accession to power of Siyad Barre in 1969, it was in fact the convergence of several other trends that transformed the struggle for land from the local to the national arena. Those trends are still operative today, and affect the land situation far more than the policies of any one political regime. Siyad Barre's government was simply the first to exploit the possibilities and to use allocation of land as a tool for building political support at the national level. The patterns established during the Siyad Barre years continued during the recent civil war and provided precedents for staking land claims that largely discounted customary tenure practices.¹⁴

The first trend to affect the distribution of land rights in southern Somalia was the state's efforts to resettle nomads displaced by the severe drought of 1974-1975 and/or the Ogaden war of 1977-1978. In each case, tens of thousands of Somalis from regions with scant resources were allocated land in resettlement sites or planned villages. The scheme required the appropriation by the state of substantial tracts of productive land previously under customary tenure in Middle Shabeele (Jalalaqsi), Lower Shabeele (Kurtun Waareey and Sablaale), Middle Jubba (Dujuma),

and several districts in Hiraan and Gedo. Most of these sites were located in the home territories of the southern ‘minority’ clans.

Although many of the resettled nomads eventually moved back to their home districts or sought temporary employment in the Gulf states, they frequently left family members behind in the new settlements. Later, with the support of the state and the presence of relatives on the ground, many of the migrants returned to reassert their claims to the land. Some of the earliest documented cases of land disputes between local residents and ‘outsiders’ in modern times resulted from these refugee resettlement schemes.¹⁵

A second key trend, and one that continued to inform the behaviour of the major players in the post-Barre era, was the rise in agricultural land values. While the process was somewhat belated in the Somali case—farmland had been the object of political contest in most African countries since the 1950s—a series of developments in the 1980s prompted an unprecedented land rush in Somalia. High inflation rates encouraged investment in durable assets, Somali labourers returning from the oil fields of the Middle East brought with them capital to invest, the abolition of price controls on grains pushed prices up, there was a growing demand for fruit and vegetables in Somalia’s burgeoning urban centres, and an IMF structural adjustment programme liberalized the economy in the 1980s. When Barre’s government disclosed plans to build a large hydroelectric and flood-control dam on the Jubba River above Baardheere in the mid-1980s, there was an additional flurry of land speculation in Gedo, Middle Jubba, and the Lower Jubba regions.¹⁶

The 1970s and 1980s also witnessed an accelerated process of class formation in Somalia, fuelled in part by the influx of new wealth in the form of international relief and development aid; overseas remittances from Somali workers in the Gulf; livestock export earnings; and Cold War military and economic subsidies to the Somali government. While Somalia had relatively few multimillionaires at the time, its class structure became more pronounced in these decades—an incongruity, given the avowedly socialist government. One indicator of elite status—apart from the ability to build a villa near the capital and educate one’s children overseas—was title to a piece of fertile riverine land, which

15 Allan Hoben, ‘Resource Tenure Issues in Somalia’, USAID, January 1985, pp. 32–9.

16 Besteman and Cassanelli, *The Struggle for Land*, pp. 19–20, 76–7, and 149.

17 Guadagni, *Xeerka Beeraha*, pp. 257–60, has a detailed account of ‘socialist’ land reforms.

18 For the earlier history of Ogadeni-Isaaq territorial disputes, see Barnes, ‘*U-dhashay—Ku-dhashay*’, pp. 494–6.

19 Besteman and Cassanelli, *The Struggle for Land*, pp. 41–5 and 147–50; Dustin Deherez, ‘The Scarcity of Land in Somalia’, Occasional Paper III, Bonn International Center for Conversion (BICC), 2009, p. 9.

20 Early examples of pressures on local controllers of wood reserves can be found in Gill Shepherd, ‘The Reality of the Commons: Answering Hardin from Somalia’, Overseas Development Institute (ODI), London, May 1988; Thomas Zitelman, ‘We have nobody in the Agencies!’ Somali and Oromo Responses to Relief Aid in Refugee Camps (Hiraan Region/Somali Democratic Republic), *Sozialanthropologische Arbeitspapiere* 17 (1989), pp. 17–19.

provided rental income, collateral for bank loans, and a source of speculation. Those Somalis who got rich quick during the Barre years set the example for all future power seekers: the array of warlords that emerged after the collapse of the state strove to reproduce for its own kin and clientele the kind of lifestyle—including absentee ownership of land in anticipation of future commercial investment—that had made Barre’s supporters a privileged class.

