



# Housing, Land and Property in Somalia:

Persons of Concern in Somaliland and South-Central Somalia



Housing Land and Property Issues in Somalia:  
**Persons of Concern**  
**in Somaliland and South-Central Somalia**



This report is the product of Legal Action Worldwide and the Norwegian Refugee Council. Made with the technical expertise of Legal Action Worldwide. October 2014

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LAW is an independent, non-profit organisation comprised of a network and think tank of prominent human rights lawyers and advisors. It provides innovative legal assistance to the least represented people, especially women and children, in fragile and conflict-affected states. LAW mobilises domestic, regional and global legal expertise to improve access to justice and obtain redress for people suffering from human rights violations and abuses. LAW is comprised of a network and think tank of prominent human rights lawyers and advisors from the Middle East, Africa, Europe, America and South America who advise on the development of innovative legal strategies aimed at effecting legal change. LAW works in three main ways:

Legal Assistance and Empowerment: LAW works with existing grassroots networks and government institutions to increase rights awareness and knowledge of the availability of legal avenues for redress.

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# Contents Page

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Glossary	1
Foreword	3
Background	5
<b>Section One: Somaliland</b>	<b>7</b>
1. Background	7
2. Legal framework	9
2.1 International and Regional Law	10
2.2 Human rights, refugee rights and IDP rights	10
2.3 Land law	11
3. Land conflicts	15
3.1 Types of conflict	15
3.2 Dispute resolution	17
4. Persons of concern	20
4.1 Internally Displaced Persons	20
4.2 Refugees, asylum seekers and undocumented foreigners	21
4.3 Members of minority clans	22
4.4 Living conditions	22
5. Relevant actors	23
5.1 Summary of key stakeholders	23
<b>Section Two: South-Central Somalia</b>	<b>26</b>
6. Background	26
6.1 Internally Displaced Persons	27
7. Legal framework	28
7.1 International and Regional Law	28
7.2 Human rights, refugee rights and IDP rights	29
7.2 Land law	30
8. Land conflicts	31
8.1 Forced Evictions in Mogadishu	31
8.2 Types of conflict	33
9. Relevant actors	36
<b>Annexes</b>	<b>39</b>
Annex I: Conventions and Declarations signed by Somalia	39
Annex II: Relevant sections of the Somaliland Constitution	41
Annex III: Process for legalising land in Somaliland	42
Annex IV: Index of Documents	43
Annex V: List of Interviewees/Consulted	46

## **GLOSSARY**

**Asylum seekers:** Persons who are seeking asylum outside of their place of origin but have not yet been given refugee status by a relevant authority

**ASWL:** Association of Somali Women Lawyers

**CAT:** Convention Against Torture

**COGWO:** Coalition of Grassroots Women Organisations

**DRC:** Danish Refugee Council

**FCA:** Finnish Church Aid

**FAO:** Food and Agricultural Organisation

**HLP:** Housing, land and property

**ICLA:** Information, Counselling and Legal Assistance

**ICCPR:** International Covenant of Civil and Political Rights

**ICESCR:** International Covenant of Economic, Social and Cultural Rights

**IDP:** Internally Displaced Person

**ILO:** International Law Organisation

**IOM:** International Organisation for Migration

**LDT:** Land Dispute Tribunal

**MoA:** Ministry of Agriculture

**NGO:** Non-governmental organisation

**NRC:** Norwegian Refugee Council

**POCs:** Persons of concern, including IDPs, refugees, asylum seekers, undocumented foreigners and people from minority clans

**Refugees:** Persons who have sought asylum outside their place of origin and have been given legally recognised refugee status by a relevant authority (for example, the government of the host state or the UNHCR)

**SCS:** South-Central Somalia

**SGBV:** Sexual and gender-based violence; violence that is directed against a person on the basis of gender, including sexual violence.

**SNM:** Somali National Movement

**SOLA:** Somaliland Lawyers Association

**SSTLAP:** Somaliland Secure Land and Tenure Arrangement Project

**SSWC:** Save Somali Women and Children

**SWDC:** Somali Women Development Centre

**SWLA:** Somaliland Women Lawyers Association

**UNDP:** United Nations Development Programme

**Undocumented foreigners:** Persons outside their place of origin who have not attempted to seek asylum

**UNHCR:** UN High Commissioner for Refugees

**Xeer:** Somali customary law, dispensed by customary elders

# Foreword

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This report provides an overview of Housing, Land and Property (HLP) issues in Somaliland and South-Central Somalia. It focuses predominantly on urban areas rather than on disputes over agricultural land and places an emphasis on the particular challenges faced by internally displaced persons and refugees, described in this report as ‘Persons of Concern.’ The report describes the background to land conflicts within both regions, the legal framework, modes of dispute resolution, which actors are involved and what activities they are undertaking.

Many Persons of Concern (POC) frequently move internally within Somalia, either by choice or because they are forcibly displaced. Others settle more permanently in their host communities. In both situations, they have very little security of tenure. This lack of tenure and vulnerability to further displacement must be addressed by all levels of government, as well as humanitarian and legal actors focusing on HLP issues.

The effect of these movements or decisions not to move by POCs effect HLP issues in Somalia in the following ways:

1. Lack of tenure and durable solutions for displaced populations has created a situation in which governments can forcibly evict entire communities. This process has usually involved significant human rights violations;
2. An influx of returnees has the potential to trigger increased conflicts over land as people find their properties occupied by settled IDPs and refugees;
3. For displaced people who cannot return to their places of origin for the foreseeable future, the improvement in security conditions in their host environment provides a greater opportunity for durable solutions focused on integration, including potentially gaining some legal interest in the land on which they live;
4. Conversely, improved security conditions means that the value of land will rise and demand will increase, leading to a greater potential for land-grabbing, to which POCs are particularly vulnerable;
5. The establishment of the central government in South Central Somalia allows for the possibility of the restoration of the formal legal system, which may provide POCs with greater protection than the clan-based justice currently enforced through customary structures.

The below table lists the most common types of conflicts over land in Somaliland and South Central Somalia:

Somaliland	South-Central Somalia
<ul style="list-style-type: none"><li>• Where a POC residing in a host community and a returnee claim to own the same plot of land;</li><li>• Where an POC has rented the land from</li></ul>	<ul style="list-style-type: none"><li>• Forced evictions;</li><li>• Land grabbing by warlords, clan militias, businesspeople and members of the Diaspora;</li></ul>



<p>a local person with whom they later have a disagreement;</p> <ul style="list-style-type: none"> <li>• Where the government forcibly evicts POCs from public land;</li> <li>• Where a Municipality's land department issues two documents legalising ownership over the same plot of land, or one document over land that is already legally owned by someone else.</li> </ul>	<ul style="list-style-type: none"> <li>• Insecurity of tenure and abuses caused by IDP camp gatekeepers;</li> <li>• Conflicts between international organisations and private land owners;</li> <li>• Conflicts between POCs and landlords;</li> <li>• Conflicts between resident POCs and returnees.</li> </ul>
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These issues are inevitable in an environment with mass movement of people and legal frameworks and institutions that are unexperienced in and ill-equipped to resolve extremely complex disputes over land, involving numerous overlapping rights, interests and systems of law. However, it is of vital importance that these complicated legal issues are now urgently addressed.

The first stage of this process is to acknowledge the rights and specific vulnerabilities of POCs. The UNHCR estimates that there are over 1.1 million IDPs and 2,300 refugees in Somalia. There has a tendency by governments in all areas to treat this section of the population as a 'problem' that must be addressed, and if possible, removed.

However, as the recent forced evictions in Mogadishu have illustrated, moving POCs out of urban areas without making concrete efforts to address their needs or ensure their basic rights are met does not make this 'problem' disappear. Governments of all regions must ensure that they address the movement of POCs in a manner that is rights-based and consistent with international and regional law.

Achieving this will be a major challenge for all Somali governments. As this report indicates, the problems are both numerous and complicated. However, it is extremely important that the needs of this large percentage of the country's population are adequately recognized and addressed. This must be a priority on the development agenda of all governments and humanitarian actors if progress in Somalia is to be made.

**Antonia Mulvey, Executive Director, LAW**

1 December 2014

*This report was initially drafted in November 2013. It was updated in November 2014 in relation to the change in Ministries of the Federal Government of Somalia (FGS) and the forced evictions taking place throughout 2014 in Mogadishu.*

# Background

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After the fall of the Siad Barre regime in 1991, the Somali Republic splintered into three autonomous regions: South-Central Somalia, Somaliland, and Puntland. The report focuses on the first two regions.

Somaliland has functioned independently since 1991, and formally voted to succeed in 2001, though their sovereignty is not recognised by any country. The region has maintained a relatively stable security environment and has a functional centralised government. However, its capacity to pass and implement laws and policies remains low.

South-Central Somalia lacked a formal government from 1991 until August 2012. The appointment of the new federal government in 2012 is encouraging, and the new administration has made many commitments to passing legislation and policy to ensure a stable nation state governed by the rule of law. However, they too have lacked the capacity to draft, pass and implement legislation.

Housing, land and property (HLP) issues were central during both the pre-1991 conflict in Somaliland and the post 1991 conflict in South-Central and continue to be an obstacle for peace within the region. Prior to the conflict, Somalia had a mixed land tenure system in which some land was owned communally and administered through clan structures, and some was owned privately and administered through the formal legal system, particularly in urban areas. The structure of land ownership both during this time and currently is illustrated by the table below:

Land ownership		
System of law	Type of ownership	Type of dispute resolution
Customary system	Land owned communally	Dispute resolution through clan elders
Formal system	Land owned individually	Formal courts; Land Dispute Tribunals in Somaliland

Land was nationalised in the 1970s and was considered a public asset held by the Government in trust for the Somali people. The uncertainty and insecurity created by this system meant that land was already poorly managed and the subject of frequent disputes before the collapse of the government in 1991.

The period from 1991 to 2012 was marked with widespread conflict over land, land-grabbing by warlords and huge displacement of local populations, especially in South-Central Somalia. While there is more security in Somaliland, the movement of IDPs within the region and the return of refugees from outside the country has also contributed to significant land disputes.

The weak capacity of the governments of both Somaliland and South-Central Somalia has had a detrimental effect on the ability of Persons of Concern, which includes Internally Displaced Persons (IDPs), refugees and asylum seekers, to find durable solutions to their displacement. POCs face significant challenges in terms of both difficulties with returning home and difficulties of attempting to stay within their host environment.

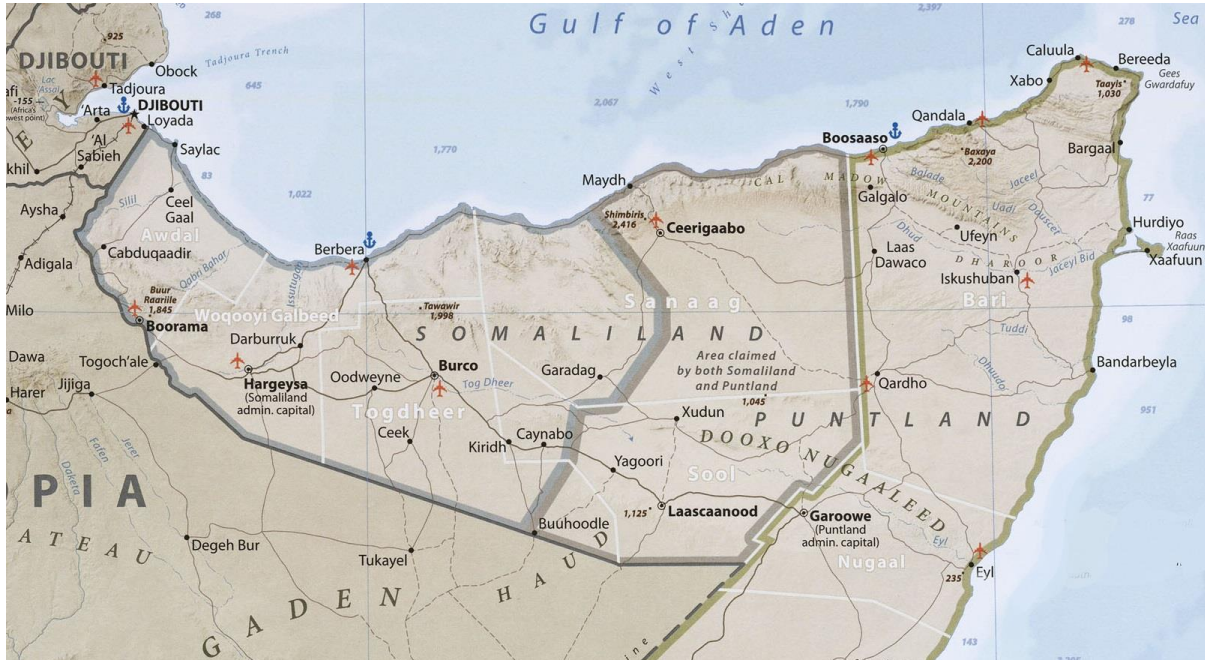
Some of the most serious challenges facing both person of concern (POC) who wish to integrate and those who wish to return are those related to their ability to claim housing, land and property rights.

