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# Kenya-Somalia Border Conflict Analysis

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## **DISCLAIMER**

The Author's views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government



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## **Acronyms**

ADRA – Adventist Development and Relief Association  
AIAI – al-Ittihad al-Islamiyya  
ALRMP – Arid Lands Resource Management Project  
ASEP – Advancement of Small Enterprise Project  
AU – African Union  
CMC – Coordinating and Monitoring Committee  
CBO – Community-Based Organization  
CRD – Center for Research and Development  
CT – Counter-terrorism  
DC – District Commissioner  
DSDO – District Social Development Office  
EPAG – Emergency Pastoralist Assistance Group  
GHC – Gedo Health Consortium  
GPG – Gedo Peace Group  
GSU – General Service Unit  
IGAD – Inter-Governmental Authority on Development  
IDP – Internally Displaced Person  
ITDG – Intermediate Technology Development Group  
JIST – Joint Initiative Strategic Team  
JVA – Jubba Valley Alliance  
KHRC -- Kenya Human Rights Commission  
MDPC – Mandera District Peace Committee  
MEDS – Mandera Educational Development Society  
MP – Member of Parliament  
NORDA – Northern Region Development Agency  
NGO – Non-governmental organization  
NSS – National Security Service  
OCHA – Office of Coordination for Humanitarian Affairs  
OLF – Oromo Liberation Front  
PDC – Peace and Development Committee  
SACB – Somalia Aid Coordination Body  
SNA – Somali National Alliance  
SNF – Somali National Front  
SRRC – Somali Reconciliation and Reconstruction Council  
SUPKEM – Supreme Council of Kenya Muslims  
TFG – Transitional Federal Government  
TFP – Transitional Federal Parliament  
TNG – Transitional National Government  
TFI – Transitional Federal Institutions  
UNDP – United Nations Development Programme  
WASDA – Wajir Southwestern Association  
WPDC – Wajir Peace and Development Committee  
WCC – Women Care and Concern  
WFPD – Women for Peace and Development

## Executive Summary

### General

- Chronic instability along the Kenya-Somalia border zone is part of a larger pattern of state failure, lawlessness, and communal violence afflicting the Kenyan border areas from Uganda to Somalia, frequently described as “not peace not war.” Local communities suffer levels of displacement and casualties akin to civil war, but in a context of sporadic, low-intensity communal clashes punctuated by extended periods of uneasy peace. Spoilers embrace armed conflict not in pursuit of victory but to create conditions of “durable disorder” from which they profiteer. Conventional conflict prevention and management approaches have generally been frustrated in the face of these unconventional conflict dynamics.
- Semi-arid, pastoralist zones in the border areas of Kenya constitute the “frontier” area, where state capacity to exercise authority is weak to non-existent. The absence of the state in these areas breeds lawlessness and compels local communities to rely upon informal systems of protection, usually involving a combination of tribal or clan militias (for deterrence and retaliation) and traditional authorities and customs (for conflict management and justice).
- Distinguishing characteristics of the Kenya-Somalia border areas include: the complete absence of a state counterpart on the Somali side of the border; the existence of more robust forms of local, informal governance and conflict management than anywhere else in Kenya’s border regions; the rise of vibrant cross-border trade of commercial goods and cattle; and the dominance of a single ethnic group, (the Somali), on both sides of the border.
- Since 1995, a number of local factors have contributed to improved security and informal governance on both sides of the Kenya-Somalia border, especially in northeastern Kenya. Progress suggests that local peace and conflict prevention mechanisms have real promise; however, since 2004, serious armed clashes in Mandera and El Wak have rendered the region highly insecure and are indicators that local conflict prevention mechanisms are not a panacea and face limits in their ability to stem conflicts born of much broader, structural forces at play in the region.

### Key Structural Sources of Border Area Conflict

- The level of poverty, unemployment, and underdevelopment in the Kenya-Somalia border area is among the highest in the country and is a major contributor to crime, insecurity, and alienation.
- Environmental degradation of rangelands contributes to increased communal competition and pastoral conflicts over water and rangeland are endemic. A long and on-going western expansionism by Somali pastoralists at the expense of other groups contributes to periodic clashes over land.
- Competition over new and growing urban settlements is a more immediate driver of conflict in the Kenya-Somalia border area. Towns and villages are important sites of trade and aid. On the Kenyan side of the border “locations” serve as seats

of local government, conferring upon those who control them paid positions as chiefs and assistant chiefs and control over local patronage.

- Dramatic expansion of cross-border commerce from Somalia into Kenya has had a variable affect on conflict, at time serving as a force for cross-clan collaboration and basic security, and at other times producing conflict over control of key trade routes.
- Competing clans increasingly view control over locations not merely in administrative terms but as a means for establishing exclusionary zones within which they can evict or block other clans from access to pasture and business activities. The result is misuse of locations to engage in localized ethnic cleansing, which in turn greatly increases the political stakes for control over locations.
- Recent attempts to revive the state-building exercises inside Somalia have contributed to armed violence on the Somali side of the border, especially in El Wak, where the Marehan and Garre clans are jostling fiercely to expand or maintain their control over land in order to maximize the number of parliamentary and cabinet seats they hope to claim.
- The trend toward clan or tribally-based locations in Kenya, ethno-states in Ethiopia, and proportional clan-based representation in Somalia's nascent federal government has led to a "hardening" of ethnic identities in northern Kenya (where identity was previously more flexible and nuanced) and some ethnic groups now face an increasingly exclusionist political environment.
- Spillover from protracted state collapse in Somalia has been a major driver of conflict in the border areas, producing destabilizing flows of refugees, gun-smuggling, banditry, warfare, and clan tensions. But Somalia's collapsed state is not the sole or even most important source of insecurity in northern Kenya.
- Some Kenyan state actors have been a source of conflict rather than a source of prevention and mediation. Under the previous administration, government officers reportedly were complicit in commercialized livestock rustling in the region. Today, some Members of Parliament in the region are accused of fomenting ethnic tensions in pursuit of parochial political gain.
- On both sides of the border, the arrival of newcomer, or *galti*, clansmen has been a major source of destabilization. The outsiders are members of local clans but hail from other regions, are typically much better armed, and are not stakeholders in local peace processes. Much of the internal conflicts plaguing the Marehan clan in Gedo region are animated by tensions between indigenous (*guri*) and *galti* Marehan. The current conflict in El Wak has drawn heavily on outside Marehan from Kismayo and Garre militia from Ethiopia.

### **Key Precipitating Factors and Accelerators of Border Area Conflict**

- Acts of crime – principally stolen vehicles, rape, and murder – are typically the sparks which produce widespread communal violence. Even clans with historically close ties have had difficulty preventing reprisal attacks which then provoke larger cycles of violence. Use of the border by criminals to escape apprehension aggravates the problem.



- Outside elements – political and business leaders in Nairobi, merchants from outside clans, the diaspora, and the *galti* interests noted above – have exploited or fomented inter-clan tensions in the region for a variety of reasons. Though local communities at times exaggerate this factor to absolve themselves of responsibility, there have been several instances in which interests in Nairobi or Mogadishu have accelerated local conflicts with military assistance or political meddling.
- Local spoilers have exploited local tensions and blocked reconciliation efforts in pursuit of their political or economic interests. Warlordism is no longer as acute a problem today as in the early 1990s, but some spoilers remain, particularly those local actors operating businesses which rely on humanitarian aid contracts.
- The proliferation of small arms in the border area has increased the flammability of local conflicts and increased the carnage of local raids. Customary clan law and blood compensation mechanisms, designed to manage small numbers of casualties, are overwhelmed by raids and attacks in which dozens of people die.

### **Key Sources of Conflict Prevention and Management**

- Though the Kenya-Somalia border area remains chronically insecure and prone to flare-ups of deadly violence, the region is dramatically more secure than was the case in the early 1990s. Understanding the sources of this improved peace and security, offers important clues to managing insecurity in other troubled, ungoverned border zones in the Horn of Africa.
- Since the mid 1990's, the Kenyan government has been willing but unable to extend its authority into the border regions. The result has been a “mediated state” arrangement, in which the Kenyan government partners with local non-state, civic, and traditional actors to fulfill core functions including conflict mediation, cross-border diplomacy, and the dispensation of justice, normally associated with the state. For communities along the Kenyan-Somali border the mediated state approach is a major departure in local experience with the state.
- The local partners which the Kenyan government works through in this mediated state system are organized in local Peace Committees (PCs), umbrella groups of local CBOs, including traditional clan elders and a government representative. The PCs have varied in performance, but overall have been the single most important factor in the dramatic reversal of anarchy and insecurity in the region.
- The PCs success is due to several key features – a good functional relationship with the Kenyan government, which has generally given the PCs adequate space and autonomy to operate; strong local ownership; commitment and knowledge of local conflicts; open, flexible membership combining traditional and civic leadership; international financial support; a strong spillover effect, in which one successful PC is emulated by others in other regions and across the border; and a nascent institutional learning capacity, in which lessons are shared by PCs from one region to the next.
- Reliance on customary clan law and traditional elders to enforce it has at times played an important role in managing conflict and reducing or deterring crime.

- Religious leadership, including Islamic leadership, has played a prominent role in pressuring local parties to reach accords. For example, in Mandera, the recent Murille-Garre accord was reached largely due to mediation by the Supreme Council of Kenyan Muslims (SUPKEM).
- Because most of the economic activity in the region is long-distance commerce, which requires safe roads, business partnerships and interests generally work toward peace and security in the region. Most commercial ventures require cross-clan partnerships to insure access and protection, and those cross-clan partnerships provide lines of communication and shared interests.

### **Policy Considerations: Addressing the Mediated State**

- For Kenya's northern border areas, the mediated state approach may be the only alternative to anarchy in the short to medium term. As an approach to state-building, it has a number of advantages. It is flexible with regard to selection of local partners; it provides the state with governing partners who possess deep knowledge of local affairs and who are real stakeholders in promoting peace; and it allows external aid agencies seeking to assist with both state-building and conflict prevention the opportunity to work both to improve government capacity and provide local CBOs with needed support.
- The flexible mediated-state system of governance is evolving in a number of other "willing but not able" states in Africa, but Kenya appears to be the most advanced case. The Kenyan experiment thus warrants close monitoring and could develop as an important model for lessons learned that could be applied elsewhere.
- Assistance to the mediated state can and should take a number of forms, from direct financial support to the PCs to support for state offices liaising with PCs to the convening of workshops allowing PCs from different regions to share lessons.
- Care must be taken not to compromise the PCs through too close an affiliation with external aid agencies. This is especially the case in sensitive border areas like northern Kenya, where Western counter-terrorism (CT) efforts are prominent and where any local linkage with Western agencies may be misconstrued and lives put at risk.
- As a framework for state-building, the mediated state model may be of even greater utility in Somalia, where most anticipate the emergence of a weak government which will depend on local intermediaries to help govern its remote frontier zones for the foreseeable future.
- In both Somalia and Kenya, support to local PCs is a complement to, not a substitute for, the larger enterprise of building state capacity to govern its hinterlands.

### **Policy Considerations: Addressing Structural Drivers of Conflict in the Border Area**

- Strengthening the governing capacity of the mediated state helps local communities manage conflicts, but does little to address the underlying sources of conflict afflicting the border area. A more comprehensive conflict prevention policy must also address key conflict drivers themselves.

- Several of the conflict drivers noted in this analysis may be ripe for external assistance, including the need for clarification of political, economic, and pastoral rights within locations in Kenya. Programs which provide the Kenyan government and legal aid offices with the capacity to reshape local understanding of the rights of citizenship and to enforce the laws will go a long way toward eliminating the emerging threat of ethnic cleansing in Kenya's burgeoning new locations in the northeast.
- Endemic poverty and low levels of education in the border areas are other major conflict drivers which urgently need attention. Local residents consistently cite lack of access to education as a major impediment for regional development, and international aid agency data back them up.
- Aid interventions which can build upon existing commercial cross-clan networks and increase the business community's capacity to serve as a line of communication and promoter of open roads and peace would serve the region well.

## *SECTION I: Context and History of the Kenya-Somalia Border Area*

### **1. Context**

#### **1.1 A Troubled Region**

The instability which periodically plagues the Kenya-Somalia border area is part of a broader, complex pattern of state failure and communal violence afflicting much of the Horn of Africa. Violence and lawlessness are particularly acute in remote border areas where states in the region have never projected much authority. When they have, state authorities have sometimes been the catalysts of insecurity rather than promoters of peace. On the Somali side of the border, the central government collapsed in January 1991 and has yet to be revived.<sup>1</sup> In Kenya, the vast, remote, and arid frontier areas bordering Somalia, Ethiopia, Sudan, and Uganda were never entirely brought under the control of the state in either colonial or post-colonial eras. Thousands of Kenyans have died in periodic communal violence in these border areas over the past fifteen years, in clashes which sometimes produce casualties levels normally associated with civil wars. Kenyan government administration of its peripheral territory ranges from weak to non-existent. There, government outposts are essentially garrisons; police and military units are reluctant to patrol towns after dark, and are badly outgunned by local militias. “Even the police are never safe here,” lamented one Kenyan newspaper headline.<sup>2</sup>

The Somali-Kenya border thus is doubly troubled – by the chronic failure of the Kenyan government to establish a meaningful administration in its border areas, and by the complete and prolonged collapse of the state in Somalia. But the region’s general crisis of instability is by no means unique. Similar patterns of communal violence and lawlessness occur throughout Somalia and all along Kenya’s “arc of crisis” from the Karamoja cluster through Marsabit to Wajir. That no central government authority exists on the Somali side of the border is unquestionably a major part of the problem, but cannot be blamed as the sole source of the crisis. Were that true, Kenya would only be plagued with insecurity in North East Province, not along its borders with Uganda, Sudan, and Ethiopia as well.

The broader nature of the crisis of Kenya’s border areas was made painfully clear during the course of the research for and writing of this study. On July 22, 2005, armed conflict between the Garre and Marehan clans exploded along the Somalia-Kenyan border over the disputed town of El Wak, Somalia, the third major armed clash over the town in six months. The fighting produced 30 deaths and an estimated 17,000 refugees fleeing into Kenya.<sup>3</sup> Only two weeks earlier, tensions between the Gabra and Borana in Marsabit, Kenya (near the Ethiopia border) exploded in what some observers claim is the single worst incident of communal violence in the history of post-colonial Kenya. The

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<sup>1</sup> A Transitional Federal Government was declared for Somalia in October 2004 but has yet to become operational.

<sup>2</sup> “Even the Police Are Never Safe Here,” *The East African Standard* (July 17 2005). Accessed via Lexis-Nexus.

<sup>3</sup> “Kenya: Conflict over Resources in Border Areas,” *IRIN* (August 1 2005), <http://www.irinnews.org>.

massacre at Marsabit resulted in over 90 Gabra deaths and 9,000 displaced persons. It also produced an outburst of soul-searching in the Kenya media and parliament over “Kenya’s killing fields” in its border regions and the costs incurred for the failure of the government to extend its authority into what many Kenyans still refer to as the country’s “frontier.”<sup>4</sup> “That hundreds of armed criminals can terrorize a town for hours without the intervention of the country’s security forces is a clear indication that the government has little or no authority in the North Eastern region,” argued the Kenya Human Rights Commission (KHRC).<sup>5</sup>

## 1.2 Limited Tools of Explanation

The Marsabit tragedy also highlights the difficulty of accurately identifying the causes of these armed conflicts, a point of departure for crafting effective conflict management and prevention initiatives. Dozen of underlying, contributing, and precipitating factors in the border areas combine to create a witch’s brew of tensions which can easily ignite into violence. Not surprisingly, virtually all of these potential conflict drivers were invoked in a flood of commentaries in the Kenyan and international media immediately after the Marsabit massacre. Blame was placed on resource scarcity; competition over trade; manipulation of ethnic tensions by political elites; ancient tribal animosities; the warrior culture of pastoral groups; pastoralism itself; the cultural practice of livestock raiding; influx of small arms and automatic weapons; commercialization of livestock trade; foreign criminals and guerrilla movements (in this case the Oromo Liberation Front, or OLF) exploiting unpoliced borders; spillover of conflict and lawlessness from troubled neighboring countries; failure of government to provide effective security; failure of the government to heed warning signs of conflict; slow government response once the crisis exploded; failure of government to drill enough boreholes; government practice of drilling too many boreholes as a form of political patronage, resulting in rangeland degradation; administrative boundaries that lump rival tribes together; proliferation of “locations” (local government units) that become the source of competition and ethnic cleansing between ethnic groups; misuse of location boundaries to block pastoralists from previously shared rangeland; lack of comprehensive livestock and range management policy; poverty and unemployment; low educational opportunities and levels; vicious cycles of violence created by a culture of revenge killings; arbitrary colonial boundaries; discrimination against “low country” communities in the border areas; decline of traditional authority; legacy of decades of emergency rule and government neglect; lack of understanding of local politics by non-native government administrators; corruption; rowdy youth; poor remuneration of police and security forces; inadequate arms and ammunition to Kenyan security forces; a culture of collective culpability; and tribalism.<sup>6</sup>

Most of these claims have some merit in helping to explain both the Marsabit tragedy

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<sup>4</sup> “Kenya’s Killing Fields,” *The Nation* (July 14 2005). Accessed via Lexis-Nexus.

<sup>5</sup> “Thousands Flee as New Clan Attacks Hit Northern Kenya after Village Massacre,” *Agence France Presse* (July 14 2005). Accessed via Lexis-Nexus.

<sup>6</sup> Each of these causes of conflict were invoked in at least one international wire report or Kenyan newspaper article or op-ed in the two weeks following the Marsabit massacre.

and other Kenyan border crises. But determining which causes are incidental and which are at the heart of an armed conflict, which are precipitating and which are underlying causes of conflict; and under what circumstances these causes of conflict are most likely to ignite violence is not an easy task. The study of internal conflict and conflict prevention has long been hamstrung by the difficulty of causation, and the Kenyan-Somali border conflicts are no exception to the rule.

### 1.3 Geography

The geography, rainfall, and vegetation of the Somali-Kenya border area varies considerably from the coastal area to the Ethiopian border and plays an important role in shaping human activities including, as will be argued below, armed conflict. From coastal south to northern interior, rainfall steadily decreases, temperatures rise, and vegetation patterns shift from dense bush to semi-arid conditions. Portions of the coastal districts and regions are quite inaccessible, featuring dozens of inlets, wadis, seasonal streams, swamps, and dense bush. A large seasonal lake and swamp, Dhesheeq Waamo, forms from the Lower Jubba River toward the Kenyan border and, depending on riverine flood levels, can inundate a long ribbon of low-lying land into the Lorian swamp in northeast Kenya. The coast of northern Kenya averages 1200mm of rain annually.<sup>7</sup> Overland travel is quite difficult in the southernmost part of the border area.

To the north of the coastal area, rainfall levels on the Somali side of the border (in the Mareerey-Afmadow-Dobley corridor) are high enough (typically 500-750mm/year) to sustain some of the best grasslands in all of Somalia, as well as scattered rainfed agriculture. Rangeland is drier and quite open west of the border in Kenya, and in the northern Somali region of Gedo and the Kenyan districts of Wajir and Mandera. Rainfall levels drop off quickly in the northern interior of the border area. Wajir district (Kenya) averages only 200mm of rain per year; Gedo region (Somalia) averages 200-300mm/year. Temperatures throughout the border area are hot, especially into the interior; the mean temperature in Luuq Somalia ranges from 28 C (82 F) in the coldest months (July-August) to 33 C (92 F) in the hottest months (February-March).<sup>8</sup>

The Kenya-Somali border area is partially framed by two perennially flowing rivers, the Tana River in Kenya (to the west) and the Jubba River in southern Somalia (to the east). The riverine valleys are narrow further upstream but widen as they approach the Indian Ocean, creating two fertile ribbons of tropical flora and forest. The lower portions of the river valleys also harbor tsetse flies and so have historically been avoided by pastoralists.

The region's main rainy season (*gu* in Somali) occurs between late March to June. A second short and less reliable rain (*deyr*) falls in October–November. The *deyr* season rains are especially heavy in the highlands of Ethiopia, the headwater of the Jubba River, so that flooding in the Jubba valley (and filling of large river valley depressions or *dhesheeq*) is most common in October-November. As is true of the entire Horn of Africa,

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<sup>7</sup> Ruto Pkalya et al., "Conflict in Northern Kenya," (Nairobi: Greenwood Press for ITDG, 2003), p. 20.

<sup>8</sup> Ken Menkhaus, "Gedo Region," UNDOS Studies in Governance #5 (Nairobi: UNDOS, December 1999), section 2.1.

rains are highly variable in the Kenya-Somali border area. About one in five years rains fail and produce serious drought; likewise, serious riverine flooding occurs about once every five years. Between recurring drought and flooding, the Tana-Jubba inter-riverine zone is the site of frequent natural disasters requiring humanitarian response in a “non-permissive environment” of lawlessness and contested local authority. During the rainy seasons, overland travel on track roads can be difficult to impossible, slowing both commerce and war.

Human activity has dramatically altered and damaged much of the region’s ground cover, reducing the carrying capacity of the land. Predictably, this has led to an increase in communal conflict over access to increasingly scarce pasture. Increased human population, larger livestock herds, and inappropriate placement of boreholes (for political reasons, mainly in Kenya) have for decades resulted in severe overgrazing in some areas.<sup>9</sup> Harvesting of acacia trees for commercial export of charcoal or for firewood has led to heavy erosion and rangeland degradation in the southern half of the border area, from the Dadaab refugee camp (near Doble/Liboi) to the coast.

The isolated and often inaccessible terrain of the border area makes for an appealing location for terrorist and armed criminal activity, though the extent of terrorist activity in the border area has at times been overstated. Coastal areas of the border feature numerous small islands and remote inlets where dhows and fishing vessels can freely come and go undetected; the dense bush and lack of roads in much of the Lower Jubba region and coastal zone provides safe haven. The radical Somali Islamist group *Al-Ittihad al-Islamiyya* (AIAI) has periodically exploited the Lower Jubba region as a safe haven and transit point, while al Qaeda operatives are known to have operated out of Kenya’s northern coastal zone and cross into Somalia from there. To the north, the remote settlements of El Wak and Luuq (Somalia) have in the past been sites controlled by AIAI.

