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URBAN GOVERNANCE, LAND CONFLICTS AND
SEGREGATION IN HARGEISA, SOMALILAND: HISTORICAL
PERSPECTIVES AND CONTEMPORARY DYNAMICS

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This thesis is submitted to the Department of Geography, School of Global
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the degree of Doctor of Philosophy (PhD)

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ORIGINALITY STATEMENT

I hereby declare that this thesis has not been and will not be submitted in whole or in part to another University for the award of any other degree.

Signature

I. ABSTRACT

This thesis offers an explanation for why urban settlement in Somaliland's capital city of Hargeisa is segregated along clan lines. The topic of urban segregation has been neglected in both classic Somali studies, and recent studies of post-war state-building and governance in Somaliland. Such negligence of urban governance in debates over state-making stems from a predominant focus on national and regional levels, which overlooks the institutions governing cities. Yet urban governance can provide key insights into the nature and quality of interaction between people and the local state, and the processes of making and unmaking of Somali urban spaces. Given the rapid urban growth in the Somali populated territories, I propose a shift in focus to explore city spaces, as a means of deepening understanding of Somali social, political and spatial organisation. In advancing this proposed shift, the thesis scrutinises the nexus between governance and segregation in Hargeisa, drawing on urban ethnographic methods, interview and archival sources. I argue that segregation in the city can be understood as the spatial manifestation of governance practices across colonial and postcolonial periods, in intersection with bottom up processes, particularly the quest for security and peacebuilding in what is largely characterised as a hybrid order. The concept of hybrid governance – while capturing important aspects of control over city space - is often insufficiently historicised and politicised to convey the complex intersection of state institutions, clan and sub-clan allegiance and traditional authorities. My analysis thus situates recent urban governance and conflicts over land in a longer history of municipal governance, urban land administration and conflict adjudication. This historical perspective is important for the understanding of how segregation has been reproduced over time, and adds a new dimension to the understandings of the drivers and dynamics of Hargeisa's spatial character.

KEY WORDS: Urban, Segregation, State-building, Governance, Hybrid (ity), Customary, and Clan

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V. LIST OF ABBREVIATIONS

APD	Academy for Peace and Development
CACAS	Civil Aviation Caretaker Authority for Somalia
DC	District Commissioner
DRC	Danish Refugee Council
DDF	District Development Framework
DFID	Department for International Development
ICAO	International Civil Aviation Organisation
IFC	International Finance Corporation
INGO	International Non-Governmental Organisations
JPLG	Joint Program for Local Governance
LUMI	Land Urban Management Institute
MA	Ministry of Agriculture
MCAAT	Ministry of Civil Aviation and Air Transport
MD	Ministry of Defence
MFA	Ministry of Foreign Affairs
MH	Ministry of Health
MI	Ministry of Information
MJ	Ministry of Justice
ML	Ministry of Livestock
MMR	Ministry of Mineral Resources
MNPD	Ministry of National Planning and Development
MOI	Ministry of Interior
MOP	Ministry of the Office of the Presidency
MPT	Ministry of Posts and Telecommunications
MPWHT	Ministry of Public Works, Housing and Transportation
MRDE	Ministry of Rural Development and Environment
NUPI	National Urban Planning Board
NGO	Non-Governmental Organisation
OCVP	Observatory of Conflict and Violence Prevention
PC	Provincial Commissioner
RDP	Reconstruction and Development Program
RRA	Rahanweyn Resistance Army
SNL	Somali National League
SM	Spokesman Movement
SNM	Somali National Movement
SORADI	Social Research and Development Institute
SPR	Standards and Recommended Practices
SSP	State Safety Programs
SYL	Somali Youth League
UCID	Ururka Cadaalada iyo Daryeelka
UDUB	Ururka Dimuqraadiga Ummadda Bahawday
UN	United Nations
UN-Habitat	United Nations Habitat Program
UNDP	United Nations Development Program
WB	World Bank

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CHAPTER 1 INTRODUCTION

Somaliland has attracted a significant research interest in the last two and half decades, focused on post-conflict peace-building and the ‘hybridity’ of state institutions. This has shed important light on the role of clan elders in negotiating a place within the state, and has given birth to a wider debate about hybridity in African state institutions. It is, however, important to point out that the debates on post-conflict state formation in Somaliland over emphasise hybridity as a departure from the past, notwithstanding the fact that the trajectory of state building in Somaliland shows evidence of cyclical reproduction of statutory institutions and their practices (Hoehne, 2009). In addition to this over-elaboration of the novelty of clan authority within the state, the current debates over hybrid-state building are limited in several ways. Firstly, these studies are aimed at the national or semi-national level, largely overlooking urban authority and city governance [exceptions include Gandrup (2014) and Hagmann (2015)]; secondly, they focus on the intersection between the central state and peace-building, paying scant attention to everyday institutional practices in the more mundane roles of regulating and delivering services; and thirdly, they neglect the nexus between clan-based urban segregation and governance.

This thesis, which is focused on the governance of Somaliland’s capital city of Hargeisa, begins to redress these limitations, by addressing the dearth of knowledge about post-conflict urban authority and spatial form. The shift in focus from the national to the urban level is fundamentally important because the local and more specifically the urban is the site where the vast majority of people “come into contact with ‘the state’ and this is where many of their images of the state are forged”(Gupta, 1995, p. 376). Moreover, almost 40% of the Somali population now live in cities,¹ with an estimated annual growth of 4.6% between 2010-2015 (The World Factbook, 2015b). The trend is expected to rise further sharply as current projections predict urban population growth of 270% by 2050 – See table 1 below (UN, 2014). Related to this, focussing on the city can enable us to examine the everyday practices and quality of interaction between the people and the local state more closely and hence gain comprehensive analytical understanding of the politics and practices of governance in the post-conflict Somaliland context where institutions are in a formative or reformatory state.

¹ Urban populations in Somalia have also risen by 125% between 1990 to 2014 with an annual rate of change of 1.2. See (UN, 2014).

Table 1: Urban and rural population, urban proportion and average annual rate of change

SOMALIA: URBAN AND RURAL POPULATION, PERCENTILE PROPORTION OF URBAN POPULATION, AND AVERAGE ANNUAL RATE OF CHANGE										
	Urban			Rural			Proportion of Urban (per cent)			Average annual rate of change (per cent)
Year	1990	2014	2050	1990	2014	2050	1990	2014	2050	
(in thousands)	1875	4223	15664	4447	6583	11412	30	39	58	1.2

Source: (UN, 2014)

In this thesis, I take a historical approach to analyse the hitherto unexplored link between urban governance and segregation, focusing specifically on municipal governance, land administration, and conflict adjudication. This historical approach is important because it can shed light on the roots of current urban segregation and can explain how governance practices not only shaped but also reinforced people's on-going suspicion of the state, which in turn contributed to the perpetuation of segregation of cities in Somaliland.

The thesis provides the first in-depth analysis of Hargeisa city space. I examine the relationship between urban segregation and governance, arguing that urban segregation is partly a spatial manifestation of the relationship between the state institutions with authority over city space and the public. Equally, I argue that the present segregated urban form in Hargeisa has been cyclically configured and reconfigured over time, through governance practices many of which create a continuum between episodes of colonial and postcolonial civilian and military rule. The present discussions over hybrid governance ignore these continuities, as their major focus is to point out the relative difference in peace and stability between Somaliland and the rest of Somalia. In the process, Somaliland's state institutions are represented as an ideal model of governance for Somalis. This celebratory approach (over) emphasises the key mediating roles of 'traditional' authorities, such as the clan elders, Akils, and Sultans², in state-building and service provision, and implicitly represents their involvement as a new phenomenon. But this is by no means new or unique. In fact, customary institutions had often played a key role in both colonial and postcolonial administrations. For this reason, it is also important to go beyond existing

² Akils and Sultans are traditional authorities mainly found in Somaliland. The Sultans are higher in hierarchy as he is the leader of a larger clan conglomerate. The Akils are chiefs who are often involved in the day today governance and mediation of clan politics.

debates over 'hybridity' to understand urban institutions and their role in the emergence of Hargeisa's spatial character. The specific conflicts examined in this thesis do not point to integrated/fused local state institutions, but rather to plurality, coexistence and contradiction.

1.1 Why Hargeisa?

This study focuses on Hargeisa, Somaliland (See map of the city on page 13)³, which is a particularly interesting site for a study of urban form and spatial dynamics, given the paucity of existing scholarship, and the potential for research on the neglected municipal authorities to contribute to broader debates about state hybridity and institutional pluralism, as well as to debates over African cities and segregation. The study was hosted and co-sponsored by the Observatory of Conflict and Violence Prevention (OCVP), which is a non-profit institution in Hargeisa established in 2009 to conduct research on peacebuilding. This study complements and extends the OCVP's existing research on post-conflict governance, conflict, security, and justice. As a former Hargeisa resident and employee of OCVP, the research has benefited from the fact that my professional, social and personal networks are concentrated in this city. An important element of my decision to focus on Hargeisa also relates to the fact that it is Somaliland's biggest city in both geographical and population terms (though, due to the absence of census data, population size estimations rely on good guesses based on triangulations of secondary data from various sources). The International Non-Governmental Organisations (INGOs), United Nations' agencies, local and central governments use working figures ranging from 400 000 to 1200 000 (The World Factbook, 2015a, HM, 2010, Demographia, 2016, WPR, 2016).

For these reasons, the making and un-making of urban segregation in Hargeisa is of particular significance. The city's distinctive segregated clan-based spatial form dates back to the colonial period, when the administrative functions of the state were not in Hargeisa, but were concentrated in and largely limited to the coastal towns of Zeila, Bulahar and Berbera with the latter serving as the seat of government and remaining to be so for nearly 57 out of 85 years in which Somaliland was part of the British Empire. The capital was moved to Hargeisa in 1942 and it became the seat of the protectorate's government. The colonial period was characterised by an authoritarian governance of the city mediated by clan authorities. The importance of Hargeisa both in administrative and economic terms declined during the postcolonial civil and military period, when it was significantly overshadowed by Mogadishu, Somalia's capital.

³ See also the map of Somaliland on page 14.

Administratively, the colonial-era authoritarian governance of the city mediated by clan authorities continued to shape the segregation of urban space in Hargeisa. In instances where the authoritarian government was able to create an environment in which cosmopolitan spaces emerged, these were then subsequently undone by the reintroduction of clan-based state politics, which by implication made clan- protection essential. Hargeisa regained its importance in the region when Somaliland reinstated its independence unilaterally from the rest of Somalia in 1991, reclaiming its statehood on the basis of the colonial administrative boundaries developed over a period of 85 years under British colonial rule. During this period segregation in the city continued along the same clan-based lines primarily because of the state's inability to guarantee the security of urban citizens. All of this makes it ideal to extend or question (celebratory) debates of hybrid peace-building by focusing on neglected city space and authority, where subjects/citizens encounter the local state on a daily basis, and where the manifestation of lack of trust has repeatedly fostered a trend towards spatial segregation.

It is important here to note that clan identity shapes not only the relationship between the state and the public but it also plays a crucial role in the social and economic life of residents in Hargeisa. For instance, employment opportunities are to a significant degree influenced by kinship. Justifications for this include that there are social expectations which bind business owners, shareholders and or senior officials to take part in their clan's economic empowerment in order to benefit from its protection. Others point out that businesses require prospective employees to have some sort of a guarantor who could be held responsible in case of a theft and other forms of misappropriation. This makes the employment of people from one's kinship networks much easier to trace and settle cases. Nonetheless, the focus of this research is the intersection between urban governance and the formation and perpetuation of clan based segregation in the city.

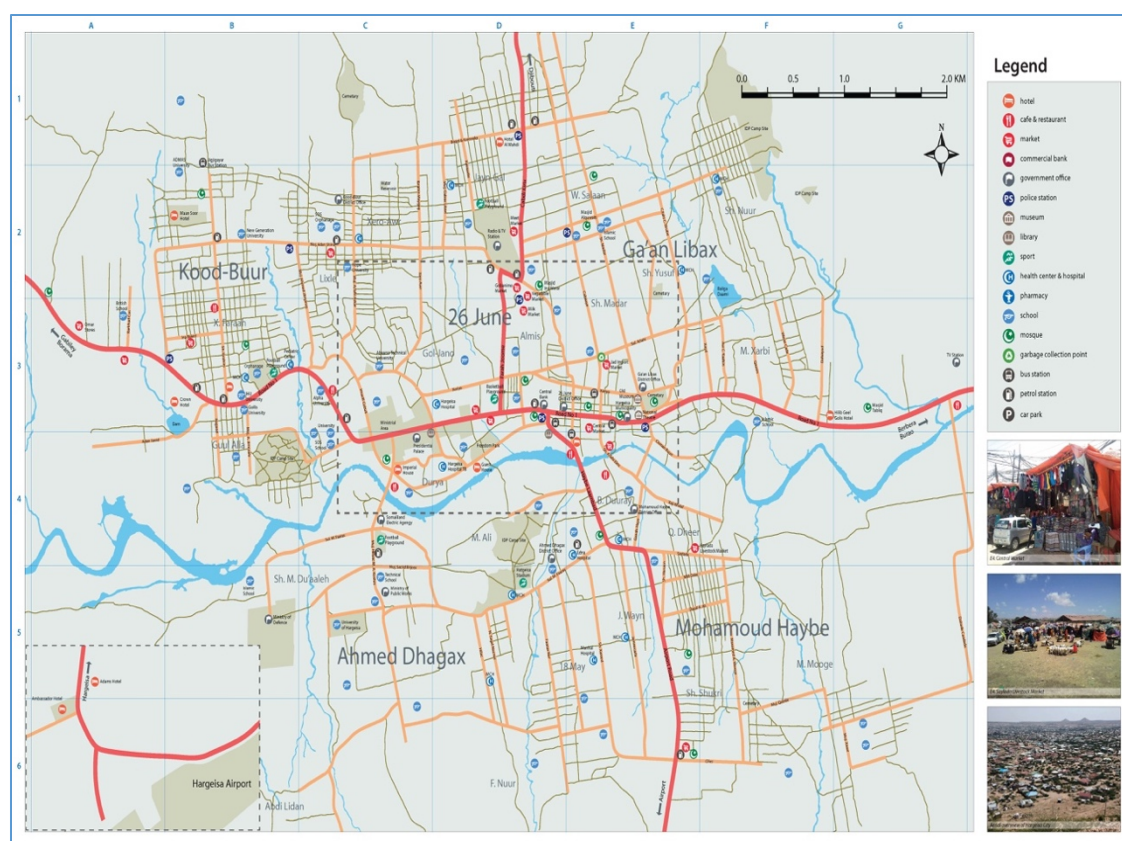
Hargeisa is divided into five administrative districts namely Ahmed Dhagax⁴, Mohamoud Haybe, Ga'an Libax, 26 June, and Ibrahim Koodbuur. Arab and Ayub clans⁵ predominantly populate

⁴ Somali spelling is used in some cases as some of the place names appear on maps in Somali. In such cases, it is important to note that the letters of X and C have different pronunciations in Somali. X can be read as H while C can be read as A.