Other challenges faced by POCs include lack of civil documentation, logistical difficulties of returning home, and discrimination in their host environment. Women POCs, who make up the majority, are particularly vulnerable, both to the issues previously described and to a host of other problems, including discrimination in law and in fact and the high prevalence of SGBV.

### **Places of residence for IDPs**

- Government land
- Privately rented properties (rented directly by IDPs or rented to NGOs/ UN)
- Squatters

# Section one: Somaliland



Map of Somaliland: official versions of the borders between Puntland and Somaliland vary.

## 1. BACKGROUND

The ‘Republic of Somaliland’, which controls most of the territory of the former British Somaliland protectorate in the northwest of the country, voted to succeed from Somalia in 2001. The vote came ten years after a unilateral declaration of independence by the Somali National Movement (SNM), which has governed Somaliland since the collapse of the central state in 1991.<sup>1</sup> Though no state recognises Somaliland’s independence, the region was effectively autonomous and successful in establishing relatively stable security conditions throughout Somalia’s stateless period.<sup>2</sup>

These favourable security conditions have made Somaliland a popular destination for IDPs displaced from other regions of Somalia by conflict or famine, and for refugees from surrounding countries such as Ethiopia. It has also meant that people who fled Somaliland during the pre-1991 conflict were able to return throughout the 1990s. Many of these returnees have congregated in urban centres, even if they were originally from rural areas.

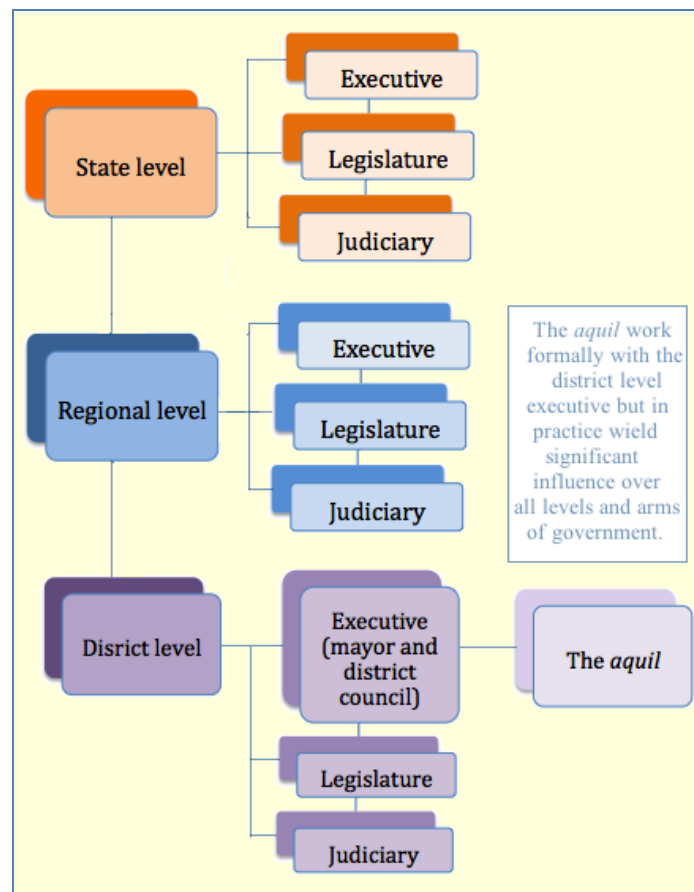
<sup>1</sup> P. Roethke, ‘The Right To Secede Under International Law: The Case of Somaliland’, *Journal of International Service*, vol. 36, 2011, p 4.

<sup>2</sup> A. Le Sage, ‘Stateless Justice in Somalia: Formal and Informal Rule of Law’. *Centre For Humanitarian Dialogue*, 2005, p 14.

Ongoing droughts, especially those in 1991- 1992 and 2011- 2012, have also had the effect of forcing large numbers of pastoralists and agro-pastoralists into cities.<sup>3</sup>

The high concentration of people in urban areas has fuelled conflicts over land, in which those who lack connections to large or powerful tribes, such as indigenous populations, IDPs and refugees, as well as single women, are at a distinct disadvantage.

Somaliland's local government structures gradually moved from clan-based local authorities to more representative structures after 1991.<sup>4</sup> The Somaliland administration is based on the colonial British system and consists of an executive, legislature and judiciary. The central administrative structures are linked to the traditional structures of the elders, called the *aqil*. The *aqil* work at the district level, with the elected district council and local mayor. They play a vital role in terms of interlocation between rural villages and the district, regional and central authorities.<sup>5</sup>



Governance structure in Somaliland

<sup>3</sup> Irin News, 'SOMALIA: Drought fueling rural exodus in Somaliland', 17 August 2009, <http://www.irinnews.org/report/85740/somalia-drought-fuelling-rural-exodus-in-somaliland>, (accessed 4 November 2013).

<sup>4</sup> UNCDF, 'Joint Programme Document: Somalia', 2012, [http://www.uncdf.org/sites/default/files/Project/LG-DSD\\_50723\\_PRODUC.pdf](http://www.uncdf.org/sites/default/files/Project/LG-DSD_50723_PRODUC.pdf), (accessed 13 October 2013).

<sup>5</sup> Ibid, p 34.

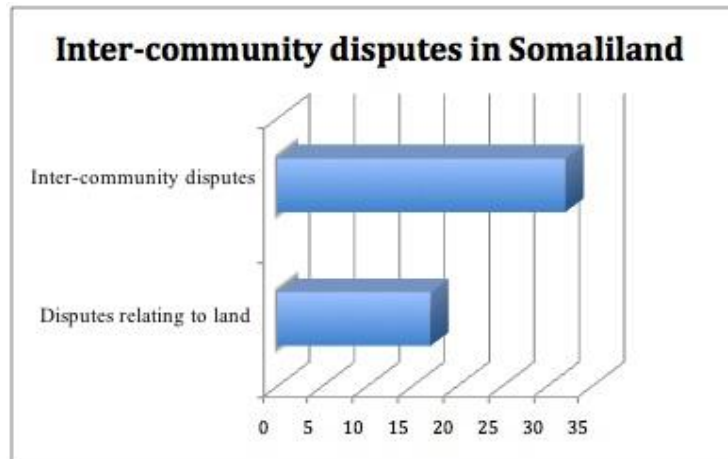
## 2. LEGAL FRAMEWORK

Somaliland’s legal system is a combination of formal law, customary law (Xeer) and Sharia law. The formal legal system comprises of laws passed by the Somali government before Siad Barre’s military coup of 1969, and legislation passed by the Somaliland government since 1991. In reality, many of the pre-1969 laws have fallen into disuse and the copies of some may even have been lost or destroyed during the pre-1991 conflict.<sup>6</sup> Since 1991, the Somaliland parliament has passed very little legislation.<sup>7</sup>

Somaliland Legal System	
Laws in force pre 1969	<ul style="list-style-type: none"> <li>• Still in force</li> <li>• Many lost or destroyed during the civil war</li> </ul>
Laws in force 1969- 1991	<ul style="list-style-type: none"> <li>• Not in force</li> </ul>
Laws passed after 1991	<ul style="list-style-type: none"> <li>• In force</li> <li>• Very few such laws</li> </ul>

Lawyers and judges are often unaware which law applies to a given situation. Additionally, overlap and divergence between formal, Xeer and Sharia laws creates significant confusion and undermines the predictability of the law. The UNDP, DRC and a local organisation called Haqsoor are currently working on a program to integrate the three systems of law, although it is unclear how successful that has been.

The Somaliland court system includes district courts at the lowest level, regional courts at the mid-level, a Supreme Court and courts of appeal.<sup>8</sup> The UNDP’s Access to Justice and Rule of Law programme has made significant progress in the region in terms of increasing access to justice through mobile courts, building the capacity of members of the legal profession and reforming the judiciary, and the Somaliland government has made genuine commitments to change and progress in these areas. Nevertheless, the judicial system remains under-resourced, suffers from a shortage of skilled judges and lawyers,<sup>9</sup> is largely based on outdated laws



<sup>6</sup> H. M. Farah, ‘Baseline assessment of the Somaliland judiciary’, 2009

<sup>7</sup> Somaliland Administrative Law: an Overview, [http://www.somalilandlaw.com/administrative\\_law.html](http://www.somalilandlaw.com/administrative_law.html), (Accessed 4 November 2013)

<sup>8</sup> Constitution of Somaliland, Articles 5, 97- 106

<sup>9</sup> UNDP Somaliland Report 2012

and policies<sup>10</sup> and is perceived to be uncertain and prone to corruption.<sup>11</sup> In practice, the *aqil* are responsible for facilitating the resolution of the vast majority of legal disputes.<sup>12</sup> Conflicts over land are common. A study by Finnish Church Aid (FCA) conducted in 2012 found that there were at least 32 live inter-community disputes in Somaliland, and that 53% of these related to HLP issues.<sup>13</sup>

## 2.1 International and regional law

As Somaliland is not recognised as a state, it cannot sign or ratify international instruments. Under international law, it is bound by the instruments signed by the federal government of Somalia, included in Annex I.

## 2.2 Human rights, refugee rights and IDP rights

There are no laws regulating the duties of the state towards refugees, IDPs, or returnees in Somaliland. However, the UNHCR recently led a project to draft a policy on internal displacement in Somaliland (the 'IDP policy'), with the support in an inter-agency IDP task force managed by the Office for the Coordination of Humanitarian Affairs. This policy was finalised and submitted to the Somaliland Ministry of Resettlement, Rehabilitation and Re-integration for translation in June 2014. It is unclear whether this policy has been formally adopted or what implementation plans are in place.

The Ministry of Rehabilitation, Reconstruction and Resettlement (MRRR) is responsible for issues relating to IDPs and returnees, while refugees and asylum seekers come under the Ministry of Interior. MRRR has drafted a policy on displaced people which has been adopted by the Parliament and is now waiting for a signature from the President to enter into force.<sup>14</sup> The Constitution provides that Somaliland will observe all treaties and agreements entered into by the former state of Somalia so long as they do not conflict with its 'interests and concerns.'<sup>15</sup>

The Somaliland National Human Rights Commission was established as an independent institution in 2008. The Commission is meant to comprise of six commissioners, although to date only the Chairman, Ahmed Yosuf, and several support staff have been appointed. Despite this, the Commission has started its work and has shown willingness to act independently from the government.<sup>16</sup> The Commission receives some government funding

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<sup>10</sup> UN-Habitat, Shelter Branch, Land and Tenure Section Somaliland, Land Law Legal Framework, Situation Analysis (2006)

<sup>11</sup> NRC, 'ICLA Assessment Somaliland', 2009, p 28.

<sup>12</sup> G. Norton, 'Land, Housing and Property in Somalia', NRC, UN-Habitat and UNHCR, 2008, p 34.

<sup>13</sup> T. Agwanda and H. Hersi, 'Somaliland Secure Land Tenure Arrangement Project: report submitted to UNDP Somaliland', 2012, p 7.

<sup>14</sup> NRC, 'ICLA Assessment Somaliland', 2009, p 5

<sup>15</sup> Constitution of Somaliland, Article 10

<sup>16</sup> Eg, During the 2009 voter registration in Somaliland the Human Rights Commission publicly criticised the Electoral Commission for introducing a system that could easily be misused and stood up against a threat from the government that the right to vote would be taken away from people who were found guilty of double registration.

and some assistance in kind from DRC, IOM and UNHCR, but faces numerous challenges including a lack of commissioners, funding and resources.<sup>17</sup>

### 2.3 Land law

The 2001 constitution provides that all land and natural resources in Somaliland are ‘public property commonly owned by the nation’, and administered by the state.<sup>18</sup> However, it also protects the rights of all citizens to the ‘sanctity of the home’, to access justice, and to own private property, although read in accordance with Article 12 this must mean the right to lease private property from the state.<sup>19</sup> Other relevant sections of the constitution are set out in Annex III.