The border itself is in no way based on any natural geographic or socio-economic boundary; it is essentially a “line drawn in the sand” by way of a colonial-era treaty (the Treaty of London in 1924) in which the U.K. ceded territory from the Jubba River to the current border to Italy, as part of an agreement insuring Italian alliance during World War I. From 1895 to 1924, the border between British Kenya Colony and Italian Somaliland was the Jubba river.

#### **1.4 Human Settlement and Productive Activities**

The border area is relatively lightly populated. Kenya’s North-Eastern Province has a population density of only 5 persons per square kilometer and hosting a total

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<sup>9</sup> Environmental degradation of the semi-arid pastoral zones of northeastern Kenya and southern Somalia, and the reduced carrying capacity of the region, have been extensively documented. For a few examples, see US Agency for International Development, *Jubba Environmental and Socio-Economic Studies* (Burlington VT: Associates in Rural Development, 1989; and Robert Walker and Hassan G. Omar. “Pastoralists Under Pressure: The Politics of Sedentarisation and Marginalisation in Wajir District, Northeast Kenya,” (Nairobi: Oxfam-GB, July 2002).

population estimated at 600,000 in 1993.<sup>10</sup> In the Somali “Transjubba” regions of Gedo, Middle Jubba, and Lower Jubba, the total population is unlikely to exceed 600,000 as well.<sup>11</sup> The vast majority of the population in both Kenyan and Somali border regions are rural. In Somalia, about half are subsistence farmers, concentrated along the Jubba river. Pastoralists and agro-pastoralists make up about 30% percent of the population in the Somalia border regions. The remaining 20% percent of the Transjubba Somalia population are settled in one of several small towns, nearly all along the Jubba river. The port city of Kismayo is the largest urban area on the Somali side of the border, with a variable population, usually in the range of 50,000 to 80,000. Other towns with populations over 10,000 include Bardhere, Luuq, and Beled Hawa (also referred to as Bulu Hawa), all in Gedo region. Significant urban growth in these Somali regions has occurred in Beled Hawa and to a lesser extent Bardhere.

In Kenya’s North-East Province, the majority of the population is pastoral. Northeastern Kenya, not long ago almost entirely rural, has experienced a significant urbanization trend, with several previously small settlements now housing 40,000 or more inhabitants. Garissa is the largest city in the border area and now a major commercial hub. Mandera and Wajir now also exceed 40,000 residents. The single biggest collection of settled households in the entire border area is not in a town, but rather at the refugee camps at Dadaab, Kenya, where about 100,000 refugees (mainly from Somalia) have resided for over a decade.

Pastoral production varies regionally. In the rich grasslands of the southern border area, particularly on the Somali side of the border, cattle herding predominates. Somali cattle production is now commercialized, with a vibrant cross-border trade into Kenya, where the cattle fetch good prices in the Nairobi market. Cattle are walked from Somalia to Garissa, where they are sold. The cross-border cattle trade, which only developed after the fall of the Barre government in 1991, has been a real benefit to Somali cattle herders in the Lower and Middle Jubba. To the north, where semi-arid conditions are not conducive for cattle, camels, sheep, and goats predominate. In contrast to the cattle trade, which moves from Somalia to Kenya, camels are brought in for sale at major livestock markets in Mandera and Moyale from Kenya and Ethiopia, destined for the Somali market in Mogadishu.

Over the past three decades, a growing percentage of the border area population is engaging in petty commerce, artisan work, construction, transport, and the service economy (ranging from hotels and restaurants to internet cafes). Livelihoods earned in urban commerce have increased considerably in the past 10 years in the border region due to the emergence of a major transit trade system of consumer goods moved from abroad through Somalia and into Kenya (see chapter 2). Many of the urban households in

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<sup>10</sup> Mohamed I. Farah, *From Ethnic Response to Clan Identity: A Study of State Penetration Among the Somali Nomadic Pastoral Society of Northeastern Kenya*, Studia Sociologica Upsaliensia No. 35 (Uppsala: Graphic Systems AB, 1993), p. 40.

<sup>11</sup> No census has been possible in Somalia for decades. The figure of 600,000 is a ball-park estimate arrived at by the author in 1999 based on review of available local/district population estimates produced by international NGOs; see Menkhaus, “Gedo region” and “Middle Jubba Region.” The Transjubba population has declined since the pre-war period, due to displacement by war and instability.



the region enjoy access to remittances sent from family members working abroad. Indeed, in some Somali towns in the Transjuba, remittances arguably constitute the most important source of income.<sup>12</sup> Far more Somalis than Kenyans (including Kenyan Somalis) live and work abroad, so that the remittance economy is more important to households holding Somali citizenship (including the many refugees and others who live in Kenya). Very few rural households receive remittances.

### 1.5 Identity and Ethnicity

Identity politics are central to Kenya-Somalia border area conflicts, and are also extremely complex and nuanced. What follows is only a brief survey of the topic.

The Kenya-Somali border area is dominated by the Somali ethnic group. But a number of other ethnic groups live in the border areas, especially in the northern Kenya border zone. Many of these groups – such as the Garre, Gabra, and Rendille -- possess highly ambiguous and fluid ethnic identities, making it difficult to categorize them as “Somali,” “Oromo” or other. The Garre, for instance, are considered a Somali clan but speak a dialect of Oromiyya. The flexible, fluid nature of ethnic identity among the Garre, Gabra, and Rendille has historically been a useful tool for negotiating relations between the dominant groups.

The Somalis themselves are much more hybrid in the Tana-Jubba interriverine area than in central and northern Somalia. In the process of south-western expansion across the Jubba river and into present day Kenya, Somali clans freely employed the practice of clan “adoption” (*shegrad*) either as newcomers seeking protection from a stronger clan or as a means of absorbing weaker groups. As Cassanelli notes, “during the periodic migrations of Somali nomads from the drier central plains into the interriverine area, the incidence of contractual clientship multiplied.”<sup>13</sup>

The result is that many members of Somali clans in the border areas are *shegrad* – some are originally Orma, Wardei, while others are adopted members from another Somali clan. Occasionally, when political advantage dictates, adopted clans can “rediscover” their original identity and revoke their old clan identity. Ethnic identity in the region is not nearly as fixed and immutable as observers often assume, but is rather used as a tool by communities to pursue what they need – protection and access to resources. As Laitin and Samatar noted two decades ago, “the essence of great politics in the Somali context is the clever reconstruction of one’s clan identity.”<sup>14</sup>

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<sup>12</sup> Nationally, remittances constitute by far the most important source of hard currency in Somalia. An estimated \$500 million to \$1 billion flows into the country annually. In the transJubba area, Kismayo, Bardhere, and to a lesser extent Bulu Hawa are the most remittance-dependent settlements. In Kenya’s border districts, the refugee camps at Doblely arguably receive the most remittances, though Garissa, with its growing population of resettled Somalis, may now earn as much or more in remittances. These estimates are based on the observations of remittance company employees interviewed by the author in Bardhere, Bulu Hawa, Saakow, and Nairobi in 1998.

<sup>13</sup> Lee Cassanelli, *The Shaping of Somali Society* (Philadelphia: Univ. of Pennsylvania Press, 1982), p. 77.

<sup>14</sup> David Laitin and Said Samatar, *Somalia: Nation in Search of a State* (Boulder: Westview, 1986), p. 31.

What follows is a simplified explanation of clan and ethnic settlement in the Tana-Jubba region. The Somali Darood clan-family dominates most of the southern tier of the Jubba-Tana area. The Harti/Darood historically resided in the Kismayo area and its hinterland, but since 1991 the town has been under the control of outside clan militias (Marehan/Darood and Haber Gedir Ayr/Hawiye). The rest of the southern interior, from Garissa on the Tana River to Marerey on the Jubba river, is inhabited mainly by a number of Absame/Darood clans, including Mohamed Zubeir, Makabal, Aulihan, Talamoge, and Jidwak. Along the lower Tana and Jubba river valleys, the main ethnic groups are non-Somali. Bantu farmers reside along the Jubba river, and in the Tana river valley the Pokomo (Bantu farmers), Orma and Wardey (Cushitic/mainly pastoral) are the principal inhabitants. A small group of hunter-gatherers, the Boni, live in the northeastern coastal corner of Kenya. Along the Somali and Kenyan coast, the Bajuni live as fishermen.

Further north in the border areas, ethnic settlement becomes more complex. In Gedo region, the Marehan are the single largest group, probably constituting half or more of the total population.<sup>15</sup> Other Somali clans in Gedo region include the Rahanweyn, Bantu, and Ajurann (along the river and east of the Jubba); a small group of Dir near the Ethiopian border; and the Garre in El Wak district.

On Kenyan side of border, in Wajir district, Somali and proto-Somali clans include Ajuraan, Degodia, and Garre. In Mandera district, Murille and Garre are the main proto-Somali clans. To the east, in Marsabit Province, the Borona, Rendille, Gabra, (all related to the Oromo) and Oromo predominate.

In addition to clan-based identities, these border communities also possess salient identities based on citizenship, geography, and caste. One important identity marker is citizenship in either Kenya, Somalia, or Ethiopia. This distinction is important even within the same Somali sub-clans, and has two dimensions. One has to do with political culture, the other with political rights. Both are a source of local tensions, but rarely armed conflict. Culturally, the “reer Somali” (Somali citizens) have been viewed as much more politically active, aggressive, and clannish than their “reer Kenya” kinsmen. By contrast, the Kenyan Somalis had lived under emergency rule in Kenya for nearly thirty years (until 1990) and could fairly be described as politically quiescent at the time. Sub-clan identity for the Kenyan Somalis was in the past of little importance; many were not even aware of their sub-clan lineage. Kenyan Somalis attribute their new-found assertiveness in Kenyan politics to the catalyzing impact of the reer Somalis, but nonetheless resent what they perceive to be pushiness and lack of respect for rule of law on the part of the reer Somali. The split over political rights has to do with the fact that Somali Kenyans are entitled to access to public school and other rights of citizenship inside Kenya while the reer Somali are not. Reer Somali in border areas have predictably sought to acquire Kenyan papers so as to access these benefits and facilitate their travel inside Kenya and abroad. Kenyan clan elders are quite willing to take a bribe and vouch to local authorities (who may also be willing to accept a bribe) that a reer Somalis is actually a nomad from the Kenyan side of the border who needs to be registered as a

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<sup>15</sup> This calculation that the Marehan are roughly half of the total Gedo region population is based on an estimate made in Menkhaus, “Gedo Region” (1999), section 2.

Kenyan. Tensions arise when reer Somalis in the border area exploit facilities such as primary schools which become overcrowded.

Caste or hierarchical identities within clans matter a great deal as well. In the transJubba regions of Somalia and northern Kenya, social hierarchies are quite complex. Arguably the lowest status group are the Somali “Bantu” along the Jubba river and now in Kenyan refugee camps. Somali Bantu are still casually referred to by ethnic Somalis as *addoon*, or slaves, are subjected to blatant discrimination, and have been the victims of land grabbing, forced labor, and predation at the hands of Somali militias since 1990.<sup>16</sup> Even in Kenyan refugee camps at Dadaab and Kakuma, Somali Bantu are subject to abuse, ranging from appropriation of food rations by ethnic Somalis to rape of their women. A 2003 study found that 65% of Somali Bantu children in Kakuma camp are chronically malnourished, a rate five times higher than the camp’s general population.<sup>17</sup>

Within a clan, sub-clans are divided not only by lineage but by status, with some lineages considered low caste or *boon* (among the Marehan clan, the Habr Yacoub are an example). Intermarriage between *boon* and the “noble” lineages is rare. In other instances, sub-clans which are not *boon* but which occupy a weak position in the clan (the Urmilig sub-clan of Marehan, which are currently embroiled in the war over El Wak, are an example). Collectively, these and other forms of discrimination and social hierarchy matter a great deal, as they impact communal security, economic rights, legal redress of crime’s committed, and access to humanitarian aid in times of crisis.

Yet another important dimension of identity politics in the border area is the notion of territorial or local citizenship and rights which can be claimed thereby. Somalis in the trans-Jubba region make a sharp distinction between *guri* (“indigenous”) and *galti* (“newcomer”) residents. This distinction – which occurs within clans and sub-clans -- has taken on new importance since 1990, when hundreds of thousands of mainly Darood clansmen fled into the Jubba regions of southern Somalia. Most of these displaced groups were *galti*, and they have struggled with the *guri* kinsmen, sometimes in lethal conflicts, for 15 years over control of local political and economic interests. The *guri-galti* tension is part of a broader debate within Somali society in both Somalia and Kenya over the nature of political rights and entitlements. One discourse invokes lineage and the principle of *u dhashay*, (“born for a region,” or *jus sanguinis* in Western legal terms), the notion that one may claim full rights in one’s clan’s home region, and no other. Territory thus becomes a vehicle for ethnic exclusionary rights and land access. A second discourse invokes a birthright claim, *ku dhashay*, (“born in a region,” roughly equivalent to the legal concept of *jus solis*), or the notion that one may claim full rights in one’s region of birth, even if one is from an “outside” clan. A third Somali discourse is *ku dhaqmay*, which holds that Somalis may naturalize in any region and enjoy full rights there; no ethnic or birthright claims may be made to restrict rights and land access to any

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<sup>16</sup> Ken Menkhaus, “From Feast to Famine: Land and the State in Somalia’s Lower Jubba Valley,” in *The Struggle for Land in Southern Somalia: The War Behind the War*, edited by Catherine Besteman and Lee Cassanelli (Boulder, CO: Westview Press, 1996), pp. 133-154.

<sup>17</sup> International Rescue Committee, “IRC Works to Reduce Malnutrition among Somali Bantus in Kenya,” press statement (New York, 20 June 2003).

citizen. This principle is accepted as a standard in most modern legal systems, but in countries where weak ethnic groups have been pushed off their land by stronger groups (such as parts of southern Somalia and northern Kenya), the principle is viewed by weak groups as a legal cover for land grabs.<sup>18</sup> In Kenya, a similar controversy over land and birthrights has been framed within the *majimboism* (“regionalism”) policy debates since 1991.<sup>19</sup>

In several towns in the Kenya and Somali border areas, a specific, more cosmopolitan identity exists in which residents view themselves primarily as citizens of that town. This strong urban-place identity invariably occurs in multi-clan towns, and appears to be designed to reinforce local solidarity and peace and minimize the importance of potentially divisive lineage identities. One of the earliest such instances of civic identity was in the Kismayo area, where Absame and Harti clans embraced a shared “reer Waamo” identity. More recently, residents of Luuq (Rahanweyn, Marehan, and other) speak of being “Reer Luuq,” and the multi-clan Kenyan town of Wajir appears to possess a growing sense of “Reer Wajir” as well.

Finally, on the Kenyan side of the border the many ethnic and clan groups inhabiting and frequently fighting over that territory share a common identity as “low country” Kenyans, part of the vast expanse of marginalized, generally pastoral or coastal groups living on the edge of a country dominated by “up-country” Kenyans. The mutual disdain between these two categories of Kenyans can be fierce at times.

## 1.6 Key Historical Themes

Several key themes from the border region’s history are essential for making sense of contemporary conflicts.

*Isolation.* The border region’s role as a vibrant trade route is new. Historically, the territory west of the Jubba to the Tana river was extremely isolated, possessing little of value to outsiders. Pre-colonial trade routes ran from Somali seaports at Brava and Mogadishu up into Ethiopia through Luuq, but not across the current border zone. An important, pre-colonial Islamic communal settlement (*jamaaca*) was established in the early 19<sup>th</sup> century at Bardhere, along the Jubba river.<sup>20</sup> Italian and British colonial penetration of the border area was very light, except for attempts to develop irrigated plantation production along the lower Jubba river. The Italians built an all-weather road through Luuq and Doolo in the mid-1930s in order to invade and occupy Ethiopia in 1936, and a seaport was constructed at Kismayo. Government presence in the border territories was extremely limited; British and Italian authorities relied on clan elders to maintain basic law and order. Punitive expeditions, typically involving the confiscation

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<sup>18</sup> See International Crisis Group, “Somalia: Continuation of War by Other Means?” (Nairobi/Brussels: ICG Africa Report #88, 21 December 2004), pp. 19-20.

<sup>19</sup> Jacqueline Kloop, “Can Moral Ethnicity Trump Political Tribalism? The Struggle for Land and Nation in Kenya,” *African Studies*, vol., 61, no. 2 (2002).

<sup>20</sup> Lee Cassanelli, *The Shaping of Somali Society* (Philadelphia: Univ. of Pennsylvania Press, 1982), pp. 139-43.

of a large number of a clan's herd as punishment for a crime or insurrection, was the principle means of enforcing colonial rule. The region had a reputation then as a territory of little value and much potential trouble, leading to a colonial policy of containment and neglect.

*Migration and conquest.* In the early to mid-19<sup>th</sup> century, a major southward migration of Somali clans from the semi-arid zones of central Somalia and eastern Ethiopia dramatically reshaped population settlement in the Jubba-Tana River zone. Prior to the 1840s, the territory west of the Jubba river was inhabited by Wardey, Orma, Oromo, and Boroma.<sup>21</sup> Somali clans crossed over the Jubba river in the 1800s and quickly pushed westward, displacing or absorbing existing pastoral groups in a migration that produced considerable conflict. By the turn of the century, Somalis reached the Tana River and would have pushed further had British colonial figures not banned Somalis from crossing the Tana river and ending what one 1910 colonial report termed “the Darood invasion.”<sup>22</sup>

*Colonial rangeland and conflict management.* To reduce clashes over wells and pasture, the British demarcated specific zones of grazing by clan. They also exercised the right to open up access to viable rangeland to outside pastoralists in times of drought as a low-cost form of rangeland management. The result of the fixed colonial rangeland borders was that clans today view contemporary political and administrative boundaries (“locations”) as an extension of the colonial-era exclusionist zones, and invoke those boundaries to oust other clans from rangeland.

*Irredentism and the shifta wars.* The Somali nation was divided among five separate states by colonialism – Ethiopia, Djibouti, British Somaliland, Italian Somalia, and Kenya. At independence, a central pillar of the Republic of Somalia was irredentism – a rejection of the colonial boundaries and an insistence on the political unity of all the Somali people of the Horn of Africa. In Kenya, some members of the Somali population in the North-East Province mounted a low-level insurgency against the Kenyan government in the mid-1960s known as the *shifta* wars, a pejorative term which today is used to describe any armed banditry. The insurgency failed to attract much direct support from the new Somali government and was quelled. Worse, it resulted in the imposition of draconian emergency rule in North-East Province which was only lifted in 1992. Somali Kenyans felt doubly betrayed – by the Somali government, which talked the talk of irredentism but failed to back up the shifta fighters, and by the Kenyan government, which treated administration of the North-East province as a form of military occupation.

*Political repression and expropriation.* Political repression was the norm on both the Somali and Kenyan sides of the border from the 1960s through 1990. In Somalia, the military government of Siyad Barre came to power in a coup in 1969, ushering in a 21 year period of brutal dictatorship and human rights abuses. In the Lower and Middle

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<sup>21</sup> One exception may be the “proto-Somali” clans such as the Garre, Ajuraan, and others. For the history of Somali migration throughout the Horn of Africa, see E. Turton, “Bantu, Galla, and Somali Migrations in the Horn of Africa: A Reassessment of the Juba/Tana Area,” *Journal of African History* 16, 5 (1975), pp. 519-37.

<sup>22</sup> “The Darood Invasion” (unpublished report, 1910).

Jubba valley, the Barre regime expropriated tens of thousands of hectares of land from mainly Bantu small-holders for large mechanized state farms, and well-placed civil servants exploited new land tenure and registration laws in the early 1990s to engage in massive land-grabs at the expense of villagers. A member of the Marehan clan, President Barre used the authority of the state to advance the clan's power and interests in the Jubba regions. Superior fire-power and political muscle allowed the Marehan to engage in expansion in the region. "Marehanization" policy continues to be the source of conflicts today. More broadly, the entire Somali experience of the state for 21 years under Barre was not as a source of rule of law and catalyst of development, but rather as a source of oppression, terror, and expropriation of land, a weapon used by clans in power at the expense of rivals.

On the Kenyan side of the border, nearly three decades of emergency rule was equally disastrous, creating an environment of repression and a collective sense of fear of and alienation from the state. The Kenyan state did not engage in expropriation of local resources, but allowed no free speech and dealt harshly with dissent. In the infamous Bagalla massacre of 1984, 400 Somalis of the Degodia clan died in a punitive military operation by Kenyan forces. Any manifestation of Somali nationalist sentiment was smashed. When emergency rule was lifted in 1992, the North-East Province was devoid of community organization, and the authority of traditional clan elders as legitimate leaders in the community (and not just political cronies in the service of the state) was badly, though not permanently, compromised.

## **2. Key Changes in the Kenya-Somalia Border Area since 1990**

### **2.1 Changes in Southern Somalia**

By far the most important and dramatic change on the Somali side of the border occurred in January 1991, with the fall of the Barre regime and the subsequent collapse of the Somali state. The impact on the Kenya-Somalia border area was immediate and disastrous, especially in the first two years of civil war and famine.

*Refugee flows and humanitarian crises.* The collapse of the Barre government triggered a massive exodus of hundreds of thousands of Somalis into the Jubba regions and northern Kenya. Most were from the Darood clan-family, fleeing from Mogadishu. Their arrival into the border area overwhelmed the region. Kismayo town briefly swelled in size from 80,000 to an estimated 800,000 people. Tens of thousands of Somalis poured into Kenya by foot, ship, and air, seeking safe haven or passage to third countries.

*Armed conflicts, famine, and lawlessness.* Upon the fall of the government, southern Somalia fell into heavily-armed chaos. Swarms of uncontrolled gunmen and residents looted everything of value in government buildings and in Mogadishu's residential neighbourhoods. Inter-clan violence led to massacres, ethnic cleansing, and a massive exodus of displaced persons in all directions. Armed battles pitting factions of the Darood and Hawiye clan-families swept across the countryside. In several instances, fighting

briefly spilled across the Kenyan border. The area between Mogadishu and the Kenyan border became a “shatter zone” within which residents were exposed to repeated rounds of looting until they began to starve. The massive famine which occurred from late 1991 through 1992, and which ultimately claimed an estimated 240,000 Somali lives, was thus almost entirely due to armed conflict and wartime plundering.<sup>23</sup>

One of the hallmark features of the crisis of 1991-1992 was the rise of an economy of plunder, in which a wide range of social groups – from illiterate gunmen who fought to loot, to merchants of war who made millions of dollars exporting scrap metal from dismantled factories – came to have a vested economic interest in continued lawlessness and armed conflict. International relief supplies became part of this economy, as warlords fought to control key ports of entry and transit of the valuable food shipments brought into the country. Militias charged exorbitant fees to “guard” the food aid, and were complicit in diversion of relief supplies. By 1992, the food aid had become the principal commodity over which warlords fought. Emergency relief became part of the problem rather than part of the solution. In the Jubba regions, several sites -- Kismayo port, the Kismayo-Jilib highway, Bardhere, Buale, and Beled Hawa – were the principal food relief distribution hubs and attracted the most militia attention. Kismayo in particular became a chronically contested town.