By the mid-1970s, the Barre regime had already moved to enact legislation enabling the state to accumulate rights to land and water resources throughout the country, particularly in the southern riverine districts. The Land Registration Act of 1975 was one of the key pieces of legislation enacted by the socialist regime to transform the national economy: it made all collective land the property of the state, and gave government courts rather than clan elders or Shari’a courts the authority to adjudicate land and inheritance claims.¹⁷ While administrative reorganization for rural development was typical of socialist governments throughout the developing world, Somali critics of the Barre regime saw his objectives in strictly clan terms: Gedo, for example, was designated as a region to be controlled administratively—and hence resource-wise—by the Marehan (Barre’s clan), Middle Jubba by the Ogaden, Lower Jubba by the Majerteen, etc. In the far south, a Jubba Valley Ministry was created in 1983 to plan and promote the Baardheere dam project. Its stated objectives were irrigated agriculture in state farms along the Jubba River and the steady supply of hydroelectric power to Mogadishu. But as many cynics noted, the proposed dam also gave Barre’s Marehan kinsmen in Gedo access to a potential bonanza of irrigated farmland and grazing reserves.

Finally, the Barre government armed favoured clans to enable them to seize land from rival clans, the Ogadeni encroachment onto Isaaq lands in the north being the most striking case. This is a good example of the regime’s use of an old feud to build political support. Several of the northern Ogadeni sub-clans had lost grazing land and wells to the British-backed Isaaq after World War II. The need to resettle refugees from the Ogaden War of 1977–1978 gave the Siyad Barre regime an opportunity to curry favour with

Ogadeni leaders at the expense of the Isaaq, whom the regime considered disloyal, by settling refugees on Issaq land.¹⁸

The cumulative effect of all these policies was to bring resources previously in the hands of local communities under the control of the national leadership, where they could be parcelled out to relatives and political cronies. The titling process became a means of land distribution to favoured interests at the expense of customary proprietors.¹⁹

The final trend contributing to the transformation of land rights was urbanization. The phenomenal growth of Mogadishu from a city of 50,000 people in 1960 to one of over a million by the mid-1980s, was the most dramatic manifestation of this process, which also included the transformation of tens of thousands of nomads into sedentary inhabitants of refugee camps and agro-pastoral settlements. Such rapid urbanization was accompanied, as elsewhere in Africa, by increased demands for food and cooking fuel. The need for charcoal presented a major challenge to traditional resource management systems, as resettled refugees and government agents began to lay claim to communal wood reserves in Bay Region and along the Jubba and Shabeele rivers.²⁰ State farms, officially established to produce rice and sugar for the nation, became the private preserves of the ruling regime's allies.

These trends were well underway when the Barre government fell in January 1991.²¹ The ensuing conflict did, to be sure, display elements of a clan vendetta, as old scores were settled and members of clans favoured by the expelled regime were systematically hunted down in what Kapteijns has called a clear case of 'clan cleansing'.²² But below the surface of clan mobilization were efforts by the incoming warlords not only to grab property abandoned by supporters of the expelled regime but also to lay claim to other productive assets in the country. Their objectives were evident from the patterns of recurrent fighting in, and refugee flows from, the country's most productive agricultural districts, as advancing Hawiye and retreating Darood militias sought to establish *de facto* control over communities like Afgooye, Shalambod, Jilib, and Jamame.

Even after international peacekeeping forces had helped stabilize a general territorial equilibrium amongst the major

21 The following analysis is drawn in part from Lee Cassanelli, 'Somali Land Resource Issues in Historical Perspective', in *Learning from Somalia: Lessons in Armed Humanitarian Intervention*, eds. Walter C. Clarke and Jeffrey Herbst (Boulder, Westview Press, 1997), pp. 67–76.