Somaliland’s formal legal framework for the allocation and registration of land consists primarily of the following:

- Agricultural Land Ownership Law (1999)
- Somaliland Constitution (2001)
- Urban Land Management Law (2001)
- Land Tenure Act (2009)

Land administration in Somaliland suffers from both a lack of proper policy framework and a multiplicity of overlapping laws and regulations. Responsibility for urban, agricultural and grazing land is divided between three Ministries which have not streamlined procedures and have low levels of cooperation and communication. The process of legalising interests in land is complicated, bureaucratic and expensive, and most people buy and sell land without going through the formal system.<sup>20</sup> These systemic weaknesses have both added to and exacerbated the large number of land disputes in Somaliland.

There is a need to streamline land management processes between Ministries and to develop a comprehensive land policy that would among other things provide the following:

- A national vision for land administration, management and development that either puts the management of land under one Ministry or streamlines procedures and definitions between the Ministries;
- Development of a strategy for land administration, management and development;
- Establishment of an Independent Land Commission;
- Formulation of laws to establish the land commission and the administration and management of land, including a functional registration process.

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<sup>17</sup> Above n 11, p 16

<sup>18</sup> Constitution of Somaliland, Article 12.

<sup>19</sup> Ibid, Articles 29, 32, 28.

<sup>20</sup> In 2006, Hargeisa had 60000 developed properties, but only 3000 titles had been allocated: Above n 12, p 112.



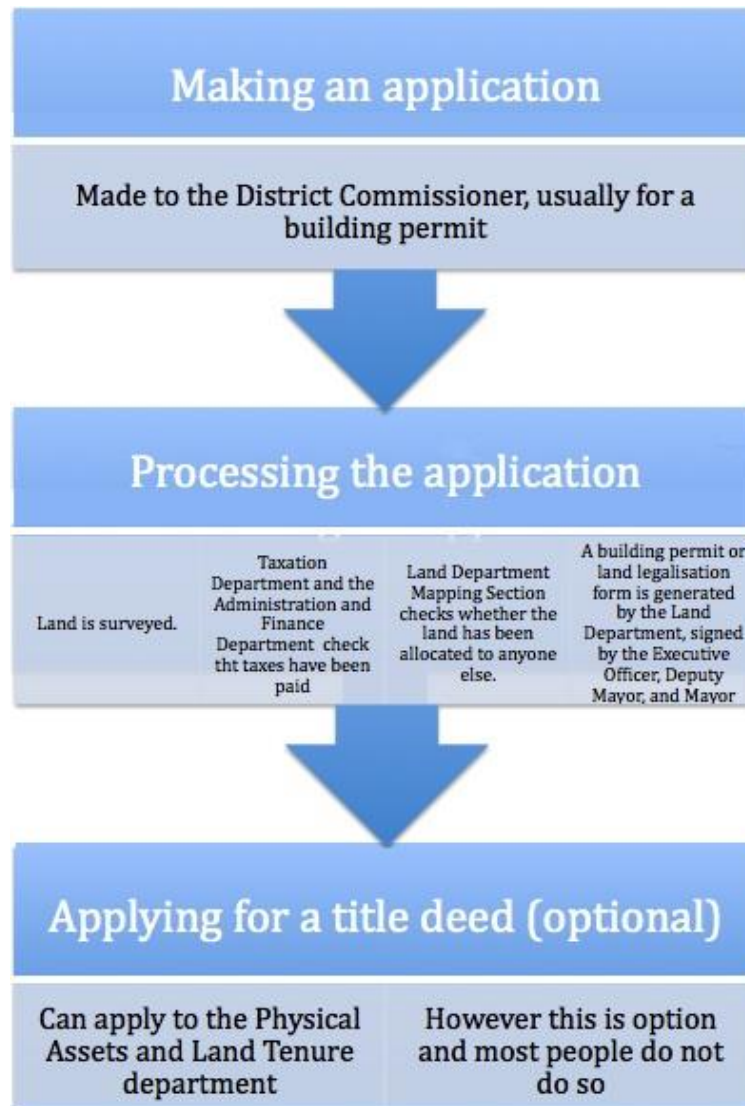
## 1. Urban Land

The Ministry of Public Works and the National Planning Committee make plans for areas the size of 5 square kilometres, which are transferred to the local municipality for implementation. The municipality also has the mandate to consider applications for land legalisation by individuals. While there is no functioning land registry in existence, people may legalise their interests in land through applying for a building permit. This process is described in detail in Annex IV. The building permit may be given for temporary or permanent purposes. A building permit issued for permanent purposes will be given only to those building a structure out of bricks, stones or concrete. The requirement that someone must build something on the land in order to be legally entitled to it and that the building must be made out of specific materials in order to give the person 'permanent' ownership have detrimental effects on security of land for poor and displaced people.<sup>21</sup>

Insecurity of tenure is further exacerbated by the underdeveloped procedures and lack of capacity within the land institutions responsible for the land legalisation certificates. As described below and in more detail in Annex IV, these applications pass through several departments at two different levels of local government before being formally recorded.

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<sup>21</sup> Above n 10



**Process of legalising land in Somaliland**

The coordination between these departments is low, and losing or mismanaging applications is common. An assessment carried out in 2009 reported that several people complained of the land department in the municipality issuing multiple title deeds for the same plot of land and accepting bribes.

In practice, many people buy and sell land without going through the official process, which is perceived as bureaucratic, costly and unnecessary. In 2006, Hargeisa had 60,000 developed properties, but only 3,000 titles had been allocated.<sup>22</sup>

The Urban Land Management Law was amended in 2006<sup>23</sup> to establish an institutional framework for the management of land, but its implementation has been minimal due to its poor drafting. The framework includes the creation of a centralised National Land Planning

<sup>22</sup> Above n 12, p 112

<sup>23</sup> Some documents say 2006 though others say the law was amended in 2008.

Committee, charged with creating a ‘masterplan’ for the management of urban land, and Executive Committees and Planning Departments within each municipality.<sup>24</sup> It introduces a concept of land registration, and attempts to reduce instances of land being incorrectly registered by requiring that a person can only be registered as an owner if she or he has the witnesses of at least three neighbours who own land legally within the neighbourhood. It also provides that all land disputes concerning the allocation of vacant land will be resolved by a Land Tribunal, discussed below.

Threats to the workability of the law include the absence of provisions governing the creation of the masterplan, unclear and incomplete provisions regarding how the land registration system is to be established, and the lack of instruction on how the Municipal Executive Committee or Planning Department should function or be constituted.<sup>25</sup> Further, the National Land Planning Committee created by the law is not functioning.<sup>26</sup>



It also appears that the law has established a Land and Urban Management Institute. Anecdotal evidence from actors operating within Somaliland suggests that this Institute believes it has the mandate to handle all land management issues. However this is not provided for under the law, and it is unclear what the Institute achieves in practice.<sup>27</sup>

**Bodies created by Urban Land Management Law**

**2. Agricultural and Pastoral land**

The administration of rural land in Somaliland is governed predominantly by the Agricultural Land Ownership Law, although the Law against Environmental Degradation and Deforestation also has some impact on land management.

The Agricultural Land Ownership Law makes the Ministry for Agriculture responsible for the allocation of title to ‘pastoral land’, but does not define pastoral land in the law. It gives the Ministry for Pastoral Development and the Environment the right to allocate ‘grazing land’ to pastoralists, but does not define ‘grazing land’. This lack of clarity allows both Ministries to allocate land arbitrarily.

Further, the Law against Environmental Degradation and Deforestation provides that the allocation of grazing land by the Ministry for Pastoral Development must occur “in

<sup>24</sup> Above n 10, p 32.

<sup>25</sup> Ibid, p 33- 34; M. H. Farah and N. M. Ali, ‘Land Ownership, Law and Practice in Urban Areas: A Case Study in Somaliland’, 2012, p 11.

<sup>26</sup> Above n 13, p 13.

<sup>27</sup> Ibid, p 14.

consultation with” the Ministries of Water and Mineral Resources, Livestock and Agriculture. Without a clear criteria for when land may be allocated, this involvement by a large number of actors has the potential to further undermine the transparency and predictability of rural land management. Finally, because there is no clear demarcation between agricultural, pastoral and urban land, the domains of different ministries and state agencies overlap.<sup>28</sup>

After the fall of the Barre regime, the Somaliland government did not establish a privatisation plan for the areas formerly owned by the collapsed government. The land was quickly claimed by the strongest clans, who justified their ownership of it based on historical and ancestral ties. While the Agricultural Land Ownership Law only allows for one title to be given per individual or per family for land acquired after its passage in 1999, it also allows for the legalisation of rural land held before that time, regardless of how much might be owned by a single person or family. This had the effect of entrenching inequalities in land access and ownership between the stronger and weaker clans.<sup>29</sup>

Since 1999, various bodies have coordinated the Somaliland Secure Land and Tenure Arrangement Project (SSTLAP), which aims to provide secure land tenure arrangements for non-demarcated farms and among farming communities. The history of SSTLAP dates back to 1999, when a local NGO began the process of surveying and mapping rural land with the support of the Danish Refugee Council. Since 2001, the project has been coordinated by UNDP in conjunction with the Ministry of Agriculture (MoA). It has had significant successes in strengthening tenure arrangements in rural areas. In 2011 and 2012, for example, the UNDP surveyed a large number of farms in Somaliland and worked together with the MoA to issue title deeds to the people who owned the land they surveyed, in order to increase security of tenure in those areas. In a one year period, the UNDP and the MoA issued a total of 5795 title deeds.<sup>30</sup>

### **3. LAND CONFLICTS**

Conflicts over land are extremely common in Somaliland. While factors such as clan rivalries and entrenched practices no doubt play a part in this, many disputes are caused or exacerbated by insecurity of tenure, inadequate land laws and the movement of refugees, IDPs and returnees. The failure to adequately address longstanding issues such as poverty, lack of access to social amenities, lack of access to pasture and conflicts over water similarly serves to escalate tensions and increase the risk of conflict. An assessment undertaken in Somaliland in 2011 indicated that 90% of the civil cases in the courts related to land issues. While many conflicts are simply disputes, some become violent.<sup>31</sup>

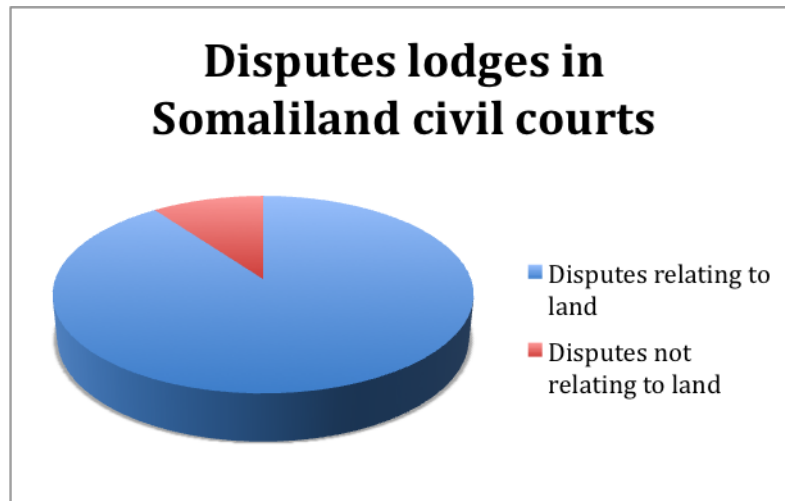
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<sup>28</sup> Above n 12, p 150

<sup>29</sup> Ibid, p 113.

<sup>30</sup> Above n 13, p vii.

<sup>31</sup> Ibid, p 8.



Disputes in Somaliland civil courts in 2011. Source: UNDP

### 3.1 Types of conflict

Disputes in urban areas generally occur in one of four circumstances:

1. Where a POC residing in a host community and a returnee claim to own the same plot of land;
2. Where an POC has rented the land from a local person with whom they later have a disagreement;
3. Where the government forcibly evicts POCs from public land;
4. Where a Municipality's land department issues two documents legalising ownership over the same plot of land, or one document over land that is already legally owned by someone else.