Another important aspect of the civil war of 1991-1992 was the almost complete breakdown of authority at all levels. Militias were under only the loosest control of militia commanders, and fought mainly in order to loot. Clan elders lost control of young teen-age gunmen. Both clan customary law (*xeer*) and Islamic law were rendered largely irrelevant as constraints on lawless behavior. The result was an epidemic of massacres, rape, and other previously taboo brutalities.

*Arms flows.* The Somali civil war produced a major weapons flow in the Kenya-Somalia border area. Both government troops and liberation fronts looted the enormous Cold War armories of the army, producing a free flow of weapons and ammunition on the street. At the same time, the fall of the Mengistu government in Ethiopia and the disbanding of the Ethiopian army in 1991 flooded the regional market with cheap weaponry. Still more arms found their way into Somalia via the rapidly growing global arms trafficking in the immediate post Cold War era. Some of these weapons found their way into Kenya, where they helped to produce destabilization in the border area and gave criminal elements in Nairobi greater access to cheap semi-automatic weapons. By 1991, the Kenyan police and military in northern Kenya were outgunned by clan militias and criminal gangs.

*“Galti” factor.* The Somali civil war produced massive displacement inside the country, with Somalis fleeing to their clan’s “home areas” for protection. In the case of the Jubba valley, this produced a destabilizing factor. Specifically, Darood clans originally from Ethiopia or central Somalia and who lived for years in Mogadishu opted to flee southward to the Jubba valley, where their lineages had home areas. These new arrivals were on the one hand members of the local clan and thus made claims on rights to live

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<sup>23</sup> Refugee Policy Group, *Hope Restored? Humanitarian Aid in Somalia 1990-1994* (Washington DC: RPG, November 1994), p. 5.

and secure resources in these areas, but on the other hand were outsiders or guests (*galti*) from a distant region. Worse, many of the *galti* Marehan, Absame, and Harti Somalis pouring into the Jubba valley were former members of the Barre government or army, were well-armed and in some cases very well-funded, and were generally more organized and active politically than their indigenous (or *guri*) kin in the Jubba valley. The *galti* quickly came to dominate the factions representing the Marehan, Harti, and Absame clans in the valley, marginalizing the interests of the *guri*. The interests of the *guri* and *galti* were not synonymous – the *guri* had long-standing and valued relations with neighboring clans and were stakeholders in local peace, while the *galti*'s interests were focused on recapturing Mogadishu. The *galti* were often dismissive of local customary law (*xeer*) and insouciant about the impact of looting on local clan relations. *Guri-galti* tensions became an enduring dynamic in clan politics in Transjubba politics, from Kismayo to Gedo region, and are a major factor in the current Beled Hawa and El Wak conflicts.

*Rise of the Islamist factor.* The Jubba valley became a major site of activity for the small but important Islamist movement which emerged in post-Barre Somalia. *Al Ittihad Al Islamiyya* (AIAI) briefly controlled Kismayo seaport in 1991, controlled the town and district of Luuq (Gedo region) from 1991 to 1996, and vied with the Marehan faction Somali National Front (SNF) for control of Beled Hawa. Much of AIAI's support came from *guri* Marehan who saw the organization as an effective resistance to the *galti*-dominated SNF. In Luuq, AIAI imposed sharia law and may have had links with foreign terrorists from Sudan, but also succeeded in establishing basic security and role of law at a time when the rest of southern Somalia was in a state of anarchy. AIAI was driven out of Luuq by Ethiopian forces in 1996 following a bombing and assassination attempt in Addis Ababa by a local branch of the AIAI there. Since 1996, AIAI has essentially disbanded, forming a loose network of "alumni" who are integrated into their Somali communities. Some small cells of radical Islamists possibly linked to AIAI nonetheless maintained a presence in the Kenya-Somalia border areas, and intermittently placed training or staging camps along the isolated coastal area at Ras Kamboni and El Wak. An American aid worker, Deena Umbarger, was killed by Islamists along the Kenyan border in the Lower Jubba region in 1999, and rumors persist that radical Islamist commercial networks operate along sections of the border area at Doblely and elsewhere. Terror suspects in the attacks on the US Embassy in Nairobi in 1998 and on the Paradise Beach Hotel in Mombasa in 1999 crossed the Kenya-Somali border and used southern Somalia as both a transshipment point and safe haven in those attacks. Fears that the unpoliced border provides foreign or Somali terrorists with easy entrance into Kenya and an easy escape route remain strong and have been a major preoccupation of Western counter-terrorism partnership with the Kenyan government. But it is also the case that the Ethiopian government and local Somali factions hoping to secure advantage against local rivals often exaggerate the threat of radical Islamism in the region, making accurate assessment of the threat of terrorism in the Jubba area more difficult. Even more difficult has been differentiating between legitimate Islamist movements in the region and those with links to terrorism.<sup>24</sup>

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<sup>24</sup> The topic of radical Islamist movements in Somalia has received considerable attention since the 9/11 attacks. See for instance International Crisis Group, "Somalia: Combating Terrorism in a Failed State,"



*Rise of transit trade into Kenya.* The Kenya-Somalia border region, once an isolated area with little trade, has since the early 1990s been transformed economically by the rise of a vibrant and profitable transit trade into Kenya. Somali entrepreneurs exploit the absence of customs and taxes in Somalia to move a range of consumer goods – sugar, dry foodstuffs (*rations*), cloth, basic household items, fuel, cigarettes, and light electronics – across the Kenyan border into the lucrative Nairobi market. Goods are either smuggled over the Kenyan border via unpoliced track roads, or bribes are paid to customs officers at official crossings. Most of this transit trade arrives at beach ports near Mogadishu, but the all-weather seaport at Kismayo is used to import sugar destined for Kenya. The trade has helped to create or expand a number of border towns from Doblely to Beled Hawa, where goods are offloaded into small warehouses and reloaded onto Kenyan trucks. This commerce has also helped to produce a network of cross-clan business partnerships with a vested interest in safe and open roads.

## **2.2 Changes in Northeastern Kenya**

*Repeal of Emergency Law/Withdrawal of Kenyan state.* Repeal of emergency rule in 1992 ushered in a new period of government retrenchment from the border area. While liberation from the harsh emergency laws was welcomed by local populations, the timing of the retrenchment was disastrous, coinciding as it did with the collapse of the Somali state and the spillover of arms, violence, and criminality across the border. In truth, even had the Kenyan government attempted to maintain the control it exercised via emergency rule it would have been overwhelmed by the tidal wave of refugees, militia, and guns from Somalia in 1991 and 1992. By late 1991, the Kenyan government had essentially lost control of hundreds of kilometers of territory in Northeast Province. Even in major towns like Mandera, Kenyan police and military could not enter certain parts of the town after dark.

*Lawlessness.* The first half of the 1990s was a period when, at times and in some locations, northern Kenya was widely viewed by both locals and international aid workers as less safe than southern Somalia. Heavily armed clan-based militias and gangs, sometimes organized by business and political elites, engaged in looting of livestock and vehicles, terrorizing both Somali and non-Somali communities beyond the Tana River. At one point the range of Somali bandits engaged in cattle-rustling reached as far south as northern Tanzania. In an infamous incident in December 1996, a band of 600 Somali militia launched a raid against the Samburu, killing fifty people, stealing 10,000 head of cattle, and shooting down an aircraft carrying the Samburu MP. Land travel from Nairobi to Dadaab or Mandera could only be conducted with armed military escorts in convoys. Kenyan police and army outposts were themselves not immune from attack.

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(Brussels: ICG, May 2002); International Crisis Group, “Counter-Terrorism in Somalia: Losing Hearts and Minds?” ICG Africa Report no. 95 (Nairobi/Brussels: ICG, 11 July 2005); Matt Bryden, “No Quick Fixes: Coming to Terms with Terrorism, Islam, and Statelessness in Somalia,” *Journal of Conflict Studies* vol. 23, no. 2 (Fall 2003); and Andre Le Sage, “Somalia and the War on Terrorism: Political Islamic Movements and US Counter-Terrorism Efforts,” (Cambridge University: PhD. diss, June 2004).

*Ethnic clashes.* The northern tier of the Kenyan border area – Wajir and Mandera Districts, as well as adjacent districts such as Moyale, Marsabit, and Isiolo – became the scene of serious and uncontrolled clashes between rival ethnic groups in the 1990s. This was part of a broader pattern of ethnic clashes throughout much of rural Kenya over the course of the 1990s, instigated by political elites and fueled by competition for land, political representation, and control of local administration (discussed in chapter 4).

*Rangeland clashes.* Conflicts over pasture and wells in Northern Kenya have been endemic since independence, when the government lifted old colonial clan boundaries for rangeland, introducing an era of unclear tenure on land that is formally government trustland and hence open to universal use, but in practice informally understood to “belong” to one clan or another. “The lack of clarity over modern land tenure systems and the breakdown of old ways has led to large clans trying to expand their land by attacking and terrorizing their weaker neighbors” notes one analyst.<sup>25</sup> This confusion has contributed to misuse of locations as zones of ethnic exclusion, either by weaker “indigene” clans seeking to protect their land rights from stronger newcomers, or by dominant clans seeking to institutionalize their claim to land and seal their victory. In either case, it can and does produce localized ethnic cleansing. The fact that some Kenyan Somali clans have greatly increased their firepower and numbers thanks to refugee flows from Somalia since 1991 has exacerbated conflict over rangeland.

*Dadaab camp.* The territory around Liboi, across from Doble Somalia in the southern portion of the border zone, was dramatically transformed in the early 1990s by the establishment of an enormous refugee camp called Dadaab. Over 100,000 mainly Somali refugees were encamped there, making Dadaab the largest settlement in the entire Northeast Province-Jubba Valley area. Dadaab’s impact on the local population and economy was immediate and profound. Refugees’ demand for firewood created environmental degradation in the area; the militias attracted to the area brought horrific levels of crime, including widespread rape; the food rations and health and education services the refugees enjoyed for free stoked resentment in local communities, which had no such access to health and education; and the food rations and remittances flowing into the camp produced a new regional economy involving trade in foodstuffs and services between Dadaab and Garissa. Over time, Dadaab has become increasingly integrated into and integral to the regional economy on both sides of the border. Somali men keep their families in the camp to access the food and services, while they return to the Jubba valley; Garissa merchants benefit from the large new market the camp affords them; and the entire region exploits the availability of WFP food rations which are sold by refugees or diverted from them.

*Heightened clannism and political activism.* One political spillover from Somalia into northeastern Kenya was a greatly enhanced and politicized sense of clannism among Kenyan Somalis. The arrival of the “Reer Somali” in large numbers contributed to the new assertiveness and political mobilization of Somali Kenyans in the years following

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<sup>25</sup> Abdi Umar, “Resource Utilization, Conflict, and Insecurity in Pastoral Areas of Kenya,” Paper presented at the USAID Seminar “Conflict Resolution in the Horn of Africa,” (Nairobi, 27-29 March 1997), p. 17.

the lifting of emergency rule. Additionally, the explosion of new locations in the 1990s, each earmarked for a specific sub-clan, further mobilized levels of clannism that in the past were dormant.

*Multi-partyism.* The advent of competitive elections in 1992 had a major impact on the Kenyan border region, principally as a driver of conflict. A number of factors -- the district-based, first-past-the-post electoral system of electing MPs; the growing capacity of MPs to inject themselves into local politics to the advantage of their constituents; the increasing tendency to view electoral districts as ethnic or clan home bases; and the practice by entire sub-clans to vote as a bloc on orders from clan elders – all combined to create a high-stakes, winner-take-all mentality to parliamentary elections. Communal violence was and remains closely linked to the electoral cycle in Kenya.

*Tensions between Reer Somali and the Reer Kenya.* The arrival of hundreds of thousands of Somali refugees into northeastern Kenya and Nairobi in the early 1990s created significant tensions between the Reer Somali and Kenyan Somali, even though many shared the same clan and sub-identity. For Kenyan Somalis, the Reer Somali brought unwanted levels of violence, a predisposition to engage in illegal activities, and aggressive demands on aid agencies and local resources. In the process, the Somali refugees were blamed for stigmatizing all ethnic Somalis, making life much harder for Kenyan Somalis, who were increasingly seen by the rest of Kenyans – including the police – as indistinguishable from the Somali refugees.

*Urban drift.* The period since 1990 has witnessed a significant trend toward urbanization in northeast Kenya, an area which until recently was almost exclusively rural. Garissa, Wajir, and Mandera have all grown rapidly due to a rising commercial and service sector, a growth in the remittance economy, and an increase in destitution among pastoralists.

## *SECTION II: Contemporary Conflict Analysis of the Border Area*

### **3. Contemporary Trend Analysis of the Border Area**

Conflicts in the border area are shaped by and in some instances triggered by broader trends in the region. The following are among the most significant political and economic trends in the contemporary Kenya-Somalia border area.

*Conflict trends.* One of the most remarkable trends in the border area has been the ebb and flow of armed conflict and insecurity in the past 15 years. After a five year period from 1991 through 1995 when the region was buffeted by insecurity and lawlessness, communities in the border region began to enjoy an incremental increase in security and an uneven but gradual decline in armed conflict. This trend was most dramatic on the Kenyan side of the border, where, for reasons explored below, livestock raiding, theft of vehicles, and communal resource conflicts subsided. In the Somali Transjuba regions, conflict patterns mirrored a trend throughout south-central Somalia – namely, a decline in sustained and heavy armed clashes, replaced by a chronic localized armed conflict and insecurity. Part of the insecurity in the Jubba regions has been a function of criminality and reprisals; much of it is driven by contested control over towns and the resources towns attract – aid, trade, and taxation of goods in transit. Security in Gedo region was remained poor since 1996 due to unresolved intra-Marehan clashes over political control of towns and districts. Middle Jubba has been the site of periodic eruptions of violence in the three main towns of Saakow (which was burnt to the ground in intra-Rahanweyn fighting in 1999); Bualle; and Jilib. In the Lower Jubba region, the prized port city of Kismayo was the site of several brief armed clashes by militias attempting to take or regain control of the city.

The ebb of armed conflict and general insecurity in Kenya's Northeast Province has been reversed since 2003, mainly in the northern tier of the border area. Banditry remains relatively controlled, but in both Mandera and Wajir districts, serious and deadly armed clashes have erupted. These clan conflicts – explored in more detail below – have been much larger and more lethal in scale than in the past, have drawn in outside elements, have produced localized ethnic cleansing in some cases, and have involved levels of violence which were previously uncommon or unknown in the region. This reversal of the dramatic progress which had been achieved in the northern two-thirds of the Kenyan border area since 1995 is one of the most worrisome conflict trends identified in this analysis and requires careful scrutiny.

On both sides of the border area, communities continue to deal with an endemic, low level of insecurity which local populations sometimes characterize as “not peace not war.” By this they mean that protection from acts of criminal violence and property theft remain precarious even in the best of times, and that conditions remain ripe for periodic eruptions of communal violence even where a peace has held for a number of years. In some areas, criminal violence by residual combatants produces levels of insecurity akin to war. There are no zones of “consolidated peace” in the border area, and only a few areas could generously be described as “post-conflict.” Everywhere in the region, the

political claims and historical narratives of clans and ethnic groups are spiked with often intense and bitter grievances over lost land, wartime atrocities, unfair allocation of political or economic opportunities, and outsiders.

This “not peace not war” condition is not unique to the Kenya-Somalia border area, but characterizes much of Kenya’s northern frontier area and most of south-central Somalia. “The frightening fact is that Somalia is officially not even at war,” commented one aid worker recently. “This level of violence is simply a reflection of the brutality of everyday life for the people living in this country.”<sup>26</sup>

*Economic trends.* Economically, the border area has remained badly impoverished and underdeveloped over the past fifteen years. Economic gains made in the booming transit trade have directly benefited only a small percentage of the regional population, mainly in urban areas. Most of the profits from cross-border trade are made by businesspeople in Mogadishu and Nairobi. Still, the transit trade has generated significant levels of employment and small business opportunities for petty traders and others in the transport, hospitality, and other service sectors in border region towns. The impressive growth of Garissa, Kenya is due in large part to the new regional commerce. Importantly, commerce in general and the livestock trade in particular has generally been accorded safe passage even in periods of tension and clashes.<sup>27</sup>

Trends in the pastoral economy vary by region. In the northern interior, pastoralists herding camels and goats have faced declining terms of trade for their livestock (against the value of dry foodstuffs), at the same time competition for scarce pasture and water is growing. Household food security surveys report that a class of impoverished pastoral households is growing in the region. The Food Security Assessment Unit (FSAU) has consistently identified Gedo region in the past five years as having among the highest levels of malnutrition and food insecurity in all of Somalia. Impoverished pastoralists are a major source of destitute families appearing in the region’s numerous towns.

By contrast, the pastoral economy in the southern portion of the border area, especially on the Somali side of the border, is enjoying better conditions than at any time in recent memory. This is because the wet grasslands near Afmadow support cattle herding, and cattle are fetching consistently strong prices in the nearly Kenyan market.

Agricultural households in the border area – mainly concentrated along the Jubba river valley – have experienced a very negative trendline since 1990, due mainly to chronic insecurity and predatory banditry. Much of the rich riverine farmland lies abandoned, and up to 40% of the pre-war riverine population is dead, displaced, or in refugee camps. This group makes up the largest influx of urban migrants into Kismayo. Overall agricultural production in the Transjuba is, not surprisingly, far below pre-war

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<sup>26</sup> Quoted in “Somalia’s Violence Catastrophic,” *BBC News* (August 22, 2005). Accessed at <http://news.bbc.co.uk/2/hi/africa/4173230.stm>.

<sup>27</sup> Paul Goldsmith has noted a similar dynamic in other areas of northern Kenya, where “commerce is accorded special respect.” Goldsmith, “Cattle, Khat, and Guns: Trade, Conflict, and Security on Northern Kenya’s Highland-Lowland Interface.” Isiolo, Kenya: APPEAL-KENYA, Conflict and Conflict Management in the Horn of Africa Case Study, May 1997. <http://payson.tulane.edu/conflict/Cs%20St/GOLDSFIN2.html>

levels, and almost exclusively subsistence in nature.

The growth of a remittance economy is one of the most important aggregate trends in the region, fueling and sustaining urbanization in the area. The remittance economy is one of the most resilient and reliable sources of revenue in the short to mid-term, but directly benefits only a fraction of the overall population.

The nature of the transit trade in the border area renders the regional economy highly reliant on three financial and market centers – Nairobi as a principal market, site of banks, and source of some investment funds; Mogadishu, as transit trade warehousing site and home of most of the top businesspeople investing in the trade; and Dubai, the financial center and point of wholesale purchasing by traders. In a short period of time, the once remote subsistence economy of the border area has become “globalized” to an impressive degree.

The proliferation of border towns is entirely a function of the cross-border trade and is one of many indicators that local communities view the border more as an opportunity than a barrier or constraint. The multiple routes that have developed reflects risk management by traders – by maximizing the number of tracks over the border they reduce the incentive of local militias to engage in extortion, and expand their options in the event instability renders any one route too risky. It is also a function of border clans seeking to possess their “own” trade route from which they can profit by providing security and imposing modest taxes.

A more recent trend in commerce is the increased use by Somali merchants of aircraft to fly higher value consumer goods directly from Dubai into Kenya. Should this trend continue, cross-border commerce will decline in importance.

Overall, the Transjuba region of southern Somalia has rapidly fallen into the orbit of the Kenyan economy, and today is less linked to the economy of the rest of Somalia. Only a sustained effort by the Kenyan authorities to crack down on smuggling from Somalia would reverse this trend. A combination of factors – the national security imperative to police the border following multiple terrorist attacks in Kenya, western pressure and support to do the same following the 9/11 attacks, pressure from some Kenyan merchants to crack down on smuggling, and public pressure to increase its presence in border areas following the shocking massacre at Marsabit – may lead to more sustained Kenyan efforts to police the border. A scenario in which smuggling is actually curtailed is considered unlikely, but it does serve as a reminder that much of the economic dynamism the border area is exhibiting is, technically, illegal.

*Political trends.* On the Kenyan side of the border, several important political trends have manifested themselves. The introduction of competitive elections for Parliament has had the positive effect of opening up political space for debate in the region, and of generating legislative representatives seeking to serve the interests of their home constituencies. The democratic opening in Kenya has also energized local awareness and interest in public policies, producing more lobbying and interest group action in the

region than ever before. The negative side of this trend is a marked tendency for elected MPs to engage in corrupt patronage politics and to foment ethnic or clan tensions to solidify their base for re-election. As discussed below, the particular patronage tactic of creating new locations to give sub-clans their “own” local seat of governance is a major contributor to armed clashes and ethnic cleansing in the region.

On the Somali side of the border, the most obvious and enduring political trend has been ongoing state collapse. Whether the TFG succeeds or fails, a condition of de facto state collapse will endure for some time to come in the remote border areas of the Jubba. A more recent political trend worth monitoring is the ascendance of self-declared regional states, usually but not always formed as clanustans. These have been successfully used in parts of Somalia as a political base for political figures with national ambitions, and the trend is spreading. In the Jubba valley, several possible permutations of regional states could emerge. In the North, a Gedo regional authority may emerge as an objective from current intra-Marehan talks, or Gedo region may form part of a broader regional state comprising Bakool region. To the south, the success of the Jubba Valley Alliance in claiming control over Kismayo and its riverine hinterland may eventually produce a Lower Jubba-Middle Jubba transregional authority. The key feature of most regional states in contemporary Somalia is that few actually govern beyond a few of the largest towns.