⁵ I refer to various sub-clans i.e. Isaaq as clans because they speak of themselves mostly as clans rather than sub-clans. For this reason, I used the language commonly spoken and understood in the streets rather than the texts which refer Isaaq as one clan. My reference should not however be taken as though I am suggesting Isaaq sub-clans are unrelated and are independent from each other as clan units.

Ahmed Dhagah. The former straddles over various sub-districts such as Mohamed Ali, 18th May and Farah Nur while the latter is mainly found in a neighbourhood popularly known as Isha Borama as well as other sub-districts in the North and Western parts of the city. Garhajis (Eidagale and Habar Yonis) populates Mohamoud Haybe District, consisting of various sub-districts such as Burco Durey, Sheikh Shukri, Qudhac-Dheer, Jameeco Wayn, and Mohamed Mooge as well as parts of Ga'an Libah District such as the New Hargeisa sub-district. Awal Clans (Sa'ad Muse, Isse Muse and Afgab Muse) predominantly populate Ibrahim Koodbuur consisting of Guul-Alle, Jig-Jiga Yar, Hero Awr, and Lihle, as well as 26th June district consisting of Gol-Jano Ayngal, Durya, Almis. Additionally, they also reside in parts of Gacan Libax such as Sheikh Madar, Waraaba Salaan, Sheekh Yusuf, Sheikh Nuur, and Aw Adan. The Gaboye clan is found in the Dami neighbourhood of Ga'an Libah.

Figure 1: Map of Hargeisa

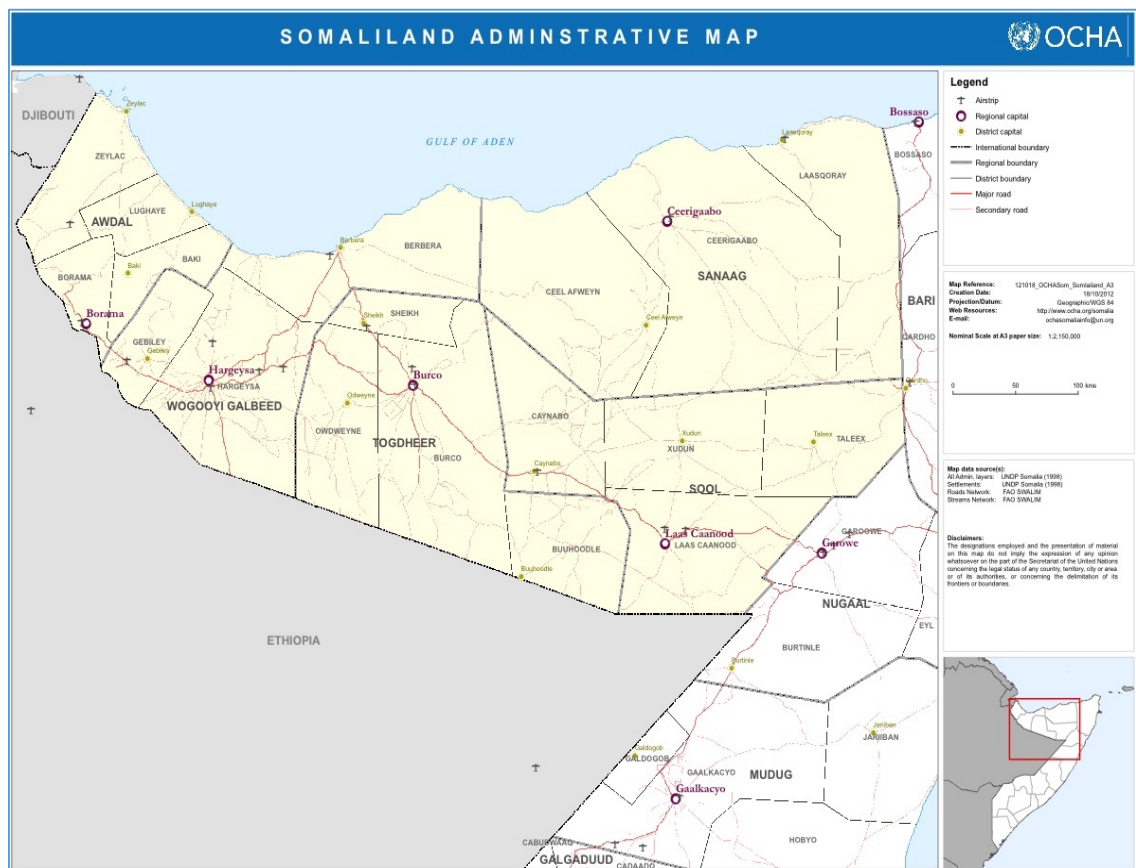


Source:(UN-Habitat, 2013)

The above description of the clan based settlement pattern in Hargeisa is meant to provide overall picture about how clans are predominantly distributed over space. It is however important to point out that population distribution and space identity in Hargeisa is contested

and therefore the above account must not be taken for a firm recognition of space identity. The aim is to indicate that settlement in Hargeisa has a clan undertone notwithstanding the fact that many residents defy the clan logic and are found in areas predominantly occupied by clan (s) other than their own. In other words, even in spaces where strong evidence of clan predominance exists, it is difficult to delineate residential patterns between the different clans as the boundaries are fluid and porous.

Figure 2: Somaliland Administrative Map



Source: (OCHA, 2012)

1.2 Research Aims and Questions

This study's focus on Hargeisa's governance and spatial form aims to highlight the importance of understanding city dynamics, and to contribute to a greater understanding of peace-making, institutions and governance in a post-conflict context. We can gain a more insightful understanding of post-conflict state-building processes amid rapid urbanisation through greater knowledge of urban governance institutions and the relations of power that are manifest in the city's spatial organisation. The study can also contribute to broader debates over African cities,

governance and segregation. Governance is not the only explanatory factor that can account for the emergence and perpetuation of segregation in Hargeisa, but is one of the key factors that shapes the making and unmaking of urban spaces in Somaliland. My argument emphasises the intersection between governance and popular responses to insecurity and mistrust of state institutions to explain the reproduction of segregation over time. The study has a particular focus on urban land administration and conflict adjudication and their interface with urban development as a means to shed light on the spatial outcome of clan-based politics in the city.

The key overarching question in this thesis is: what are the key historical processes and recent socio-political dynamics underpinning Hargeisa's spatial character as clan-based segregated urban space; how do people navigate the terrain of urban institutions; and how does this shape the making and remaking of urban space in Hargeisa? As the thesis examines particular aspects of urban governance and institutions responsible for urban land administration and conflict adjudication, the main research question can be broken down into the following sub-questions:

- How do the historically rooted hybrid municipal politics and the top down urban land administration explain the configuration and reconfiguration of Hargeisa's spatial character?
- What are the key drivers and dynamics of urban land accessibility, conflicts and adjudication and how do they relate to trust/ mistrust of the state and the city's pattern of segregation?
- How do people navigate the terrain of urban institutions and how does this shape the making and remaking of urban spaces in Hargeisa?
- What are the security implications of unresolved urban land conflicts in the city and how do they influence state legitimacy and affect the city's spatial character?

1.3 Structure of the Thesis

To answer these questions, the remaining parts of the thesis is organised into nine chapters: In the next chapter (two), I explore debates in the literature over urban segregation and hybrid governance in the African context and Somaliland specifically. I discuss the historical and recent dynamics underpinning the absence of trust and the negative perceptions towards the state, situating such dynamics as crucial explanatory factors for the emergence and perpetuation of urban segregation in both colonial and postcolonial times. I elaborate debates over hybrid

governance, state legitimacy and trust, and their interface with the production and reproduction of urban segregation to develop new ways of understanding the spatial character of cities in Somali/land. I argue that negative public perceptions of the state and lack of trust in its institutions can to a significant degree explain the clan-based urban segregation. The absence of acceptable means of regulating public services and conflicts have eroded trust in the state. The spatial character of the city can be seen as a response to these dynamics. The chapter also reveals the shortcomings of predominant debates about Somaliland that focus on the national level and neglect the urban level. The problem here is that such negligence overlooks the fact that clan segregation creates both urban governance challenges and opportunities. On the one hand, it cements clan citizenship and encourages fragmented urban governance politics which makes it difficult for the state to implement development policies. On the other hand, it not only enables residents resist more successfully government policies and practices which overlooks public acceptance but it also makes it easier for new comers such as migrants negotiate space in the city through their existing clan networks.

I therefore argue that the current literature on Somaliland and its focus on the hybrid political order are mainly aimed at examining state legitimacy, which is important given the long colonial and postcolonial history of local unacceptability but they neglect the urban as a crucial site for deepening understanding into the legitimacy crises the Somali state suffered for a long and hence fail to inform public policy and urban governance practices that are adequate to alter public choices of residential places, which are currently perpetuating segregation.

In the third chapter, I discuss the methodological approach for this study, emphasising the importance of urban ethnographic methods and historical sources to complement formal interviews with key informants and residents. After reviewing the main empirical sources, I outline the challenges of collecting data from state domains, and discuss how I used teashops in Hargeisa as important sites for gathering information and locating key informants, including in the diaspora.

In the fourth chapter, I analyse urban segregation in Hargeisa in relation to the trajectory of local governance, drawing on oral narratives, archives and ethnographic field research, with the purpose of mapping the continuities and changes in urban governance and their relationship to the making and remaking of segregation in the city. This historical approach to urban institutions is important partly because particular episodes are often used as a point of reference positively or negatively for the legitimation of power and authority. For instance, memories of how things

were done in the past serve as examples of how a state should behave in the present or the future. The chapter begins by exploring the introduction of local and municipal governance during the colonial period and the popular resistance this provoked. It then turns to the early postcolonial government's failure to shift away from the colonial rules and regulations governing urban spaces, and the military's subsequent attempts to break away with the past. In the final section, I discuss the post-conflict state's attempt to re-establish local and municipal governance. I argue that spatial segregation has been a salient feature of the city from the outset, and explore the power relations and turbulent history through which segregation along clan lines and popular distrust of state institutions have been reproduced over time. My focus is on the important mediating role of Akils (Chiefs)⁶, and the effects of episodes of insecurity that reinforce urban residents' desire to live in spatial proximity of fellow clan members.

The fifth chapter turns to urban land management institutions and practices, which also have a history of operating from top-down, and I explore and how these shape public perception towards the state. The chapter begins by exploring the colonial subversion and alteration of the indigenous approach to land management. I show that the colonial administration's approach to land management contravened local customs on resource management based on mutual understanding informed by a set of unwritten rules. It introduced a top-down land management with little or no consultation, which undermined the prior voluntary compliance with rules governing natural resources including land. As Hargeisa became a critical site where new urban land regulations were enforced most visibly during the colonial period, I argue that the expropriation of land in Hargeisa affected residents in two important ways. Firstly, those whose land was expropriated had no alternative but to negotiate space in areas populated by their clan. Secondly, those who qualified for compensation were required to bring their elders as guarantors for these pay-outs, forcing them to be close to where they could get access to the traditional leaders. I also argue that the colonial top down approach to land management, which was understood as altering land ownership from the domain of God to the domain of humans undermined the acceptability of the new urban land management regime. The chapter then discusses postcolonial attempts to bring about change in the land management regime, primarily as a tool for boosting economic development. I argue that the postcolonial state's attempt to bring about change was unsuccessful, and that the continuation of the previous

⁶ Akils and Sultans are traditional authorities. In Somaliland, the Sultan is higher in hierarchy than the Akil as he is the leader of a larger clan conglomerate. The Akil is equivalent to a chief and he is often involved in the day today governance and mediation of clan politics.

colonial rules undermined public trust in the state. Furthermore, the continued alienation of the poor further entrenched lack of public trust. In the final part of the chapter, I discuss the post-conflict dynamics of re-establishing urban land management and conflict adjudication regimes. I argue that post-conflict attempts aimed at improving the legal framework for urban land administration have not been successful, as the newly enacted laws are characterised by ambiguity, further undermining public trust. This top-down land management was further exacerbated by the state's inability to regulate land, enforce its decisions and guarantee the security of urban residents. I argue that the top down nature of urban land regulatory regimes in the city significantly contributes to the perpetuation of segregation.