#### 1. Conflicts between resident POCs and returnees

Disputes between resident POCs and returnees occurred frequently throughout the 1990s, but are becoming less common. In such disputes, most returnees turn to the customary system rather than the formal courts, although some may use the court if they have the relevant documentation and if they anticipate that a customary ruling will not be in their favour.<sup>32</sup>

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<sup>32</sup> Above n 14, p 14



**An IDP woman outside her shelter in Somaliland. Source: NRC/Astrid Sehl**

The resolution of such conflicts generally depends on which of the two parties is from or has allegiances to the strongest clan. If one party is from the same clan as those dispensing justice, it is more likely that person will successfully make a claim to having customary or traditional ownership of the land. In Somaliland, the party with connections to the elders is more likely to be the returnee than the resident POC, being someone originally from the area rather than temporarily residing in it.<sup>33</sup> Thus, in many situations, the resident POC will be evicted to allow the returnee to reclaim their property. There are some situations, however, in which the resident POC retains the property and the returnee is forced to find alternative living arrangements. The Somaliland government is sympathetic to the returnee population and appears to support their claims to their original properties.

While many claims by returning refugees are legitimate, a significant number of land grabbers have presented themselves to resident POCs as legitimate landowners, sometimes using forged documents, to coerce the POCs into either leaving or paying them rent over the land.<sup>34</sup>

## 2. Conflicts between POCs and landlords

Many POCs rent plots of land, called ‘buuls’, from local people. Those who do so tend to be IDPs from South-Central Somalia or refugees from Ethiopia, who do not benefit from having clan or family connections in Somaliland and are therefore extremely disadvantaged in terms of their ability to negotiate a fair agreement. These rent arrangements are not completed in writing and the IDPs may be evicted at any time.<sup>35</sup>

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<sup>33</sup> Above n 10, p 61

<sup>34</sup> Above n 14, p 13.

<sup>35</sup> Ibid.

In large privately owned areas containing IDP settlements, the land has often been purchased by IDP elders on behalf of their community. In some of these circumstances, UN-Habitat has been successful in supporting the legitimisation of that purchase with the local government. Given the gaps in the legal system, this has been done informally and generally has involved getting signatures from all of the involved stakeholders, including the purchasers, the sellers, the government and the local elders, witnessing the sale of the land.

### 3. Conflicts between POCs and the government

POCs living in temporary settlements on government land have very little security of tenure and very little ability to challenge eviction decisions. The provisions on temporary land ownership in the Urban Land Management Act are some of the most detailed and appear to have been drafted for the purpose of ensuring the government can evict people from temporary settlements without challenge. Gaashan, a local NGO, has documented cases of houses being demolished without prior notice and of people's property being burnt.<sup>36</sup> UN-Habitat began a successful shelter project in 2006 to address this problem. The project involves moving people from scattered tents on government land into organised settlements provided with facilities. UN-Habitat then worked with the local authorities to provide a document of ownership over their area of land, which is registered within UN-Habitat. The organisation is currently rolling out their third program of this type.

### 4. Multiple claims to the same land

This type of dispute is not specific to POCs. However, it is foreseeable that POCs may wish to increase their security of tenure by legalising their interest over land, and that this may lead to multiple claims being issued over the same plot. This may occur where a refugee has returned and wishes to reclaim their interest in land, as described above. However it may also occur where permanent residents wish to stake a claim over the land claimed by the POC, or where there are competing claims to land within displaced populations.<sup>37</sup>

## **3.2 Dispute resolution**

Disputes are resolved in one of the following four ways.

### 1. Customary and Islamic systems

Customary law dispensed by traditional authorities is the most common way of resolving land disputes in Somaliland. Customary law is called Xeer and borrows heavily from Islamic jurisprudence. Disputes are resolved through mediation between traditional authorities including village elders, chiefs, religious leaders and Sultans. Mediation focuses on resolving conflicts in a collaborative way that is acceptable to both parties. The focus on

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<sup>36</sup> Ibid, p 14.

<sup>37</sup> M. H. Farah and N. M. Ali, 'Land Ownership, Law and Practice in Urban Areas: A Case Study in Somaliland', 2012, p 19.

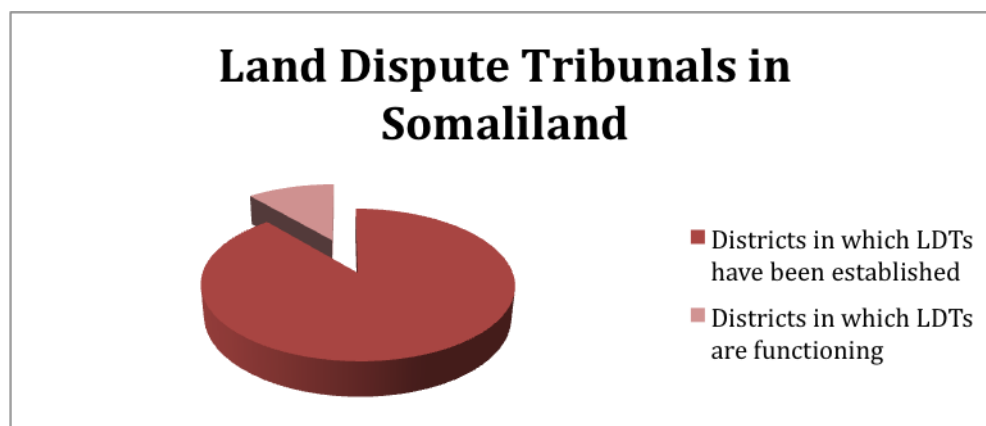
conflict-avoidance rather than fairness or justice means that these systems offer little protection for weaker populations such as POCs, women or minority clans.<sup>38</sup>

## 2. The formal courts

In rural areas and in urban areas where Land Dispute Tribunals have not yet been established, land cases may be brought to the formal courts. Resolving land disputes through the courts requires the participant initiating procedures to have formal documents, and to pay almost 10% of the cost of the property in court fees. Many people complain that the court generally also expects the payment of bribes.<sup>39</sup> Those who do not have formal documentation or who cannot afford the significant amount of money needed to fulfil the court's formal and informal demands therefore usually turn to the customary system.<sup>40</sup>

## 3. Land Dispute Tribunals

The Urban Land Management Law establishes Land Dispute Tribunals (LDTs), each composed of 7 members appointed by the Ministry of Interior. Land Dispute Tribunals are based at the premises of the local governments and have been constituted in eight districts in Somaliland. At the present time, however, only the Land Dispute Tribunal established in Hargeisa in 2009 is functioning, with the support of UN-Habitat.<sup>41</sup> It was anticipated that land tribunals would be established across Somaliland, however this has not occurred.



Functioning Land Dispute Tribunals in Somaliland (information received 2013)

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<sup>38</sup> Protection Cluster Hargeisa, 'Participatory Assessments Report: the Lives of Internally Displaced People in Somaliland', UNHCR, November 2012, <https://somalia.humanitarianresponse.info/sites/somalia.humanitarianresponse.info/files/assessments/Protection%20Cluster%20Hargeisa%20Participatory%20Assessments%20%20IDPs%20Somaliland.pdf>, (accessed 5 November 2013).

<sup>39</sup> Ibid.

<sup>40</sup> Above n 14, p 14.

<sup>41</sup> The Hargeisa LDT registered 146 land cases from the time of its establishment in December 2009 until October 2011.



The Tribunals are comprised of members of the government, described below, who consult with district peace committees and community elders from the local area to resolve disputes. In complicated matters, the Tribunal refers the dispute to a high level committee composed of representatives from the judiciary, the Municipal Council and the Ministry of Interior Affairs. Beyond this, the matter may be appealed to the Supreme Court. The Tribunals are free to access at the initial stages. However, if the matter proceeds to the high level committee or to the court, fees must be paid.<sup>42</sup> The cost of appealing must be covered by the person disputing the decision of the LDT. Like the formal court system, the LDTs require formal documentation of land ownership in order to hear cases.<sup>43</sup>

The law states that each Tribunal will be composed of seven members, appointed by Ministry of Interior following proposals from various central government ministries and the district local authorities. Each member is required to have knowledge and experience in land issues. The tenure for the land dispute tribunal members is two years, but it is renewable through the same appointment procedure. The membership should be comprised of the following:

- i. One person from the Ministry of Public Works as Chairman
- ii. One person from the local authority staff
- iii. One local councillor
- iv. One person from the Ministry of interior affairs
- v. One person from the Ministry of Agriculture
- vi. One person from the Ministry of Endorsement and Religious Affairs
- vii. One person from the Ministry of Rural Development

According to Article 28 of the Urban Land Management Law, The Minister for Interior Affairs is expected to issue an administrative regulation dealing with the logistical issues relating to the LDTs, such as the incentive for the LDT members, the fee to be paid by the prosecutor for filing a charge, the system of work of LDT, means for implementing the decision of the LDT, and so forth.<sup>44</sup>

The Hargeisa LDT applies civil procedure code for procedural issues and urban land law for substantive issues. Sometimes, Hargeisa LDT works in the form of mobile court as it hears cases on disputed plots of land.<sup>45</sup> UN-Habitat is currently building an office for the tribunal, a database to record and analyse cases and has drafted a Manual to assist in interpreting the law.

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<sup>42</sup> Above n 13, p 12.

<sup>43</sup> Above n 14.

<sup>44</sup> It is unclear whether the Minister has actually taken these steps or how these issues have been resolved.

<sup>45</sup> According to meeting with the land dispute tribunal in July 2012

### Case matrix report from Hargeisa Land Dispute Tribunal January-September 2011

Month	Number of cases	Gender wise		Status <sup>46</sup>
		Male	Female	
January	11	9	2	Finished
February	3	3	0	Finished
March	1	0	1	Finished
April	5	2	3	Finished
May	3	3	0	Finished
June	5	3	2	Finished
July	10	6	4	Finished
August	2	1	1	Finished
September	5	4	1	Finished
<b>Total</b>	<b>45</b>	<b>31</b>	<b>14</b>	Finished

**Figure I**

#### 4. District Authorities

According to the Region and District Self-administration Law, district authorities under the Ministry of Interior are responsible for quelling land disputes that have become violent both by restoring law and order and mediating between disputing communities. However, the district authorities have low capacity and weak ability to enforce any agreement made.<sup>47</sup>

#### **4. PERSONS OF CONCERN**

##### **4.1 Internally Displaced Persons**

Estimates of the number of IDPs in Somaliland range from 80,000 to 300,000.<sup>48</sup> According to the most recent UNHCR figures, the capital city, Hargeisa, hosts about 45,000 IDPs. Togdheer region, in which sits the third largest city of Burao, hosts approximately 26,000 IDPs. This displaced population includes conflict IDPs from South-Central and drought IDPs from both South-Central and within Somaliland. The Somaliland government also describes those who have returned to Somaliland after spending time outside the country as

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<sup>46</sup> Some of these cases have been finished with final tribunal decision, while may have been appealed the court

<sup>47</sup> Above n 13, p 12

<sup>48</sup> UNHCR, 'Somalia: IDPs by region' <http://www.unhcr.org/5167c3e09.html>, (accessed 26 November 2013); The Protection Cluster estimates 86,000; the Somaliland government puts the number at 300,000: Protection Cluster Hargeisa, 'Participatory Assessments Report: the Lives of Internally Displaced People in Somaliland', UNHCR, November 2012, <https://somalia.humanitarianresponse.info/sites/somalia.humanitarianresponse.info/files/assessments/Protection%20Cluster%20Hargeisa%20Participatory%20Assessments%20%20IDPs%20Somaliland.pdf>, (accessed 5 November 2013), p 3.

a refugee, but who have resettled in areas other than those from which they originate, as IDPs.<sup>49</sup>

For many IDPs, return is not yet an option, and will not be for the foreseeable future.<sup>50</sup> It is therefore important to adopt durable solutions that both facilitate the return of IDPs who wish to do so voluntarily, and which provide sustainable and improved living conditions for those who wish to stay in their host community.