22 Claims of genocide and 'clan cleansing' at the time were raised in John Prendergast, *The Bones of Our Children are Not Yet Buried* (Washington, D.C.: Center of Concern, 1994), pp. 7–8. See also Mohamed H. Mukhtar and Abdi M. Kusow, 'The Bottom-up Approach in Reconciliation in the Inter-River Regions of Somalia: A Visiting Mission Report, August 18–September 23, 1993' (unpublished). The recent Lidwien Kapteijns, *Clan Cleansing in Somalia: The Ruinous Legacy of 1991* (Philadelphia: University of Pennsylvania Press, 2012) is now the definitive study.

23 Author's interviews, Mombasa, 1993.

24 Mukhtar and Kusow, 'The Bottom-up Approach', p. 18.

25 For example, African Rights, 'Land Tenure, the Creation of Famine, and Prospects for Peace in Somalia', London, October 1993; Prendergast, *The Bones of Our Children*, pp. 5–12; Lee Cassanelli, 'Somali Land Resource Issues in Historical Perspective,' in Walter C. Clarke and Jeffrey Herbst (eds.), *Learning from Somalia: Lessons in Armed Humanitarian Intervention* (Boulder: Westview Press, 1997), pp. 67–76. For a parallel analysis of the resource issues behind the recruitment of clan militias in the pastoral regions of northern and central Somalia and around Afmadow, see African Rights, 'Grass and the Roots of Peace: Pastoral Resources, Conflict and Conflict Resolution in Somalia and Somaliland', London, April 1994. The view that land issues were a major source of conflict in post-1991 Somalia has now become part of the accepted wisdom; Deherez, 'The Scarcity of Land', pp. 11–12.

antagonists early in 1993, the Shabeele and Jubba valleys continued to experience chronic fighting, which should have alerted outside observers that something more than clan vendettas was going on. Refugees who fled from Brava, for example, were convinced that the recurrent rapes, house searches, and beatings visited on their community by occupying militias were aimed at shaming uncooperative family heads to the point that they would choose to abandon the town to the newcomers.²³

Outsiders move in: Land as a driver of conflict

It is easy in hindsight to see that land was a key driver of the conflicts that ravaged southern Somalia in the early 1990s. In the early months of the civil war, farming districts served as a source of both food and revenue for mobile militias. The initial objective of any occupier was to appropriate agricultural surplus, skim off any international aid directed toward the rural population, and put pressure on local elders to offer public support for the newcomers.

There was also evidence that armed outsiders forcibly took wives from locally established lineage groups.²⁴ Traditionally, belligerent clans with a common stake in local resources might use intermarriage to promote reconciliation—a strategy deployed with some success by elders involved in the Somaliland peace negotiations in the mid-1990s. But in the context of clan territorial expansion in southern Somalia in the 1990s, forced marriages served to legitimize the claims of 'outsiders' who lacked customary rights to local resources. By co-opting clan leaders, seizing control of market centres, and 'marrying in', the newcomers positioned themselves to speak for the community, which took on added significance when UN authorities subsequently attempted to establish rural councils to represent local community interests in the process of state reconstruction.

Because the international peacekeeping forces which arrived in Somalia in late 1992 were understandably preoccupied with establishing order in the capital city and ensuring the distribution of emergency food aid to famine-stricken communities in the interior, they perhaps did not fully appreciate the extent to which a war for land was beginning to redraw the clan map of Somalia.²⁵ It is moot at this point to speculate on whether the

prompt deployment of peacekeeping forces to zones where extensive land grabbing was underway might have deflected or curtailed the process at a time when the situation was still in flux. In at least one instance, legal procedures backed by an international military presence temporarily halted the forcible takeover of commercial property by armed outsiders. Colonel Michael Kelly, who was part of the Australian UNOSOM contingent in Baydhabo, reported that attempts by a segment of the Habar Gedir clan to take over local businesses were exposed through court hearings and the perpetrators expelled from the region through the cooperation of local authorities and international peacekeepers.²⁶

Yet even as the famine subsided, and levels of violence in the capital diminished in 1993, international efforts to broker peace at the national level failed to prioritize the land issue. Because most of the Somali factions involved in the negotiations had participated in the seizure of properties from members of the departing regime, any attempt to put property rights on the peacekeeping agenda would certainly have been scuttled by the warlords around the table. In any event, despite their successes in opening food-supply corridors to the interior, the United Task Force (UNITAF) and the second UN Operation in Somalia (UNOSOM II) were unable to halt the steady penetration of armed militia influence into the local economies of the southern farming communities. The early 1995 ‘banana wars’ in the Marka/Shalambood area reveal how quickly those who seized control of the productive plantation zones and their adjacent ports could recover revenues from the fruit export business.