In the sixth chapter, I discuss urban land conflicts and adjudication mechanisms as they were operating at the time of the research, supposedly regulated initially through ad hoc local government committees and the statutory judicial system but later through the Urban Land Commission (a special tribunal for urban land). The Commission was set up in 2009 to mediate and adjudicate urban land conflicts, but which was shaped in practice by a plurality of institutions. The chapter begins by discussing key issues in accessibility to urban land and the alienation of the poor. I argue that the current mechanism of access to land in urban areas marginalises the poor, as the existing land management regime imposes restrictions with which the low-income people in the city cannot comply. In the second section, I show that institutional weaknesses, rapid urbanisation, increasing land prices, and greater competition for access to land in urban areas can, to a large degree, account for the rise in urban land conflicts. These conflicts are exacerbated by the inability of the plural justice system to deal with them adequately. In the third and fourth sections, I discuss urban land conflict adjudication, shaped by the plural justice system. I argue that attempts to improve the dispute mediation mechanism have shown institutional gaps in how the state deals with land issues. While the Land Commission deals with conflicts among city residents, it rarely addresses disputes between the people and the state. One of the key challenges emanating from this gap is the fact that it reinforces the plurality of institutions involved by driving recourse to clan, and also undermines trust in the state. I argue that urban segregation is the product of such struggles and competition between customary and statutory institutions.

In the seventh chapter, I discuss a high-profile land conflict between the government of Somaliland and residents in the South of the city. The government decided to expand the airport, but the land concerned was held by residents who were unwilling to hand it over. I begin by discussing the history of airport expansion, and scrutinise the significance of the airport for state

territorial control. I argue that the state's expansion attempts are premised on an assumption for the need for full territorial control as a means of both local and international legitimization, and that the airport is seen as an important site for state legitimization. The chapter then moves on to discuss the rationale for the land expropriation, resistance and the dynamics of mediation, valuation and compensation, much of which pits the state evoking its rights to develop and manage land against residents' claims of both formal legal entitlements as well as traditional customary rights to the land. Such struggles for legitimacy between land claimants/owners and the state marginalises the poor, undermines public trust, and forms the basis on which violent resistance to the state is justified, and public choice of abode are made. I argue that the nature and means through which urban land conflicts are adjudicated play a key role in the entrenchment of the city's segregated spatial character.

In the eighth chapter, I discuss the impact of urban land conflicts on security. The chapter focuses on a case study in which the government was involved with land conflict at a military base located in Eastern Hargeisa. Locals also claimed the land on which the military base is located. The dispute flared up after the government decided to compensate a prominent Ethiopian politician, from whom it confiscated land, by giving him rights to land located in the contested area. This led to violent resistance in which seven people lost their lives, and four others were injured. The chapter consists of three sections. In the first section, I provide a brief overview of security in urban Somali settings. I show that the state is not the only actor in security provisions in the country. I argue that clan identity is a major feature of public safety and security. I also argue that the multiplicity of actors in security may have contributed to the stability in Somaliland overall, but it can also be an obstacle to progress towards accountable state institutions. My account of this conflict seeks to show the dire security impacts that can result from the lack of credible mediation and resolution mechanisms for cases in which the state is one of the disputants. I argue that the absence of credible mechanisms to adjudicate land conflicts in cases where the state is one of the disputing parties frequently produces insecurity in urban contexts, because of the way the state manipulates the justice system. I argue that this erodes public trust, and hence plays a significant role in the production and reproduction of clan-segregated spaces. The security implications of unresolved urban land conflicts in the city thus also play a significant in reinforcing the city's existing spatial segregation along clan lines.

In the final chapter, conclusion, I provide overview of the chapters and summarise key finding and arguments.

CHAPTER 2 DEBATING HYBRID GOVERNANCE AND SEGREGATION

2.1 Introduction

This chapter elaborates debates in the literature over hybrid governance to show their inadequacy for illuminating urban form and spatial character of cities in Somali/land. It seeks to develop new perspectives on understanding the spatial character of cities in Somali/land through alternative concepts such as state legitimacy and mistrust. These concepts are appropriate because they are more concerned with the quality of the interaction between the ruler and the ruled. The chapter consists of two main sections. In the first section, I show that recent studies on Somaliland focus on the national or subnational level. I argue that the current debates neglect the urban level and its relevance to the state building, as well as the interface between governance and urban form in the broader Somali context and Somaliland in particular. In the second section, I argue that the recent post-conflict hybrid state-building processes in Somaliland – which were by large aimed at addressing legitimacy concerns given the repeated legitimacy crises of Somali state-building from the colonial period through to the present time – failed to deliver a significant shift adequate to alter public choice of residence. I therefore argue that it is important to go beyond existing debates over 'hybridity' to understand the social, political and more specifically governance dynamics underpinning the spatial character of cities in Somaliland. I then move on to discuss urban segregation and argue that negative attitudes towards the state and low levels of trust in its institutions can to a significant degree explain the perpetuation of urban segregation on the basis of clan identity. I also argue that the absence of credible mechanisms to manage service delivery left people with no alternative to using identity-based social arrangements to regulate their relations with the state and among themselves. This prevented the emergence of cosmopolitan spaces and reinforced the resilience of segregation by (sub)clans.

2.2 Hybrid Governance and Somali State (Re –) Formation

Before embarking on the discussion about the post-conflict hybrid governance and state (re–) formation in Somaliland, it is important to look briefly at the history of the conflict. In 1981, an insurgent political organisation, the Somali National Movement (SNM), was established by a group of mainly Isaaq politicians. Their stated objective was to liberate Somalia from the grip of

Mohamed Siad Barre's dictatorship. Soon after its launch⁷, SNM established itself along the border with Ethiopia particularly North Western and Togdheer regions amid hostilities between Ethiopia and Somalia. It started waging sporadic guerrilla attacks on the Somali government forces based along the borders and further inside. The response of the Somali state was heavy handed as it often visited wrath on the civil population (mainly the Isaaq clans) in the North who were accused of providing support for the insurgency. This gave SNM the tools it needed to enlist widespread support and recruit more people in its ranks. Realising the danger apparent in the popular growth of SNM, Barre embarked on a diplomatic effort aimed at cutting off support and supplies from SNM by mending relations with his arch rival, Dictator Mengistu Haile Mariam, the then President of Ethiopia who was providing Somali insurgencies⁸ with military and financial support.

In April 1988, Barre and Haile Mariam signed a deal mediated by Djibouti's President Hassan Gouled Aptidon. Key among the agreed points were the restoration of diplomatic ties and ending of hostilities particularly the provision of support for each other's insurgencies. This was a major blow to SNM. On the 27th of May, merely two months after the agreement was signed, SNM forces waged a surprise attack on the Somali Army, which was at the time one of the strongest in the region. The epicentre of the attacks were the major cities of Hargeisa and Burao. Both cities were almost levelled to the ground by government forces and nearly 50 000 people lost their lives. The war lasted for three years and in the end, it not only drained the state resources but it also weakened its military capability. It also ushered in the death of the military regime in Somalia as two more guerrilla movements, United Somali Congress (USC) and Somali Patriotic Movement (SPM) sprung up in the Southern regions of Somalia. Barre was finally ousted in January 1991 and the major cities in the North were captured by SNM forces. However, SNM was unable to govern peacefully as rifts between its leadership emerged. In some instances, this led to a fresh form of conflicts within the SNM elites and their clans. Clan authorities such as elders, Akils and Sultans which were vital in the SNM struggle against the Barre regime became essential once again for finding a political solution in the post Barre conflict over resource control and power sharing between the SNM elites.

⁷ Some accounts suggest that some of the forces that laid the foundation for the armed wing of SNM defected from the Somali Armed Forces as far back as in 1978.

⁸ Primarily Somali National Movement (SNM) and Somali Salvation Democratic Front (SSDF) which was 2 years prior to SNM

The important role traditional authorities played in the post-conflict political dispensation occurred at a time when the political situation in the South was deteriorating. For this reason, discussions on hybridity dominate the post-conflict political writing about Somaliland. Explicitly or implicitly, this body of literature points to the fact that the hybrid political order in the post-conflict context was largely an attempt in which the elites were trying to address the deficit in state legitimacy and public trust. But this has not brought about significant changes in the level of trust for the state in any qualitatively meaningful way. For instance, for the first three years (1991-1993) of the post-conflict hybrid order in Somaliland, tension was running high between the different factions in major cities as armed confrontations occurred in Berbera when Abdirahman Ahmed Ali was in charge⁹ (Drysdale, 2001). His successor, Mohamed Ibrahim Egal, also encountered resistance from sections of the major clans in 1994-1997, as armed conflict broke out in both the capital, Hargeisa, and second capital, Burao. For Balthasar (2013), these wars formed as part of the state-building processes. More importantly, these wars can be understood as a legitimisation struggle in which each side of the conflict was trying to address the legitimacy crisis which led to the disintegration of the Somali state between 1988-1991. Before arguing why it is necessary to go beyond hybridity for understanding the spatial character of cities in Somaliland, it is important to define hybridity as a concept.

2.2.1 Conceptualising Hybrid Political Orders

Hybrid political orders can be defined as “contradictory and dialectic co-existence of forms of socio-political organisations that have their roots in both non-state indigenous social structures and introduced state and societal structures” (Boege et al., 2009b, p. 17). More comprehensively, Hagmann and Hoehne define hybrid political orders as the “sum of institutionalised, yet dynamic power relations that one can empirically grasp at a given time and place, [involving] international legal arrangements as well as everyday practices of ordinary people and processes at the local level, often across but rarely without reference to national boundaries” (Hagmann and Hoehne, 2009, p. 44). The use of the words contradiction and coexistence are important here, as they show that traditional institutions may act in contradiction of state authority in some instances, but may also be complementary and enmeshed in other instances. Examples can readily be found in cases where the state is weak

⁹ These include the period in which Ali was a caretaker SNM leader (January to May 1991) for the Northern Regions, and after he was elected as President of Somaliland on 18th May 1991-1993 when he was replaced by Mohamed Ibrahim Egal.

and seeks the support of non-state actors to, for example, uphold peace and stability. But there may also be contradictions when the existence of traditional institutions works against the desires of the state to discharge its local and international obligations. The dynamic nature of hybrid political orders partly reflects the fact that the boundaries between 'traditional' and 'state' are not defined absolutely, as customary leaders, business men and religious leaders may become politicians and take on state roles, and vice versa (Boege et al., 2009a).

According to Boege et al. (2009a), hybrid political orders differ from Western conceptualities of the state in a number of ways. Firstly, in hybrid orders, security is undertaken by various actors unlike the Western model, which makes security the exclusive domain of the state. Secondly, political leadership is not the sole prerogative of the state as there are different kinds of political leaderships existing along the state. Thirdly, the welfare of the people is not in the hands of the state mostly as people rely on social safety nets such as kinship, and in Somaliland, clan-based social networks. Richards (2015) argues that hybridity goes beyond the traditional and formal governance combination discussed in the literature. She argues it is also about striking a balance between "domestic needs and external demands", supported and sustained locally but also aimed at reaching sovereignty. At the end of the Cold War in early 1990s, many African states disintegrated and Western powers saw it necessary to intervene in what they considered as failed states, so as to enhance the new international order of peace and security. Somalia lay at the heart of these theoretical debates over hybrid-state-making and became the first testing ground for state revival attempts conceptualised in relation to the state failure thesis.

Proponents of hybrid political orders suggest that the central problem with interventions that stemmed from the assumption of state failure related to conceptualisation of the latter itself. (Boege et al., 2009a). By casting state order as 'hybrid', scholars rejected the representation of African states as being "pathologically weak" in need of saving through interventions (Hagmann and Péclard, 2010). According to Hagmann and Hoehne (2009), the state failure thesis has a number of weaknesses. Firstly, it fails to recognise the differences between African states. Secondly, the state failure thesis has a tendency to assume that the disintegration of central institutions means anarchy. Thirdly, the state failure thesis uses the Western state as the model against which other states should be measured, often assuming that Western states are strong and others are weak. Fourthly, the abovementioned assumption inherently leads to the conceptualisation of intervention mechanisms relying on set of indicators developed under these assumptions in order to analyse and arrive at a solution for the "failing states".

Given the realities of state-building, which are characterised by multiple processes, there were many emerging political orders that deviated from the main tenets of the state failure thesis (Hagmann and Hoehne, 2009). For instance, Somali territories represent an example of an emergent trend of governance arrangements negotiated at the local level (Menkhaus, 2006b, Menkhaus, 2006a). The manner in which such orders develop differs from one context to another, indeed, such negotiation “refers to the dynamic and, at least partly, undetermined processes of state (de-construction” (Hagmann and Péclard, 2010, p. 544) which takes place at both the local and national levels (Renders and Terlinden, 2010). In states where centralised formal institutions are non-existent, unable or unwilling to reach all parts of their territory, such inexistence or gaps in governance are filled through non state actors such as customary institutions and subnational or local political organisations, negating the idea that those areas are chaotic and anarchic Boege et al. (2008). For instance, Bakonyi (2013) argues the Rahanweyn Resistance Army (RRA) in the Southern part of Somalia was a political organisation that managed to bring about three elements which are essential for governance; security managements, judicial services and local tax collection for the first time since the disintegration of the Somali central state.