#### **4. Conflict Mapping – “First-Generation” Post-1990 Conflicts in Northeast Kenya**

Many of the worst instances of armed conflict in the border region occurred in the 1990s and are now either resolved or at least in a state of suspended animation. They provide invaluable clues to conflict drivers and management for contemporary crises in the region, and in some cases have contributed to current problems. A brief inventory and assessment of the most important of these “first generation” post-1990 conflicts is provided below.

##### **4.1 Wajir Conflicts, 1992-93 and 2000-01**

Wajir district is shared by a number of Somali clans, principally the Ajuraan, Degodia, and Ogaden. The Ajuraan consider themselves to be the “original” inhabitants of much of the land (though in fact they displaced the Borana, who once inhabited the entire zone). In any event, the Ajuraan enjoyed protected access to Wajir-West under the British colonial system and since independence have faced long-term migratory pressure and changing demographics from westward-expanding neighbors, especially the Degodia.<sup>28</sup> The district has historically been almost entirely rural and pastoral, with only four settlements in the entire district in 1940 (a district comprising 56,601 square kilometers). Today, there are 71 settlements, of which 26 are new since 1996; a total of about 380,000 live in the district.<sup>29</sup>

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<sup>28</sup> Goldsmith, “Cattle, Khat, and Guns,” p. 30.

<sup>29</sup> Robert Walker and Hassan G. Omar, “Pastoralists Under Pressure: The Politics of Sedentarisation and Marginalisation in Wajir District, Northeast Kenya” (Nairobi: Oxfam-GB, July 2002), pp. 9, 18.

Migratory pressures on the Wajir rangeland have been exacerbated by the firepower and changed clan demographics arising from the Somali civil war, and have led to endemic tensions between the three clans over rights to pasture and wells. Land pressure was worsened in the 1980s when the Degodia were pushed out of Isiolo district and into Wajir by the Borana. Anxiety over land access is clearly a major underlying factor in district conflicts. But the clashes which erupted in 1992 and 1993 between the Degodia, Ajuraan, and Ogaden clans were triggered by the arrival of multi-party politics and competition over MP constituencies. As noted above, these elections were viewed as high-stakes, zero-sum contests by clans fearful that victory by rival clans would institutionalize the rival's hold on resources and eventually disenfranchise the losers. In 1992, general elections led to heightened tensions in a number of electoral districts ("constituencies" in the Kenyan system) where two or more clans shared residency and where demographics were either shifting or were actively manipulated to produce a desired outcome for a clan and its MP candidate.

In Wajir-West constituency, tensions between the Degodia and Ajuraan had already led to an alarming number of assassinations in the 1980s, rendering the area one of the most unstable in Kenya. In 1992, the demographically ascendant Degodia clan sought to increase its numbers by bringing in Degodia from outside the constituency to vote, in some cases even from Ethiopia. It won the seat, and the Ajuraan loss was seen as a sign of the declining fortunes of the Ajuraan. Degodia chiefs were subsequently appointed to an exploding number of new locations, thanks to the influence of the MP. For the Degodia, this was merely a function of time-honored political patronage by an MP in service to his base. For the Ajuraan, it appeared to be a large-scale, politically-sanctioned land grab at their expense. The ethnic clashes which ensued rocked much of Wajir district, spreading to other clans and overwhelming local government. Violence even spread among the market women in Wajir town. From 1992 to 1995, a total of 500 businesses in Wajir were looted or destroyed; livestock estimated at a value of \$900,000 were lost to rustling; and Wajir town was nearly emptied of professionals and middle-class residents. During that period, 165 civil servants and teachers either left their posts or refused to go when assigned to Wajir.<sup>30</sup> Wajir was the epicenter of the descent of much of Northeast Province into anarchy.

What happened next is one of the more extraordinary turns of events in Kenya's troubled frontier violence, and is well-documented in print and now film.<sup>31</sup> An initially small women's civic group helped set in motion a peace process which eventually culminated not only in a relatively durable peace among the three main clans in Wajir, but also helped produce a new type of civic-government partnership for conflict management that went on to become a model for peace committees throughout much of Kenya.

Two women intervened to stop the market violence. The Wajir Women for Peace

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<sup>30</sup> Dekha Ibrahim and Janice Jenner, "Wajir Community-based Conflict Management," paper presented to the USAID Conference "Conflict Resolution in the Greater Horn of Africa (June 1997).

<sup>31</sup> A documentary film entitled "The Wajir Story" was produced by Trojan Horse Productions and commissioned by Responding to Conflict.



Group was formed out of those talks, which expanded to include other women in the town.<sup>32</sup> This women's group was then joined by a group of professionals who formed the multi-clan Wajir Peace Group (WPG), with members from all clans in the district. They facilitated a meeting of clan elders from all the lineages in the district which culminated in the Al Fatah declaration, which set out guidelines for the return of peace and future relations between the clans. Other groups also began to form, involving elders and youth, while a group of businessmen began raising money for peace activities.

In April 1994, a new DC was appointed to Wajir, who sought to partner with local civic groups and traditional authorities to keep the peace. A rapid response team composed of both government and civic leaders was formed on the assumption that early response could prevent many manageable conflicts from spiraling out of control. Disputes were handled not according to the letter of Kenyan penal code, but "the Somali way" -- customary law and blood compensation payment was utilized to manage murders, and collective punishment in the form of confiscation of a clan's cattle until a culprit was apprehended and stolen animals or goods returned. The result was a steady decline in banditry and crime. While the deeper, underlying conflict drivers were not addressed, at least one of the main triggers of communal violence – violent crime – was greatly reduced.

The Wajir experiment in civic-governmental collaboration – or, in some respects, government sub-contracting out of key functions to local civic and traditional authorities -- was formalized via a decision to unite the peace groups as a sub-committee of the District Development Committee (DDC), a forum within the district administration bringing together government and civil society. The Wajir Peace and Development Committee (WPDC) was also established in 1995. Chaired by the District Commissioner, it includes representatives from the District Security Committee, heads of government departments, NGOs, elders, women, youth, religious leaders, the business community, and the district's four MPs. The committee thus forms an umbrella of different peace activities in the district, enshrining civic-local government collaboration while giving official government blessing to largely autonomous civic and traditional action on matters normally considered core functions of the state – policing, the judiciary (even over capital offenses like murder, employing extra-constitutional customary law), and cross-border diplomacy, to name a few. In the process, social groups not normally given voice in formal government – elders, women, and youth – were accorded a central place in the civic-government collaboration. The WPDC also catalyzed traditional clan elders in the district to form a robust ten-man "Council of Elders," allowing them to routinize communication and collaboration. Over time, the WPDC received support from international donors.

The implications of the WPDC experiment are considered below. Here, several points are worth highlighting:

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<sup>32</sup> This section draws extensively on Ibrahim and Jenner (1997).

- the WPDC was unquestionably instrumental in the remarkable turnaround of Wajir district from one of the most anarchic to one of the more stable border zones of Kenya;
- the WPDC is a model for similar experiments with peace committees throughout other troubled rural areas of Kenya, a policy shift that is now in the process of being enshrined in a national policy on conflict management and peace-building;
- crucial to the WPDC's success was the combined commitment of a top local government administrator and local civic leaders. The absence of either would likely have doomed the WPDC to failure;
- the WPDC's success is also due to the fact that it combines both traditional elders and civic leadership (professionals, businesspeople, local NGO figures, etc). Though the two are often rival sources of non-state authority, the WPDC demonstrates that they can work together and that when they do, the partnership is much more effective;
- the WPDC's chief success has been in reducing incidents of violent crime and banditry, and facilitating rapid, effective conflict management response where conflicts have emerged;
- the WPDC has not, however, been in a position to prevent large-scale communal clashes (as the following case studies will demonstrate) nor address the underlying causes of armed conflict in the region. It is, in other words, more effective at conflict management and crime prevention than conflict prevention.

As for the conflict which prompted the creation of the WPDC, relations between the Ajuraan and Degodia were stabilized and no armed clashes have occurred between the two since 1994. In an effort to resolve the source of the conflict – the MP seat over which the two clans fought – the Kenyan government created a new parliamentary constituency, Wajir-North, intended to give the Ajuraan their “own” seat in parliament. This tactic, embraced at the urging of many Somali Kenyan politicians, has resulted in Wajir district sporting four constituencies: Wajir-North (Ajuraan); Wajir-East (Degodia); Wajir-South (Ogaden); and Wajir-West (split between Ajuraan and Degodia). The Ajuraan were split over the proposal to assign them a constituency; some worried that the this not only failed to address the underlying cause of the conflict – grazing land and access to resources – but actually institutionalized the loss of Ajuraan of land to the Degodia, who, as one Ajuraan figure put it to the Kenyan media, “are aliens to the area.”<sup>33</sup>

The 1992-1993 Wajir conflict left a legacy of secondary conflict issues which were not resolved and eventually produced armed clashes between the Ajuraan and Garre in 2000. The fact that the Garre clan had quietly sided with the Degodia in the 1992 election and clashes remained a festering grievance within the Ajuraan; the Ajuraan responded by using their new power in Wajir-North constituency to push the Garre out of the area, employing the same misuse of administrative (or in this case electoral) units to engage in ethnic cleansing that they feared would occur at their expense in Wajir-West.

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<sup>33</sup> Quoted in Umar, “Resource Utilization” (1997), p. 18.

In July 2000, clashes erupted between the Garre and Ajuraan in northern Wajir district. The clashes were sparked by a spiraling cycle of banditry raids and counter-raids, involving as many as 100 armed men and producing 30 deaths.<sup>34</sup> The violence continued into early 2001, when Ajuraan residents of north Wajir were the victims of a cross-border raid, reportedly involving gunman dressed in Ethiopian military uniforms (suspected to be Ethiopian Garre). Fifteen villagers died, 3,300 were displaced, and 15,000 cattle were stolen and moved back across the Ethiopian border in the attack.<sup>35</sup> Garre and Ajuraan tensions over grazing land, control of constituencies and locations, and ethnic cleansing in Wajir-West were sparked in the latter case by a dispute over a newly declared location along the border of Wajir and Mandera districts. Garre clan leaders and administrators sought to settle Garre there, while the Ajuraan expected that the location would be theirs to govern by dint of their control over Wajir-West constituency. Because the Ires Teno location is the site of valuable grazing land, the stakes were high for the two clans, helping to spark renewed violence. Adding to the conflict is the fact that the disputed territory is adjacent to the Ethiopian border. The two clans (especially the Garre) can call on Ethiopian kinsmen for aid against their rivals introduces outside elements into the conflict who are not stakeholders in local peace, who are principally motivated by the opportunity to loot, and who can return across the Ethiopian border to avoid retaliation or arrest. This places the conflict beyond the ability of both the WPDC and the Kenyan government to manage. The international or cross-border dimension to the conflict is complicated still further by the fact that the Garre accuse the Ajuraan of harboring OLF militia, which the Ajuraan deny, but which is likely a factor in Ethiopian government tacit support of or acquiescence to Ethiopian Garre irregulars engaging in the cross-border attacks.<sup>36</sup>

#### **4.2 Isiolo District Conflicts and Displacement**

The series of clashes and evictions which have occurred in Kenya's troubled Isiolo District since the 1980s is technically beyond the Kenya-Somali border area, but is briefly summarized here because of its spillover impact on Wajir and Mandera districts. Communal clashes have rendered Isiolo district – a faultline area where a number of major ethnic groups share uneasy and shifting boundaries, where both urban space and rangeland is contested, and where competition over seats in parliament and locations is acute – one of the most unstable areas of northern Kenya. Analysts differ over whether land disputes or political competition is the main driver of conflict in Isiolo, but the fact that ethnic claims on land and ethnic control of political representation at the constituency and location levels are so closely intertwined makes the argument somewhat artificial. The Borona in particular have felt squeezed by long-term west-ward migration and settlement by Somali pastoralists. The population of Somalis in Isiolo district has expanded since 1960 from 10 percent to 35 percent in 1989.<sup>37</sup> Not surprisingly, disputes

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<sup>34</sup> Tervil Okono, "Kenya Clan Fight Leaves 30 Dead," PANA news service ((July 21 2000).

<sup>35</sup> "Life in the Shadow of Bandit Attacks," *Kenyan Daily Nation* (January 13, 2001).

<sup>36</sup> *Ibid.*

<sup>37</sup> Umar, "Resource Utilization," p. 16. Most of the Somali population in Isiolo in 1960 were Isaaq from northern Somalia (at the time, the colony of British Somaliland). They were demobilized soldiers who had served under the British in WW II and who were given land in Isiolo by the British.

over rangeland and wells are endemic. Clashes in the district have at times degenerated into what one observer termed “tribal terrorism.”<sup>38</sup>

Two evictions have had a particularly powerful ripple effect on the Kenya-Somali border area. The first was the eviction of the Somali Murille clan from Isiolo by the Boran in the mid-1990s. The Murille had for decades migrated westward into Isiolo from Mandera district, and in the better-watered region of Isiolo had turned to cattle herding. Forced back to the much more arid conditions of Mandera district, the Murille experienced severe economic hardship. They also arrived as displaced and distressed pastoralists at about the same time the Garre were also being displaced from Wajir-North into Mandera. The subsequent clashes between Garre and Murille (explored below) are partially a function of this spillover of ethnic cleansing in neighboring territories.

Degodia Somalis have also been displaced from Isiolo, in several separate incidents since the 1980s. In the aftermath of the Bagalla massacre, an attempt was made by ICRC and the Kenyan government to reduce the need for Degodia herders to migrate into Isiolo, where their movements often produced conflict with the Borana. Boreholes intended for Degodia use were drilled in the western border of Wajir as a conflict prevention tactic, though they were not welcomed by local pastoralists, who believed, correctly, that they would alter pastoral migration in ways that would damage rangelands.<sup>39</sup> Tensions with the Borana persisted. In October 1998, a large group of Borana launched a large-scale raid on several Degodia settlements in Isiolo, killing over 140 and stealing 17,500 cattle. The Kenyan government accused the attackers of being members of the OLF, a claim which remains a matter of dispute. The area was rocked by conflict between the two groups for over a year. Efforts by local peace committees and external aid agencies to negotiate a peace between the two met with only limited success.<sup>40</sup> The partial displacement of Degodia into Wajir-West has contributed to local tensions between Degodia and Ajuraan there.

### **4.3 Aulihan-Abdwaq clashes, Garissa, 1998-2000**

In 1998, conflict over land and access to the Tana River erupted between two Somali clans, the Aulihan and Abdwaq, in Garissa district. The Aulihan moved their herd into Sankuri division in search of better pasture during a drought, and met with resistance from Abdwaq, who claim the area as their traditional grazing zone. Abdwaq resistance to allow the Aulihan access in a period of drought was unusual, especially since the two clans are closely related. What contributed to this pastoral inhospitality was rising political tensions between the two clans. A growing number of Aulihan Somali refugees had secured Kenyan national identity cards (the Abdwaq are not present in significant numbers in the Transjuba region and so did not generate a sizable refugee flow on their own). The rapid growth in the number of these *galti* Aulihan threatened to upset the

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<sup>38</sup> Goldsmith, “Cattle, Khat, and Guns,” p. 30.

<sup>39</sup> Walker and Omar, “Pastoralists Under Pressure,” p. 28

<sup>40</sup> A brief description of peace efforts in Isiolo is provided in Robert Walker, Dekha Ibrahim, and H.O.A. Shuria, “Oxfam-GB Funded Peacebuilding Initiatives in the Arid Districts of Kenya: Lessons and Challenges,” (Nairobi: Oxfam-GB, March 2003), pp. 14-15.

balance in upcoming general election in 2002, where Abdwaq MPs in two constituencies, Fafi and Dujis, might lose out to Aulihan candidates.<sup>41</sup> The conflict which ensued spread to Garissa town and at its worst was responsible for as many as 30 deaths per day in the town. Business in Garissa was halted and agricultural land briefly abandoned.

Urban commercial interests became a key force for peace. A group of eminent Garissa leaders from the Aulihan and Abdwaq clans came together in what became the Pastoralist Peace and Development Initiative (PPDI). As a first step, they brought the business community into the initiative. Not surprisingly, some of the businesspeople were eager to stop the fighting while others were actively supporting their clan militia. After numerous setbacks, clan elders from the two sides were convened in a three day traditional meeting, along with eminent clan elders from other clans in Wajir and Mandera, who served as mediators and adjudicators. They concluded that the Abdwaq must pay a *sabeen*, or initial installment of blood compensation which serves as an apology and, as an acknowledgement of wrongdoing, tends to cool tempers and open the door for full negotiations. After additional setbacks, external peace groups from Nairobi sponsored a five day meeting at which the two clans reached an agreement to end hostilities. A joint delegation of elders then traveled to different locations to inform their kinsmen about the peace, which has since held.

The Garissa conflict is instructive as a conflict similar in some respects to the current crisis in El Wak (discussed below), in which two clans which have traditionally been relatively cooperative clash over rising tensions that are mainly over political representation. Pastoral land and water issues appear superficially to be at issue, but are in fact largely incidental. In Garissa as in El Wak, commercial interests are strong and interests in peace or conflict mixed, but in the end Garissa's commercial elite opted to support the peace effort. Strong civic leadership, enshrined in the PPDI, was almost certainly essential in expediting a peace accord for a conflict which appeared to be spiraling out of control. Use of traditional conflict resolution tools – guest clan elders as mediators, blood compensation negotiated by the clan elders – worked well in this instance, though slow and prone to setbacks. Finally, the Garissa case is yet another example of the extent to which contestation over parliamentary constituencies is a conflict-producing exercise, especially where clans vote in bloc and victory is assumed to assign the winning clan the right to make exclusivist claims on the territory.

## **5. Conflict Mapping -- Current Conflict Zones along the Kenya-Somalia Border**

Political, economic, and conflict dynamics interact across the entire border area, making the demarcation of separate conflict zones a somewhat artificial exercise. Nonetheless, it is useful to view the border area as four distinct conflicts.

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<sup>41</sup> The following assessment draws on Walker, Ibrahim, and Shuria, "Oxfam GB Funded Peacebuilding Initiatives," pp. 13-14.

## 5.1 Mandera

*Background.* Despite being at the vortex of regional humanitarian crises, refugee flows, serious armed conflict in neighboring areas, arms flows, endemic banditry, and Ethiopian skirmishes with both Islamists and the OLF, Mandera district managed to remain relatively conflict-free throughout the 1990s. Peace there could never be taken for granted – the district was chronically tense and not always safe from violent crime or brief bouts of armed conflict spilling over from adjacent Beled Hawa<sup>42</sup> – but for the most part it avoided the explosions of armed conflict which rocked neighboring Wajir and Moyale districts in Kenya and Gedo region in Somalia. Instead, Mandera town has served as an important staging base for international humanitarian relief operations into southern Somalia, and a vibrant frontier commercial hub. The district thus was plagued by all of the most dangerous “triggers” of conflict noted throughout this paper – especially acts of crime -- but underlying conditions were not conducive to outbreaks of communal violence. In retrospect, however, underlying sources of conflict – the misuse of locations to create zones of ethnic exclusion and block rival clans from accessing grazing areas -- were steadily building in the late 1980s and 1990s. That these warning signs were not recognized or acted upon constitutes a failure of conflict prevention.

Since 2004, the district has experienced a serious setback following clashes pitting the two largest clans in the district, the Garre and Murille. The two clans have had a long history of periodic struggles over grazing land, dating back to the 1920s, but also have had extended periods of peace between them. Prior to the 2004 violence, no serious armed clashes had occurred between the two clans since 1983.

The 2004 clashes began with pastoral clashes over disputed pasture at Jabibar, resulting in one death. The death triggered a revenge killing, a clear warning sign that *xeer* between the two clans was in danger of breaking down. The spiral of revenge killing culminated with the killing of a prominent Garre NGO worker by Murille near El Wak in December 2004. The Garre, responded with armed attacks that ushered in a period of wider conflict. From January to March 2005, multiple attacks were responsible for 50 deaths and 30,000 displaced persons in the district. The conflict reached its apex on March 16, 2005, when a Murille raid on Garre village of El Golicha resulted in a massacre of 22 people, of whom 16 were children. The massacre triggered widespread outrage in the Kenyan media and international press, prompting direct Kenyan government response. The two clans were convened in peace talks which were eventually mediated by a group of eminent Muslim leaders from the Supreme Council of Kenya Muslims (SUPKEM). Under considerable national pressure, the two clans reached an accord which enshrined open access to pasture throughout the district. But aid agencies on the ground report that ethnic cleansing at the location level continues, and IDP return to home areas, including Mandera town, has been slow. The current lack of hostilities may not constitute an enduring peace. While a return to armed conflict is not viewed as inevitable, it remains a dangerous possibility.

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<sup>42</sup> Mandera town has occasionally been showered with stray bullets and even errant mortars from fighting in Bulo Hawa.

*Conflict Drivers.* A number of underlying conflict drivers have been at play in Mandera. Chronic tensions over access to grazing land and wells have unquestionably been a root cause of the communal violence. Land pressures in the arid region have always been high. A combination of factors – increased population, the displacement of Garre and Murille from Wajir-West and Isiolo back into Mandera, an increase in poorly placed boreholes, and the misuse of locations as zones of exclusive grazing land have all contributed to growing anxiety among and pressure on pastoralists.

Political competition over constituencies and locations have been a more direct conflict driver. Following clan clashes in the early 1980s, in 1988 a new constituency, Mandera-Central, was carved out of Mandera-East to provide a seat in parliament for the Murille. Prior to that time, the two constituencies in Mandera were routinely held by the numerically dominant Garre. As in Wajir, it was thought that a separate constituency in a mainly Murille zone would serve as a conflict prevention device, by eliminating political competition between the Garre and Murille. Instead, it accelerated it. As elsewhere in the region, MPs wielded authority to pressure the government to expand the number of locations in their constituency as a means of rewarding clients and expanding government services – schools, boreholes, stipends to chiefs – all part of political patronage in Kenya. But because the “base” of each MP is his clan or sub-clan, rewards of location chieftainships went exclusively to the clan of the MP. And because control of locations was used to make exclusionist claims on land within the location borders, the net result was widespread ethnic cleansing in the three constituencies of Mandera.<sup>43</sup> Conflict was most acute in locations where valuable, previously shared grazing area was situated.