If policy analysts failed to notice the trend toward forcible transfers of land to new claimants, Somalis themselves were quite aware of the process. After a visiting mission to the inter-riverine region in 1993, two respected Somali scholars argued that ‘the Somali conflict has been and is a conflict between the southern agro-pastoral groups and the northern nomadic groups. More specifically, it has been a conflict between Darood and Hawiye for the control and domination of the inter-riverine region.’²⁷ Arguing that the Barre regime’s decision in 1982 to subdivide the country into several new administrative regions ‘was merely a pretext for division and re-appropriation of the farming lands of

26 Michael J. Kelly, *Restoring and Maintaining Order in Complex Peace Operations* (The Hague: Kluwer Law International, 1999), pp. 49–54.

27 Mukhtar and Kusow, ‘The Bottom-up Approach’, pp. 5–6 and 11.

28 Author's interview, Mombasa, 1993.

29 Personal communication from Cedric Barnes, March 2014.

30 See, for example, Kenneth Menkhaus, 'Report on an Emergency Needs Assessment of the Lower Jubba Region (Kismaayo, Jamaame, and Jilib Districts), Somalia', World Concern, Nairobi, July 1991; also African Rights, 'Land Tenure'.

the inter-riverine region by more nomadic groups of the country,' they concluded that 'the struggle continues to replace Darood hegemony with a Habar Gedir one.'

Although this may sound to foreigners like Somali clan paranoia, it was central to Somali analyses of their situation in the 1990s. A description of the late Mohamed Farah Aidid's 'land' strategy proposed by a Benadiri refugee in Kenya is admirably succinct: General Aidid, he said, had been 'stalemated in Mogadishu by the Abgaal, in Baardheere by the Marehan, in Baydhabo by the resurgent Rahanweyn, and in Kismaayo by the Harti'. All he had left, he said, was to try and dominate the Shabeele valley and its unarmed minorities.²⁸

General Aidid's claims to these riverine districts, advanced at the Addis Ababa conferences in 1993, were based primarily on his militias' success in ousting the Darood forces previously in control. In other words his clan's rights derived from effective armed occupation. At the same time, some Hawiye sub-clans had been settled in the hinterland of Marka for several generations, even electing a representative to parliament from that district in the 1960s.²⁹

As noted above, Hawiye families had been among those resettled at Sablaale on the Lower Shabeele following the 1974–1975 drought, and a few Hawiye families had longstanding marriage ties to local residents. While these isolated 'historical' examples seem a rather tenuous basis on which to assert Habar Gedir—or more general Hawiye—claims to sovereignty over the Lower Shabeele region, they provide a good illustration of how 'outsider' clans seek to legitimize their collective claims to rights over land which historically lay outside their original home territories.

It was the minorities, most notably the riverine farmers and the Benadiri townsmen, who were most vulnerable in the new scramble for rural land and urban real estate. Even though observers at the time were aware of the plight of these largely unarmed minorities, there seemed little that the international actors could do.³⁰ Somalia's rural smallholders were clearly minor players in the political negotiations aimed at national reconciliation; and the powerful factions with leverage at the table were themselves beneficiaries of the land grab. For brokers of the peace

talks, it was a matter of priorities, with potential national-level reconciliation taking precedence over issues of local economic justice. The international community's priorities have remained largely unchanged over the past two decades, with the important exception of recognizing and providing third-country asylum for the most vulnerable displaced minorities.³¹ Meanwhile, the newcomers had become entrenched, and the war for land evolved into a prolonged struggle for recognition of rights gained or for restoration of rights lost.