#### **4.2 Refugees, asylum seekers and undocumented foreigners**

There are three groups of POCs originating from outside of Somalia in Somaliland: refugees, asylum seekers, and undocumented foreigners. Most are from the third category, and the majority in all three categories are Ethiopian.<sup>51</sup> The Somaliland government stopped processing any applications for asylum for four years after the bombings in Hargeisa in 2008.<sup>52</sup> This means that many foreigners who had applied for asylum at that time were then unable to attain refugee status, and many who came after the freeze could not officially seek asylum. In 2011, the Interior Ministry announced that it recognised only 1,772 Ethiopians as refugees, processed before the 2006 freeze, telling all other Ethiopian refugees to return home.<sup>53</sup> Throughout 2011 and 2012, dozens<sup>54</sup> of would-be asylum seekers were forcibly returned, promoting condemnation from Human Rights Watch.<sup>55</sup>

The government resumed processing applications for asylum in October 2012.<sup>56</sup> Estimates of the population of undocumented foreigners range from 20,000 to 90,000. However, with the lift on the processing freeze, it is assumed this number will gradually reduce. It is estimated that Somaliland also hosts nearly 2,000 registered refugees mainly residing in Hargeisa.

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<sup>49</sup> Above n 14, p 9.

<sup>50</sup> OCHA, 'Humanitarian Bulletin: Somalia', June 2013, <http://reliefweb.int/sites/reliefweb.int/files/resources/OCHA%20Somalia%20Humanitarian%20Bulletin%20June%202013.pdf>, (accessed 20 November 2013)

<sup>51</sup> Ibid; Human Rights Watch, 'Somaliland: Stop Deporting Ethiopian Refugees', 4 September 2012, <http://www.hrw.org/news/2012/09/04/somaliland-stop-deporting-ethiopian-refugees>, (accessed 6 November 2013); IRIN News, 'Somalia: Puntland, Somaliland act on migrants, IDPs', 14 September 2011, (<http://www.irinnews.org/printreport.aspx?reportid=93718>, (accessed 6 November 2013).

<sup>52</sup> Human Rights Watch, 'Somaliland: Stop Deporting Ethiopian Refugees', 4 September 2012, <http://www.hrw.org/news/2012/09/04/somaliland-stop-deporting-ethiopian-refugees>, (accessed 6 November 2013).

<sup>53</sup> IRIN News, 'Somalia: Puntland, Somaliland act on migrants, IDPs', 14 September 2011, (<http://www.irinnews.org/printreport.aspx?reportid=93718>, (accessed 6 November 2013).

<sup>54</sup> Some reports say hundreds: Regional Mixed Migration Secretariat, 'Somaliland', <http://www.regionalmms.org/index.php?id=16>, (accessed 6 November 2013)

<sup>55</sup> Human Rights Watch, 'Somaliland: Stop Deporting Ethiopian Refugees', 4 September 2012, <http://www.hrw.org/news/2012/09/04/somaliland-stop-deporting-ethiopian-refugees>, (accessed 6 November 2013).

<sup>56</sup> Regional Mixed Migration Secretariat, 'Somaliland', <http://www.regionalmms.org/index.php?id=16>, (accessed 6 November 2013)

### 4.3 Members of minority clans

Like POCs, members of minority clans lack the traditional, clan—based protection enjoyed by other groups in Somalia and therefore share many of the vulnerabilities as POCs.

### 4.4 Living conditions

POCs are scattered throughout the capital city of Hargeisa and elsewhere. The following table lists the main settlements in Hargeisa and Burao and the estimated number of people in each:<sup>57</sup>

Settlement	Type	Estimated number of households	Estimated number of individuals	Clan composition in order of numerical strength
Hargeisa				
Avaha A,B	Permanent	1000	6000	...
Daami A,B	Mixed	1404	9,892	Gaboye, Isaq, 'other', Samaroon
Mohamed Mooge	Permanent	336	2016	...
Sheikh Nur	Permanent	...	...	...
Stadium	Temporary	2400	17,264	Isaq, Samaroon, Harti, Gaboye
State House Park	Temporary	3295	21,960	Isaq, 'other' Harti, Samaroon
Burao				
Aden Sulieman		...	...	...
Koosar		...	7000 <sup>58</sup>	...
Al-Hussein		...	2100 <sup>59</sup>	...
October		...	...	...
15 <sup>th</sup> May		...	...	...

**FIGURE II**

<sup>57</sup> Protection Cluster Hargeisa, 'Participatory Assessments Report: the Lives of Internally Displaced People in Somaliland', UNHCR, November 2012.

<sup>58</sup> UNFAO, 'Burao Returnees/ IDPs Rapid Nutrition Report', Food Security Analysis Unit, Somalia, 2005, p 4; Irin News,

<sup>59</sup> Above n 53.

A permanent settlement refers to an area in which the government has provided land to POCs and allowed national and international NGOs to provide them with ongoing services. A temporary settlement refers to areas in which the POCs have settled on government land but without the consent of the government. In temporary settlements, the POCs are not permitted to build permanent structures, and NGOs are only allowed to provide assistance of a temporary nature.<sup>60</sup>

In 2009, the Municipality of Hargeisa insisted that the displaced people in Stadium and State House Park, the largest IDP settlements, be moved to designated areas. However, they were unwilling or unable to provide services such as water, roads, schools and healthcare in those areas, stating instead that all such services should be provided by the UN and other international development partners.<sup>61</sup> In Daami, and in many of the smaller and more dispersed POC dwellings, the land is a combination of government and privately-owned land. While the POCs often claim to own the land in these areas, there have also been numerous instances of refugees returning to Somaliland and claiming to own the same plot, which, as discussed below, has been the source of numerous land disputes.

## 5. RELEVANT ACTORS

### 5.1 Summary of Key Stakeholders

Actor	Involvement
<i>Government of Somaliland</i>	
<b>Ministry of Rehabilitation, Reconstruction and Resettlement</b>	Responsible for IDPs and returnees. Currently translating the draft policy for IDPs.
<b>Ministry of Interior</b>	Responsible for refugee, asylum seekers and undocumented migrants
<b>Ministry of Public Works, Housing and Transport</b>	Responsible for urban land management
<b>Ministry for Agriculture</b>	Responsible for agricultural land management
<b>Ministry for Pastoral Development and Environment</b>	Responsible for grazing land management
<b>Ministry of Justice</b>	Responsible for legal aid and access to justice

<sup>60</sup> Above n 14, p 9

<sup>61</sup> Above n 57.

	coordination
<i>UN Agencies and NGOs</i>	
<b>Shelter/ Non-Food Items and Protection Clusters</b>	These ‘clusters’ operate under OCHA and are coordinated by UNHCR. The Shelter/ NFI Cluster focuses on adequate housing. The Protection Cluster focuses on protection issues and POCs.
<b>UNHCR</b>	UNHCR coordinates the clusters, registers and resettles refugees, provides services to IDP settlements and funds the human rights department of the legal aid clinic at the University of Hargeisa. The UNHCR is the lead agency involved in drafting an IDP Policy for Somaliland. Also supports the Human Rights Commission.
<b>UNDP</b>	The UNDP is the main provider of technical assistance to the Ministry of Justice: it funds all legal aid providers, coordinates mobile courts, runs capacity building programs on rule of law and security, and supports the Somaliland Secure Land and Tenure Arrangement Project (SSTLAP), which aims to provide secure land tenure arrangements for non-demarcated farms and create secure tenure arrangements among farming communities.
<b>UN-Habitat</b>	UN-Habitat provides temporary and permanent shelter and provides capacity building assistance to the government relating to land law and policy reform
<b>Danish Refugee Council (DRC)</b>	The DRC works in infrastructure construction, emergency assistance and capacity building with customary structures. Also supports the Human Rights Commission.
<b>Norwegian Refugee Council</b>	Provides shelter, education, food security and livelihood, water, sanitation and health and information, legal assistance and counselling projects in Somaliland and is involved in the inter-agency IDP taskforce.
<b>Internal Displacement Monitoring Centre (IDMC)</b>	IDMC has provided extensive input to various drafts of the draft IDP Policy for Somaliland.
<b>International Rescue Committee (IRC)</b>	The IRC is facilitating returns to South-Central Somalia.
<b>International Organisation for Migration</b>	Provides temporary shelters and other basic services for IDPs wishing to return to their place of origin. Involved in the inter-agency IDP taskforce. Supports the Human Rights Commission.
<b>Food and Agricultural Organisation (FAO)</b>	In February 2013 FAO held a Roundtable with relevant stakeholders on HLP issues including the relevant Ministries. Information gathered indicates that FAO have planned to have projects on HLP issues however, they are

	not currently in place.
<b>Office for the Coordination of Humanitarian Affairs</b>	Manages the inter-agency IDP taskforce for Somaliland, which coordinates efforts relating to IDPs and has supported the UNHCR in drafting the IDP policy.
<b>Haqsoor</b>	Haqsoor is a local NGO specialising on working with traditional leaders on issues of human rights, women's rights and conflict resolution
<b>Kaaba Micro-Finance Institute</b>	Local NGO involved in coordinating relocation and reintegration activities
<i>Organisations providing legal aid and other legal interventions</i>	
<b>University of Hargeisa Legal Aid Clinic</b> – supported by the UNDP and UNHCR	The Legal Aid clinic is the biggest legal aid provider in Somaliland and has five departments, including one focusing on human rights (related to IDPs and refugees) and one on women and children. In 2009, the outgoing manager said that about 85% of all cases are related to IDP women.
<b>Somaliland Lawyers Association (SOLA)</b> - supported by the UNDP	SOLLA is Somaliland's bar association. Members of the association are obliged to provide free legal aid if requested by the chairman.
<b>The Somaliland Women Lawyers' Association (SWLA)</b> – supported by the UNDP	Paralegals conduct weekly and daily visits to police stations, monitoring visits to prisons and IDP camps in the Hargeisa region. Their lawyers represent female clients at all stages of legal proceedings and their paralegals engage in much mediation work.
<b>Amoud University Legal Clinic</b> - supported by UNDP	Amoud Legal Clinic provides free legal aid to economically disadvantaged people.

**Figure III**

## Section two: South-central Somalia

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*Map of South-Central Somalia*

### 6. BACKGROUND

Even before the fall of the central government in 1991, conflicts over land in South Central Somalia were widespread. Communal land was administered by tribal elders and private land was managed through the formal system. From 1991 onwards, many of the records of the registration of private land were lost or destroyed, the formal legal system collapsed land, and land grabbing by warlords escalated. Tensions over access to, possession of and use of land were central to the conflict throughout the stateless period. The appointment of the new federal government means that it is now both feasible and necessary to begin addressing these issues. The government will not achieve peace and stability within the region until two issues are addressed: the rights of IDPs and the return of those who fled during the conflict.

The rights of IDPs are of particular importance; there are almost 1 million displaced people in South Central Somalia, most of whom have little access to HLP rights and many of whom have been subjected to forced evictions by the Somali government. This is discussed in the section on IDPs, below. An influx of returnees also has the potential to trigger



increased conflicts over land as people find their properties occupied by settled IDPs and refugees.

## 6.1 Internally Displaced Persons

UNHCR estimates that there are almost 900,000 IDPs in South-Central Somalia, predominantly congregated in the urban centres of Mogadishu, Kismayo and Baidoa.<sup>62</sup> It is anticipated that this number will increase, as the restoration of relative stability in the liberated areas of South-Central Somalia has created an expectation of escalated returns. Returnees are expected to travel mainly to urban areas of South-Central, including Mogadishu, Baidoa and Dolow.<sup>63</sup> These regions already have large IDP populations, comprising predominantly of people originating from areas of South Central that remain under Al Shabaab control. Many of the IDPs have now spent years or even been born in their current location, and the most appropriate durable solution may be to support their integration rather than facilitate their return.

Over the past two years, the Somali Federal Government has carried out a campaign to remove IDPs from Mogadishu to camps outside the city. In January 2013, it announced a plan to relocate almost 300,000 IDPs in makeshift camps in Mogadishu to proposed camps outside the city to make way for reconstruction and development of the capital. Following the announcement, the government commenced forced evictions of sections of the IDP population that gathered pace in 2014, despite the government's inability to find an alternative safe location. Work at the chosen relocation site, Daynille,<sup>64</sup> has been halted due to security concerns. Amnesty International and other rights bodies have criticised the evictions as violations of human rights and breaches of international law. There have also been reports of Somali security forces opening fire on IDPs protesting the evictions.<sup>65</sup>

Of those who are returning to South-Central, many will expect to be able to reclaim the land they owned before fleeing.

- 30% of IDPs in Somaliland report owning land in South-Central Somalia<sup>66</sup>
- In a 2006 UN-Habitat survey, many of these landowners said they were unwilling to buy land in Somaliland due the expectation that they would eventually be able to return home.<sup>67</sup>

However, the challenges with returning to their places of origin and reclaiming land they previously had rights to are numerous. Many of these returnees may not have had formal or legalised title to the land when they fled, and even though their tenure may have been recognised by the community, such ownership will be difficult to prove after the passage of

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<sup>62</sup> UNHCR, 'Somalia Fact Sheet', April 2013.