2.2.2 Recent Somali State-Building and Hybridity

As the central Somali state was nearing disintegration in the late 1980s, scholarly debates about what went wrong and how an alternative option could be mapped for Somali state-building raged among academics. These debates often focussed on the national level. The object of argument was the analytical use of the concept of clan, which, in its most basic definition, is termed as a “dynamic social construct that can be subject to different interpretations and are used to describe and validate changing social and political relations” Bradbury (2008, p. 13). Two major perspectives emerged from these debates. The first sought to take the clan as a basic unit of analysis for the social and political organisation of the Somalis, while the second posited that clan is one of many ways in which the Somali society could be analysed. Both debates place the focus on political and cultural dimensions of the concept, while overlooking its socio-spatial utility and the factors underpinning such utilities. The use of clan as analytical frame can be traced to Lewis’s seminal works in the late 1950s on Somaliland (1958, 1961). For Lewis, clannism was and remains to be pervasive among the Somalis, as clan identity is acquired at

birth and is used to form social and political alliances.¹⁰ His basic contention is that if you want to understand the Somalis, you need to understand the mechanics of kinship and clan. This view remained unchanged for Lewis from his early works through to his recent writing in the 1990s and 2000s. He maintained that clan lineage is intrinsically ‘inherent in the Somali culture’, saying that the “global level modern mass society seems, by its scale and anonymity, to expand the bounds of patriotism beyond acceptable, viable limits. This appears to evoke alienation at the local level, so remote from the centre of real power, and promoting renaissances of the little traditional of familiar communal identity” (Lewis 2010, p.141).

Luling (2006, p. 473) observes that genealogy, which is essentially the architecture on which clan mechanics are built, is a “web which holds [Somali] society together and underpins political life”. She further points out that clan is a complex system, characterised by shifting alliances and allegiances, the understanding of which often slip through the fingers of observers. Lewis (2004) refers to this “intricacy” as invisibility, which presumably masks the differences among Somalis, leading to over-elaboration of their homogeneity. For Lewis, the kinship concept provided the tool for understanding the political and social dynamics underpinning conflict. His argument posited that clan lay at the heart of state-building and it is the clan through which its disintegration could be comprehended and resolved (Lewis and Mayall, 1995, Lewis, 1993). In this perspective, clan becomes the most important means through which the Somali state could be revived. This approach criticises the anti-clan sentiments officially adopted by the previous Somali administrations during both the democratic and military rules as being far from the Somali reality (Lewis, 2008a). Here, kinship is presented as an organising principle pervasive enough that even the Islamists, whose war on clan was thus far the toughest, were unable to subdue as clan divisions between them come to the surface endangering the very anti-clan ideologies they promoted or breached.

Lewis (1998) points out that political violence should not be a surprise among the Somalis. He asserts that any observer who studied the Somalis knows that violence is inherent in its culture and symmetric clan system. The Somali culture according to the author distinguished only warranleh (warrior) and wadaad (religious man). This violent and segmentary clan system, he argues, gave the dictatorship an opportunity which it could exploit to prolong its time in power. He points out that “any realistic assessment of possible future trends has to acknowledge that

¹⁰ He further argues that clan can be understood within the same framework of tribe as a blood-based “social, territorial, political, and to some extent religious unit” (Lewis, 1955, p.585)

Somali nationalism evidently retains its segmentary character and has not been transformed into a modern organic mode” (Lewis, 1989, p. 578). He argues further that this is so despite rejection by “urbanised and Westernised Somalis [who] maintain that discrimination is 'old-fashioned', that it is contrary to the injunctions of the Prophet” (Lewis, 1955, p. 584). Even though the concept of clan lies in the centre of Lewis’ view, he neglects the spatial dimensions of clan as a key feature of urban settlements in Somaliland. Equally he overlooks the fluidity of the clan concept and alignments in spite of the fact that he emphasises its importance as a tool of understanding the Somalis. For instance, critics point out that clan identity is more politicised in the current climate in Somaliland and Somalia than it traditionally was (Bradbury, 2008).

The above critiques point to the changing face of clan as a concept both in its dynamics and function among the Somalis. According to Little (2003), clan has in the past served as a means through which communities seek to survive in a hostile ecological and economic environment. This however was/is neither uniform across geographical spaces nor static in social domains over time. For instance Bjork (2007) observes that there are differences in the way that clan is used in the different geographical spaces in the country. For instance, in urban contexts, clan identity is not as strong as in the rural contexts. The author notes that many people in urban centres did not know their clan membership until the civil war broke out. It was also common for urbanites to live in cosmopolitan neighbourhoods where people hailed from different clan backgrounds. In spite of the fact that clan is used as social and economic network among the Somalis, many people still despise clan identity (Bjork, 2007). Furthermore, Luling (2006) claims that clannism was ideologically rejected by Somali nationalists during the run up to the parliamentary elections of 1960s. But these attempts, she argues, did not last long as clannism played an important role in post-independence Somali politics. She argues that clannism did not and probably will not disappear as a divider among Somalis until something else replaces it as total unity is difficult to achieve in any society. She acknowledges, however, the possibility of urban places as sites in which the influence of clannism could reduce, as these sites produced young generations in which clannism meant nothing.

The second main perspective in the debate about the manner in which the central Somali state could be revived was opposed to the use of clan as an overarching analytical concept for the social, economic and political organisation of the Somalis (Samatar, 1989, Kapteijns, 2004, Besteman, 1998). These authors likewise focussed on national politics, often overlooking the urban level. This perspective proposes that clan is one of many elements that underpin Somali cultural and political reality, but it is far from being the answer for central state revival. They cite

the existence of a common culture, language, religion and appearance as some of the other more legitimate tools of analysis that could be used to understand Somali society. In opposing those who present clan as a means to resolve the political crisis in Somalia, this perspective places the blame on bad leadership and exclusionary politics (Samatar, 1997). This suggests that political conflict in the Somali territories cannot be understood as being the result of an intrinsically violent culture but rather as the absence of a civil way to address political and economic concerns. Samatar (2006b) argues that the mobilisation of people and resources for political or military action is often necessitated by the “absence of a viable civic political associations”. Samatar (2009) submits that common civic belonging is possible and there have been many cases demonstrated in Somali politics. A case in point is Somali Youth League (SYL) where despite being the least favourite political movement for colonialists, it emerged as a victor in the Mogadishu’s municipal election in 1955.

Samatar (2006b) also argues that clan identity is not the only main determinant of social and political organisation among the Somalis. He points out that the Somali traditional and moderate practices of Islam provide an important platform of common citizenship where different clans can see that they belong to a community above clan segmentation (Samatar, 2006b). Equally, clan identity is context bound and can be overridden by social and political occurrences. He further points out that recent events in which the Islamic courts were able to mobilise cross clan support for their efforts shows that clan is not the big elephant in Somali politics and it can be overcome in many instances through nationalist or religious means. In other words, both external and internal factors can bring about a situation in which Somalis can act nationalistically. An important example is the way that the Islamic Courts came to prominence in Mogadishu, which can be explained by a conjunction of several factors. Firstly, oppression by warlords; secondly, the way in which Kenya intervened and manipulated the peace process in Embagathi; thirdly, the endorsement of the Islamic Courts by the international community and fourthly the popular perception that the West is against Islamic values (Samatar, 2006b). The suggestion inherent in this view is that clan ideals and identity are contextual and can be configured and reconfigured by political, economic and social events and occurrences.

Similarly, Kapteijns (2004) criticises the absence of the ‘impact of colonial rule’ in clan-based analyses of Somali society, which ignore the changes that may have occurred to the concept of clan during this period. She provides three examples of how the impact of colonial rule on clan-based Somali social and political organisation could be teased out. Firstly, the division of Somali land is put forward as being a drastic measure cutting communities from each other and

therefore altering their clan-based interdependence. Secondly, the role of the colonial administration in using and abusing the clan-based political structures through a process of formalisation in which the state imposed itself on its subjects is overlooked. She argues that this reinvention of traditional institutions by the colonial administration altered the fundamental tenets of Somali political organisation and dented its image. Equally, Besteman (1998, p. 110) argues that even though the kinship skeleton remains, its content has changed due to the pressures imposed on it by global processes such as “colonialism, state building and Cold War”, and these changes need to be accounted for when analysing Somali society. This perspective advances Somalis as being one ethnic group, organised through membership of a kinship system of association, but warns of the danger apparent in the ‘deployment of this genealogical difference’ as the basis for politics (Samatar, 2006a).

This perspective also underlines how Somali political crises have been rooted in the politicisation of genealogical differences among the Somalis and if this is reinvented it will lead to another disaster as Somali cultural values and the political exploitation of clan identities will collide. While this perspective has successfully provided alternative understandings of Somali social and political organisation, like the previous perspective, it also fails to elaborate the utilities of clan in the spatial character of cities in the Somali territories and its role in urban governance. Moreover, critics of this perspective point to the usefulness of clan as an organisational asset and readily point to the clan-based segregation apparent in almost all aspects of the Somali society (Luling, 2006). This accords well with the assumption inherent in the early Somali scholarship which characterises the Somalis as culturally fractious and prone to violence because of the power of clan. In riposte, advocates of the Samatarian perspective postulate that a far better explanation for the destruction and anarchy in Somali politics can be found in the obvious hegemonic struggle between powerful political forces who seek refuge in identity politics and use it instrumentally as a means to realise their aims (Samatar, 1992, Samatar, 1988, Samatar, 2009).

This argument against an essentialist view of clan is further reinforced when the practices committed in the name of clan are separated from the clan as a mode of social organisation. For instance Samatar (2006a, p. 57) distinguishes clanism “as the political mechanism for manipulating community sentiment along sectarian lines” from clan as the “genealogical differences [that] have been one of the elements of Somali tradition, but...never induced the kind of mayhem that mar [the Somali] society” now. Samatar (1997) seeks to validate this point in his comparative study of Botswana and Somalia where he argues that these two societies

have taken two different paths despite having similar ecological and cultural elements. Whereas one created a sectarian and exclusive norm, the other enjoys a civil and inclusive system. In this view, when the civic state prevails, legitimacy is enforced and national identity is strengthened leading to the entrenchment of a democratic culture and enhancement of peaceful coexistence. While the author does not focus on the urban level, the same point could be made for the formation of spatially segregated cities in Somaliland, which are, as will be argued in the empirical chapters, to a large extent the outcome of low levels of legitimacy and trust in the state.

At the subnational level, scholarly debates about recent state-building in Somaliland focus on the hybrid political order whose history can partly be traced to SNM's manifesto of 1982. The manifesto advocated a decentralised system of governance for the post Barre political dispensation, aimed at incorporating clan-based politics as well as regional identities (Prunier, 1998, Gilkes, 1999). Like the previous strands of argument, these debates neglect the urban level in their discussion of the hybrid state building in Somaliland. They too accredit success to the significant role of traditional institutions in mediating post-war clan and political conflicts. The first of these conflicts took place in Burao in September 1991 where local clan militias collided. This undermined the optimism that followed the declaration of independence, as pro-SNM clans were thought to benefit from the new state disproportionately and at the expense of others (Farah and Lewis, 1997). The second conflict took place in Berbera in March 1992 when the SNM administration tried to impose control over the port of Berbera and the local clans refused to abide by that order. Not long thereafter, the third major political conflict took place in Hargeisa and Burao in 1994 (Bradbury, 2008) as some of the clans felt that they were not given their due share in government structures. These conflicts occurred against the backdrop of excitement about Somaliland's statehood and most people felt that clans who supported the SNM to fight Barre would not fight among themselves (Farah and Lewis, 1997). A major dimension of the political conflicts in Somaliland which was not captured in the literature relates to an observation made by Menkhaus (2003) in relation to Southern Somalia. He argues that when conflicts devolve in a lower level of the genealogical chain, the scale and the impact of the conflict reduces. This observation may also well explain an important factor that expedited peace in Somaliland, as clans had become war weary during the final years of the political conflict and could no longer afford to sustain the war. The political class in both camps had also realised that their days were numbered before the public turned their back on them. This

created friction between politicians within the same factions as they started accusing each other of being beneficiaries of the war (Balthasar, 2013).

The peacebuilding processes in Somaliland began with clan-based meetings largely sanctioned by the SNM and were motivated by a desire to reconcile the clans in Somaliland rather than inflame their differences. These clan-based peace initiatives paved the way for bigger peace conferences to settle political differences between the clans. The first major peace conference in Somaliland took place in Burao in 1991 (Bradbury, 2008). The convention of this conference was aimed at reconciling the clans so as to enhance the legitimacy of the SNM administration in the region. The conference addressed the difference between the clans in the North and laid the foundation for the present day Somaliland administration. It was this conference that saw the reinstatement of Somaliland's statehood against the wish of SNM top leadership (Walls, 2011). In spite of initial public approval, political conflicts erupted between the clans mainly over hegemony and resource-sharing in the newly founded state. The second major conference in Somaliland was a response to these conflicts and it occurred in Sheikh in October 1992. Several key issues were agreed in this conference, including the designation of major ports and airports as a national asset. Bradbury (2008) suggests that this conference was a defining moment for the Guurti (a state-wide council of elders) as it paved the way for its formalisation. Walls (2009) observes that there were two outcomes from the conference; a ceasefire agreement between the warring clans and the foundation for another peace conference to be held in Borama. The Borama conference was from the beginning 'intended to be a bigger' conference and aimed to have a fundamental impact on the country's political landscape. Even though the Borama conference was more to do with state-building than peace-building, the existence of the different militias loyal to their respective clans and other freelancers who were bent on making money for themselves caused concern for the participants, such that peace-related issues remained at the heart of the conference.

2.2.3 Role of Customary Institutions in Hybridity

The overall drive towards hybrid political order in Somaliland can best be characterised as an attempt aimed at constituting or reconstituting public trust and state legitimacy in the post-conflict context. Key to this attempt is the enmeshment of traditional institutions in the modern state building processes. In the Somali context, this is not a new phenomenon. In both the recent and distant past of state formation in the Somali peninsula, 'modern' and 'traditional' forms of governance in many cases contradicted, coexisted and complemented each other. For instance,

colonial administrators often collaborated with clan elders. Farah and Lewis (1997) describe the process of delegating responsibility to the elders during the colonial era when Akils (Chiefs), were paid to perform some state functions. In post-colonial times, traditional systems were again used by the state in order to bring about law and order among the populace, particularly in rural areas. What is unique about the current hybrid political order in Somaliland is, perhaps, the scale rather than the substance of the mixture. In other words, the extent to which traditional systems are formalised and constitutionally sanctioned is new. In the past, however, Akils and pro-government elders were also key instruments through which the state maintained law and order in a politically charged environment where most of the 'people regarded the government as an enemy and declined to cooperate. Akils were important for these efforts because of their knowledge about the members of their clans and the fact that they could easily facilitate the capture of suspects and impoundment of livestock. For instance, Rayne (1921, p. 21) wrote that "a wanted man's Akil may be ordered to produce" a suspect "instead of sending a [messenger] to call" him. For many people, Akils were part of the problem since they were voluntarily or involuntarily working with an illegitimate state security apparatus.