In the Garre-Murille clashes, competition within the Garre political elite appears to have played an especially destructive and complex role. In 2002, both the Mandera-East and Mandera-Central constituencies were won by Garre from the Qoranyo sub-clan, one of two main Garre sub-clans the other being the Tuuf). The Tuuf had previously enjoyed prominence in the political realm, and both the sub-clan and its ousted MP, Aden Nur Mohamed, were unhappy with the outcome. Some local observers contend that Aden Nur and his Tuuf supporters sought an alliance with Murille and, in an attempt to demonstrate that the Qoranyo leaders could not rule, provoked security incidents and tensions between the two clans. Adan Nur’s successor, MP Billow Kero, filed a statement with the CID accusing Aden Nur of inciting violence, and Aden Nur was summoned and questioned by the police. Nur in turn accuses Kero of using Garre militia to intimidate rivals. If either or both of the charges are true, it would mirror patterns in a number of other troubled border regions of Kenya, where MPs and their political rivals are frequently accused of fomenting ethnic violence.<sup>44</sup>

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<sup>43</sup> ITDG, “30 Killed as Clashes Engulf Mandera,” (January 2005). Accessed at: [http://www/itdg.org/id+peace6\\_mandera](http://www/itdg.org/id+peace6_mandera)

<sup>44</sup> “Government Admits its Inability to Find Cause of Feud in NEP,” *Kenya Times* (Jan. 15 2005). MPs from Marsabit were brought in for questioning by the Kenyan police under similar suspicion of incitement following the massacre there in July 2005.

As with the Garre-Ajuraan clashes in Wajir-North, the fact that Mandera district clans can call on militia firepower from neighboring Ethiopia, where kinsmen are either in the Ethiopia military or operate as para-military forces in the border areas, exacerbates the conflict.

The Garre-Murille conflict was also entangled in and driven by the Garre-Marehan conflict. The Murille of Mandera district have had a long-running relationship with the Marehan sub-clans in the border area, especially the Ali Dheere sub-clan. A series of killings since 2000, and a longer history of rivalry over trade between the Ali Dheere and the Garre, led to deteriorating relations between the two groups. When armed clashes between the Marehan and Garre broke out over El Wak, the Garre suspected Murille complicity with the Marehan, increasing mistrust between the two.

*Prospects for Peace.* The fact that the recently-brokered peace accord was reached under considerable external pressure and without adequate follow-up to insure implementation is worrisome. Most of the underlying factors driving the conflict – political manipulation of ethnic grievances by politicians, abuse of locations to pursue ethnic cleansing, and ever-worsening pressures on pastoral households – are still in place. On the other hand, a number of factors could work in favor of consolidating the fragile peace. The impressive growth of civic peace groups in Mandera is helping build lines of communication and their watch-dog role may reduce the space political figures have to manipulate clan tensions. Business interests in Mandera-town depend on cross-border trade, which has been interrupted by fighting, and could be convinced to support peace rather than fund their clan militias. Finally, the fact that the peace accord was mediated by national Muslim leaders may create a stronger taboo against violating the peace.

## **5.2 El Wak**

*Background.* The district of El Wak, Somalia has been the scene of several armed clashes since December 2004. The fighting has pitted two Somali clans against one another, the Marehan and Garre clans. As of August 2005, the conflict has produced an estimated 93 deaths and over 10,000 displaced persons, most of whom have found shelter with kinsmen in nearby settlements and towns. The first round of fighting in April 2005 produced 20 deaths. In the second clash, the Garre militia retook the town of El Wak (called Bur Hache by the Garre) on June 12, leaving 43 dead and thousands displaced. A third round of fighting which erupted on July 22 produced 30 deaths and led to the Marehan retaking control of the town. Civilians, including women and children, have been among the victims of the fighting.

El Wak is a remote border district of Gedo region in southwestern Somalia. Pastoral nomadism is the dominant mode of production for the vast majority of the population. Both the Somali district of El Wak and the adjacent areas in Kenya feature very high levels of poverty and low levels of development. Chronic instability due to periodic intra-Marehan clashes in Gedo region since 1996 has exacerbated poverty, malnutrition, and displacement there.



El Wak town is the main settlement in El Wak district. Though the current conflict is driven by a number of factors, control of the town is the main immediate objective of the two sides. The town's population has grown in recent years due to cross-border trade and insecurity in other zones of Gedo region; as of 2001 it was home to an estimated 2,200 people.

The district of El Wak is an area where rangeland controlled by the Garre and Marehan overlap. The Garre inhabit territory encompassing parts of El Wak district in Somalia, Wajir district in Kenya, and the border area of southern Ethiopia. The specific sub-clan of the Marehan which has historically resided in El Wak, the Urmidig, is a minority lineage within the broader Marehan clan,

El Wak district has long been co-habited peacefully by the Garre and Urmidig/Marehan. The two clans have not had notable disputes over grazing areas, and they have long shared the town of El Wak.<sup>45</sup> Indeed, local Urmidig/Marehan and Garre clans in El Wak have in the past made special efforts to preserve good relations, splitting positions in the district council and police 50-50, and dropping the blood payment in the events of a cross-clan killing from 100 to 40 camels. Inter-marriage between the two clans is common as well. These solid relations between the Garre and Urmidig/Marehan contrast sharply with the conflict-ridden relations the Garre and Marehan have had with other neighboring communities.

*Structural, Environmental, and Political Factors.* Beginning in the 1970s, a number of factors began to place pressure on the Garre-Urmidig peace in El Wak. The first was (and remains) pressure on the land. Though the Garre and Marehan clans have not fought over pasture and wells in El Wak, their relations must be viewed against the broader backdrop of increased pressure on and clashes over land in the region, which has produced militarized relations between the so-called "corner tribes" of northern Kenya.

A second source of pressure was the rise of the Marehan clan to national political power in Somalia under the reign of President Siyad Barre (himself a Marehan) from 1969 to 1990. Though Gedo region did not enjoy many direct perks from the Barre regime --- it remained a poor and underdeveloped region --- many Marehan assumed top positions in Mogadishu and formed part of a powerful political, economic, and military elite. In Gedo region, this enabled the Marehan to push southward and gradually gain control over vital towns and rangeland at the expense of neighboring clans such as the Aulihan and Rahanweyn. The city of Bardhere, an old religious settlement and the largest town in Gedo region, was in earlier times not considered a "Marehan" town, but by the 1980s the Marehan had become the dominant clan there. The previously Rahanweyn district of Luuq was redistricted into Gedo region and increasingly settled by Marehan. Likewise, the important wells at Fafaduun were lost by the Aulihan to well-armed Marehan pastoralists. Marehan also gained political control over the valuable port city of Kismayo in Lower Jubba (Barre appointed only Marehan governors there, and Marehan merchants were allowed to monopolize livestock export trade at the port) and began populating the city with newcomer Marehan. Neighboring clans complain that this expansion of

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<sup>45</sup> As is common in "shared" Somali towns, each clan is clustered on its side of El Wak.

Marehan territory and power reflects a strategy of “Marehanization” of the entire Gedo region; some go so far as to argue the Marehan are seeking to dominate all of the Transjubba region down to Kismayo. To the extent that the “Marehanization” thesis is a factor, the enduring peace in El Wak between the Garre and Urmidig/Marehan is especially impressive, and reflects the fact that until recently El Wak was considered low value and that the local Urmidig sub-clan was not party to the expansionist agenda of other Marehan sub-clans. But the rising power of the Marehan meant that the balance of power in El Wak could be easily tipped if and when more powerful Marehan sub-clans opted to weigh in on local affairs.

A third factor was the collapse of the Somali state and the fall of the Marehan from power in 1991, which had an enormous impact on Gedo region. As discussed above, tens of thousands of Marehan fled Mogadishu and arrived in Gedo region. The displaced Marehan from Mogadishu overwhelmed the local population. They were well armed, generally wealthier, urban, and better organized politically. Though most of the top political and economic elite of the Marehan relocated to Nairobi, the newcomers or *galti* took over political control of Gedo region under the banner of the Somali National Front, or SNF. As the Somali crisis dragged on, tensions between the local Marehan (the *guri*, or original inhabitants) and the *galti* Marehan increased. The *guri* complained that the *galti* monopolized political power and economic opportunities, were not stakeholders in local peace, pursued agendas that served their interests only, and looked down upon the *guri* Marehan as weak and incapable.

In northern Gedo region, the growing rivalry between the *guri* and *galti* Marehan – a rivalry which can only partially be explained along sub-clan lines – manifested itself as a factional struggle between the *galti*-dominated SNF and the Islamist movement *Al-Ittihad Al-Islamiyya* (AIAI). For years, the community of El Wak managed to convince both of the “factions” of AIAI and SNF not to involve themselves in the town. In an interview with elders from El Wak in 1998, they referred to El Wak as a “faction-free zone” and were proud of their ability to keep the small multi-clan town out of the Marehan political fray.<sup>46</sup>

Sometime in the late 1990s, however, Islamists did move into El Wak and establish a presence there. The precise nature of this presence remains the subject of dispute, but El Wak has gained a reputation as a safe haven for a small number of Islamists, some radical in orientation, who were rumored to have used the town to build a camp and terrorist training base for infiltration into Kenya. Others argued the Islamists were not so much linked to terrorist training bases but were rather engaged in the expanding commerce passing through the town. What is clear is that the Islamist presence in El Wak at some point included a militia component of some consequence, and that, unlike in Luuq, where AIAI worked openly with international aid agencies, the Islamists in El Wak were hostile to outside visitors. For the community in El Wak, the presence of the Islamists was a major problem, earning it an unwanted and probably somewhat exaggerated reputation as a terrorist lair. This was especially dangerous in the aftermath

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<sup>46</sup> Ken Menkhaus, “Gedo Region,” (Nairobi: UN Development Office for Somalia, December 1999).

of the al Qaeda bombing of the US Embassy in Nairobi in August 1998. The locals claim that they managed to convince AIAI to depart by 2000.

The rise of cross-border commerce between Somalia and Kenya beginning in 1993 is a fourth factor shaping the conflict in El Wak. This transit trade, which expanded into a highly profitable and high-volume business involving thousands of Somali and Kenyan wholesalers, middlemen, small traders, and transporters, initially passed mainly through Beled Hawa/Mandera. But intra-clan clashes and insecurity among the Marehan in northern Gedo region rendered that route increasingly unattractive after 1999, pushing the interstate commerce to other, previously minor trade routes such as the Bardhere-El Wak route, which is over a track road. El Wak became one of the busiest of the half dozen or more trade towns which emerged along the Kenyan-Somali border, replete with small warehouses for storage of non-perishable goods. This increased the value of the previously uninteresting town and attracted the *galti* Marehan from northern Gedo region. By 2005 local residents estimate that about a quarter or more of the Marehan population of El Wak were newcomers, mainly from sub-clans other than the Urmidig. The *galti* Marehan were not stakeholders in the local peace between the Garre and Urmidig and eventually took actions which helped to trigger the fighting. In addition, the town also attracted a number of businessmen from Mogadishu, mainly from the Haber Gedir and Murosade clans.<sup>47</sup> They established partnerships with Marehan and Garre but have also been accused of stoking rivalries between the Garre and Marehan for their own benefit. Even without external complications, Garre-Marehan competition for control over the lucrative trade and over taxes collected on commerce began to erode previously peaceful relations between the two clans. In sum, cross-border trade increased the value of El Wak town and in so doing increased possibilities of conflict over its resources.

Fifth, political developments in Somalia, Kenya, and Ethiopia each contributed to the spiraling of the Garre-Marehan dispute into an unmanageable armed conflict. In Ethiopia, the Garre have been used by the Ethiopian military to help control their border with Kenya. The militia leader controlling this Garre unit of some 300 men is Hassan Koro, and is viewed by neighboring groups as a warlord. Ethiopia, whose principal concern is thwarting operations by the Oromo Liberation Front in the area, capitalizes on Garre-Oromo animosities by strengthening and arming Garre militias in its border area. The result is that the Garre, which previously were not an especially powerful “corner tribe,” now can draw on a powerful militia across the Ethiopian border. Some neighboring groups complain that – like the Marehan – this has emboldened the Garre to become more assertive or even expansionist. Marehan insist that the Kenyan government is complicit with the Garre, pointing to the fact that Koro’s Ethiopian Garre militia passes through and remains in Kenyan territory and no attempt has been made by Kenya to block them.

In Somalia, the 2003-05 negotiations over power-sharing in the Transitional Federal Government (TFG) heightened the need for clans to maximize their perceived power and control of territory. For the Marehan, the loss of El Wak to the previously

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<sup>47</sup> Both Haber Gedir and Murosade are members of the larger Hawiye clan family which today dominates Mogadishu politically and economically.

weak Garre was an ill-timed humiliation that hurt them nationally and that could not go unchallenged. For the Garre, loss of control over territory inside Gedo region would essentially push them out of Somali politics. Aside from a community of Garre in Lower Shabelle region, El Wak is the main Garre territory inside Somalia. Loss of that territory to the Marehan would impose enormous political costs on the Garre of Somalia. Politically, then, the stakes are extremely high for both Marehan and Garre over El Wak.

Collectively, these underlying factors combined to create a much more militarized, contentious, and dangerous environment in which to maintain the peace in El Wak. In many ways what is remarkable about El Wak is how successful the local community had been in maintaining the peace for 14 years in a context of state collapse, militarization, resource scarcity, and political manipulation of clannism.

*Triggering Events.* The Garre-Marehan slide into armed conflict in December 2004 was in part triggered by spillover from recent outbreaks of armed conflict between the Garre and Murille clan in Mandera district. It was also triggered by a series of murders which were not speedily and satisfactorily resolved by clan elders. Growing levels of suspicion and distrust between the two clans shaped local perceptions of the murders as political acts, making it much more difficult to resolve the deaths through customary blood compensation.

Because the Murille are allied with the Ali Dheere sub-clan of the Marehan (concentrated in the Beled Hawa area), the Garre increasingly suspected the Marehan of providing support to the Murille as part of a proxy war against them. This suspicion was increased in October 2003 when a Kenyan Garre employee of the international NGO ADRA was shot and killed near El Wak by Marehan gunmen from the Ali Dheere/Marehan sub-clan. Though Marehan claim that the killing was simply over a business dispute, the Garre viewed this as part of the Garre-Murille conflict and believed the Ali Dheere were complicit with the Murille. Though blood compensation payments (*diya*) were paid, more killings ensued, and alarmed observers warned that armed conflict between the Garre and Marehan was imminent. These warnings went largely unheeded.

The stakes were raised further when Garre called on the Garre militia in Ethiopia for help. In 2004, an Ali Dheere man was killed in El Wak, and the Ali Dheere retaliated by killing two Garre businessmen in Bulo Hawa. The Garre, emboldened by the addition of their Ethiopian Garre militia, escalated the crisis by taking El Wak by force in December 2004. Armed clashes were limited, as the Marehan opted to retreat, but it was at this point that the local Garre-Urmidig partnership was overwhelmed by broader clan tensions, heightened by the fact that outside Garre and Marehan interests were now increasingly driving decisions.

Unresolved tensions between Marehan and Garre erupted in April 2005 when the Marehan took El Wak in fighting which left 20 dead and over 7,000 displaced. A militia build-up ensued on both sides, and on June 12 2005 a well-armed Garre militia retook El Wak in fighting that led to 43 dead and thousands of displaced Marehan.

Some local Garre leaders at that point sought to initiate peace talks with their Marehan counterparts, but the Marehan were unwilling to negotiate from a position of weakness. Instead, the Marehan met at Garbaharrey, Gedo region, ostensibly to help resolve an intra-Marehan clash over control of a small Gedo settlement, but also with the aim of closing ranks in order to present a united front against the Garre. The fact that the Garbaharrey conference simultaneously served as a peace conference and an opportunity for a war party to forge an alliance serves as a reminder that local reconciliation in Somalia is often a two-edged sword, a form of alliance building at the expense of a third party.

The Marehan at that point fell into one of three categories. First were those voicing a preference for a negotiated solution to El Wak. This included some – but not all – of the Urdimig clan on El Wak. It also included some of the broader Marehan clan leadership in Gedo region, which wanted to reclaim Marehan co-habitation of El Wak but were wary of the political costs of yet another armed conflict in the region involving the Marehan, especially at a sensitive time in the formation of the Somalia TFG. This group was not averse to a militia build-up in Gedo region, but saw that as a means of negotiating from a position of strength. A second group of Marehan were Gedo residents who insisted that the clan must retake El Wak by force to save face and only then could they negotiate a return to co-existence with the Garre. A third group, including Marehan elites in Nairobi and in the Jubba Valley Alliance, viewed the entire crisis through the lens of national rather than local interests. For them, the defeat at El Wak at the hands of the Garre was an embarrassment and a setback to broader Marehan aspirations for power at the national level, in the TFG or in a post-TFG government. The loss had to be reversed decisively to demonstrate the strength of the Marehan generally, and to consolidate the long-running Marehan goal of rendering Gedo region into a Marehan regional base, possibly with the longer-term expectation of declaring an autonomous regional administration there. The latter group's interests won out.

Following a month of inflammatory rhetoric from both sides, in which Garre accused the Marehan of El Wak of being AIAI terrorists, while Marehan claimed they were fighting “non-Somali” Ethiopian militias invading Somali territory, the Marehan retook El Wak on July 22. Leading the attack, and possibly launching it without the full agreement of Marehan clan leaders in Gedo, was a unit of Marehan militiamen from the JVA in Kismayo. The attack came on two fronts, including one which crossed into Kenya, a move which apparently took the Garre by surprise and was intended to prevent their retreat across the border. JVA commander Barre Hirale subsequently expressed a willingness to initiate peace talks with the Garre, while disputes arose among the Marehan militia over the distribution of looted camels. A weak Garre counterattack took place two weeks later and was repulsed with no casualties, a possible indication that the move was actually intended to test Marehan responses prior to the launching of yet another attack on the town.

*Prospects for Peace.* As this paper was in final stages of completion, a local truce was reported in El Wak, with the Marehan militia withdrawing from the town as a gesture of good faith. Kenyan media reported that some of the displaced families were beginning to

move back to the town. The Garre are divided over whether to proceed with peace talks from a position of defeat, but the Marehan gesture is a hopeful sign that progress can be made toward a comprehensive settlement of the conflict. The fact that this truce was the result of a meeting facilitated by the Mandera District Peace Committee (MDPC) and Beled Hawa NGO consortium is a good sign that those nascent umbrella groups are developing a stronger capacity. One major concern is the fact that the talks involved did not include Garre militia and political leaders; instead, local Garre elders met with Marehan elders and militia leaders.<sup>48</sup> As a result, the Garre militia does not consider itself a party to the accord and could opt to disrupt the truce and the return of residents to the town.

The fighting over El Wak has badly damaged the interests of both the Garre and Marehan. Trade in the El Wak area has been completely halted, urban residents have been displaced, and pastoralist grazing patterns have been disrupted and some livestock looted. The town itself is generally of little value without peace and commerce, so victory is in a real sense hollow. This should in theory be contributing to a “hurting stalemate” which could bring both sides to the bargaining table.

The problem is that the “hurting” from the conflict is only felt by local Marehan and Garre residents, and they are not driving decisions in the crisis. The outside interests – Ethiopian Garre, *galti* Marehan, the JVA, and the Garre and Marehan leadership in Nairobi which are so often accused of using “remote control” to foment these conflicts are unaffected by the fighting, though it is not clear that anyone is exploiting the conflict for significant political and economic gain.

Calls for a local solution to a local conflict are not feasible – the conflict is now entangled in wider interests, and those interests must be addressed and brought into peace talks. The biggest immediate obstacle is that outsider Garre and Marehan political elites view the conflict in strictly zero-sum terms, wanting only to negotiate from a position of strength in order to increase their political capital nationally. One solution may be to request both sides to withdraw from the disputed town until peace talks are completed. Local elders from the two clans have stressed that the conflict requires third party mediation, probably by a trusted set of neutral clan elders from outside the region. External actors may be able to facilitate peace by providing financial and/or logistical support to whatever talks emerge.

For their part, local elders are going to have to commit to much speedier and more effective blood payment for crimes committed, and much greater penalties on kinsmen who resort to revenge killings. The *galti* Marehan and Garre whose commitment to local *xeer* is weak must be pressed to respect the *xeer* of their local kinsmen.

The fact that the Garre-Marehan conflict is closely intertwined with the Garre-Murille conflict in Mandera suggests the possibility that peace talks may need to embrace a wider scope and set of regional actors than merely the Garre and Marehan. Unless the broader set of conflict issues which helped to provoke the El Wak crisis are addressed –

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<sup>48</sup> Beled Hawa NGO Consortium, “Situation Report, El Wak Somalia” (August 2005).

especially the threat of proxy war through third parties – El Wak is likely to remain unstable for some time to come.

The most hopeful aspect of the El Wak conflict is that it has not been propelled by some of the intractable structural factors at play in some of the region's other conflicts. This is not a conflict driven by land and water scarcity, or sharply opposed claims on the town (both sides agree El Wak is a shared town). It is over a fairly narrow set of issues related to the prompt management of inter-clan crimes and shared opportunity to profit from cross-border trade. Both are potentially positive-sum issues. A return to status quo ante – shared access to and control of rangeland and the town of El Wak, and a return of control to the local community in El Wak – is the ideal outcome for peace talks. External militias in both clans will need to be thanked for their support by their kinsmen and requested to return home.

The principal danger in El Wak is if the conflict is not resolved soon, it will almost certainly take on a life of its own, with the casualties and losses sustained in the past six months of fighting becoming the core grievances fueling future fighting. Too many of the long-running zones of instability in the region have in fact been left to burn too long and generate too many losses, making it exponentially more difficult for communities to make peace.

### **5.3 Beled Hawa**

*Background.* Beled Hawa (also called Bulo Hawa) is a town of about 30,000 people immediately across the border from Mandera, Kenya. Prior to Somalia's civil war, it was a small, remote, and relatively unimportant border town, handling a small amount of imports of Kenyan light manufactured goods traded into Somalia. During the civil war of 1991-92, Beled Hawa swelled with IDPs seeking to cross into Kenya, and then developed into an important commercial town commanding control of the flow of transit trade from Mogadishu into Kenya via Mandera. The taxes collected on commerce moving through the town, the opportunities afforded by the service economy, and proximity to Mandera (which provided health and education services and access to an airport) greatly increased the value of Beled Hawa. A power struggle over control of the town developed between two wings of the Marehan clan. One, the Somali National Front, was composed mainly of former government officials from Mogadishu; the other, *Al-Ittihad Al-Islamiyya* (AIAI) was an admixture of Marehan embracing a political Islamist ideology and local (*guri*) Marehan opposing SNF domination of Gedo region. Throughout much of the 1990s, the rivalry for control over Beled Hawa was tense but contained. For much of the mid-1990s, the town sported two parallel administrations. An attempt was made by top Marehan clan elders to broker a peace between the two factions in order to unite the Marehan. This produced the el-Ade accords, announced in August 1998, in which it was agreed to disband AIAI, cordon weapons, integrate the two wings into the SNF, and then convene a delayed congress of the SNF to select or reselect leaders. But hardliners within the SNF, fearful of a Congress which might result in their removal from power, sabotaged the accord. Several notable *guri* leaders in both the SNF and AIAI, including the SNF sponsor of the peace talks, Ali Nur, were assassinated over the course of the next year.