<sup>63</sup> Interview with Peter Opio, Food Security Project Manager, NRC

<sup>64</sup> North of Mogadishu

<sup>65</sup> Amnesty International, 'Somalia: Forced evictions in Mogadishu put thousands of displaced at even greater risk', 13 September 2013, <http://www.amnesty.org/en/news/somalia-forced-evictions-mogadishu-put-thousands-displaced-even-greater-risk-2013-09-13>, (accessed 7 November 2013).

<sup>66</sup> Above n 10.

<sup>67</sup> Ibid.

so many years. Even if they did hold title to the land, many of these records were lost during the conflict.<sup>68</sup>

Some IDPs in South-Central reside in settlements on land allocated by the government, although not nearly enough land has been set aside for this purpose. Many are living in settlements on privately owned land. Many IDPs in both public and private settlements are still living in the ‘emergency shelters’ that were initially provided as a short-term solution.<sup>69</sup> These people are now in urgent need of long-term housing solutions that provide them with protection, privacy and dignity. This requires guarantees from either the government or the private landowners that the IDPs can have long-term access to the land, which both parties, and especially private owners, are reluctant to give. Some private owners will not allow the development of facilities such as water and electricity in the settlements on their land because they do not want to encourage permanent settlement there.<sup>70</sup>

In Puntland and Somaliland, some progress has been made in terms of securing long-term land tenure agreements for IDPs. However, progress has depended greatly on the capacity of the local authorities and it is unclear if there are any areas of South-Central that would be able to facilitate this process.

Other IDPs in South-Central Somalia rent plots of land from private landowners or squat unofficially in abandoned properties. These people are extremely vulnerable. With the expected influx of returning refugees, those squatting in abandoned properties are at a high risk of their original inhabitants returning and claiming the land. As land values rise, they are also at risk of those who do not have an interest in this land claiming to be the legitimate owners, either for the purpose of taking control of the land or forcing those residing on it to pay them rent.

## **7. LEGAL FRAMEWORK**

The legal framework in place in South Central Somalia is similar to Somaliland, though it has not passed any laws relating to land since 1991. It is also less enforced due to the low capacity of the courts and the absence of Land Dispute Tribunals.

### **7.1 International and regional law**

Somalia has ratified a handful of international, including the International Covenant on Civil and Political Rights (ICCPR) and its First Optional Protocol, the International Covenant of Economic Social and Cultural Rights (ICESCR) and the Convention Against Torture (CAT). Each of these instruments was signed by the Barre government in 1990 but have not been incorporated into domestic law. Its has been a state party to the 1951 Refugee Convention and its 1967 Protocol since 1978. It has ratified the African Charter on Human and Peoples’ Rights and the African Union (AU) Convention for the Protection and

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<sup>68</sup> Above 17, p 13

<sup>69</sup> Above n Displacement Solutions, p 4.

<sup>70</sup> Ibid, p 15.

Assistance to IDPs; however, the ratification instrument to the latter charter has not yet been deposited with the African Union.<sup>71</sup> It has signed but not ratified the Maputo Protocol on the Rights of Women in Africa and the Convention Governing the Specific Aspects of Refugee Problems in Africa. A full list of international conventions signed by Somalia is included in Annex I.

International Instruments Signed and Ratified by Somalia		
Instrument	Signed	Ratified
International Covenant on Civil and Political Rights	X	X
International Covenant of Economic Social and Cultural Rights	X	X
Convention Against Torture	X	X
Refugee Convention and Protocol	X	X
African Charter on Human and Peoples' Rights	X	X
African Union Convention for the Protection and Assistance to IDPs	X	Has ratified but not deposited ratification instrument
Maputo Protocol on the Rights of Women in Africa	X	-
Convention Governing the Specific Aspects of Refugee Problems in Africa	X	-

## 7.2 Human rights, refugee rights and IDP rights

In March 2013, Ministry of Interior and National Security announced that it was developing a working with a legal adviser to the Special Rapporteur on IDPs to develop a 'Policy on IDPs for Somalia.' The process has involved the collaboration of national and international NGOs. It contains guidelines for lawful evictions, rights of IDPs, development, peace and stabilisation issues.<sup>72</sup> However, it is unclear how developed this policy is or whether it has been implemented.<sup>73</sup> The AU Convention for the Protection and

<sup>71</sup> Internal Displacement Monitoring Centre, 'Solutions for IDPs revealed as key for future peace and stability in Somalia', October 2014, <http://www.internal-displacement.org/sub-saharan-africa/somalia/2013/solutions-for-idps-revealed-as-key-for-future-peace-and-stability-in-somalia/>, (accessed November 27, 2014).

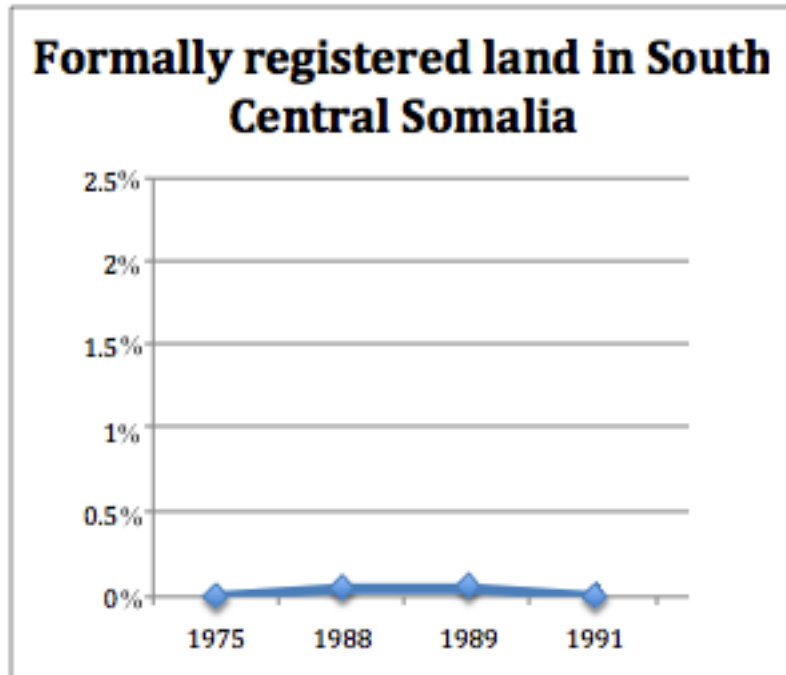
<sup>72</sup> Notes from discussion between Nima Schrepfer and NGOs on the Policy on Internally Displaced Persons (IDPs) for Somalia, 28 May 2013, [http://gallery.mailchimp.com/8f102acd5706302123896fceb/files/Summary\\_of\\_discussion\\_of\\_IDP\\_Policy\\_Process\\_28\\_May\\_2013.pdf](http://gallery.mailchimp.com/8f102acd5706302123896fceb/files/Summary_of_discussion_of_IDP_Policy_Process_28_May_2013.pdf), (accessed 3 December 2013).

<sup>73</sup> Refugees International, 'When Push Comes to Shove: Displaced Somalis Under Threat', 8 November 2013, <http://reliefweb.int/report/somalia/when-push-comes-shove-displaced-somalis-under-threat>, (accessed 12 November 2013)

Assistance to IDPs has not been legislated into the domestic law and Somalia is not technically legally bound by it as a ratification instrument has not been submitted to the AU.<sup>74</sup>

### 7.3 Land law

The Siad Barre government introduced the Land Law in 1975, which attempted to abolish customary ownership in rural areas and transfer ownership of all land to the state. Under the law, the only way to claim rights to land was through registration of leasehold titles, granted for 50 years.<sup>75</sup>



In practice, however, the uptake of registration was extremely limited, with only 0.05% of South-Central Somalia's land being registered by 1986 and 0.06% registered by 1988.<sup>76</sup> The Barre government also apparently passed a Land Law relating to urban areas in 1973 regulating the registration of urban land, although very little information about this exists. Most title documents held within the registry, over both rural and urban land, were destroyed in the post1991 conflict. In conducting a study on the region, HanVard Africa found that in many cases, even the ownership of prime urban locations could not be traced.<sup>77</sup>

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<sup>74</sup> Internal Displacement Monitoring Centre, 'Solutions for IDPs revealed as key for future peace and stability in Somalia', October 2014, <http://www.internal-displacement.org/sub-saharan-africa/somalia/2013/solutions-for-idps-revealed-as-key-for-future-peace-and-stability-in-somalia/>, (accessed November 27, 2014).

<sup>75</sup> Above n 12, 93

<sup>76</sup> Ibid, p 145.

<sup>77</sup> HanVard Africa, 'Mapping of Mogadishu land issues', draft concept note, submitted to NRC 2012, p2

It is unclear whether the Land Law 1975 is in force today. It is probable that the 1973 law is not in force, given the dearth of information regarding its contents. During the stateless period, land management decisions were made at the local level by the controlling group of governor, or between competing informal authorities, as the need arose.<sup>78</sup> The Transitional Federal Government stated that it would engage directly in land reform when it became stable. However, the new Federal Government currently lacks the capacity to draft and pass effective legislation in this area.

In practice, most land disputes are resolved by tribal elders. The decisions made through these customary processes are unlikely to favour vulnerable members of the POC community, such as women and members of weaker clans.<sup>79</sup>

The Somali Government currently has a Ministry of Ministry of General Activities and Rebuilding, a Ministry for Agriculture and a Ministry of Mineral Resources. There appears to be confusion over which will have responsibility for HLP issues. Some documentation also suggests that the Ministry of Interior will have some involvement in land administration. This needs to be clarified and streamlined as soon as possible.

## **8. LAND CONFLICTS**

Land conflicts are central to the ongoing conflict in South-Central Somalia and addressing HLP issues will be crucial to the establishment of sustainable peace and security. The laws and the courts are currently ill-equipped to deal with such conflicts, and the customary system serves the stronger clans to the disadvantage of minorities.

### **8.1 Forced evictions in Mogadishu**

In January 2013, the newly established Federal Government of Somalia announced a plan to relocate almost 300,000 IDPs from Mogadishu to proposed camps outside of the city ('IDP relocation plan'). At that time, the UN estimated there were 369,000 people living in IDP camps within the city, and Mogadishu mayor Mohamed Ahmed Nur Tarsan said that 270,000 would be targeted for relocation.<sup>80</sup> When the government first announced the plan, it committed itself to completing this relocation exercise by 20 August 2013, exactly one year after the establishment of the federal government.<sup>81</sup>

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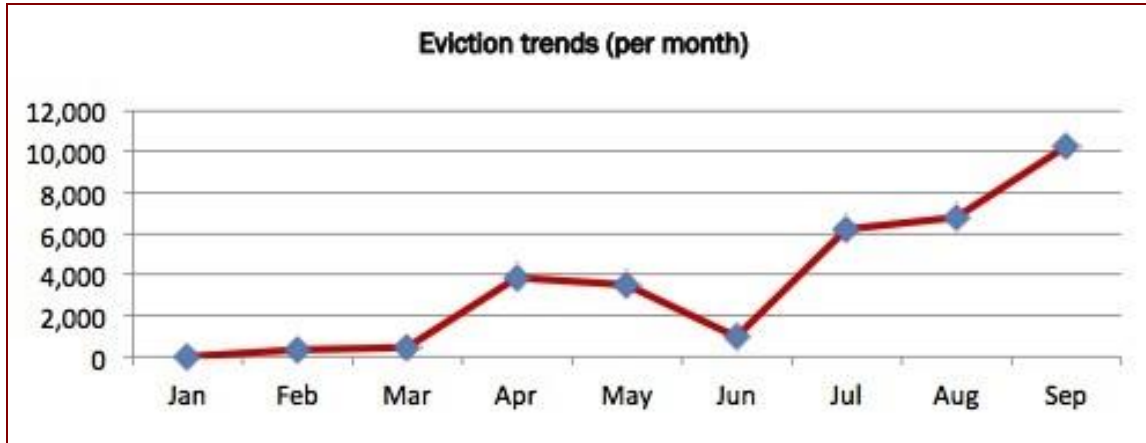
<sup>78</sup> Above n 12, p 111.