But it is important to remember that the politics of chieftaincy was characterised by diversity as it was underpinned by individual agency. Indeed, this diversity was characteristic of African contexts more broadly, as some chiefs willingly supported the colonial powers while others opposed. According to von Trotha (1996, p. 80) "this diversity was transformed and subsumed into a unifying administrative structure....organised on the basis of institutional innovations following three principles: those of devolution, hierarchy and the administrative" (von Trotha, 1996, p. 80). Firstly, the principal of devolved powers upheld the colonial state's right of 'appointment and removal of chiefs as its sole prerogative (von Trotha, 1996); secondly, the principal of hierarchy meant that the colonial government could invent and/or modify the institution of chieftaincy to serve as auxiliary communicative means between itself and the population; and thirdly the principal of administration underpinned the colonial government's introduction of territoriality and jurisdictional district boundaries for local governance. In the case of Somaliland, the institution of chieftaincy preceded the British colonial administration. It was inherited from the Egyptians who constituted chiefs among the Somalis during their brief rule prior to the arrival of the British, to facilitate basic administrative functions such as record

keeping and population counts for their officials in the coastal towns. Each Akil was responsible for a *dia*-paying group¹¹ and would report back to his Egyptian superiors in Berbera and Zeila.

Even though the customary institutions were not limited to only Akils, they became the preferred colonial means of governance in the Protectorate during British rule. The home-grown Sultanate system of public authority, which had better social standing and legitimacy in the eyes of the public, was marginalised to a significant degree. Unlike Akils, the public authority of Sultans was not a colonial invention. This is not to say that the Sultans were totally outside the state but rather the level of Akils' engagement was pronounced. One of the reasons why Akils were preferred as an administrative instrument was the fact that they could cover wider geographical areas by their sheer far greater number than the Sultans who were few and represented bigger clan groupings. According to Lewis (1955, p. 585), the institution of chieftaincy (i.e. Akil) was highly revered or feared. He observes that "chief's glance [was] referred to as (*il kulul*) 'the burning eye' ... his person is so strongly endowed with power that among some closely related tribes it is usual for a visiting chief to avoid a face to face encounter with his equivalent and to be greeted indirectly by a representative". Consequent upon his special relation with God, a chief can call down blessing or misfortune upon his people and their stock". As evident here, the chiefs are represented as the agent of God, which deviates from the general perception of chieftaincy as a political position, which was and still is subject to challenge by the mainly egalitarian society in which it operates. The author himself points out that the chiefs' decisions were mainly voluntary as there was no special police to enforce their decisions.

Functionally, the Akil system was constituted in two ways. The first was based on peoples' choice and clans were given the opportunity to nominate an Akil and present their choice to the government, while the second was based on government selection where the District Commissioner (DC) appointed the Akil without necessarily consulting the clan. Deceased Akils were inherited in many cases by their next of kin. The colonial administrators did not consider the Akil system they introduced as wholly traditional but they were hopeful that it would transform into an indigenous form of governance having features and properties of traditional leadership. The primary administrative function of this institution was basically determined by the colonial administrators and most importantly the District Commissioner whose orders

¹¹ *Dia* is a blood money and a *dia group* is comprised of members of a clan who collectively pay blood money in cases where one of their members causes death within or outside the clan accidentally or deliberately.

outlined the duties and responsibilities of the Akils. In other words, Akils were government agents as well as traditional authorities. Even though Akils were seen as colonial stooges they were nevertheless needed by their subjects, as they were the most effective means through which the population could make contact with the state. The need for Akils' mediation was even made greater in situations where a collective punishment involving the confiscation of property and seizure of livestock was carried out against clans (Millman, 2013). Understandably, for this reason, among others, Akils' intervention often necessitated that people of the same clan background concentrate in areas where they could easily get access to their Akils and other support system inherent in the clan structure. Despite these historic roles of Akils as colonial state agents, there is nonetheless a consensus in the literature about the key role of traditional authorities in the more recent hybrid state-building processes.

There is, however, an emergent trend in the literature on state-making that provides a crucial case for going beyond hybridity (Hoehne, 2013, Hoehne, 2011). Furthermore, the role of customary institutions in the hybrid order can be critiqued in a number of ways. The idea of hybridity evokes an image in which state institutions are made of two forms of governance that are nicely fitting and merged – it is cast as a magic medicine that could revive the Somali state or other African states. Put it differently, the role of the customary institutions in the hybrid order is over-emphasised and represented as the missing link that can explain the difference between successful governance and failed attempts of top down international interventions. This representation seems exaggerated and might in many cases jar with the reality on the ground. For instance, one could question the extent to which institutions in Somaliland are hybrid. Apart from the Guurti, the house of elders, there is no notable national level institution which could be characterised as being hybrid in Somaliland. This is in sharp contrast to the assumption inherent in the literature that sees hybridity as a golden thread that goes through the state structures in Somaliland.

Additionally, some scholars accuse the hybrid orders of being instrumentalised. At the heart of these accusations is the fact that the customary institutions are increasingly becoming co-opted by the political elites in the executive branch of the government. For instance, traditional authorities in Somaliland were accused of transforming into institutions that undermine democratic progress and hence further exacerbate the already bleak image of state legitimacy (Hashi, 2005). Other sceptics of the long term applicability of the hybrid political order argue that hybrid state-building processes have outlived their usefulness and what remains now “undermines democratic progress...and legitimate authority of the state institutions as well as

the leading traditional authorities in the region” (Hoehne, 2013, p. 199). The author also outlines a number of weaknesses inherent in the traditional systems, which gets transferred to the state when the tradition and the modern are combined to form one political order. For instance, traditional systems may be effective at the local level but they might be less effective at the national level and lead to divisions between clans, as their authority is limited to their particular clan of belonging. Traditional systems also have a tendency of being biasing against women and young people. If they continue to be a significant part of the state structures, they could all present a threat to the possibility of democratic and equitable participation in the political processes where women have the same rights in state affairs as their male counterparts. As evident here, the interaction between traditional and modern ways of governance are “characterised by complementarity and incompatibility”(Renders, 2007, p. 441) in contrast to representations that cast their relationship as blended and functioning well together.

A major weakness in the hybrid state-building argument is what Hoehne (2013) calls imbalanced state-building, in which the modern structures of the state dominate the incorporated traditional structure, such as in the case of the Guurti. In spite of its formal inclusion in the state structure, the current political dispensation in Somaliland makes the Guurti functionally marginal. This undermines the quest for state legitimacy, which was the main reason why traditional institutions were incorporated in the first place. The Guurti’s standing among the public is vulnerable. They are not elected and they have on many occasions prevented the democratic process by either extending their term, or that of the executive. Moreover, Guurti is traditionally a dynamic institution in which any male capable of commanding respect can represent the clan and perform the functions known for Guurti i.e. mediation of disputes and conflict. This, coupled with their institutionalisation as part of the state, has cost them their legitimacy among the populace, and by implication worsened that of the state (Renders, 2007).

2.3 Beyond Hybridity: Legitimacy, Trust and Segregation

For the above-mentioned reasons as well as the fact that hybridity fails to illuminate the quality of interaction between the state and the people and the spatial manifestation of such interaction, it is crucial to go beyond existing debates over 'hybridity' to understand urban spatial form and the urban institutions that shape settlement patterns. The argument here is that the literatures on urban segregation, state legitimacy and trust are more able to provide new understandings of the dynamics that shape the spatial character of Hargeisa and other Somali cities. While hybridity generally focuses on the nature of state institutions and can be

descriptive of the character of state-building, the concepts of legitimacy and trust are more concerned with the quality of interaction between the state and the people. As such, they can provide a better understanding of urban governance and segregation in Hargeisa.

2.3.1 Understanding Legitimacy and Trust

Tyler (2006, p. 1), defines legitimacy as a “psychological property of an authority, institution, or social arrangement that leads those connected to it to believe that it is appropriate, proper, and just”. This is reinforced by the OECD (2010, p. 15)’s postulation that a “political order, institution or actor is legitimate to the extent that people regard it as satisfactory and believe that no available alternative would be vastly superior”. The OECD (2010), differentiates at least four forms of state legitimacy. First is ‘process legitimacy’, which is about setting the rules of engagement between citizens and the state. Second is ‘performance legitimacy’, which is about the state’s performance against a set of measures believed to indicate level of performance i.e. service delivery. Third is legitimacy that emerges from shared beliefs and social practices informed by values, ideology or religion. And finally, there is a legitimacy that derives from recognition of the state by external actors ascertaining its sovereignty, which in turn impacts on its internal legitimacy.

Discussions over legitimacy are important for understanding state-building processes. Lemay-Hébert (2009) divides state-building debates into two main camps. The first of these is the ‘institutional approach’, which builds on the Weberian conceptualisation of the territorial and organisational control of the state, through the monopoly of violence, which is case as a crucial element for understanding legitimacy. In this approach, state legitimacy is also measured by the state’s ability to devise plans or policies and its ability to enforce regulations and laws through accountable and transparent processes and instruments of power (Fukuyama, 2004a). The second approach draws heavily on Durkheimian state-building perspectives and it places emphasis not on the physical structures and institutions of the state, but rather the political and social aspects of the state i.e. the people who constitute the powers in institutional structures (Buzan, 2008). As evident here, these conceptions of the state also vary in their conceptualisation of legitimacy, and the extent to which they emphasise it. According to Lemay-Hébert (2009), the institutional approach places emphasis on the relationship between service delivery and legitimacy as a fulfilment of the social contract between ruler and ruled (Rotberg, 2004), while in the legitimacy approach, the strength of the state and the extent to which democracy exists are seen as factors enhancing legitimacy (Fukuyama, 2004b).

The literature also makes other distinctions in how to understand the concept. For instance Gilley (2006) makes a distinction between objective and subjective legitimacy. The former is based on impartial observation of state behaviour, how people view the state as well as their level of trust, whereas the latter is based on subjective experience and interpretation by the opinion givers. The policy implications of these different analytical perspectives on legitimacy take two forms, descriptive and prescriptive, as mapped by Hoffman and Kirk (2013). The former places the emphasis on understanding legitimacy by looking at the specifics of beliefs and perceptions and how this shapes the way people relate to and assess the state (Andersen, 2011). The latter places emphasis on normative indicators based on universal guidelines (Bellina et al., 2009). This is mainly concerned with improving political legitimacy, and it is particularly important for countries going through delicate democratic transitions, assuming that the level of state legitimacy is likely to increase voluntary compliance with rules and regulations (Moehler, 2005).

Further differentiation of legitimacy include input, output and throughput legitimacy (Schmidt, 2013). The input legitimacy is concerned with the citizen's participation in the decision making processes whereas output is concerned with the performance of the state institutions entrusted with discharging public service. The throughput is concerned more with the processes through which both the input and output as well as the practices and cultures which shape their interaction are constituted (Lieberherr).

State legitimacy is associated with effective institutional development. Positive attributes of high state legitimacy include increased voluntary engagement in governance, as well as non-coercive compliance with rules and regulations. In other words, legitimacy is believed to enhance state capacity as it spares the need to devote resources to coercion (OECD, 2010). Consequently, states are often keen to increase positive regard from the public. In a continent marred by authoritarianism, one of the most popular means through which political legitimacy is pursued is elections, whether genuine or nominal (Moehler, 2005). But the pitfall of pursuing legitimacy through elections is that people's perception is to a significant degree shaped by which political party they identify with. The author observes that in many African countries, it is likely that losers of elections may display negative perceptions towards state institutions whereas those who voted for the winning party are likely to exhibit more trust in the state. This may be particularly pronounced in cases where state and party institutions are merged, or where parties have a constituency that is defined by regional, ethnic (or in the Somali case), clan loyalties. Similarly, winners are less likely to defend civic rights than losers if such action is

perceived to be against the government (Moehler, 2005). An important spatial manifestation of the weaknesses in the primacy of elections as a legitimization process is the fact that such efforts produce asymmetrical distributions of legitimacy across territories, as people living in different parties of a city or country may have significantly varying perception towards the state for social, economic and political reasons. Even though this is overlooked in the literature, it is important to point out that identity politics in such elections can often perpetuate urban segregation along ethnic and clan lines.

According Etzioni (2011), legitimacy is, more often than not, underpinned or informed by normative values and social practices, “subject to moral dialogues” but not necessarily produced by them. In many cases, such moral dialogues inform the understanding of what is considered and what is not considered just. But Buckley (2013) problematises this, underscoring the importance of distinguishing the related acts of justice and legitimacy. While just can be understood as morally informed principles through which decisions are appropriated as being correct, legitimacy denotes rules to which conformance is attained voluntarily without necessarily believing that such acts are just. He points out that “the concept of legitimacy differs from the concept of justice insofar as citizens accept “just” principles as both morally appropriate and morally correct, whereas citizens accept “legitimate” uses of public power as morally appropriate but not fully correct” [ibid, p 329]. Arguing along these lines, Samatar (2009) invokes the concept of faith (by which he means devotion to particular values found in both the Islamic religion and nomadic Somali culture, i.e. egalitarian “belief in self-reliance and development of confidence in the community’s commitment to justice”) as a means of restoring state legitimacy that suffered from long term negative attitudes.