Since 2001, armed clashes in Beled Hawa have erupted on several occasions. In April and May 2002, fighting between the pro-TNG Marehan wing led by Abdirisak Bihi and the pro-SRRC faction of the Marehan led to Ethiopian intervention and resulted in the arrest of Bihi and a flood of 10,000 refugees into Mandera Kenya. Poor treatment of the refugees in Mandera exacerbated tensions and led to numerous deaths there. In northern Gedo region, commerce was halted, roads mined, local security deteriorated, and food security remained poor. Gedo region was in 2002 one of the worst humanitarian emergencies in Somalia due to this outbreak of fighting and the displacement it caused. Fighting erupted again between May and July 2004, leading to an estimated 50 deaths and displacing another 3,000 into IDP camps along the Kenya-Somalia border.

*Conflict Drivers.* Since 1999, the armed clashes in Beled Hawa have mainly been driven by factional divisions within the Marehan clan. These factional splits are extremely complex and are a reflection of the exceptionally fissurable and complex nature of intra-Marehan politics. Marehan political alliances are informed by multiple faultlines, including:

- Sub-clan divisions
- Individual leadership rivalries
- Indigenous (*guri*) Marehan versus those from central Somalia (*galti*)
- A rough north-south regional division (the Bula Hawa-Dolo-Luuq districts are a separate trade corridor from the Bardhere-El Waq districts)
- Ethiopian-backed Marehan versus Marehan aligning with Mogadishu-based factions
- Low-caste (*midgan*) sub-clans versus dominant sub-clans
- Secular clan elders and faction leaders versus Islamists

These affiliations and cleavages do not always correspond as neatly as they should and can lead to unusual, even baffling political bedfellows. They also tend to induce very temporary and unstable alliances and frequent switching of sides. Because the fighting has been mainly within the Marehan clan, it has generally been constrained, as clan elders have been able to step in and contain the conflicts. But the disputes have proven difficult to resolve and easy for outsiders to manipulate.

At stake in these factional disputes is a combination of political and economic interests. Politically, factional leaders seek to maximize the number of districts and towns they control in Gedo region to enhance their political standing at the national level, which is the major preoccupation of Marehan political figures. Economically, control over taxes collected at the border crossing is an important source of funding and a source of conflict. Despite the fact that AIAI has in the recent past been one of the actors in the political divisions in Beled Hawa, ideology is not a particularly important component of the conflict.

*Prospects for Resolution.* The conflict over control of Beled Hawa is a classic example of a broader crisis throughout much of Somalia in which disputes over urban areas of some political or economic value are primarily driven by Mogadishu exiles seeking to



consolidate a power base and a livelihood in their clan hinterland. In the process their interests collide with those of their local kinsmen, sometimes producing armed clashes. Seen from this perspective, the conflict in Beled Hawa will be unraveled the moment there is a sustained peace in Mogadishu and an opportunity for the Mogadishu exiles to return to pursue their political and economic ambitions there. Because sustained peace in Mogadishu is not a likely scenario in the near future, this is not a happy prognosis for Beled Hawa.

Still, there are a number of factors which might work in favor of a durable peace in Beled Hawa even in the event Mogadishu remains closed to the Marehan *galti*. First, the Beled Hawa feud is intra-clan in nature, and within a clan with strong traditional elders or *ugasses*. The paramount chief of the Marehan, Ugaas Omaar, has a strong political interest in reviving unity among his clan (and in the process enhancing his own authority over factional leaders); he also has real social and moral authority within the clan, giving him a certain amount of leverage with factional leaders. Second, the Marehan face a number of important challenges requiring greater clan unity – in Kismayo, in El Wak, and at the national level in the TFG. Third, the prolonged insecurity in the area has pushed cross-border trade elsewhere – indeed, it has been a boon to smaller border posts such as Dar es Salaam and Geriley – and in the process has hurt local economic interests. Fourth, the long-standing presence of several international NGOs such as Trocaire have helped to build and maintain a network of professional Somalis working within the NGO community. That network crosses clan and district lines and can serve as a line of communication and trust-building. Following the killing of an ADRA NGO staff member in October 2003 (see the El Wak case, chapter 5.2), local and international NGOs operating in Beled Hawa formed the Beled Hawa NGO Consortium, which has formalized the cross-clan cooperation in the NGO community and serves as an umbrella civil society organization advocating for conflict prevention and management. Finally, several promising civic peace groups have formed in Gedo region, organized in a consortium known as the Gedo Peace Group (GPG); they cooperate with the Mandera District Peace Committee (MDPC), expanding the reach of local civic groups to promote peace.

#### **5.4 The Southern Border/Dobley**

The zone south of El Wak – referred to here as the Dobley area – constitutes the longest stretch of the Kenya-Somalia border. It is a particularly interesting case study because over the past fifteen years it has gone from being the most violent and dangerous area along the entire border to being the most secure area currently. This border security cannot be taken for granted – the rapid deterioration in security in El Wak and Mandera district in the past few years serves as a cautionary note that peace in the border area is by no means consolidated. But the impressive reversal of lawlessness in the Dobley area merits close attention.

*Background.* Throughout the 1990s, the Dobley area was considered a “badlands” on both the Somali and Kenyan side of the border. Unlike the northern tier of the border, the southern border area experienced only a few instances of major armed clashes between

rival clan militias – mostly on the Somali side of the border, where the Aulihan and Mohamed Zubeir clans fought over control of Dobley.<sup>49</sup> But the southern border was plagued by much more banditry and general lawlessness than northern border areas. Much of the banditry in Garissa was, according to Paul Goldsmith, “financed by well-connected trade barons who recruit from the pool of retired army personnel and school leavers--a new class of professional and sophisticated highwaymen.”<sup>50</sup>

The southern border area is distinct from the northern border zone in a number of important respects. It is inhabited principally by a single Somali clan-family, the Absame (of which the Ogaden clan is the largest lineage in the area); it is generally cattle rangeland; it is the site of the enormous Dadaab refugee camp; and its border area features two rivers, agricultural communities, and the two largest commercial cities in the entire border area – Kismayo, Somalia, and Garissa, Kenya.

Some of the worst scenes in Somalia’s famine and humanitarian crisis of the early 1990s occurred in this area. The route from the Jubba valley to Dobley was one of the most heavily traveled paths for desperate refugees fleeing by foot from the war and famine in Somalia. Some of the most notorious Somali warlords – General Mohamed Said Hersi “Morgan,” Siyad Hussein, Col. Omar Jess, Ahmed Hashi – operated in this region. Their militias only rarely fought with one another; instead, they devoted most of their energies to preying upon IDPs and refugees. The area around Dobley refugee camp earned a reputation as one of the most dangerous and violent places in the entire region; women gathering firewood in the bush were routinely raped by predatory militiamen, aid convoys were looted, and refugees subjected to extortion and shakedowns. On the Kenyan side of the border, the roads in and out of Garissa were infested with heavily armed bandits, and could be traveled only with military escorts. Even the Kenyan police outpost at Liboi was attacked and looted by Somali militiamen. When the Kenyan police did venture out, it was often to join the bandits in predatory attacks on the refugees. Police were frequently accused of rape and extortion, and generally seen as part of the problem rather than the solution.

*Conflict Drivers.* Levels of insecurity and banditry were so high in the Dobley area in part because of a puzzling lack of political cohesion and weak leadership among the Absame. Most of the top Absame leaders on the Somali side of the border were absent, living in Nairobi or Addis Ababa. On the Kenyan side of the border, ambitious Absame leaders focused on national politics in Nairobi. To the extent that they played a role in the border areas, it was generally destructive, fomenting clan violence with their private militias for political gain.

In the immediate Dobley/Dadaab area, the source of insecurity can be attributed in large part to a single warlord, Siyad Hussein. Hussein, an Aulihan militia leader allied for years with General Morgan, took Dobley by force from the rival Mohamed Zubeir clan in the early 1990s. Dobley controls an important route for cattle destined for the

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<sup>49</sup> Further away from the border, the Lower Jubba region has been beset by much more chronic factional warfare, but that fighting rarely spilled over into the border area.

<sup>50</sup> Goldsmith, “Cattle, Khat, and Guns” p. 29.

Kenyan market, as well as overland commercial trade. It also is located close to Dabaab camp, giving Hussein's militia ample opportunity to prey upon refugees. Hussein was in 1991-92 held personally responsible by some international relief organizations for orchestrating the widespread diversion of food aid to famine victims in the Jubba valley. In Dobley, he created a fiefdom of banditry and predation which afflicted the entire zone for years.

Economically, the southern border region missed out on the expanding transit trade which was generating so much commercial opportunity along the northern border in the 1990s. This was partly due to the high level of banditry in the area and the poor roads connecting Dobley to Mogadishu and Kismayo. But it was mainly the result of the chronic conflict over control of the port city of Kismayo. In theory, Kismayo is much better placed to serve as the main entry point for transit trade from Somalia into Kenya. It possesses the only functioning all-weather seaport in southern Somalia, and is considerably closer to Kenya than Mogadishu. But since 1991 the city has been the site of repeated clashes between competing militia, both from the region and from outside areas. For most of the period since 1991, the clan dominating the hinterland – the Absame – have been frozen out of Kismayo by some combination of Harti, Marehan, and Haber Gedir Ayr militias (currently a loose alliance of Marehan and Haber Gedir Ayr militia, forming the Jubba Valley Alliance or JVA, control the city). In response, the Absame blocked most commerce out of the city toward Kenya throughout the 1990s. Kismayo became a chronically contested and besieged town, closed to the interior.

*Sources of Peace and Security.* Peace and security in the southern border area have improved considerably since 2000. First, a regime change occurred in Dobley – the Mohamed Zubeir ousted Hussein's militia, and Hussein himself died. This returned to power a group of local clan leaders who are *guri* or indigenous and who have greater stakes in peace and security, especially to protect the clan's valuable cattle trade across the border. They have used modest tax revenues from cross-border trade to create a small police force and administration in Dobley; they have formed a Peace Committee, modeled on the Kenyan structure, to liaise with Kenyan counterparts to prevent cross-border crime and maintain the peace; and they have successfully reduced banditry and crime in the area.

Second, a "pax commerciale" has gradually emerged between the JVA in Kismayo and the Absame in the border areas. This is not by any means a full reconciliation – the Absame continue to insist that they must be allowed to return to Kismayo as full partners in governing the city, and that the JVA is an outside occupation force. But shared commercial interests have allowed the rise of some overland transit trade from Kismayo through Dobley and Diif, principally of sugar, since the late 1990s.<sup>51</sup>

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<sup>51</sup> The sugar import trade is dominated by a single Mogadishu-based businessman. He opted to shift imports from the Mogadishu area to Kismayo mainly because off-loading sacks of sugar at beach ports produced too much water-damaged sugar; the all-weather seaport at Kismayo allows ships and dhows to be off-loaded directly onto a dry dock. Kismayo has yet to replace other trade items which arrive via Mogadishu because Mogadishu remains the site of most warehousing facilities and because most of Somalia businesspeople reside in Mogadishu.

As elsewhere in Somalia, hostile clan relations are often trumped by shared business interests. Doble and Diif have also benefited from increased overland trade from Mogadishu via Jilib. Doble leaders describe their settlement now as a “business center” with warehouses and internet access.

The strength of this *pax commerciale* in the region was put to the test in 2003, when a botched attempt to capture Kismayo by General Morgan resulted in his retreat through Doble into Kenya. JVA militia pursued his forces and, in retaliation for what they perceived (incorrectly) to be Absame complicity with Morgan, proceeded to attack and burn Doble. Fourteen Doble police were killed in the attack, and much of the settlement destroyed. The losses sustained in this attack remain a worrisome unresolved issue between the JVA and the Absame clan, but remarkably the Kismayo-Doble cross-border trade was only briefly interrupted before resuming.

Third, the profitability of and rapid growth in cross-border cattle from the Lower Jubba valley into Kenya is increasingly a central pillar of the Absame economy, and one which requires a modicum of border security and peace. Fourth, there has been a gradual improvement of relations between local and refugee populations in Dadaab, now notably better than relations between local residents and refugees at Kakuma camp in northern Kenya. As a source of remittances and food distribution, Dadaab produces commercial opportunities for the region and is increasingly integrated into the local economy. The decline in services provided to the refugees in recent years – a function of donor fatigue – has had the unintended effect of reducing local resentment over what was earlier perceived to be favored status for refugees.

Fifth, the fact that the dominant Somali clan in the southern border area – the Absame – are stakeholders in Kenyan national politics as well as Somali national politics may be having an ameliorating effect on regional politics. Politically-driven clashes in the Lower and Middle Jubba involving the Absame are much fewer today than is the case with the Marehan in Gedo region, in part because the Absame are increasingly focusing their energies on Kenyan politics, where they hold multiple seats in parliament and cabinet positions (or shadow cabinet positions). Unlike the Marehan in Gedo region and most other Somali clans, the Absame in the Transjubba region are currently stakeholders more in a neighboring country than in Somalia itself. Absame elders have explained the lack of action regarding their disenfranchisement in Kismayo not as a sign of weakness but rather as indifference. “We don’t need Kismayo,” one noted. “We have Kenya.”

Finally, Garissa town appears to be playing a quiet but substantial role in promoting peace and security in the southern border zone. Garissa has developed into a major commercial hub – in many respects it is the commercial capital of the entire border region. In the process, it has grown quickly and has become a “cosmopolitan” city where, though the Absame are the main clan there, all Somali clans may live and conduct business. For urban Absame, especially those displaced from Mogadishu, the fact that they have access to an increasingly large “Somali” city to reside in reduces the need to fight for access to Somali cities elsewhere – specifically, Kismayo and Mogadishu.

*Outstanding conflict issues.* The improved state of peace and security in the southern border area is impressive but is not a “consolidated” peace and is vulnerable to the kinds of reversals recently witnessed in Mandera and El Wak. Preventive measures are thus especially appropriate for this half of the border area. Most of the threats to the area’s peace and security stem from sources of conflict endemic to the entire border region. Local leaders stress that acts of crime – thefts, rape, murder – remain the single greatest threat to local peace. This puts a premium on the ability of local clan elders to act quickly to negotiate blood payment, in order to prevent retaliatory measures such as revenge killings. Use of HF radios, though technically illegal in Kenya, has been an important means of expediting communication and intervention by clan elders in the area.

Resource competition, especially over control of boreholes, is a chronic source of conflict requiring vigilance on the part of clan elders and civic peace groups. Likewise, the proliferation of locations on the Kenyan side of the border is a flashpoint for conflict across the entire border area. And while rival trade routes in the southern border area have not to date been a source of conflict, the potential remains for groups to be tempted to destabilize border crossings held by other sub-clans in order to divert trade to their border town.

A number of conflict issues are partially or wholly specific to the southern border area. First, control of Doble remains an unresolved conflict with the possibility of renewed clashes. Though the area has long been considered part of the Mohamed Zubeir’s territory, the Aulihan have not accepted their ouster from the town and no reconciliation between the two clans has occurred. The two clans are in fact long-standing rivals within the Absame clan-family, and Doble will be the most likely flashpoint should armed conflict emerge between the two. The unresolved impasse over control of Kismayo is also a ticking time-bomb for the entire region. As was seen recently with the sacking of Doble by the JVA, spillover from the Kismayo conflict can quickly impact the border area. Finally, the harvesting of acacia trees for charcoal production and export out of Kismayo is expanding toward the Kenyan border and as it does the charcoal businessmen and their workers will eventually come into conflict with local pastoralists. The charcoal export industry has had devastating effects on parts of the Lower Jubba valley and is a long-term environmental disaster.

## **6. Key Sources of Conflict in the Border Area**

A comparison of the border area conflicts and conflict dynamics in adjacent areas helps to identify several key conflict drivers at work in many if not all of these cases. Importantly, almost all of the factors identified in both this section on conflict drivers and in the following section on sources of conflict management can, *depending on circumstances*, play either a constructive or destructive role in conflict. Commercial interests can produce pro-peace, cross clan business networks, but can also generate conflicts over trade and economic incentives to foment lawlessness and ethnic cleansing. Clan elders and the customary law they apply can be a force for peace or they can contribute to war-mongering. Ethnic identity itself can be a dangerous, exclusivist force

of “political tribalism” or a flexible (even fictional) social instrument of peace and “moral ethnicity.”

Listing conflict drivers in this manner also begs the question of which is in fact the *real* source of conflict – the “driver of drivers” -- and which is either a mere symptom, a secondary cause, or is simply invoked as part of a political discourse to disguise true motives. Of all the conflict drivers in the border area, no three are as entangled as pastoral rangeland disputes, environmental stress, and politics. Each inflames and exacerbates the other and none can be properly explained in isolation from the others. Pressures of migration, increased herds, and environmental degradation heighten communal disputes over land; the land disputes provide political figures with an easy tool to mobilize ethnicity; the political proliferation and misuse of locations and boreholes to create zones of exclusive clan grazing rights both creates and accelerates communal tensions and worsens environmental stress; and thus a vicious cycle is born. Understanding how these conflict drivers reinforce one another is as important as understanding how they contribute to the conflicts themselves.

### **6.1 Environmental Stress and Poverty**

Virtually every analysis of Kenya’s troubled pastoral areas emphasizes that environmental stress and severe poverty and underdevelopment combine to render these semi-arid zones chronically vulnerable to armed conflict, communal clashes, and violent crime. The Kenya-Somalia border area partially supports this claim. Most of the conflicts in the Kenya-Somali border area are driven principally by other, mainly political factors, but environmental stress and underdevelopment are critical underlying sources of instability. Particularly in the northern half of the border area, growing evidence suggest that the poorer tier of pastoralist households are increasingly facing immiseration. Destitute pastoralists form an important portion of the new urban populations, where prospects for employment are bleak. Uneducated and unemployed young men are easy marks for recruitment into militias or criminal gangs. Heightened communal anxiety over access to scarce resources – pasture, wells, jobs -- are easily exploited by politicians and others to promote divisions and foment violence. Very poor access to social services, especially education, and the almost complete absence of a government presence beyond a few police and military garrisons breeds a profound sense of alienation in much of the Kenyan border area. On both sides of the border, the rising gap between haves (merchants, NGO staff, politicians, the professional class, households receiving remittances) and have-nots (especially destitute pastoralists) is growing and breeds frustration and resentment as well. Recent research links worrisome environmental deterioration in the region to the proliferation of boreholes and settlements which are dispensed for reasons of political patronage and which are disrupting seasonal migration and degrading what was once prime ungrazed (*usub*) rainy season pasture.<sup>52</sup>

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<sup>52</sup> Robert Walker and Hassan G. Omar, “Pastoralists Under Pressure: The Politics of Sedentarisation and Marginalisation in Wajir District, Northeast Kenya,” Nairobi: Oxfam-GB, (July 2002).

## 6.2 Kenyan State and Local Government Policies

On a number of levels, political forces have been the single most important driver of conflict and instability on the Kenyan side of the border area. This fact points to a paradox in northern Kenya. While retreat of state authority from the border areas is a factor in the high levels of insecurity there, the presence of state agents has often been a major driver of conflict as well. It is thus not enough to contend that more robust state authority is needed in the border zones to improve security. More important is that the state presence be constructive.

*Proliferation and Abuse of Locations/Ethnic Cleansing.* The case of Murille-Garre conflicts in Mandera district is the clearest examples of how the proliferation of locations fuels conflicts. Though officially portrayed as “bringing services closer to the people,” the multiplication of locations has in reality been an easy and effective form of political patronage to win and maintain support from sub-clans seeking their “own” local government, settlement, and services. The abuse of locations by local leaders, who view locations not as administrative units but as zones of exclusive clan prerogatives, has fueled localized ethnic cleansing and greatly increased the political stakes over control of locations. This same dynamic has occurred at higher administrative units as well, as the expulsion of Murille cattle herders from rangeland in Isiolo district in 1995 demonstrates. All of this is a variation of the national policy debate surrounding the controversial *majimboism* (“regionalism”) policy promoted by officials in the Moi administration in the early 1990s. The version of *majimboism* which was promoted at that time emphasized the exclusive rights of “indigenes,” especially regarding land and property rights at the local level. This abuse of sub-national governance units, in which local administrations are transformed into “clanustans,” is a distressing example of how political decentralization can, under the wrong conditions, merely localize ethnic dominance and repression rather than ameliorate it.

The ethnic exclusivity strategies executed via the locations can be a way to seal a victory by institutionalizing a clan’s claims to territory, but it has at times been embraced as a defensive strategy by clans fearing that in the current, unclear tenure and rangeland usage system, militarily stronger clans will push weaker clans off the land.

*Parliamentary Constituencies and Rise of Ethno-Representation.* Several of the conflicts examined here were triggered or exacerbated by creation of new parliamentary sub-districts. Two types of conflict have emerged. One has been inter-clan conflicts over control over the new seat. Importantly, it is also the case that creation of new parliamentary seats has occasionally reduced clan tensions by giving two clans in conflict each their seat. Second, Parliamentary sub-districts have also been misused to deprive minority clan members the right to access pasture or own businesses in those zones, a form of ethnic cleansing akin to what has occurred in many locations.

*Rangeland policy.* There is near universal consensus that the disjoint between formal state policy on rangeland access and local customs and practices is a major source of conflict.

*Politicians as Fomenters of Conflict.* A major problem throughout much of Kenya since the advent of multi-party democracy has been “political violence” – the fomenting of ethnic clashes and use of private militias by political leaders to attack rivals, both those in power and their challengers. North-East Province is no exception. Politically-motivated violence was a major problem in Garissa district in the 1990s; intra-Garre political rivalries over representation in parliament contributed to tensions in Mandera district in the past year, and some Wajir MPs have been accused of contributing to militia build-up in the El Wak conflict. These charges are often difficult to prove but are widespread.