<sup>79</sup> Above n 93, p 3

<sup>80</sup> IRIN News, 'Somali government to relocate IDPs, welcome returning refugees', 27 February 2013, <http://www.irinnews.org/printreport.aspx?reportid=97552>,

<sup>81</sup> IRIN News, 'Somali government to relocate IDPs, welcome returning refugees', 27 February 2013, <http://www.irinnews.org/printreport.aspx?reportid=97552>

After consultations with the UN on the required preparatory work for implementing the plan and the need to afford the IDPs with adequate warnings and due process, the government indicated it was willing to extend this timeframe.<sup>82</sup> The government also cooperated with the legal advisor to the UN Special Rapporteur for Refugees and Internally Displaced Persons to develop an IDP Policy to ensure the process of relocating IDPs was consistent with their rights under international law.



Eviction trends in 2014. Source: UNHCR

These commitments by the Somali government notwithstanding, IDPs were removed from their settlements throughout 2013 and 2014, by force and without due process. According to the UNHCR, from January until October, over 34,000 individuals were evicted in Mogadishu. Of these, 20,000 were evicted between late August and 7 October, indicating that this trend is increasing.<sup>83</sup> The UN Humanitarian Coordinator and the UNHCR have been advocating with the Somali government and local Mogadishu authorities to halt evictions until it can be assured that due process will be followed and the humanitarian needs of evicted IDPs are being met.

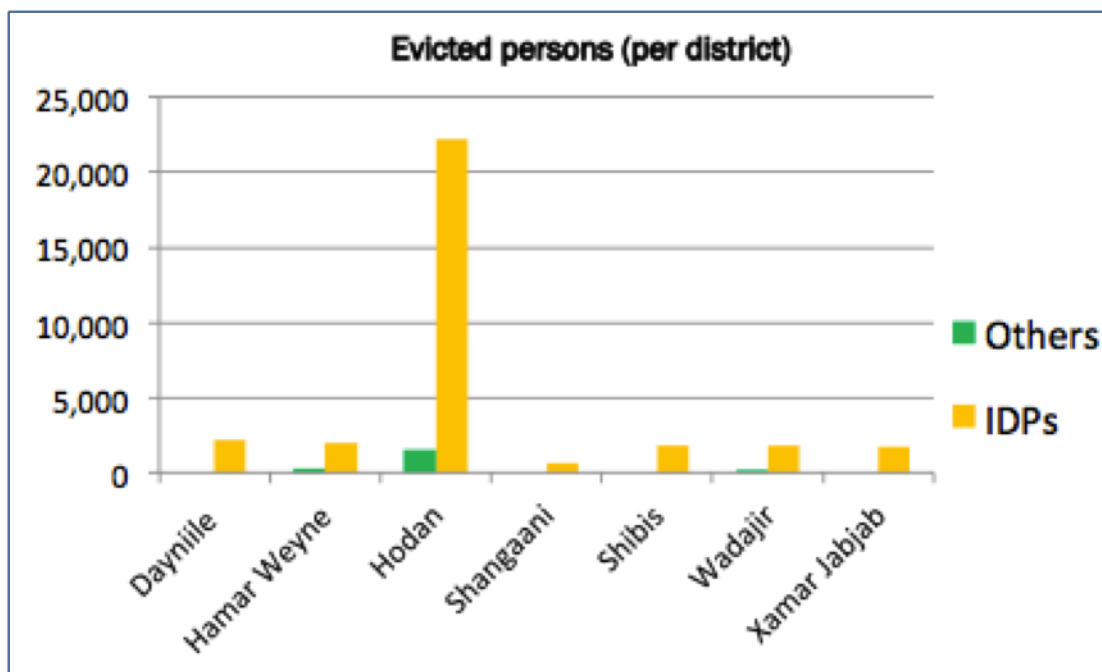
According to Amnesty International, Refugees International and the UNHCR, residents are being forced out by security forces who give them limited or no warning before bulldozing their shelters.<sup>84</sup> There is no process of appealing these decisions or even requesting more information before these shelters are destroyed. The IDPs are not provided with an

<sup>82</sup> OCHA, 'Interview: OCHA Mogadishu Head of Office', 11 April 2014, <http://www.unocha.org/somalia/top-stories/interview-ocha-mogadishu-head-office>

<sup>83</sup> UNHCR, 'UNHCR Somalia Factsheet, August 2014'; UNHCR, 'Forced Evictions in Mogadishu, 1 January- 7 October 2014';

<sup>84</sup> Refugees International, 'When Push Comes to Shove: Displaced Somalis Under Threat', November 2013, <http://refugeesinternational.org/policy/field-report/when-push-comes-shove-displaced-somalis-under-threat>, (accessed 1 December 2014); UNHCR, 'Forced Evictions in Mogadishu, 1 January- 7 October 2014'; Amnesty International, 'No place for the Displaced'; September 2013, <http://www.amnesty.org/en/library/asset/AFR52/010/2013/en/998458d1-c6d4-44dc-879d-24b4c6889d1c/afr520102013en.pdf>, (accessed 1 December 2014).

alternative place to live.<sup>85</sup> Amnesty International has also reported that the military have opened fire on IDPs protesting the evictions.<sup>86</sup>



Evictions by district Jan- Oct 2014. Source: UNHCR

## 8.2 Types of conflict

In addition to the forced evictions described above, land grabbing by clan leaders, warlords and, in recent years, businesspeople, is extremely common. Further, abuses committed against IDPs living in camps by the camp gatekeepers is a serious and widespread problem. Disputes may also occur between private landowners and international organisations leasing land for settling displaced people, between private landowners and the POCs themselves, and between resident POCs and returnees wishing to reclaim their land.

### 1. Land grabbing

Land grabbing is common in both rural and urban areas. Conflicts within rural areas must be understood with reference to the traditional Somali concepts of *deegaan* and the *guri/galti* relationship.

- *Deegaan* refers to traditional ownership over land.
- The *guri/ galti* dynamic refers to the relationship between the settled residents (*guri*) and the ‘outsiders’ (*galti*).

<sup>85</sup> Ibid.

<sup>86</sup> Amnesty International, ‘No place for the Displaced’; September 2013, <http://www.amnesty.org/en/library/asset/AFR52/010/2013/en/998458d1-c6d4-44dc-879d-24b4c6889d1c/afr520102013en.pdf>, (accessed 1 December 2014).

Powerful clans often claim *deegaan* over land that was not originally theirs for the purpose of expanding their power base and to gain a better position for possible future bargaining with other clans. Historically, the *guri* would grant access to and use of land by *galti* conditional on the latter's deferral to local customs and authorities. Before 1991, rural dwellers tended to be members of minority clans, who lacked the political clout to eke out an existence in the urban centres. The mass displacement of the last two decades, however, brought powerful clans into rural areas. These powerful groups now usually ignore the established rules of the *guri/galti* relationship, grabbing land and extorting food and services from the settled population.<sup>87</sup> Where these groups claimed to have *deegan* over large sections of land, it is extremely difficult for the politically and economically weaker minorities, including POCs, to object. They are generally either be displaced or absorbed into the clan now controlling the area, who may agree to lease them a portion of the land. Given the constant power struggles between the clans, these lease agreements are extremely insecure. Another clan may at any time take over the land and refuse to recognise any agreements made with the previous owners.<sup>88</sup>

**People/ entities involved in land-grabbing:**

- Warlords
- Clan militias
- Businesspeople
- Corporations
- Returnees and members of the Diaspora

From 1991 to 2012, forcible evictions in urban areas were primarily undertaken by warlords. Larger, more expensive houses were targeted to be taken over by these warlords either for themselves, as payment for loyal local militias or for those who could afford to pay them. In recent years, however, land grabbing and evictions have been increasingly perpetrated by corporations, businesspeople and members of the Somali diaspora. The restoration of relative stability in pockets of South-Central Somalia has led to the rise in the value of property in the region, making the claiming of that property an attractive investment opportunity. Rather than claiming '*deegaan*' over the area, these actors frequently produce forged documentation claiming they are the rightful owners of the land.<sup>89</sup> Such counterfeit title documents are readily available within South-Central Somalia.<sup>90</sup> These businesspeople are often also attached to, or pay, local clan members, who may assist them in acquiring the land by threatening neighbours not to testify for the original owner, or the owner themselves. Again, IDPs, refugees and others who do not have an affiliation to powerful clan groups are particularly disadvantaged in this regard.

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<sup>87</sup> Ibid, p 102

<sup>88</sup> Global Protection Cluster, 'Housing, Land and Property Rights in the South Central Somalia', Displacement Solutions, August 2008, [http://www.globalprotectioncluster.org/assets/files/field\\_protection\\_clusters/Somalia/files/HLP%20AoR/Preliminary\\_Assessment\\_Proposed\\_Strategies\\_2008\\_EN.pdf](http://www.globalprotectioncluster.org/assets/files/field_protection_clusters/Somalia/files/HLP%20AoR/Preliminary_Assessment_Proposed_Strategies_2008_EN.pdf), (accessed 7 November 2013), p 110

<sup>89</sup> Ibid, p 11.

<sup>90</sup> Above n 12, p 111



## 2. Insecurity of tenure and abuses caused by IDP camp gatekeepers

The people who manage or are otherwise able to allow or deny people access to the IDP camps in Mogadishu are known as the camp's 'gatekeepers.' NGOs working in the camps have reported that gatekeepers frequently enforce taxation of and forcible acquisition of humanitarian assistance provided to IDPs within the camps, restrict the movement of IDPs, including returnees willing to go back to their places of origin, and are involved in the sexual abuse and exploitation of the women and girls in the camps.<sup>91</sup> The gatekeepers are able to wield this kind of power because they have the power to allow and deny IDPs access to the camps. They are therefore accessing certain rights over the land which they are not legally entitled to. This has occurred mainly due to the failure to address land tenure within the camps, which has resulted in a situation where the IDPs have no entitlement to their place of refuge and are therefore easily exploited by those who manage the land.<sup>92</sup>

## 3. Conflicts between international organisations and private land owners

In some circumstances, an international organisation will conclude agreements with private landowners to use the land as settlements for POCs. However, given the lack of a functional legal system in South-Central Somalia, it is very easy for the landowner to pull out of or not to honour the agreement. In such circumstances, the international organisation has very little means of redress, and the outcome may be that dozens or hundreds of IDP families are evicted.<sup>93</sup>

## 4. Conflicts between POCs and landlords

The vulnerabilities of POCs who have concluded oral agreements with landowners in South-Central are the same as those experienced in Somaliland, described above.

## 5. Conflicts between resident POCs and returnees

As discussed above, conflicts between POCs occupying an abandoned property and returnees wishing to reclaim their rights to that property are common and expected to rise. Sometimes, the POCs occupying the property are from wealthy backgrounds and may have even legalised their right to occupation, making it difficult for the returnee to reclaim. In most cases, however, the displaced people occupying the property will be POCs from a politically vulnerable minority or refugees from outside the country, and will lack any form of tenure or clan-based protection. It is unclear how these conflicts are dealt with through the customary system, and assumed they not dealt with through the formal system. However, anecdotal evidence suggests that the returnees are usually successful at evicting

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<sup>91</sup> E. Byld, C. Kamau and D. Sinigallia, 'Gatekeepers in Mogadishu', The Somalia Cash Consortium, 31 January 2013, p 11.

<sup>92</sup> Interview with Anna Sobczak, UN-Habitat Somalia Programme

<sup>93</sup> This was stated in an interview with Interview with Peter Opio, NRC's Food Security Project Manager, but we do not have concrete examples of this happening.

the POCs inhabiting their property.<sup>94</sup> The literature on this topic also reports instances of returning refugees acquiring counterfeit titles to property that they did not originally own.<sup>95</sup>

## 9. RELEVANT ACTORS

There are very few national or international organisation or agencies focusing on HLP issues in South Central Somalia. The actors listed below are the NGOs and UN agencies working in legal aid and shelter.