Negative public attitudes towards the Somali state date back to the colonial times when most of the Somali population felt that the state institutions through which they were governed did not represent their values and beliefs. This was manifested by the stiff resistance to the colonial powers from their arrival in 1884 to their departure in the 1960 (Irons, 2013, Hess, 1964, Mohamed, 2002a). Key to this resistance was a widespread rejection of the exclusionary nature of colonial rule, which not only imposed an alien state (s) but also subdivided Somali territories into various entities (Samatar, 1982, Mohamed, 1996). Being aware of such discontent, colonial authorities embarked on political manoeuvres prior to independence such that some loyal Somalis were incorporated into the formal governing system primarily to bring about state legitimacy (Samatar, 2009, Mohamed, 2002b). These attempts did not, however, yield significant improvements in the relationship between the colonial state and Somalis. As a result,

political resistance gained momentum, leading to independence in the 1960 (Mohamed, 2004). To the dismay of many who expected a turnaround in how governance was constituted and executed, the postcolonial state became a site for fresh forms of struggle for resources mainly between elites. Similarly, the postcolonial state inherited all instruments of repression, as those who assumed the power did not have immediate intentions of dismantling them.

Consequently, public perception of state legitimacy made little if any progress. This became clear soon after independence when poets who were strong supporters of the struggle for independence found themselves at war again with a new African state replicating old colonial behaviours. Among the first to criticise the way in which power-sharing took place and the way in which resources were misappropriated by the ruling elites was Ali Sugule (Sugule, 1962, Sugule, 1966). Growing popular discontent with the immediate postcolonial state facilitated the coup in 1969. The military officers who overthrew the civilian government were aware of the legitimacy deficit from which the civilian Somali state was suffering. As a result, the first few years of military rule were characterised by nation-building and development narratives aimed at restoring public confidence in the state. This, however, did not last long as the military regime became more repressive than the civilian regime it replaced. According to Bradbury (2003), in the aftermath of Somalia's war with Ethiopia in 1997, public institutions were dilapidated through scarcity of financial resources and dwindling aid and state legitimacy declined significantly as clans became an important source of "patronage and protection". Those who were excluded from power and the benefits of the state also further entrenched group identity by mobilising resources through clan structures. By the early 1980s, increased competition for illicit and formal trade led to increasing segregation of the military and political elites and the eventual collapse of the state in Somalia [ibid]. This insecurity and breakdown of state rule underpinned people's tendency for concentrating in particular geographical locations. The manner in which the state was governed had significantly undermined trust in formal state institutions in the country. Trust in the state is particularly important in understanding the perpetuation of urban segregation. This is because trust plays an important role in forming social relationships based on choice and reciprocity. In other words, the state's mode and practices of governance shapes the level of credibility and legitimacy it can reciprocally receive from the public.

Dunn (1992, p. 74) defines trust as the "confident expectation of benign intentions in another free agent". But Luhmann (1992) makes a distinction between confidence and trust. While confidence can be understood as a certain level of expectations of a person or institutions, trust

can be understood as being based on previous encounters and confidential information presupposing scenarios of risk. Similarly, Dasgupta (1992, p. 51) places emphasis on expectations by defining trust as a “sense of correct expectations about the actions of other people that have a bearing on one’s own choice of action”. Although this does not address Luhmann (1992)’s concern regarding assessments of risk as a key component of trust, Gambetta (1992, p. 217)’s proposal of trust does seem to address this concern, as he suggests that trust “or, symmetrically, distrust [can be understood as] a particular level of the subjective probability with which an agent assesses that another agent or group of agents will perform a particular action, both before he can monitor such action (or independently of his capacity ever to be able to monitor it) and in a context in which it affects his own action”.

According to Dasgupta (1992), trust can be understood as a commodity governed by specific market rules. For instance, when there are deviations from normal practices, punishments such as social stigma or other forms of enforcement are applied. If trust in the enforcement mechanism is low, the possibility of entering into agreements also becomes low. In the Somaliland case, trust towards the state is undermined by the lack of equitable access to justice and enforcement mechanisms free from corruption and nepotism and hence people no longer see it fit to honour a social contract with the state as their experience with the state is mainly negative. Trust is therefore influenced or determined through a process in which an agent acts in a relationship on the basis of prior knowledge [ibid]. In other words, trust here can be understood as a commodity held by the public and traded for a particular outcome of state governance. The price is determined by the extent to which reasonable arrangements acceptable to both sides are negotiated. In the case of Somaliland, the current arrangements are not acceptable to the public and this can help explain the spatial concentration of people in particular geographical locations partly to resist the state. This conceptualisation of trust seems to be based on familiarity, which makes the latter a key attribute of trust. But Luhmann (1992, p. 95) points out the need for distinguishing trust and familiarity, suggesting that “familiarity is an unavoidable fact of life; whereas trust is a solution for specific problems of risk”. Here the “specific problems of risk” are the government’s actions which either enhance or erode trust.

Historically, colonial legacies and the manipulation of state instruments for the control of subjects can be considered as a major explanatory factor for the loss of public trust in state institutions (Mamdani, 1996). Equally, postcolonial continuity of governance malpractices further undermined public expectations of independent African states, as they failed to constitute ruling arrangements different from those experienced during the colonial period

(Samatar, 1985). The absence of significant trust in state institutions has been worsened in many African contexts by the emergence of military dictatorships that overthrew the colonially induced fragile African democracies partly because of public discontent over how those in power behaved or governed. Most of these military regimes did not, however, perform any better than those they replaced. According to Menkhaus (2006b), distrust towards the Somali state is rooted in the repressive manner through which public order was constituted and implemented. This had left a lasting scar in public confidence in state institutions, and many people remain reluctant to see the state resuming old powers. By implication this has facilitated or entrenched urban segregation.

2.3.2 Conceptualising Urban Segregation

The terms of urban fragmentation and segregation are interchangeably used in the literature to describe the urban form and related social realities that result from the residential separation of social groups on the basis of identity i.e. tribe, ethnicity, race, religion, ideology, economic or other social statuses. While, I mostly stick to using segregation, I occasionally also use the term fragmentation, by which I mean the same as segregation. My aim below is first to provide a conceptual understanding of segregation. I then move onto discussing the causes and consequences of segregation. In the final subsection, I provide an overview of the history of urban segregation in Hargeisa. Given the lack of literature on segregation in Somali studies, this section relies mainly on wider geographical and sociological studies on the concept, its causes and its consequence in urban places.

Urban segregation can be understood as a phenomenon where specifically defined groups occupy particular spaces in the city, voluntarily or involuntarily maintaining a distance from one another for social, economic and political reasons (Kaplan and Woodhouse, 2005, Battersby, 2004, Muhammad et al., 2015). It is a concept which, from a social and political perspective, reflects changing urban socio-spatial realities as well as the dynamics of power relations within and between people and the state and non-state actors. From a physical perspective, it seeks to account for the changing geographical and territorial structures of places and the impact this could have on urban liveability (Navez-Bouchanine, 2002 cited in Deffner and Hoerning, 2011, Dauskardt, 1993). According to Massey and Denton (1988), urban segregation can be understood as the outcome of social and economic processes, and it can be measured within a basic framework consisting of at least five main components. These are the extent to which: groups are dispersed across spatial units; group members are exposed to each other in urban

spaces; group members are oriented towards a particular central residence; particular social groups are concentrated in a physical space; and minority groups are clustered in adjacent places.

A salient feature of the debates over segregation is the binary form in which distinctions are made between the wealthy and poor neighbourhoods of the city, often rooted in the historical development trajectories of old and new, or 'traditional' and modern cities (Muhammad et al., 2015). Furthermore, segregation can be judged to be 'good' or 'bad'. The former is associated with people's ability to increase their chance of negotiating a better life in urban places through social networks with neighbours. The latter is associated with negative features such as the exclusion of the poor from opportunities available in the city (Peach, 1996). Van Kempen (1994) points to some of the main weaknesses in these dualistic framings, chief among them being whether segregation should be considered at the city or conurbation level, and whether it should be considered as static or dynamic. Equally, segregation studies are characterised by an epistemological bias, as the focus tends to be placed on areas populated by the poor, which by default makes wealthy areas escape scrutiny of academic and policy debates over how spaces should be organised and inhabited. Kaplan and Woodhouse (2005) criticises the literature for overlooking segregation within the same groups along class lines. Visser (2013) argues that this can influence the outcome of efforts aimed at bringing about integrated spaces, as lack of understanding of the relatively wealthy areas can lead to misdiagnosis and ineffectiveness of city-wide policy efforts.

Several distinct strands of academic writing can be distinguished on segregation. The first investigates segregation as a spatial phenomenon where the city consists of different segments occupied by various sections of the urban population (Balbo and Navez-Bouchanine, 1995, Navez-Bouchanine, 2003, Navez-Bouchanine, 2002 cited in Michelutti, undated). The second looks at urban segregation from a social perspective where service provision is analysed in relation to infrastructural development and its impact on disintegration or integration (Coutard, 2008, Graham and Marvin, 2001). The third considers segregation from an economic perspective looking at the polarisation of urban economic spaces and the differential access to opportunities and services (Sassen, 2002, Van Kempen, 1994), while the fourth strand looks at political segregation where exclusion and inclusion are perpetuated through power relations and administrative instruments used to do or undo policy based or non-policy based institutional practices (Navez-Bouchanine, 2002, Pieterse, 2006, Watson, 2009, Parnell, 1991). This brings us to the final thread of the debate, looking at urban segregation from social and cultural

perspectives where conflicting identities coexist and interact within the same territory shaping urban residential patterns according to cultural and ethnic identities (Harrison et al., 2003). It is important to point out that the above-mentioned themes are situated within broader attempts to identify segregation dynamics, its causes as a phenomenon and its impact on urban liveability as well as the possible means through which its negative consequences can be mitigated (Michelutti, undated).

2.3.3 Causes and Impact of Segregation

Segregation is generally cast as the result of two main processes: “social prejudice” and economic malfunctioning’ (K’Akumu and Olima, 2007). Social segregation in African cities is largely attributed to the colonial manipulation of space (Macoloo, 1998). Mbembe (2004, p. 384) argues that urban segregation was a “biological protection of the so-called white race ... [where] various policies and regulatory frameworks aimed at protecting the white[s] from the rest of the population [were introduced, making] the ... arts of city building and of inhabiting ... synonymous with the creation of an illusory harmony and purity based on the fiction of racial distance”. In addition to such rationalisations of protection, segregation in many cities during the colonial period was justified on the basis of health risks such as malaria (Muhammad et al., 2015, Murunga, 2012). Indigenous people in the continent were displaced from their homes on the basis of this politically motivated view on hygiene¹² (Parnell, 1991). Policy instruments such as urban planning and design practices were used to bring about domiciliary separation between social groups for the benefit of one group over another (Spinks, 2001, Myers, 2003).

An example of this is South Africa (Dauskardt (1993), where residential segregation was implemented through legislation including the Group Areas Act, which resulted in the removal of many inner city communities to urban fringes. Similarly, in Nairobi, local communities were also removed from strategic parts of the city to remote peripheries in the 1910s (Turton, 1972). Postcolonial cities often retained this segregated urban form as they failed to break away from colonial mechanisms of making urban policies and places (Myers, 2010). As a result, “segregation and segmentation in colonial” urban form translated into a high level of inequality among

¹² Regardless of how segregation is justified, in some cases, such colonially induced segregation found currency in the local cultures. For instance, in some Muslim cities, the indigenous communities did not mind segregation primarily because they wanted to protect their values from colonial influence (Muhammad, et al, 2015).

African populations as elites inherited the exclusive white areas while the poor were left out. As the gap between the rich and poor increased, class became an important factor influencing urban segregation in Africa, and also led to processes of self-segregation.

Lewinson (2007) provides an example in which segregation came about as a result of class difference in an East African context, where office workers socially segregated themselves from those in the community they considered as backward. Aside from class, community interests can influence the emergence of voluntarily segregated residential patterns on the basis of "strong taste for sharing a church or temple, preserving customs, trading with each other, borrowing from or lending to each other, speaking their language and teaching it to their children, or enjoying each other's company in day-to-day affairs" (Anas, 2006, p. 542). Spatial segregation may also occur, either deliberately or inadvertently, on the basis of land use or following infrastructural developments. An example of this is cities where primary and secondary use of land exhibits differentiation in the location of residential and commercial spaces (K'Akumu and Olima, 2007).

Elaborating the concept of 'splintered urbanism', Graham and Marvin (2001) posit that investment in infrastructural networks underpinned by differentiation in land use leads to segregation in urban spaces, and can negatively affect the provision of services across cities. Their argument rests on four key points. Firstly, urban development tends to be advanced through the provision of modern infrastructural networks across national economic spaces. Secondly the emergence of new information technologies has challenged the assumed inevitability of connections through physical infrastructure, as these new technologies have to some extent 'unbundled' infrastructural development, leading networks to be segmented. Thirdly, infrastructural development strategies led to the emergence of premium networked spaces where wealthy people live in closed off sections of the city most often referred to as gated communities. Fourthly, this produces resistance in the form of social movements opposed to the inequalities of premium spaces and commoditised networks.

However, the idea of splintered urbanism was heavily criticised for being West-centric and ignoring experiences from Non-Western settings which in most cases deviate from the aforesaid theorisation of urban segregation (Coutard, 2008). Splintered urbanism was also criticised for the implication that segregation is a new phenomenon, which resulted from recent changes in global economic interaction and governance practices. Kooy and Bakker (2008) refute this

suggestion and point out that cities in many developing countries have long been divided along ethnic and socio-economic lines prior to the rapid globalisation of economic and cultural flows.