³¹ The situation of Somalia's minorities during the war, and the reasons for their particular vulnerability, are discussed in Bernhard Helander, 'Vulnerable minorities in Somalia and Somaliland', *Indigenous Affairs* 2 (1995), pp. 21–3; Alex de Waal, 'The UN and Somalia's Invisible Minorities', *Cultural Survival Quarterly* 18/1 (1994); and Lee Cassanelli, 'Victims and Vulnerable Groups in Southern Somalia', Immigration and Refugee Board, Ottawa, 1995.

4. Conclusions and policy considerations

- 32 Deherez, 'The Scarcity of Land, p. 11, essentially makes the same point about the overlapping claims to land, based on different principles of rights to ownership.
- 33 Testimonies collected and reported by the late Virginia Luling.

Contemporary efforts to resolve land conflicts in post-war Somalia must start by recognizing at least three sets of contestants: indigenous inhabitants with customary rights but no formal titles; those who through their connections with previous governments and access to the legal mechanisms of land registration (particularly after the Land Act of 1975) had managed to obtain titles to the land, often as absentee owners; and those who, having ousted Siyad Barre and his cronies, continue to assert that as 'liberators' of Somalia they have a legitimate claim to land that the previous regime had expropriated.³²

As a result, any attempt to resolve disputes over properties which have changed hands, by whatever means, must confront claims by customary proprietors, by ousted titleholders from the old regime, and by the current occupiers of those properties. Even if the various parties agree to the establishment of an impartial tribunal to consider overlapping claims, they are unlikely collectively to accept solutions that involve wholesale recognition of customary rights, of previous titleholders' rights, or of the rights of effective occupation. This is why some individuals with customary claims to land have chosen pragmatically to make alliances with outsiders who possess the guns or the political connections to help them secure those claims. It is also why smallholders in some rural districts have, however reluctantly, given support and sanctuary to militant Islamist forces, whom they regard as more reliable protectors of local rights than the agents of the central government. For example, when the Somali Transitional Federal Government (TFG) forces seized Afgooye from al-Shabaab in May 2012, local residents complained of looting, summary arrests, rapes, and the resumption of shakedowns at roadblocks—and they contrasted these developments unfavourably with the relative peace, prosperity, and security of property experienced by most under al-Shabaab rule.³³

The reluctance of interim governments and their international backers over the past 20 years to address property rights in the cities—much less in the most contested rural districts—has given *de facto* legitimacy to the post-1991 redistribution of land. As the current government and its local allies strive to establish their authority beyond Mogadishu, they are simultaneously establishing their right to allocate and safeguard resources, both nationally and locally. Land rights cannot easily be divorced from political sovereignty, which makes the creation of any international land claims tribunal highly problematic. Land issues will almost certainly need to be resolved with mechanisms and within parameters set by the new Somali government, if its international sovereignty is to be respected and its domestic legitimacy extended.

At the same time, it may be possible to move towards a strategy that acknowledges the reality of the reconfigured ‘home territories’ map of Somalia, while incorporating rights to the use of resources and security of tenure for other groups who have residual claims within those territories. By drawing on indigenous and historically grounded patterns of resource sharing by ‘hosts’ and ‘guests’, it may be possible gradually to reinvigorate the notion—rooted in both local and Islamic tradition—that land and resources are gifts of God to all Somalis, and in so doing diminish the reliance on clan exclusivity as the primary principle for defining rights to territory, which has been the case for the past 20 years.

Such a shift in thinking requires both Somali and international actors to accept the reality that certain districts have become the *de facto deegaan*, the ‘home turf’ of those who currently occupy them. At the same time, the various proponents of *xeer*, Islamic jurisprudence, and international law will need to press for the institutionalization of norms which safeguard the individual and collective rights of those ‘outsiders’ who seek to live, work, and share in the resources of the newly-reapportioned *deegaan*.