Organisation	What they Provide	Areas of Operation
<b>Legal aid</b>		
<b>Association of Somalia Women Lawyers-</b> supported by the UNDP	The Association functions as an NGO rather than an official Bar Association. A 2010 UNDP report says the UNDP, Association of Women Lawyers and COGWO (below) provided legal aid to 573 people in South-Central that year. <sup>96</sup> Reports from actors on the ground indicate that the Association of Somali Women Lawyers has successfully brought civil cases arguing for land rights of IDPs to court.	Throughout South Central Somalia; clinics in Mogadishu, Kismayo, Baydhaba, Luq, Dolow, Lower Jubba
<b>Coalition of Grassroots Women Organisations (COGWO)-</b> supported by the UNDP	Partners with the UNDP and Association of Somalia Women Lawyers to provide legal aid.	Headquarters in Mogadishu. Member organizations operate in Banadir, Middle Shabelle, lower Jubba, Hiran, Galgadud, Bay and Bakool.
<b>Somalia Women Development Centre (SWDC)</b>	Provides legal aid to economically disadvantaged people and minority groups who are detained in police stations and main prison in Mogadishu. The project also assists people with legal aid when their human rights have been violated.	Headquarters in Mogadishu. Also works in Wadajir, Waberi, Hamar weyne, Hamar Jab-jab and Wardhigley.
<b>Save Somali Women and Children</b>	Provides legal aid to economically disadvantaged people in South Central Somalia.	Hodan District; Afgoye Corridor; Hilliwa District
<b>The Elman</b>	The Elman provides legal aid to economically	Outreach throughout

<sup>94</sup> Interview with Peter Opio, Food Security Project Manager, NRC

<sup>95</sup> Displacement Solutions, August 2008,

[http://www.globalprotectioncluster.org/assets/files/field\\_protection\\_clusters/Somalia/files/HLP%20AoR/Preliminary\\_Assessment\\_Proposed\\_Strategies\\_2008\\_EN.pdf](http://www.globalprotectioncluster.org/assets/files/field_protection_clusters/Somalia/files/HLP%20AoR/Preliminary_Assessment_Proposed_Strategies_2008_EN.pdf), (accessed 7 November 2013), p 11., p 10

<b>Peace and Human Rights Centre</b>	disadvantaged people but is most focused on survivors of sexual violence.	South Central Somalia; walk-in clinics in Benadir, Galgaduud and Lower Shabell.
<b>Somali Bar Association</b>	Functions as an NGO rather than a Bar Association; provides legal aid.	Mogadishu
<b>Other relevant actors</b>		
<b>Shelter Cluster, Protection Cluster</b>	OCHA coordinates several ‘clusters’ in the Somalia, which brings together local authorities with UN agencies and NGOs in order to respond to certain issues on a thematic basis. The Shelter/ NFI Cluster works to ensure that everyone has the right to adequate housing. The protection cluster is focused on IDPs. Both clusters are managed by the UNHCR.	Throughout Somalia
<b>UNDP</b>	UNDP’s Governance and Rule of Law Programme supports the legal aid providers described above. The UNDP also supports some mobile courts in Mogadishu, also have a small presence in South-Central.	Mogadishu <sup>97</sup>
<b>UN-HABITAT<sup>98</sup></b>	UN-Habitat is undertaking the following activities in Mogadishu: <ul style="list-style-type: none"> <li>• Establishing an Urban Planning department in Mogadishu <ul style="list-style-type: none"> <li>- The department is tasked with surveying the city; future plan is to set up GIS property database</li> <li>- Will not touch on legal land issues</li> <li>- To date have equipped office and supported recruitment of team</li> </ul> </li> <li>• Looking to develop a legal land framework for Mogadishu and Benadir <ul style="list-style-type: none"> <li>- Currently looking for funding but has been unable to find any<sup>99</sup></li> </ul> </li> </ul>	Mogadishu

<sup>97</sup> Some mobile courts may also be operational in Beidoa

<sup>98</sup> UN-Habitat, ‘UN-Habitat Somalia Program’, <http://www.unhabitat.org/content.asp?cid=3908&catid=233&typeid=24&subMenuId=0>, (accessed 8 November 2013)

<sup>99</sup> Interview with Anna Sobczak, UN-Habitat Somalia Programme

<b>UNHCR</b>	UNHCR focuses on: <ul style="list-style-type: none"> <li>• Assisting returns</li> <li>• Cross border movements</li> <li>• Emergency response</li> </ul>	Assists returns to Lower Shabelle, Bay and Middle Shabelle regions; provides emergency assistance to people in Jowhar, Kismayo and Abudwak districts; also operates in surrounding countries.
<b>Food and Agricultural Organisation (FAO)<sup>100</sup></b>	FAO's main activities in South-Central Somalia come under its Somalia Resilience Programme. Activities include capacity building in areas of animal health, natural resource management, participatory risk management, early warning, contingency planning and so forth. The only activity touching on HLP issues is dialogue and conflict mitigation on access to dry season grazing. <sup>101</sup>	Gedo, Galgadud, Hiraan, Nugal, Sanaag, Sool, Mudug, Togdheer
<b>International Labour Organisation (ILO)</b>	ILO's focuses are on strengthening decentralised service delivery, improving livelihoods and reducing unemployment, promoting small and medium enterprises and promoting access to financial services; it does not engage in ICLA or touch on HLP issues. <sup>102</sup>	Mogadishu
<b>Return Consortium:</b> Members- Intersos; FAO; Danish Refugee Council (DRC); Islamic relief; International Organisation for Migration, UNHCR.	Coordination of returns to South Central Somalia through the following process: <ul style="list-style-type: none"> <li>• Intention survey with IDPs in Somaliland, Puntland and rural areas of South-Central</li> <li>• Briefing and involvement of community leaders</li> <li>• IDP delegations supported in 'Go and See' visits to their villages of origin</li> <li>• Services provided includes transport to returnees, shelter packages, livelihood packages, and cash payments for food and</li> </ul>	The regions in South Central Somalia to which displaced Somalis are expected to need assistance to return to are Banadir, Bay, Bakool, Gedo, Lower Shabelle, Middle Shabelle, Hiraan, Middle Juba

<sup>100</sup> FAO Somalia, 'About Us', <http://www.faosomalia.org/about-fao/about-us>, (accessed 7 November 2013)

<sup>101</sup> FAO, 'FAO Strategy and Plan of Action 2011-2013', <http://faosomalia.org/uploads/FAO%20Somalia%205-year%20strategy.pdf>, (accessed 3 December 2013)

<sup>102</sup> ILO, 'ILO Programme in Somalia', <http://www.ilo.org/public/english/region/afpro/addisababa/sro/countries/somalia.htm>, (accessed 7 November 2013)

Funded UNHCR.	by	essential non-food items for at least three months.	and Lower Juba.
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# Annexes

## ANNEX I Conventions and Declarations signed by Somalia

Instrument	Signature	Ratification	Accession
<i>International Bills of Human Rights</i>			
International Covenant on Economic, Social and Cultural Rights			24 Jan 1990
International Covenant on Civil and Political Rights			24 Jan 1990
Optional Protocol to the International Covenant on Civil and Political Rights			24 Jan 1990
<i>Prevention of Discrimination and Protection of Minorities</i>			
International Convention on the Elimination of All Forms of Racial Discrimination	26 Jan 1967	26 Aug 1975	
<i>Protection from Torture, Ill-Treatment and Disappearance</i>			
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment			24 Jan 1990
<i>Rights of the Child</i>			
Convention on the Rights of the Child	9 May 2002		
<i>Refugees and Asylum</i>			
Convention relating to the Status of Refugees			10 Oct 1978
Protocol Relating to the Status of Refugees			10 Oct 1978
<i>Law of Armed Conflict</i>			
Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in		12 Jun 1962	

Armed Forces in the Field			
Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea		12 Jun 1962	
Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea		12 Jun 1962	
<i>African Regional Conventions</i>			
African [Banjul] Charter on Human and Peoples' Rights	6 Feb 1986	31 Jun 1985	
Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa			
African Union Convention for the Protection and Assistance to IDPs	23 Oct 2009	Ratified in March 2011 however ratification instrument not deposited with the AU	
Convention Governing the Specific Aspects of Refugee Problems in Africa	10 Sep 1969		

(Source of the table: <http://wfrrt.net/humanrts/research/ratification-somalia.html> )

## ANNEX II Relevant sections of Somaliland Constitution

Topic	Relevant Articles
<i>Place of Sharia</i>	<ul style="list-style-type: none"> <li>• The laws of Somaliland are to be grounded on and not contrary to Sharia (Art 5).</li> <li>• The C shall be “based on Islamic principles” and any law not conforming to Islamic principles shall be null and void (Art 128)</li> </ul>
<i>Rights</i>	<ul style="list-style-type: none"> <li>• All citizens “shall enjoy equal rights and obligations before the law and shall not be accorded precedence on the grounds of colour, clan, birth, language, gender, property, status, opinion, etc.”; “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)</li> </ul>
<i>International law</i>	<ul style="list-style-type: none"> <li>• 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 “interests and concerns” (Art 10)</li> </ul>
<i>Land, property and natural resources</i>	<ul style="list-style-type: none"> <li>• The land is a public property commonly owned by the state</li> <li>• The central state is responsible for the natural resources of the country (Art 12)</li> <li>• “Usury and commercial practices which are against the interests of the society and unlawful enrichment are prohibited (Art 14)</li> <li>• 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 (Art 31)</li> <li>• (This contradicts with all land being owned by the government)</li> </ul>
<i>Rule of law</i>	<ul style="list-style-type: none"> <li>• 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” (art 28)</li> </ul>
<i>Gender equality</i>	<ul style="list-style-type: none"> <li>• 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 troy be free of the 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” (Art 36)</li> </ul>



## **ANNEX III Process for legalising land in Somaliland**

If a person wishes to acquire legal title to land, he or she must apply to the relevant District Commissioner for a certificate that will legalise his or her entitlement to the land (referred to hereinafter as ‘ownership’, though under the Constitution all land is officially owned by the State). The usual form of ‘land legalisation’ certificate is a building permit, which suffices as evidence of legal ownership. It is unclear whether there is an option to apply for another form of land legalisation certificate.

### **Step 1: Making an application**

- An application must be made to the District Commissioner, usually for a building permit
- The applicant must have an Identity Card and a pay a fee (about US \$80) to apply.

### **Step 2: Processing of the application by the authorities**

- The land is then surveyed by a Field Surveyor, whose observations must be verified at both the district and Municipal level.
- The Taxation Department and the Administration and Finance Department are responsible for checking that all taxes on the land have been paid and processing the application fee.
- Finally, the Land Department Mapping Section checks whether the land has been allocated to anyone other than the person selling the land to the applicant. There are also requirements relating to what land may be used for in different zones, though it is difficult to determine whether these are strictly applied.
- A building permit or land legalisation form is then generated by the Land Department, signed by the Executive Officer, Deputy Mayor, and Mayor and issued to the applicant.
- A record of the permit is entered into a computer database.<sup>103</sup>

### **Step 3: Applying for a title deed (optional)**

- Once the building permit is issued, it is possible to apply for a title deed in the Physical Assets and Land Tenure department. The application fee is around US \$16. This is a title deed attaches to the building, rather than the land.
- Title deeds contain significantly more information than building permits, including clear identification of the owner (including photographs) and therefore are more likely to ensure security of ownership. However, it is not compulsory to acquire a title deed, and most people do not take this extra step.<sup>104</sup>

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<sup>103</sup> *Above n UN-Habitat*

<sup>104</sup> *Ibid.*

## **ANNEX IV Index of documents**

### **List of Documents consulted:**

- A. Leng and F. Medina, 'Information Counseling and Assistance (ICLA) Handbook', NRC
- Constitution of Somaliland
- F. Bruyas, 'Somaliland, Puntland State of Somalia: The Land Legal Framework', UN-Habitat: Shelter Branch, 2006.
- G. Norton, 'Land, Housing and Property in Somalia', NRC, UN-Habitat and UNHCR, 2008.
- HanVard Africa, 'Mapping of Mogadishu land issues', draft concept note, submitted to NRC
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## **ANNEX V People interviewed or consulted**

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- Qurat Sadozai, Deputy Regional Director and CD Somalia, NRC
- Khadar Qoran, ICLA Protection Co-ordinator Somaliland, NRC
- Anna Sobczak, UN-Habitat Somalia Programme
- Simon Ridley, Project Manger, UNDP Somalia
- Tahlil Ahmed, Senior Legal Advisor, UNDP Somalia
- Simone Boneschi, UNDP Somalia, Access to Justice Project Manager Somaliland
- Abdisalam Yusuf, UNDP Somalia
- Mustafer Omer, OCHA Somalia
- Marco Procaccini, Returns Consortium, UNHCR Somalia
- Bediako Buahene, Senior Protection Officer, UNHCR Somalia
- Rikke Johannsen, DRC Somalia
- Nina Schrepfer, Legal adviser to the UN Special Rapporteur on IDPs