*Government Complicity in Communal Violence.* This has not been a factor in the post-Moi era, but at times in the 1990s commercialized cattle rustling in North-East Province and northern Kenya was linked in the Kenyan media to high-ranking government officials. The previous Kenyan government was also accused of providing arms to local allies who were given license, sometimes with direct support from the police, to attack rivals.<sup>53</sup> The fact that the Kenyan government in more recent times has been strongly committed to bringing peace to its hinterland is a welcome change and serves as a reminder that, if a central government is either not committed to ending armed conflict within its borders or is actively complicit in fomenting it, local efforts at peace-building face an almost insurmountable task.

### **6.3 State Collapse and State-Building in Somalia**

The state is also a factor in conflict on the Somali side of the border, for three very different reasons. First, as is clear from the case material above, the complete and prolonged collapse of the Somali state has had disastrous impact on the Transjuba regions, producing a context of lawlessness and anarchy that is only partially mitigated by attempts to strengthen local governance. Second, efforts to revive a central government in Somalia have been conflict-producing. Because representation in Somali national fora is now explicitly clan-based, state-building negotiations encourage clans to maximize territory they can claim to control. Loss of a presence in or control of a district can carry serious consequences for political elites vying for top seats in the transitional government. This has been a factor in the recent El Wak conflict. Third, when state-building efforts fail in Somalia, the international community has periodically sought to work with sub-national, regional or transregional polities. In the late 1990s, this was termed the “building block approach” to state revival, and indications are strong that a comparable policy is likely to emerge if and when the TFG fails. That increases local political competition for control over regional or multi-regional polities, and is likely to be a conflict issue in both Gedo and Lower Jubba regions.

### **6.4 Hardening of Ethnic Identity**

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<sup>53</sup> Among the many analyses documenting government complicity in Kenya’s communal violence, see Steven Brown, “Quiet Diplomacy and Ethnic Clashes in Kenya,” in Donald Rothchild, Chandra Sriram and Karin Wermester, eds. *From Promise to Practice: Strengthening UN Capacities for the Prevention of Violent Conflict*. Boulder: Lynne Rienner, 2002.



The Kenya-Somali border area is an area where a number of major ethnic groups overlap. The region offers up ample evidence of how in the past local groups embraced and utilized flexible ethnic identities to negotiate access to resources and protection.<sup>54</sup> That strategy, which has been so effective for centuries, is today facing a very hostile political environment. Contemporary political systems of representation, voting, administration, rights, and land access in Kenya, Ethiopia, and Somalia are increasingly based explicitly or implicitly on ethnicity. The result is not only an epidemic of localized and partial but insidious ethnic cleansing, but also a hardening of previously fluid ethnic identities in the region, and a level of ethnic mobilization not seen previously in the area. In the hands of the wrong politician, hardened, mobilized ethnic identity in a context of worsening scarcity and stress is a formula for communal violence on a scale that is unthinkable but which has already occurred in the Greater Horn of Africa. For local groups which in the past have thrived using ambiguous and flexible ethnic identities – the Garre, Rendille, Boroma, and others – the current environment of ethno-politics in the region is an existential crisis with enormous consequences. Current political forces in the border area are transforming ethnic identity into a much more toxic, inflexible, and dangerous factor than has ever been the case in the past.

## **6.5 Regional Economy/Cross Border Trade**

The transit trade across the Kenya-Somalia border has a complex relationship to peace and conflict. In some instances – El Wak, Bulu Hawa, Dobley, and Kismayo -- it has at times been a source of tension and armed clashes. This is mainly due to the fact that the new cross-border commerce has introduced a new and lucrative new source of livelihoods and wealth in a zone of extreme economic scarcity. The specific aspects of commerce which have tended to serve as an item over which groups fight include control over border crossings, where tax revenue can be collected; business partnerships with wealthy traders in Mogadishu, who intentionally play local groups off one another for their own gain; and competition for contracts, especially with international aid agencies. A handful of wealthy businessmen profit from and may be complicit in prolonging humanitarian crises, due to their long-running service to aid agencies transporting food aid. In several instances – especially in Kenya – businesspeople have opted to exploit the exclusionist impulse in locations to drive rival businesses out of the area. In the case of Kismayo, control of the seaport has been a major source of revenue for both the militias controlling it and the businessmen importing sugar and weapons and exporting charcoal.

## **6.6 Outsiders**

An enduring concern of the border communities is that the chronic conflicts they suffer from are the result of external agendas, by powerful outsiders or *galti* who are not stakeholders in local peace. Outsiders are also held responsible for rendering local feuds more deadly, for committing crimes leading to cycles of clan violence, for ignoring local

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<sup>54</sup>The single best study on fluid ethnicity in the region is Gunther Schlee, *Identities on the Move: Clanship and Pastoralism in Northern Kenya* (Nairobi: Gideon S. Were Press, 1994).

customary law or *xeer*, for engaging in polemics and fund-raising for war in pursuit of their parochial political interests, and for exploiting local divisions.

There is strong evidence for all these claims in almost every case of armed conflict in the border area. From Kismayo to Doblely to El Wak to Bulo Hawa, “non-local” interests – displaced Somalis from Mogadishu, Mogadishu-based merchants and factions, and Nairobi-based interests – have had an often decisive role in provoking armed violence. The current conflict over El Wak, which has drawn in Garre militia from Ethiopia and Marehan militia from Kismayo which was in part triggered by manipulation of local tensions by Mogadishu-based businessmen, and which has prompted inflammatory rhetoric and fund-raising for war chests among the diaspora, is the most compelling example of this problem. Likewise, the long-running conflict in Bulo Hawa is mainly built around a *guri-galti* split. In some conflicts along Ethiopia’s border with Kenya and Somalia, Ethiopia itself plays the role of external force which can in some instances contribute to or become a direct actor in conflicts.

At the same time, it is tempting for local observers to attribute all their woes to external forces, thereby absolving themselves of responsibility for the conflict. It is also the case that in some instances, outsiders’ interest has been in peace and open access, not ethnic clashes and instability. As long as the border areas possess economic value as a trade corridor and political value as a source of seats for national level representation, outside interests will continue to intrude on local affairs.

## **6.7 Contested Urban Space**

One aspect of the border area conflicts which diverges somewhat from national trends in Kenya, but which closely mirrors broader patterns in Somalia, is the central role played by contested urban space. Unlike many of the serious ethnic clashes in Kenya’s rural areas since 1990, land itself is not as central to Kenya-Somalia border conflicts.

Instead, most of these conflicts are struggles over control of a coveted urban space or settlement. The intra-Marehan fight in Bulo Hawa is entirely over the town of Bulo Hawa, not surrounding rangeland. Likewise, the clashes at El Wak have had nothing to do with dispute pasture and everything to do with control over the town itself. Further south, Mohamed Zubeir-Aulihan clashes were over the town of Doblely and control of trade, not pasture; the long-running conflict over Kismayo is also entirely over the city, not the hinterland.

What this suggests is that, at least in the border area, urban interests and populations are the main protagonists in armed clashes. The pastoralists serve as a principal source of militiamen, but in the service of someone else’s interests. While this finding is not universally applicable in the border areas, instances where it is true contradict some of the conventional wisdom about Kenya’s conflict-ridden border area. Conventional wisdom observes that the conflict-prone border areas are all zones of nomadic pastoralism, and then, conflating correlation with causality, leaps to the conclusion that pastoralism must therefore be the cause of the endemic conflict.

Pastoralism as a mode of production is unquestionably a contact sport, and land pressures in the pastoral sector are severe, but the troubles of the Kenya-Somalia border area are more closely linked to the interests of urban elites. To the extent that these conflicts over urban centers involve displaced urbanites from Mogadishu, a permanent peace in Mogadishu would immediately reduce pressures on towns on the Somali side of the border.

## 6.8 Regional Spillover

The border area is highly susceptible to spillover of conflict from adjacent regions. This is most in evidence in the northern tier, where *mujimbo*-style ethnic cleansing as far away as Isiolo triggered a shockwave of displacement and conflict over resources and political rights in Mandera district years later. On the Somali side of the border, spillover from the conflict in Kismayo sends ripple effects to the Kenyan border.

## 6.9 Crime

Virtually all cases of armed conflict in the border area involve acts of crime as a precipitating cause. In some cases, a murder – usually of a prominent figure – triggers reprisal killings which spiral into a cycle of inter-clan violence. In other cases, murders or other crimes contribute to deteriorating clan relations and rising distrust, serving as an emotionally powerful part of the build-up to armed clashes.

In normal circumstances, customary law (*xeer*) is adequate to resolve a crime between clans. But when circumstances are not normal – when the murdered person was a very prominent figure in the clan, when inter-clan relations were already strained by other issues, when the murder appears politically motivated rather than the result of a personal feud, when clan elders take too long to negotiate the *diya* payment, or when the perpetrator's *diya*-paying group drags its feet or refuses to pay *diya* -- reprisal killings are almost inevitable. Once two clans begin to travel that route as opposed to blood payment, the cycle of killings often spirals into war. The armed conflicts in the border area which were triggered by acts of crime cannot therefore be blamed on the killings themselves, which serve as the match lit and set upon very dry kindling. But measures which accelerate and facilitate the often demanding work of clan elders to negotiate *diya* can reduce the likelihood of reprisal acts. In cases where *xeer* is inadequate to deal with an inflammatory crime – rape is the most apt case in point – clan elders in the border areas are adamant that only formal government judicial processes are in a position to handle the crimes. This recognition of the limits of customary law as a conflict prevention mechanism is an important step in establishing a division of labor between the weak state and non-state local actors with limited capacities.

One of the most important observations to glean from the case material of the border areas is that the distinction between organized, violent crime and low-intensity communal warfare is increasingly hard to make, especially in the eyes of local populations whose security is imperiled equally by both.

## 6.10 Small Arms Proliferation

The widespread ownership and easy availability of small arms in the border area is widely cited as an intensifier of armed conflict.<sup>55</sup> The flood of small arms in the Horn of Africa is well-documented, as is the devastating impact of semi-automatic weaponry on communal conflicts in the region. This report can only repeat the observation that the arms do not cause the conflicts, but multiply their negative impact. Criminal violence produces much higher casualty levels, criminal and militia gangs now often outgun police and military units, and the number of people a militia can massacre in a raid is vastly higher thanks to semi-automatic guns. The result is that casualty rates in contemporary violence in the border area are much higher than was the case fifty years ago, overwhelming customary law designed to handle conflicts from an earlier, less lethal era.

Given the chronic insecurity and porous borders in the region, small arms proliferation will remain a dangerous reality for border area communities for the foreseeable future. Some modest efforts in Wajir have succeeded in disarming youth, but prospects for large-scale disarmament in the region are remote for now. In southern Somalia, the only factor which has reduced the lethal risk posed by near-universal ownership of semi-automatics is the substantial rise in the cost of ammunition, which has shortened the duration of armed clashes since the early 1990s.<sup>56</sup>

## 6.11 Borders

The existence of the borders shared by Somalia, Ethiopia, and Kenya are themselves a periodic contributor to conflict. The principal role they play in conflict is as a source of safe haven for armed groups – criminal gangs and militia – which commit acts of violence and then cross to the safety of their home country and disappear. The shared border area near Mandera is known locally as the “Bermuda triangle” for precisely this reason. This dynamic points to a curious aspect of the borders – they are relatively unpatrolled, ungoverned and porous, but not irrelevant. Kenyan military do not cross the border in hot pursuit of Somali bandits for fear of attack; Somali militias cross into Kenya in pursuit of rival combatants only reluctantly, for fear of encountering the Kenyan military or police; and Somali armed bandits take the same risk when mounting a cross-border raid. In practice, this has meant that the Kenyan Garre have been able to use the border to launch attacks on El Wak in Somalia and retreat across the border with little fear of Marehan counterattack, a tactic which infuriates the Marehan and has led them to accuse Kenya of favoring the Garre. Further south, Somali bandits have until recently stolen vehicles and even looted the Kenyan police station at Liboi and then retreated back to Doble. On the Kenyan-Ethiopian border, militia and possibly Ethiopian paramilitary forces have crossed into Kenya to commit devastating livestock raids.

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<sup>55</sup> A caveat to this claim is that in a few instances easy availability of small arms has served as an equalizer between clans, and hence a deterrent to fighting. See Goldsmith, “Cattle, Khat, and Guns.”

<sup>56</sup> Menkhaus, *Somalia: State Collapse*, p. 30.

## 7. Sources of Peace, Security, and Conflict Management

Given the confluence of crises in the Kenya-Somalia border regions – the complete and prolonged collapse of the Somali state, years of civil war and famine in the Jubba regions, massive refugee flows and displacement, copious arms trafficking, large-scale-smuggling, intermittent terrorist activity, inability of the Kenyan state to govern its frontier areas, and the rise of *majimbo*-inspired land clashes and ethnic violence across much of rural Kenya -- the border zone ought to be one of the most anarchic, violent, and dangerous places on Earth. Yet it is not. Remarkably, on both sides of the border, a variety of factors have worked to produce local systems and practices which provide uneven, fragile, but real security, predictability, rule of law, and conflict management. The emergence of “governance without government” has been observed and documented in southern Somalia in some detail. There, a mosaic of formal and informal local authorities has emerged from the protracted collapse of the state. In the Transjubba regions, clan elders and customary law have re-emerged throughout the area and provide the principal source of rule of law. Municipal authorities have in several places – Luuq, Kismayo, Beled Hawa, Doble – provided more structured formal governance. Civic and business groups have been weaker as sources of governance in the Transjubba regions than in much of the rest of southern Somalia, but in recent years have become more visible and active. Finally, sharia courts, operated by local clerics, have been periodically active in parts of Gedo region but have not been as widespread as in the Mogadishu and Shabelle river valley.

On the Kenyan side of the border, an even more impressive change has occurred. Notwithstanding the recent setbacks in Mandera district and El Wak, the region has gone from being one of the most lawless of Kenya’s troubled border areas to being one of the more stable and safe. This improvement is the result of concerted efforts at the local level to control and minimize the triggers of armed conflict and successfully deter violent crime. Of the many factors which improve security in the border areas, either by preventing or managing armed conflict or by reducing the threat of violent crime, the following have been most important. As with the conflict drivers enumerated above, most of these are capable of fomenting violence and conflict as well as peace and security.

### 7.1 Customary Law and Traditional Elders

*Xeer*, or customary law, developed between clans in the pre-colonial era as a system for managing conflict, deterring crime, and dispensing justice in an environment of statelessness. *Xeer* serves roughly the same purpose as “regimes” which help govern relations between states in international politics. All parties benefit from routinized and predictable cooperation on key issues of importance, such as governing use of common resources.

Customary law was partially undermined in both Somalia and Kenya through colonial and post-colonial state manipulation of the clan elders who traditionally dispense and negotiate *xeer*. Contemporary state administrations tended to view *xeer* as a vestige of an old and inferior system rendered obsolete by modern legal codes, police forces, and

court systems. Use of paid chiefs or elders by the state to manipulate and control local populations eroded the credibility and legitimacy of clan elders in their communities.

The collapse or retreat of the Somali and Kenya states in the border areas since 1990 has recreated in some manner the pre-colonial pastoral anarchy which *xeer* was designed to address. The revival of the authority of clan elders and *xeer* in the border areas has probably been the single most important source of security and conflict management since 1990. In stateless Somalia, the dominant role of clan elders as authoritative representatives of their clans in peace negotiations, as quasi-diplomats managing relations with neighboring clans, and in adjudicating or mediating disputes within their lineage has been largely unquestioned since the civil war of 1992, and nowhere in the Transjuba regions is *xeer* anything less than central as a pillar of law governing inter- and intra-clan relations.

On the Kenyan side of the border, reliance on *xeer* to manage conflicts, especially its use to resolve cases of murder, has been more controversial, in part because it is a direct challenge to the state legal system, in part because its defining features – the use of blood payment to handle a crime in lieu of incarceration, and the principle of collective rather than individual culpability that blood payment groups are based on – violate basic precepts of modern jurisprudence and human rights. For some Kenyans, including some Somali Kenyans, allowing *xeer* to supersede the state legal code is seen as a giant step backward.

There are many other criticisms of both *xeer* and reliance on traditional authorities as sources of representation and social authority. Elders can be venal, corrupt, and inclined to foment ethnic divisions; their enforcement capacity is variable, and they have rarely been able to prevent determined politicians and militia leaders from outflanking them and sabotaging peace-building that does not serve their interests; and elevating the status of sometimes illiterate elders over the educated and professionals within their clan consigns communities to mediocre and parochial leadership. For its part, *xeer* enshrines rather than overcomes clannism; *xeer* is limited in its jurisdiction to local clans, and is overwhelmed by the sheer scale of death and destruction associated with modern weaponry and war; it is woefully inadequate for protecting women's rights, especially in dealing with the widespread use of rape as a weapon; and it is least effective in protecting those whom the law is most obliged to protect – the weak and powerless.

All this is true. Yet the border areas provide persuasive evidence that the revival and application of customary law by clan elders has, in the absence of an effective state police and judiciary, been the single most powerful deterrent of crime.<sup>57</sup> Likewise, the border area is replete with examples of how clan elders have used *xeer* to manage conflicts in their early stages or resolve seemingly intractable conflicts. Clan elders have also been effective outside mediators in peace talks. For all their defects, customary law and traditional elders have been crucial to keeping what peace exists in the border zones.

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<sup>57</sup> Lineages have on occasion even executed a repeat offender in their clan in order to stop having to pay onerous *diya* payments.

## **7.2 Civic Groups**

Local CBOs have been remarkably active in the region, especially on the Kenya side, where they form part of a vibrant network of the Kenyan non-governmental sector. As elsewhere, they are a mixed bag. Some are little more than “pocket” or “briefcase” NGOs composed of one or two people; some are politically compromised and serve as fronts for clan interests or politicians; others are essentially local businesses seeking a livelihood as sub-contractors for international NGOs. But local civic groups have clearly matured and developed since the early 1990s, and today are playing a growing role in promoting peace. They assist in a number of different ways. They are cross-clan networks facilitating both routinized and “rapid response” communication, a critical and often missing function in times of conflict; they help build trust and shared interests in functional issues such as health care and education which transcend clan lines; they tap into professional skills and expertise among local populations that otherwise can go underused; they can provide good offices or mediation; they are flexible and open and provide opportunity for social groups normally excluded from politics – such as women and youth – to play a more central role; they are perhaps the best forum for engaging local communities in discussion of underlying sources of conflict and strategies for addressing them; and, thanks to their linkages outside the region, they are developing a capacity as repositories of “best practices” for conflict prevention and management.

## **7.3 Peace Committees**

The emergence of peace committees – umbrella groups of civic organizations, traditional elders, and local governmental officials – has been the single most important and effective community response to insecurity, crime, and armed conflict in the border areas. The structure has spread from its initial experiment in Wajir to Garissa and Mandera, has been emulated by cross-border communities in Somalia, and has spread to many districts in rural Kenya. Peace committees form a central part of the “mediated state” strategy emerging in Kenya (discussed below in chapter 8). They have a number of virtues. They encourage and enshrine local ownership of conflict management; they tap into local knowledge of conflict dynamics; they create a “multiplier effect” by structuring collaboration among different types of local actors, each of which brings different strengths; they are flexible and open regarding community participation; and they encourage collaboration between state actors and civic groups. They also have a number of weaknesses, discussed below. Still, the evolution of peace committees in the border area has been central to improvements in public security and peace.

## **7.4 Kenyan State**

The Kenyan government and Kenyan political dynamics have, on a number of levels, been a major conflict driver in the border area. But it is equally true that the impressive improvement in regional peace and security has been the result of positive Kenyan government intervention and policies. This has been due in part to a greater level of commitment to regional security and conflict prevention on the part of some branches of the Kenyan government. District Commissioners have been impressively active in

promoting peace and security; the Arid Lands Resource Management Project (ALRMP), in the Office of the President, has expanded its work beyond rangeland and water issues to include conflict issues; and the Kenyan military and police, though still struggling with capacity problems, possess a greater commitment to border security as part of counter-terrorism policies. At least as important as renewed government willingness to improve security and rule of law in the border area is the Kenyan government's realistic assessment of its current capacities, and its openness to partnership with civic groups to promote peace and security, including accepting "internally regulated group relations to bypass state legal institutions."<sup>58</sup>

## **7.5 Business Interests**

Business interests may be the most variable of all the peace and conflict drivers in the border area. Business interests in the border area have generally been effective as a source of conflict prevention and management for a number of reasons. First, the two most important economic activities in the region, livestock trade and cross-border commerce, require basic security, safe markets, and open roads. To the extent that war and banditry is bad for business – as is now clearly the case in Doble and Garissa, and hopefully true in Mandera and El Wak – business leaders will back peace efforts. Second, where businesspeople have invested in fixed assets such as telecommunications offices, shops, hotels, and houses, warfare is undesirable. Most importantly, commercial activity in the border area relies upon multi-clan partnerships and networks to move goods safely across the region. Those partnerships and networks can be a valuable channel for cross-clan dialogue and cooperation on matters of peace and security.

## **7.6 Islam**

The use of national Islamic leaders in Kenya to mediate the Mandera peace in 2005 helped to highlight the possibilities of Islam as a force for peace in the region. In some districts of Gedo region, sharia courts have been employed to maintain rule of law.

## **7.7 “Cosmopolitan” Towns**

Contested urban space is listed in this study as a source of conflict. But in some cases, urban areas have come to play an important role for peace, rule of law, and – most importantly – ethnic co-existence. Towns which develop a culture of “cosmopolitanism” – that is where members of any clan or ethnic group are free to settle and do business there, and where an identity with the town begins to rival clan identity – are critical sources of peace in the border area. Today, Garissa, Luuq, and arguably Wajir and Mandera are the most cosmopolitan towns in the border area. They are important as centers of cross-clan communication and networking, and as antidotes to the exclusionist ideology which informs clan attitudes towards smaller settlements and locations. To the extent that cosmopolitan towns flourish while single-clan settlements stagnate, these islands of co-existence may eventually help reverse dangerous trends of ethno-politics in the region.

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<sup>58</sup> Goldsmith, “Cattle, Khat, and Guns,” p. 41.