Such a strategy may not be as far-fetched as it might seem. Even those districts that in 1991-1992 witnessed the worst incidents of ‘clan cleansing’ have begun to welcome back ‘guests’ from other clans, including some who had been forcibly expelled. How can this be explained? In her recent book, Lidwien Kapteijns

34 Kapteijns, *Clan Cleansing in Somalia*, pp. 229–32.

35 In focusing on the events of 1991–1992, Kapteijns narrative did not explore the return of some Daarood clansmen to Mogadishu when the hostilities began to diminish in 1993.

argues that campaigns of ‘clan-cleansing’ marked a ‘key shift’, a major turning point in the history of Somali clan politics. By propagating hate narratives and mobilizing civilians to attack their Darood neighbours, the warlord successors to Siyad Barre ensured, in Kapteijns’s view, that Somalis would never again submit to a national government dominated by a clan other than their own.³⁴ This may be true, but while Somalia continues to face a crisis of state, it has not seen a complete breakdown of inter-clan relations at the regional and local levels. It is at these levels where notions of *deegaan*, of ‘hosts’ and ‘guests’, and of shared use-rights are most evident in practice.

If, as most observers now acknowledge, the civil wars in Somalia were as much about which clans should control the country’s resources as they were about which clans should rule the state, the 1991–1992 clan-cleansing takes on a somewhat different significance. Kapteijns’s own evidence suggests that the major episodes of clan-cleansing were concentrated in Mogadishu and its environs, in the nearby riverine regions that held some of the best agricultural land in the country, and in the southern city of Kismaayo. In all these places, multiple clans competed for control over local resources. During the Barre era, Darood clansmen and their allies had used the state to reallocate these resources, effectively making the districts part of their own *deegaan*. After 1990, the new power brokers were just as determined to assert their claims as overlords to make these strategic districts part of a Hawiye *deegaan* in southern Somalia. They used violence, including ‘clan-cleansing’, to establish their domination. But, once in control, having established themselves as the new ‘hosts’, they could begin to negotiate with their ‘guests’.³⁵

In Mogadishu itself, as early as 1993 many of the Darood who had fled the city, including members of Barre’s Marehan clan, were able to return, primarily to pursue business interests, to check on their properties, and perhaps strike political deals with the new power brokers. Local warlords and members of the business community in Mogadishu often found it advantageous to welcome back former Isaaq and Darood associates who could give them commercial access to northern ports and markets in Somaliland and Puntland. Once the Hawiye had established control over the

key security and revenue-generating institutions in the capital—including most senior posts in civil administration, the police, and judicial authorities—they appeared quite willing to resume multi-clan business partnerships, encourage diaspora investments from other clans, and restore the city's image as a multi-clan market place, albeit with Hawiye clans as the major 'hosts' and *abbaans*.

This outcome is precisely what one would expect in Somalia's opportunistic political culture: Somali politicians and entrepreneurs who had worked for the Barre regime quickly embraced the new lords of Mogadishu, who in turn welcomed back elements of the old guard who could be useful 'junior partners' in the new post-Barre dispensation. No clan, however, has succeeded in making Kismaayo their uncontested *deegaan*, so the 'host' and 'guest' status there remains uncertain.

In Somalia's current reality, a trustworthy and predictable regime of property rights will almost certainly have to begin with the consent, and under the auspices of, a local or regional 'host'. While international law gives precedence to protection of private property, Somalis cannot be expected to ignore the deeply engrained notion of *deegaan*, which is a *collective* claim to rights over and use of resources to which 'outsiders' can enjoy access only conditionally and consensually. Collective claims by outsiders to 'ownership' of any portion of a territory lying within the acknowledged *deegaan* of another clan are unlikely to be acceptable to the hosts.

It might, however, be possible to introduce a tenure regime which permits use-rights with security guarantees to individuals and families, or long-term leases by the agreement of both parties, sanctioned by Shari'a courts. Authorities seeking to allocate land for internally displaced communities, as well as for housing or subsistence farming, have already broached the idea of 'rental schemes' with the full protection of tenants' rights to water, to erect housing, and to enjoy fixed and fair rents. A pragmatic approach may also mitigate conflicts over titles and the rights of 'secondary occupants' by providing 'hosts' with incentives to embrace incorporation rather than the exclusion of outsiders in the use of local resources.

A historical perspective on land rights in Somalia suggests that, in the long run, even armed invaders of another clan's territory tend to settle down and establish relations with the existing inhabitants; sometimes as their allies, sometimes as their overlords. While the initial strategy typically entails efforts to exercise hegemonic control over local resources, the dominant group ultimately has an interest in protecting rather than pillaging those resources, and in sharing their use where they see advantage in doing so. In the course of infiltrating (with the intent of laying claim to) the *deegaan* of others, 'outsiders' today, as in the past, have used a combination of armed force, marriage alliances, and promises of security and stability to assert their claims to land.