One of the most fundamental questions underpinning segregation discussions is that which relates to its impact. This is important because segregation is not only produced by particular social, economic and political realities but it also produces particular social, economic and political impacts which shape experiences of urban liveability. These include both negative and perhaps to a lesser extent positive impacts. Among the negative impacts of segregation include the political marginalisation of certain groups that can flow from their concentration in particular areas. Segregation can in these cases lead to collective violence when “discrimination, spatial mismatch, and demographic change combine” (Kaplan and Douzet, 2011). Similarly, Abu-Lughold and Race (2007) argue that racial and ethnic conflict can arise from rivalry over space and access to resources. The author observes that conflict arising in such situations often leads to two tendencies; either individuals move to areas perceived to be safer for them or they get trapped within a close circle of their families or communities, often cutting themselves off from the social fabric, a condition of self-isolation where children and adults in the families spend less time in the streets. As we shall see, the former has particularly relevance for the case of Hargeisa.

Moreover, segregation can also entrench undesirable economic conditions, as poor people who live in low income areas are likely to have less social and economic mobility than poor people living in non-poor locations. This is due to the fact that the “particular form of the spatial configuration that arises in a city shapes the horizons of possibility. If the horizon is extremely limited, spatial configuration continues to produce segregation and exclusion. Alternatively, if the horizons are more open, we are more inclined to use the rich multiplicity of spatial practices to unleash new ways of interaction and engagement” (Pieterse, 2005, p. 3). In urban management terms, segregation places a burden on local authorities’ quest for equitable service delivery, where such effort exists. For example, services provided in low income locations might be lower than other areas as municipal authorities pay less attention to areas with lower levels of revenue generation.

Segregation may also have positive impacts. Kaplan and Douzet (2011) observe that segregation may have contributed to political empowerment in some instances, as spatial separation formed the basis on which particular groups fighting for greater rights are incubated in areas predominantly occupied by their own social groups. While some positive impacts may follow

from voluntary segregation, Anas (2006, p. 13) points out that its crucial to identify the level at which this occurs. The author distinguishes between optimal and non-optimal level of segregation. The former can be understood as the condition in which “adding one more person to a [segregated area] creates social marginal benefits and costs that are equal”. The latter is when the addition of one or more members to the segregated area do not add “social marginal benefits”. Although such optimal separation may mitigate some of the negative externalities of segregation, it is important to point out that social integration based on strong group identity such as clan or regional affiliations can play an important role in possible instability. This is because it creates an environment where distancing others is the principle/goal through which advancement of social, economic and political interests rotate, hence laying the foundation or exacerbating existing divisions. In the case of Hargeisa, the spatial concertation of people along clan lines enabled people to resist the state both politically and violently when their interest are/perceived to be endangered.

2.3.4 Hargeisa as a Segregated Space

In an attempt to historicise how segregation developed over time in Hargeisa, I briefly discuss the emergence of urban segregation during the colonial period. I argue that urban segregation was not necessarily inevitable as some of the Somali settlements prior to the arrival of the colonial administration had signs of traversing clan and lineage boundaries. I also argue that the postcolonial, including the post-conflict, development trajectory reinforced the existing segregated nature of urban settlement in Hargeisa. For the most part during the colonial era, Hargeisa was not as administratively and economically important for the colonial administration as were the Eastern and coastal town. As a result, the seat of government for three and half decades was in Berbera and occasionally Sheikh. This initial concentration of state structures in Berbera was attributable to a range of factors. Firstly Berbera was the only all-weather harbour in Somaliland (War Office General Staff, 1907) and secondly, it was the biggest urban centre in the country and thirdly, little was known at the time about the settlements in the interior parts of the country (See Swayne, 1996). More importantly, the coastal towns were perceived to be more civilised and cosmopolitan than the interior parts of the country, as a result of Indian and Islamic influences.¹³

¹³ Capt. Malcolm McNeil of Somaliland Field Force wrote in 1902 about coastal towns that “*Indian ways and customs (and with them Aden prices) came into vogue in the Somali country where.... the coinage is*

The colonial government's views on cosmopolitanism were characterised by binary oppositions where on the one hand it considered cosmopolitan spaces as less susceptible to harbouring local resistance,¹⁴ but on the other it encouraged clan segregation due to the ease with which administration functions were operable through precolonial institutions, particularly the Akils. Prior to the arrival of colonial powers, Hargeisa was a rural settlement populated by nomadic clans who seasonally migrated in and out of the area. Permanent settlement in Hargeisa began with the arrival of Islamic clerics in the mid-19th century, whose authority was cast as taking a cosmopolitan non clannish form (War Office General Staff, 1907, p. 51). Hargeisa's urban nucleus is attributable to Islamic clerics who often hailed from different clans and commanded high levels of respect among the nomads allowing them to "settle down and form permanent villages" in any space of their choosing regardless of their clan backgrounds (Irons, 2013, p. 20).

In addition to the respect for the religion embodied by these agents of God, tolerance towards Islamic clerics was fostered by their provision of educational and health services, in many cases free of charge (Briggs, 2012). Such services attracted people of different backgrounds seeking Islamic knowledge and treatment, making cleric-dominated urban places cosmopolitan. Throughout the early years of British rule, urban development in Hargeisa remained modest and segregated along racial, ethnic and clan lines. Government quarters were located in the West and served as the area where the whites and their Indian subordinates resided, while the Somali population was mainly confined to the East and the North of the town. Maj Rayne, who visited Hargeisa, described it as a "town of sticks/and native mats [and] a few sun-dried brick houses" and a government quarters (1921). The government quarters consisted of "district headquarters [with] European accommodation for officials and government offices and other installations".¹⁵ The estimated population of Hargeisa was 1000 in 1907 (Swayne, 1996) but in little more than a decade this number grew to 2000 making the settlement the biggest of a half a dozen cleric dominated villages in the interior parts of the country¹⁶ (FOHS, 1919).

in rupees, and Hindustani been spoken by very many Somalis is practically the official language of the country" (Fergusson, 2013).

¹⁴ This is so because the first resistance to colonial rule was instigated in Berbera by the man later labelled as the 'mad mullah', but he failed to win the hearts and the minds of the town's elites who consisted of people from different ethnic and racial groups.

¹⁵ TNA CO 535/141/7 The seat of government.

¹⁶ The estimated population of the protectorate at the time was about 300,000.

The urban significance of Hargeisa was boosted in 1942/3 when it became the seat of the protectorate's administration following the destruction of the government offices in Berbera during the war with the Italians (Millman, 2013). The movement of the capital was attributable to a number of factors that include: firstly the fact that Hargeisa was in close proximity to major trade routes such as Ethiopia and Djibouti; secondly, military attention shifted from the east following the defeat of the Mullah because of the Italian presence in Ethiopia; thirdly Hargeisa's weather conditions were friendlier than Berbera which gets extremely hot during the summer; fourthly, the Western part of the country had a higher population density than the East; and lastly Hargeisa was by now the largest interior settlement in the country.¹⁷ Being the new seat of government, Hargeisa received greater infrastructural development in the run up to independence (British Somaliland Protectorate, 1945). These new projects further entrenched the spatial character of the town as they followed the previous settlement patterns. Government offices, stores, camps, and housing for expatriates (many of whom came from the other British dependencies in Asia), were built in the Western side of the city (British Somaliland Protectorate, 1954, British Somaliland Protectorate, 1958) while the Somali sections remained underdeveloped and neglected.

The spatial segregation of the city was manifest not only in physical but also social terms. According to Laurence and Thomas (2010) there was a clear social demarcation between the European quarters of the city and the Somali section. For instance, it was a taboo for a European woman to visit the Somali populated part of the town unaccompanied or on foot. Moreover, the European population of the town was itself also divided along ethnic lines socially and economically. While Europeans of British descent mainly occupied prestigious government jobs, Italians (many of whom were from Italian Somalia) were often engaged in non-office based jobs such as mechanics and low-profile engineering occupations. The internal segregation of Europeans was not limited to economic differences but also social disparities. Little cultural interaction existed between the Italians and the British. Equally, the Somali population in the city was divided along clan lines. The Garhajis, Arab, Awal, and Ayub belong to the Isaaq branch of the Somali clans where as Gaboye belongs to the minority clans of the Somalia.

Postcolonial Hargeisa retained the same spatial character developed under colonial rule. It was divided into quarters; the government quarter and the civilian quarters. The former housed the

¹⁷ TNA CO 535/141/7 The seat of government.

civil servants and other government officials and unlike the rest of the town, this section was well built by the standards of the time and it had steady water supplies and electricity as well as some paved roads. The Eastern civilian quarter consisted of two major neighbourhoods divided by the river bed, with the North being a little more built up than the South. The deteriorating economic situation in Somaliland after independence has also further entrenched the spatial segregation of the city. Four days after independence, Somaliland united with Somalia and this dawned a new era for Hargeisa as meagre state resources were channelled to developing the capital, Mogadishu, making it the prime city and central focus of action for all sorts of opportunities. As a result, the handful of British-trained skilled men and to lesser extent women from Somaliland left for the new seat of government. Equally, businessmen from Somaliland increasingly shifted their focus to the South, leaving Hargeisa for those unable or unwilling to relocate for whatever reason. Soon after independence, the urban elites from the North felt side-lined notwithstanding the fact that they believed that they were more qualified than Southerners (Gulaid, undated).

This discontent resonated with the broader population in the North who were also increasingly realising that the union was less fruitful than anticipated. The marginalisation of the Northerners was more visible in Hargeisa than in any other towns in the country due to the fact that Hargeisa in the latter years of the British colonial power was progressively becoming a capital in the making for a future Somaliland state. In the two decades after independence, however, unprecedented numbers of development projects were implemented in the South. The first major resistance to this marginalisation came in 1962 when military officers from the North staged a coup in Hargeisa.¹⁸ Although this failed, there was a backlash in the form of state repression of the Northern population. In other words, the after effect of this coup further entrenched the marginalisation of Hargeisa. Civil servants from the North were replaced with Southerners. This fuelled tension in the city as people could no longer identify with the state, and felt swamped by a larger and more populous Southern brother. It is important to note that the social support system that the clan structure provides became an effective response mechanism for the harsh economic reality in which Northerners found themselves after the Union. As limited urban employment opportunities made it difficult for many Somalis to survive

¹⁸ Capitalising on the discontent among the people in the north, Col Hasson Keyd Abdille Walanwal who returned from Sandhurst Military College in the UK led 25 junior officers to take over major military barracks and the radio in Hargeisa.

in Hargeisa, social networking and clan contacts became the basis on which newcomers survived the harsh economic reality of the town. In other words, it was more likely for somebody to survive in a neighbourhood populated by his or her kinsmen/women than areas where that is not the case.

In the 1980s, a civil war broke out in the Northern regions of Somalia (as stated elsewhere in Chapter 2). The war began as a result of a long-term marginalisation of not only the political class but also the ordinary people from the North. Employment opportunities became relatively scarce in the northern cities and the meagre service delivery inherited from the colonial authorities deteriorated significantly. The Northern discomfort however subsided in the early years of the military coup which in the beginning gained a significant public support across the country. As the brutality of the military regime increased, the public support started to dwindle in the mid 1970s and Northern discomfort resurfaced again. The regime's war with Ethiopia in 1977 also precipitated the emergence of major cracks within the military ranks partly because of clan politics and division in the system. SNM, which capitalised significantly on defections from the regime, strengthened its military capability as a guerrilla movement between 1981 and 1988 when it launched a surprise attack on government bases in major urban centres in the North.

Hargeisa became the epicentre of the war Hargeisa and it was heavily bombarded by the government forces using both heavy artillery and air power (Gilkes, 1989). Almost all the residents in the city fled to the neighbouring countries, as well as to Asia, Europe and North America (Bradbury, 2008, Hammond, 2014). When Mohamed Sayyad Barre was removed from power in 1991, the displaced residents returned, reconstructing what was left of their homes. The precarious security situation in the aftermath of Barre's removal from power made it difficult for people of different clan backgrounds to reside in the same neighbourhood as many feared falling victim to revenge attacks against their clan for earlier offences. This reinforced clan-based division of the city on the one hand but on the other hand it contributed significantly to the resilience of the city at a time when it was emerging from a conflict. For instance, the clan-based spatial character of the city firstly made it easier for people to live in areas where they could access state services through available social networks. Secondly, it enabled the city to cope with the high level of inter-urban migration as well as rural-urban migration because newcomers negotiated space and survival in areas populated by their clan. And thirdly, it contributed to the construction of the city by the diaspora who remit substantial amount of

money and tend to target neighbourhoods populated by their own clan primarily because of perceived lower risks.

2.4 Conclusion

In this chapter, I have reviewed the literature on hybrid state building, state legitimacy, public trust, and urban segregation, in an attempt to understand how identity-based occupation of particular urban spaces can to some degree be explained by governance practices. I have argued that there is a need to go beyond hybridity if we are to understand the spatial character of Hargeisa and the drivers and dynamics underpinning its segregation along clan lines. While state-practices are important in the development of segregation, I also argued that negative perceptions of state legitimacy and the erosion of public trust in formal institutions can become a catalyst which drives people to reside in areas predominantly occupied by people with whom they share identity and relations based on kinship. In much of the literature on African cities (outside South Africa), and particularly in understanding of Somali cities, authors have paid little attention to identity-based segregation. This gap in scholarship is replicated in policy and practice. In contexts where efforts have been made to dismantle geographical segregation, bridging the gap in spatial inequality often became a monumental task with few tangible results. The problem partly lies in misplaced priorities, as there has been a blatant failure of the intervening authorities to transform the conditions that initially eroded public trust in formal institutions. I have argued that policy efforts in the Somali context aimed at bringing about greater social cohesion above the clan identity, during both postcolonial and post-conflict periods, failed because of the manner in which the state behaved. For instance, the state breached water but drank wine during the postcolonial period, as it failed to live by the principles it rhetorically advocated i.e. equitable access to resources and services regardless of one's identity. Similarly, the post-conflict hybrid order has become bogged down in governance malpractices (nepotism, corruption and cronyism) that undermined trust. The spatial manifestation of this is a segregated settlement pattern based on clan identity. To see how these theoretical arguments explaining the development of urban segregation, arise out of/are rooted in empirical dynamics of urban governance in Hargeisa in recent years, it is first necessary to spell out the research methods of the thesis.