### *SECTION III: Policy Issues and Considerations*

#### **8. Promise and Limits of the “Mediated State”**

The development of a government-civic partnership to execute core state functions in the Kenyan border area is very significant, not only in the immediate region but also as perhaps the most advanced and formalized variation of a broader trend in governance by weak states in their frontier areas. This trend has been until recently largely invisible to outside observers and remains poorly understood, both in Kenya and elsewhere.<sup>59</sup> Observers are gradually becoming more aware of the new phenomenon, but have struggled to explain it and adequately convey its significance. A recent article by Letitia Lawson and Donald Rothchild captures both the new awareness of this trend and the difficulty of translating it into words:

“Africans have begun moving away from colonially designed juridical statehood to fashion empirical formulas that respond to the messiness of their current realities. Only time will reveal whether these new, flexible structures prove an effective response to . . . state weakness.”<sup>60</sup>

In northern Kenya, where communities are further along in this process of fashioning new formulas to respond to the “messiness of their current realities,” observers have also struggled to explain exactly what the state-civic partnership is and is not, producing sometimes clumsy descriptions which tend to obscure and understate the importance of this experiment. Some have described it as an “ad hoc” arrangement by local officials overwhelmed by borderland lawlessness. Those coming from a peace-building and NGO perspective have tended to explain it as local or grassroots movement to which government has acquiesced on limited matters of conflict management. Those not following developments in the peace-building sector are thus apt to miss it entirely.

It is the conclusion of this study that the governance model being negotiated, implemented, and experimented with in northern Kenya is more than an ad hoc peace-building strategy, more than a post-colonial version of “indirect rule,” and more than a convenient division of labor between local government, civic groups, and traditional authorities. It is better understood as a type of “mediated state,” a concept initially used to explain state-frontier governance in early modern Europe. Far from being a relic of medieval Europe, however, the mediated state model in Kenya today may be at the forefront of an emerging, largely unrecognized, hybrid form of state-building in weak states.

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<sup>59</sup> There are several reasons why this is so. Reliance on non-state sources of governance is viewed by many observers as a symptom of state failure, not an emerging mode of governance. Second, it is essentially an indigenous process, beyond the purview of most formal state-building projects sponsored by the World Bank and UNDP. To the extent that it has been documented, it has tended to be seen through the more limited lens of grass-roots peace-building. Finally, it transpires in remote, dangerous border areas where few journalists and analysts spend time.

<sup>60</sup> Letitia Lawson and Donald Rothchild, “Sovereignty Reconsidered,” *Current History* (May 2005), p. 228.

## 8.1 The Mediated State as Concept and Explanatory Theory

The concept of the mediated state is rooted in the study of pre-modern and early-modern state formation in Europe, where ambitious monarchs with limited power were forced to manipulate, maneuver, and make deals with local rivals to their authority. Those rivals, notes Swen Voekel, “often mediated state authority, and did so both as over-powerful purveyors of royal prerogatives, as ‘private’ citizens exercising ‘public’ jurisdiction, or as members of extra-national bodies like the Catholic Church.”<sup>61</sup> This produced situations in early modern Europe that sound oddly familiar in contemporary Somalia – France, for instance, is described as “a nation characterized by parcellized and overlapping jurisdictions, multiple legal codes, and a plethora of internal tariffs and taxes.”<sup>62</sup> As such, the mediated state is considered by historians as a major obstacle to state-building, a syndrome to be overcome, usually by superior force of arms. Charles Tilly observes that European state formation “consisted of the states’ abridging, destroying, or absorbing rights previously lodged in other units.”<sup>63</sup> Whether the mediated states is an obstacle to state-building or a possible route to state-building is an intriguing question in contemporary zones of weak and collapsed state authority.

Though extreme caution must be taken in drawing historical parallels between state formation in early modern Europe and contemporary Africa, the general concept of a mediated state appears to have some utility in explaining actual politics on the ground from Kenya to the DRC to Mozambique.<sup>64</sup> In these locations, central governments with very limited power rely on a diverse range of local authorities to execute core functions of government and “mediate” relations between local communities and the state. It is usually an unspoken strategy, not enshrined in a national policy as may soon be the case in Kenya.<sup>65</sup>

Until recently, there were compelling reasons why weak African states did not attempt some variant on a mediated state. One reason was ideological – the project of the modern nation-state in independent Africa could not accept less than the full range of sovereignty and monopoly on the legitimate use of violence within its borders that the West and East bloc enjoyed. Modernization theories which infused thinking about political development were predicated on the “passing of traditional society” and the paramount authority of the state; to the extent that customary law was employed in

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<sup>61</sup> Swen Voekel, “Upon the Suddaine View: State, Civil Society, and Surveillance in Early Modern England,” *Early Modern Literary Studies* 4, 2 (September 1999), pp. 1-27. Accessed at <http://purl.oclc.org/emls/04-2/voekupon.htm>

<sup>62</sup> *Ibid.*

<sup>63</sup> Charles Tilly, “Reflection on the History of State Making” in *The Formation of Nation States in Western Europe* ed. Charles Tilly (Princeton: Princeton University Press, 1975), p. 35. Importantly, the use of coercion by emerging states in Europe had the essential secondary effect of consolidating actual administration (as opposed to mere warlordism) over the citizenry, in order better to tax it to finance the war efforts. That salutary political effect of war-waging is absent in cases like Somalia, where armed conflict is financed largely by a combination of international funding and pillaging.

<sup>64</sup> To be precise, the mediated state is concentrated in but not limited to Africa – one of the most routinized forms of the mediated state is in Yemen, where the government must work through tribal leaders for access to and control of the entire rural northern portion of the country.

<sup>65</sup> “Conflict Management Policy Framework Unveiled,” *Peace Bulletin* no 5 (Sept. 2004), pp. 1, 3.

remote areas, it was tolerated but not sanctioned by the state, and at any rate viewed as a dying system to be replaced in due course by the expanding modern state, not as a building block for state-building. The other reason, as described by Jeffrey Herbst, is that African states – unlike early modern European states – inherited fixed boundaries firmly protected by international law from encroachment by more ambitious or effective neighbors or break-away secessionists.<sup>66</sup> In an earlier period, failure to extend and maintain authority in frontier areas risked loss of that territory, leading rulers to devote considerable treasure and manpower to protecting (and expanding) borders. Today, African state authorities have in some respects pursued a rational strategy by allowing frontier zones to go ungoverned, especially if the frontier has little economic value, the cost of establishing rule of law is higher than whatever revenue can be earned from the area, the state faces a serious shortage of money and capacity, and negative spillover of anarchy in the frontier does not unduly impact the core areas of the state. The result has been enormous tracts of territory in the hinterlands of many African states that are in a condition of de facto state collapse. The retreat of the state from its frontier areas and the armed anarchy which ensued in Kenya in the early 1990s was particularly shocking only because it occurred in a “middle-income” country with greater governmental capacities than in most of the rest of the continent.

This explanation for the governance vacuum in African border areas emphasizes the role of state indifference or disinterest in border areas, though lack of state capacity is also a factor. But when that “frontier governance” calculus changes -- when state authorities develop an *interest* in asserting or reasserting security and rule of law in their hinterland, but lack the *capacity* – conditions improve for an alternative, “mediated state” approach.

In the case of Kenya, several factors increased government interest in expanding law of rule in its border areas. These included the enormous costs of spillover of crime, displacement, and arms flows into the “core” of Kenya from the running sores in its frontier area; a sense of professional duty on the part of a small number of committed civil servants; pressure to “do something” about the violence and lawlessness in Kenya’s borderlands from international donors, the national media, civic groups, and religious leaders; and, in the aftermath of multiple terrorist attacks in Kenya in 1998 and 2000 and the 9/11 attacks, a heightened security concern that terrorists were exploiting Kenya’s porous borders and lawless interior.

State authorities which are willing but unable to govern their remote hinterland are forced to pursue a mediated state strategy, not out of sudden enlightened appreciation for the virtues of civil society and traditional authority, but because *it is their only effective option*, at least in the short-term. This aspect of the mediated state – that it is not a policy preference but rather a default position for weak states seeking to promote governance and security in its frontier areas – sets it apart from other contemporary forms of state “outsourcing” of governance. The key difference is that states opting to contract out functions to non-state actors (such as corporations operating seaports or non-profits delivering social services paid for by the state) usually do so as a matter of public policy

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<sup>66</sup> Jeffrey Herbst, *States and Power in Africa* (Princeton: Princeton University Press), 2000.

choice, and ostensibly with the objective of providing the service more efficiently. This is the choice of a state authority which “has acquired the competence to decide the limits of its own competence.”<sup>67</sup> By contrast, a mediated state strategy is the recourse of a state authority which lacks options. It has no choice but to work through local intermediaries if it is to have even token jurisdiction in an area within its borders.

Sub-contractors, moreover, operate within the legal framework of the state. Sub-contracting firms and NGOs work *for* the state. By contrast, local authorities in a mediated state arrangement operate beyond the state, its legal code, and its most coveted possession – its “monopoly on the legitimate use of violence within its territory.” The fact that government-civic partnership in northern Kenya includes implicit government acceptance of the application of extra-judicial legal codes by non-state actors and the use of local home-guards to employ lethal force in defense of public security is no mere “subcontracting” exercise. It is a fundamental revision of basic precepts of sovereign state authority; a forfeiting of a state’s claim to “omni-competence” within its borders; a new, flexible way to deal with the current “messiness” that conventional inherited political structures have had great difficulty managing.

State interest is a necessary but not sufficient condition for mediated governance. Whether a mediated state strategy is actually an option then depends on the presence of reasonably authoritative local actors which the state can accept (a secessionist polity, for instance, would not be acceptable; nor would a liberation or radical movement bent on the overthrow of the government or entire political system). Finally, for a mediated state strategy to *succeed* as a peace-building and governance strategy, the sources of local authority must be relatively legitimate and committed to peace and good governance, not predatory or corrupted local elites. Otherwise, the strategy produces a patch-quilt of state-sponsored warlord fiefdoms.

In the case of northern Kenya, the very fortunate combination of revived customary law and role of traditional clan elders and the ascendance of capable, responsible, and dedicated civic leadership within the region’s small urban professional population has provided the ideal conditions for a mediated state to work since the mid-1990s.

A hallmark of the mediated state as it evolved in early modern Europe was flexibility and pragmatism. State rulers brokered deals with whatever authorities existed in the periphery of their realm. The approach by definition defies templates and standardization. The same characteristic obtains in northern Kenya. There, the types and combinations of local actors in peace committees, and the types of relationships developed between these local authorities and the state, have varied considerably from place to place.<sup>68</sup>

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<sup>67</sup> Wolfgang Reinhold, “Introduction: Power Elites, State Servants, Ruling Classes, and the Growth of State Power,” in Reinhold, ed., *Power Elites and State Building* (Oxford: Oxford University press, 1999), p. 1.

<sup>68</sup> The range of peace committee models in Kenya is surveyed and assessed in Walker, Ibrahim, and Shurio (2003).

By viewing the current government-civic partnership to conduct core functions of the state in Kenya's border areas through the lens of the "mediated state" model, we accord this hybrid governance approach the significance it is due. Though its initial purpose was to promote peace-building, the mediated state in Kenya has expanded into core functions of the state – the judiciary, police, cross-border diplomacy. The Kenyan state is also employing the approach to promote range-land management.<sup>69</sup>

Because the strategy involves ceding responsibility to non-state actors, it is difficult to cast this trend as a contribution to "state-building." But it may well be a form of "governance-building." Since the objective of state-building projects is not to strengthen state capacity for its own sake, but rather as a means of promoting good governance, the possibility that the mediated state can help promote the latter by bypassing the former is an interesting challenge to standard state-building interventions, which tend to conflate reviving formal state capacity with promotion of governance.

## **8. 2 The Mediated State and Strategies of Peace-building and Governance-building**

The mediated state model is thus a more satisfactory and comprehensive theory to explain what is already occurring on the ground in Kenya's border areas. But is it also useful as a state-building strategy? Is mediated governance a trend to support and encourage, or are criticisms of the approach serious enough to warrant caution?

There is now adequate documented evidence from northern Kenya to sustain two not entirely incompatible claims – first, that the government-civic partnership there has unquestionably produced impressive gains in public security and conflict management, and second, that the approach has serious shortcomings. The achievements of the mediated state in Kenya's border areas have been documented above and need not be repeated. As for concerns and criticisms, several stand out as especially noteworthy:

- Allowing customary law to be applied above the laws of the state by non-state actors, in which collective responsibility is privileged over individual rights and responsibilities and in which not all are equal before the law is a serious erosion of civil liberties, human rights, and rule of law. It is also illegal and extra-constitutional and cannot be sanctioned by the Kenyan government.
- These objections aside, customary law also has a limited reach and is often overwhelmed by the scale of current armed conflicts.
- The peace committees serving as umbrella groups for local actors are very uneven in capacity, lack an independent, sustained flow of resources, and are plagued by high turnover.
- Some peace committees are politically compromised and not neutral.
- No local authorities are in a position to cope with conflicts instigated by powerful outsiders in Nairobi and elsewhere.

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<sup>69</sup> Guyo Haro et al, "Linkages Between Community, Environmental, and Conflict Management: Experiences from Northern Kenya," *World Development* 33, 2 (2005), pp.285-299.

- Some border regions lack the key prerequisite of legitimate, capable local authorities and are instead either zones of leadership vacuum or are dominated by predatory politicians and warlords.
- The entire enterprise of constructing mediated governance in northern Kenya has been designed to manage conflict, but lacks any real capacity to address underlying causes of armed conflict, which require effective and sustained central state engagement.<sup>70</sup>

The fact that mediated governance is problematic and limited and yet the sole source of security in weak state frontier areas makes it the “best of bad options,” a position that both its advocates and detractors can share. How then to view the long-term prospects of mediated governance? If its shortcomings are intrinsic (legal and human rights objections, for instance), and if better options are on the horizon, then the only justification for support to mediated governance is as a stop-gap measure, designed to provide short-term improvements in security and conflict prevention.

If, on the other hand, the prognosis for state expansion and consolidation in the border areas of weak states is poor, then a different set of policy considerations emerge. In that case the trend toward mediated governance is longer-term in nature, a fact which citizens and international observers may not prefer but which is not a matter of preference. Realistically, the focus then becomes improving the mediated state as a governance and peace-building strategy in frontier zones – taking the rough edges off of a governance structure that is and will remain flawed and messy. This can be done in a number of ways. First, support to peace committees (or whatever other permutation of local authority emerges by district) is vital if they are to be sustainable. Training and financial support for appropriate operational expenses are two of the most important types of support. Recognition is also important – these are mainly voluntary efforts, by civic figures willing to put themselves in harm’s way in very difficult circumstances. Second, external efforts can help to harmonize, at least partially, the inconsistencies between customary, sharia, and national legal codes.<sup>71</sup> Clarification of the jurisdiction of customary law is also essential -- for example, is a Kenyan Somali living in Nairobi subject to *xeer*, the Kenyan legal code, or both?

Importantly, the mediated state as peace-building and governance-building strategy offers opportunities to international aid agencies, not merely Faustian choices. In the past, agencies engaged in “capacity-building” frequently found themselves working at

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<sup>70</sup> Several studies provide thoughtful critiques of the strengths and weaknesses of peace committees and the government-civic partnership we are calling a mediated state. See Walker, Ibrahim, and Shuria (2003); Haro et al (2005); Goldsmith (1997), and Nyunya, Joshua. “Reports by National Experts: Kenya. Conflict Prevention, Management, and Resolution: Capacity Assessment Study for the IGAD Sub-Region.” Leeds: University of Leeds, Centre for Development Studies, October 2001).

<sup>71</sup> A few analysts and organizations have recently produced excellent reports calling for “harmonization” of traditional/informal and formal governance in the Somali judicial sector. See Andre Le Sage, “Stateless Justice in Somalia: Formal and Informal Rule of Law Initiatives,” (Geneva: Centre for Humanitarian Dialogue, January 2005), and Puntland Development Research Centre, “Pastoral Justice: A Participatory Action research Project on Harmonization of Somali Legal traditions: Customary Law, Sharia, and Secular Law” (Garowe Somalia: PDRC, 2002).

cross-purposes. Projects building capacity of local civic and non-governmental organizations was viewed by other actors as working against state-building, by diverting human resources, money, and roles to non-state actors. This debate over whose capacity is being built has plagued governance projects in Somalia, Kenya, and elsewhere for years. In a mediated state, however, there is no contradiction between improving the governance capacity of non-state authorities in border area and simultaneous efforts to build formal state capacity. One is part of a short to medium-term governance and peace-building strategy, the other is part of the long-term state-building project which, under the right circumstances, may eventually displace mediated governance. Whether mediated governance is in fact an interim strategy or part of long-term alternative form of governance in parts of Africa and the developing world is a decision which citizens of these states must make for themselves.

### **8.3 Prospects for a Mediated State in Somalia**

The Kenyan experiment with mediated governance has immediate and interesting implications for state-building in Somalia.

Two political trends have clearly emerged in Somalia over the past fifteen years of state collapse. The first is the abject failure of repeated external efforts to revive a conventional central government in the country via a “top-down” process of power-sharing among Somalia’s quarreling political elites. Though this track record of failed state-building can partially be attributed to myopic Somali leadership and uninspired external diplomacy, it is also apparent efforts to revive a central government in Somalia face important structural obstacles as well. One of the main obstacles is the extremely weak resource base a Somali state can draw on, a constraint which makes the revival of a large, conventional state claiming “omni-competence” across a wide range of policy areas a pipe-dream. Though insistence on such a state structure is understandable from the perspective of Somali leaders desperate to revive an expansive patronage system and build a capacity for repression – the only means of securing political control they have ever known – it is simply untenable for the near future.

The second trend is the rise of local, informal polities which have, in fits and starts, increasingly provided many Somali communities with variable levels of governance, public security, and even social services. The problem with this mosaic of informal polities is that it does not add up to anything resembling a conventional state, and at this point in time does not appear capable of serving as the building blocks for an organically-developed state. Local polities in Somalia have remained eminently local. And even the most impressive, functional examples of sub-national and/or informal governance in Somalia cannot perform a number of badly needed functions of an internationally recognized sovereign state, from the issuing of passports to the securing of loans from international financial institutions.

Up to now, Somalia’s informal systems of governance have generally been accorded little to no role in external efforts to revive a conventional state. The accepted, unspoken wisdom has been that these local systems of governance are of little

significance, mere variations on a broader theme anarchy. They are viewed as short-term coping mechanisms to be replaced by formal state authority once the elusive state-building project succeeds.

An alternative approach to state-building which the Kenyan experience provides is one which combines what is already working locally with what is essential nationally. In fact, mediated governance in Somalia may be not so much a policy option as the only viable route to state-building in Somalia under present circumstances. Somalia's best hope for state revival may lie in the explicit pursuit of a state in which a central government with very limited power relies on a diverse range of local authorities to execute core functions of government and "mediate" relations between local communities and the state. The nascent central state limits itself to a few essential competencies not already provided by local, private sector, or voluntary sector actors. Central state authorities resist the temptation to insist on sovereign controls over social and political realms and entire communities that they cannot realistically exercise. For their part, local mediators gain recognition from the state by effectively providing core functions of public security or other services demanded by local communities, and earning legitimacy as a result.

As in Kenya's border areas, precisely how a formal, "top-down" state structure can and should co-exist with existing practices and structures of informal governance would be a matter for Somali authorities to work out, town by town, district by district. The result would be quite complex and, from a state-building perspective, invariably "messy," with a wide range of parallel, overlapping, and in some cases contested political authorities. External actors tasked with supporting state-building in Somalia would simply not be able to import fixed state-building project templates, could not insist on standardized judicial and other systems, and would have to learn to work with local polities in Somalia on their own terms, rather than attempt to transform them into images in their own likeness. That level of programmatic flexibility and local knowledge has not been a strong suit of international aid agencies in the past.

A mediated governance approach would enable external aid agencies to support state-building in Somalia even if the TFG collapses, in that support to local governance bodies and systems would be understood not as support to a rival to state authority but as a local partner which can be "plugged in" to an emerging central government if and when it is revived.

In the Transjubba areas, local communities have paid close attention to the emerging form of mediated governance in northern Kenya and have actively sought to emulate it, creating local peace committees in border towns. Some of this is little more than a fishing expedition for expected external assistance, but much of it appears to reflect a bona fide hope that the kinds of umbrella-group efforts which have succeeded in Wajir and Mandera can help communities on the Somali side of the border better manage both local and cross-border conflict.



External support to these initiatives must exercise care – in the complete absence of a state, local power struggles are endemic and foreigners are easily exploited and drawn into conflicts. Direct provision of financial support or other highly “liquid” resources are most likely to produce conflicts. But with close knowledge of the communities in question and due diligence, external actors could help to provide training and other support to these promising sources of local governance. To the extent that mediated governance in northern Kenya serves as a model and inspiration for trans-Jubba Somalia, a new and more constructive form of “spillover” can help counterbalance the negative spillover of war, crime, and arms flows which have defined the border area for years.

#### **8.4 Addressing Underlying Drivers of Conflict**

Assessments of conflict in northern Kenya all point to an array of underlying factors which make the region exceptionally prone to armed conflict. Efforts to strengthen mediated governance have improved local capacity to reduce crime – one of the main triggers of communal clashes – and have helped manage and mediate conflicts once they erupt. But a more comprehensive peace building strategy requires policies which address the most dangerous underlying drivers of conflict. This analysis points to several possible entry points where external aid may help reshape sources of conflict into factors promoting peace and security. As was emphasized in chapters 6 and 7, some of the forces at play in the border area – such as commerce, urban space, and ethnicity -- can either promote peace or conflict, depending on circumstances. It follows then that aid interventions should seek to work with the Kenyan government to help shape the context in ways which tap into the constructive aspects of these factors. Business interests in the border area are especially amenable to a “shaping” strategy.

The single most powerful conflict driver on the Kenya side of the border has been political – specifically, proliferation and abuse of locations by MPs as a form of political patronage and a means of engaging in localized ethnic cleansing. That in turn has contributed to deterioration of access to grazing areas, environmental degradation, and deterioration of livelihoods among pastoral households that constitutes a genuine crisis in the region. It has also created ideal conditions for hardened ethnic identities, communal clashes, and violent crime. Aid interventions which help produce fundamental changes in Kenyan policies on locations and rangeland access will go a long way to reversing one of the most insidious, and preventable, sources of spiraling conflict in the region.

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