The indigenous inhabitants in turn may find themselves in a position as 'guests' or 'clients' of the new overlords (for example, as tenant farmers or reluctant business or marriage partners), or they may be constrained to flee or emigrate. The processes of territorial expansion, followed by the adaptation to and institutionalization of the new power arrangements, are deeply rooted patterns in Somali history. The events of the recent conflict are only the latest manifestation of an older territorial imperative. The outcomes may not be those preferred by international justice and humanitarian sentiment—but if history is a guide, they represent an established 'Somali solution' to conflicts over land.

Glossary of acronyms, words and phrases

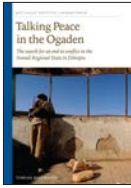
<i>abbaan</i>	host; protector
<i>curad</i>	lit. 'first-born'; earliest settlers
<i>deegaan</i>	stronghold or 'turf'; customary territorial law
<i>diya</i>	blood compensation
<i>djinn</i>	spirits
<i>galti</i>	newcomers
<i>guri</i>	indigenous inhabitants
<i>jilaal</i>	long dry season
<i>ku dhaqmay</i>	rights based on living for a long period in a certain location, even if born elsewhere
<i>ku dhashay</i>	rights associated with being born in a particular location in Somalia
<i>loox</i>	wooden writing tablet
<i>orchella</i>	textile dye
<i>sadaqat</i>	voluntary charitable contributions
<i>sheegad</i>	clients; outsiders incorporated into local communities
SYL	Somali Youth League
TFG	Transitional Federal Government
<i>u dhashay</i>	rights based on clan membership
UNITAF	United Task Force
UNOSOM	United Nations Operation in Somalia
<i>wadaad</i>	local religious leaders or (Ar.) <i>sheikhs</i>
<i>war</i>	depression to collect and store rainwater
<i>xeer</i>	Somali customary law
<i>zakat</i>	obligatory Islamic alms

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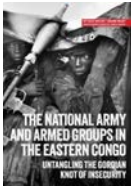
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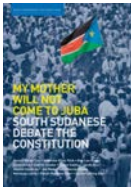
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Les Banyamulenge: Insurrection et exclusion dans les montagnes du Sud-Kivu

Ce rapport examine les Banyamulenge, communauté Tutsi congolaise se trouvant au coeur des multiples conflits dans l'est de la RDC. *Also available in English.*



حينما تصبح الحدود الادارية الداخلية حدوداً دولية
ركز النقاش الدائر حول السودانيين، الشمالي والجنوبي، علي
مسألة أين يمر خط الحدود بينهما. ويفحص التقرير موضوعاً
آخر هو: الأثر المحتمل للحدود الجديدة على سكان الاراضي
الحدودية.

When Boundaries Become Borders is also available in English.

In Somalia, land issues are particularly complex. Those involved in both policy and practice need to understand this complexity better if durable political solutions are to be identified and property rights for individuals and communities secured. Lee Cassanelli explains the complex nature of land use, as well as the concept of 'home' in the Somali context. His paper is food for thought for all those interested in land reform.

—Nuur Mohamud Sheekh, Senior Conflict & Humanitarian Adviser
Intergovernmental Authority on Development (IGAD)

Contestation over land has been a key driver of violent conflict in Somalia. In *Hosts and Guests*, Lee Cassanelli argues that a historical approach offers an illuminating way of understanding these disputes. Many current conflicts there, he argues, are rooted in longer histories of competition over land and water between neighbouring communities, or in struggles between local land-holders and a predatory state. In the long run, even armed invaders of another clan's territory tend to settle down and establish relations with the existing inhabitants; sometimes as their allies, sometimes as their overlords. Outsiders, today and in the past, have used a combination of armed force, marriage alliances, and promises of security and stability to assert their claims to land. The indigenous inhabitants may find themselves in a position as 'guests' or 'clients' of the new 'hosts'. This process of territorial expansion and consolidation is a recurrent pattern in Somali history, although it may not be that favoured by international justice and humanitarian sentiment.



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