CHAPTER 3 NEGOTIATING DATA COLLECTION IN A SEGREGATED CITY

3.1 Introduction

This chapter outlines the urban ethnographic methods through which the data for this thesis was collected. Urban ethnography traces its root to the Chicago School (Cobb and Hoang, 2015), and its foundation is largely credited to Robert Park and Ernest Burgess who made significant contribution to the studies of urban poverty in the late 1920s,¹⁹ at a time when social science scholarship was shifting its focus to the dynamics of the rapid urban transformation and population growth in cities, particularly in the USA (Gubrium, 2007). In its most basic definition, urban ethnography can be understood as a qualitative research technique aimed at capturing the “ways in which city dwellers experience the urban environment—how they perceive, cope, act, or fail to act” (Auyero and Jensen, 2015, p. 361). In this study, however, my focus was not solely on urban dwellers’ experience, but also to explore urban institutional dynamics and investigate the history of city governance, which is important in shaping urban residents’ perceptions and actions. The data for this study was gathered over a period of nine months. The duration of the fieldwork was influenced by the accessibility and availability of data, institutional arrangements and my own familiarity with the field. The chapter is organised into five sections. In the first section, I provide a brief overview of the data sources – ethnographic, oral historical and archival. In the second section, I discuss my experience of gathering data from state and non-state actors in Hargeisa. In the third and fourth sections, I discuss my use of teashops in the city as key sites of data gathering, as well as my endeavours of tracing former public officials in the diaspora. In the final section, I explore the limitations and ethical considerations of the research.

3.2 Brief Overview of Data Sources

Primarily, this study relies on three main sets of data. The first set consists of oral histories, observations, interviews, informal conversations, and focus group discussions, which are conventional to urban ethnographic studies. The second set consists of newspapers, blogs, and websites. The final set consists of local government records, court records, NGO reports, colonial archives and other documentary materials. Using snowball sampling from initial contacts, I conducted a total of 91 interviews (not all of which are cited directly), namely key informant and

¹⁹ See (Park et al, 1925).

personal interviews. The key informant interviews were conducted with people deemed to have specialist knowledge and insight into urban land and conflict management as well as other relevant urban governance elements such as development planning and management.

I selected the interviewees from the predominant clans in the city, namely Habar Awal (which includes Sa'ad Muse and Isse Muse), Garhajis (which includes Habar Yonis and Eidagale), Arab, Ayub and Gaboye²⁰. Clan representation for this study was particularly important in a number of ways. Firstly, identity plays a crucial role in how people navigate through service provision in the city, largely because of governance malpractices, which reinforces clan identity as will be seen in the empirical chapters. Secondly, clan balance is crucial for representing divergent views and to construct an overall narrative of city dynamics. Thirdly and more importantly, I felt that my attempts for clan balance could shield me from being accused of bias towards a particular clan, more so since I hail from a local clan, Habar Yonis. However, I do not see clan or even Somali-ness, for that matter, as a significant shaper of my identity; nor would I want to cast myself as essentially Westernised or urbanite (in contrast to Lewis's (1961) characterisation of those who do not identify with clannism as Westernised or Lulling's (2006) depiction of such groups as urbanites).

While I can neither claim nor refuse to be urbanite or rural, Westernised or Non-Westernised, what I can assert and insist is that my life experience more than anything else constitutes my identity. However, the problem with my life experience is that it keeps on changing and breaking all the rules of fixed identity, taking me across many boundaries i.e. my trajectory has been transurban, transrural, transnational, and transcivilisation. In a nutshell, my life experience and sense of belonging traverses the dominant forms of belonging such as clan, tribe, nation, and nationality. Like many others on the move, I alternately acquire and shed off aspects of my identity as my life changes – young-old, rural-urban, citizen, refugee-citizen – or as is required by a particular context at a particular point in time. Key triggers of these changes include both social and economic influences. For instance, living in different countries equipped me with the ability of acquiring a set of social and economic skills as well as experiences that were not essential for negotiating space in the host societies but which were also important for broadening my scope of worldviews.

²⁰ Clan groupings in Somaliland are mainly Dir, Daarood and Gabooye. Dir includes Isaaq, Gedabuursi, Issa, and Akisha whereas Daarood includes Dhulbahante and Warsengeli.

My position on clan is important here at a time when the Somali identity recently took the centre stage in a heated debate about knowledge production in Somali studies: controversy hinged on whether or not it was possible for Somali researchers to rise above their own clan, objectively analyse political realities in their own country (s) and produce unbiased knowledge (Aidid, 2015, Hoehne, 2015, Mirre, 2015, Mohamud, 2015, Serunkuma, 2015).

Besides clan background, I also selected interviewees from particularly relevant occupational categories. They included Ministers, Parliamentarians, civil servants, judges, traditional leaders, religious leaders, NGO workers, and former public officials, including some based in the diaspora (See table 2). The age groups of the participants ranged from 18s to 70s (these ages are based on my own estimations). The personal interviews were conducted with people who had direct experience of issues related to urban land management and urban land conflicts. This set of interviewees include land owners or claimants as well as relatives of those affected by land conflicts or related violence. While I generally tried to interview as diverse a range of people as possible to gain different perspectives on urban matters, the voice of women is not well represented in this research due to inaccessibility challenges. Only three key informants and a focus group discussion consisting of five women were interviewed for this research. To compensate for this underrepresentation, most court cases I selected for analysis involved women.

The interviews and other research material were used variedly in the research. Some case studies explored in greater depth relied on a narrower selection of interviews while others had a larger range of interviews and other secondary materials. For instance, the case study of conflict around the airport relied on a less diverse range of informants because it pitted members of predominantly one clan (the Eidgale clan) and against the state. As a result, most of my informants in this regard were from this clan.

Table 2: The range of key informant and general interviews

LIST OF INTERVIEWEES	
KEY INFORMANTS	PERSONAL INFORMANTS
Politician (2)	Land Owner - Taxi driver
Policeman	Land Owner - Farmer (2)
Police Station Commander	Land Owner - Agro-pastoralist (2)
Hargeisa Local Government Councillor	Hargeisa Resident - involved in land dispute (2)
Opposition Member of Parliament	Relatives of one of the attackers (3)
Member of Parliament	Relatives of one of the attackers (2)

Official - Ministry of Public Works	Relatives of one of the attackers
Official - Ministry of Aviation and Air Transport	Land Broker (2)
Ministry of Public Works Official (2)	Farmer
Ministry of Aviation - Official	Famous Playwright
Military Official	Unemployed
District Officer	Student
District Court Judge (2)	SNM Fighter
Director of Civil Unit - Legal Aid Clinic	Lawyer - Farmer's Son (2)
Director General of the Ministry of Public Works	Lawyer - Farmer's Son
Director General - Ministry of Aviation and Air Transport	NON-GOVERNMENTAL ORGANISATIONS
Director	UNDP - JPLG Somali Official
Civil Servant	UNHABITAT - International Staff
Chairman of Land Commission	NGO Worker
Former Minister of Interior.	Activist for displaced people (2)
Former Mayor of Hargeisa (2)	Activist and Social Researcher.
Solicitor General of Somaliland	IT Specialist in an NGO
Prosecutor	Religious Leader
Criminal Lawyer	TRADITIONAL LEADERS
Legal Advisor for Electoral Commission	Sultan (2)
Lawyer (2)	Elder (2)
Oral Historian, Artist and Radio Presenter.	Clan Elder
Local Resident Involved in Land Dispute	Son of a Chief Akil and Lecturer at the University of Hargeisa
Academic	INFORMANTS IN THE DIASPORA
Retired Agricultural Economist	Former Governor of North Western Province.
	Former District Commissioner of Hargeisa
	Former Chairman of Somaliland Atrocities Commission.
	Seaman ²¹ from Hargeisa

The above-mentioned interviews were complemented by four focus group discussions. Each focus group consisted of at least of 6 individuals from a diverse range of backgrounds, selected for their shared experience and interest in a particular theme (Tracey and Burgess, 2001). Like the interviews, I selected the focus group participants from varying social and interest groups such as the youth, business people, women's groups, members of the religious community, and predominant clans in the city, namely Habar Awal, Garhajis, Arab and Ayub. Most of my interviews and focus groups

Table 3: The list of focus groups

LIST OF FOCUS GROUPS
Traditional Leaders Focus Group (8 Participants)
Religious Leaders Focus Group (5 Participants)
Women's Focus Group Discussion (5 Participants)
Preliminary Focus Group on Land Conflict (7 Participants)

²¹ There were only

discussions were drawn from the Isaaq clans notwithstanding the fact that I also interviewed few people from other clans. This is so because Hargeisa is predominantly populated by Isaaq. Moreover, Hargeisa's identity is increasingly becoming exclusionary partly because of the fact that the city's pre-conflict history is under emphasised. For instance, there are few monuments in the city such as the jetfighter in front of the former Commercial Bank of Somalia, a tank on a roundabout in front of Bar Hargeisa and a hand holding the map of Somaliland in Kaalinta Sideedaad: all of which signify conflict and or immediate post-conflict Isaaq centred historical references. This makes the city identity Isaaq centred and it has to some extent influenced availability and access to information.

Among the social groups included in the study were also returnees from the diaspora. The intention was to be inclusive. As focus groups tend to either become consensual where participants mostly agree on the discussed issues or dissentient where they disagree significantly (Tracey and Burgess, 2001), I employed careful moderation so as to ensure that issues were debated by their merit. The first focus group took place in the early stage of my fieldwork, with the aim of getting a general picture of key issues and the current and historical trends of urban governance in the city. The second and third focus groups examined the interface between urban institutional dynamics and urban land, as it emerged that controls over urban land were very significant source of conflict. These latter focus groups were particularly dedicated to the roles of traditional and Islamic institutions in relation to land accessibility, land administration, and conflict management. The last focus groups examined how women are affected by land conflict and their resolution mechanisms. Input from the focus groups are cited as groups rather than individuals.

One of the major challenges I faced with the interviews and focus groups related to the process of interviewing women. On the one hand, I feared that when interviewing women with the consent of their household leaders, it might diminish the quality of the information because female participants may give me versions of the story with which they think their household leaders would be happy. On the other hand, if women were interviewed in the absence of their household leaders that may pose a greater risk of a dispute where the relationship of the family might be at a risk. This concern was addressed through prior consideration and assessment of particular interviewees' circumstances and by asking views of their family about the interviews. Given the unequal power relations between men and women in Somali settings, careful selection of venues was crucial for women interviewees. I tried not to make assumptions and sought to mitigate these power relations by attempting to hold interviews in a woman-only

session in the location of their choice. I asked them to suggest a venue but they insisted I should also propose some locations for them to choose from. Among the sites I recommended included the University of Hargeisa's Law Department, the OCPV office, restaurants with private meeting rooms, and a notary firm in the city centre. They unanimously chose the latter for its convenience for public transport and proximity to shops where many of them wanted to proceed, and the firm's meeting rooms with which at least one of the participants was familiar.

While conducting the discussions, I observed that women found it difficult to talk about their experience in front of other women for fear of peer labelling and pressure. Social status such as employment, age and household positions also influenced the interviews with women. For instance, I found that discussions were more open and frank where I conducted interviews with high-ranking female officials in NGO and Government, as well as with the older women. Another challenge I faced with interviews and focus groups related to finance. In an environment where NGOs conduct assessment exercises regularly, it was often difficult to get interviewees who were willing to share information without being paid. In some cases, I was able to overcome this by informing the participants about my status as a student, emphasising that I was there to learn and share knowledge about "our people" in academic fora. But in many instances, I had to pay transportation and refreshment expenses for interviewees and focus group discussants, using the OCPV financial infrastructure to issue receipts to ensure transparency and accountability (and I then reimbursed the OCPV).

In addition to the focus groups and interviews, media sources also proved to be important platforms for gathering information about the city. I monitored issues relating to land administration and conflict in the popular Somali websites and blogs, as well as related YouTube channels, which are increasingly becoming a popular method of disseminating information in the Somali context. This made me more aware of a wide array of social and political issues not necessarily directly connected but relevant to my study. Among the websites I monitored included salaanmedia.com, qarrannews.com, hadhwnaagnews.com, somaliland.org, somalilandpress.com, and others. I often stored videos and articles from these sources in a thematically organised playlist to be able to access later. The data obtained from these sources was particularly important for gaining insight into the dynamics of the land conflict at the airport and the military base in the east of the city.

In addition, I monitored the social, political and economic climate in the city through participating in discussions in teashops, which are important public places where people

socialise and discuss various issues ranging from politics to sports. The political aspects of such discussion are often termed, in the Somali language, *fadhi ku dirir*. This loosely translates to engaging in conflict while sitting. In other words, it is a form of public discourse in which participants intimately (or seemingly so) debate about topics ranging from social and religious issues to economic and political issues. Such debates provided particularly a significant opportunity for gaining urban ethnographic data.

The above-mentioned interviews, focus groups, teashop discussions, and media sources were supplemented with reports and other recent post-conflict archival materials collected locally from NGOs and independent consultants. I also draw on important historical materials, collected from the National Archives and the British Library. These colonial reports and archives were important for historicising urban governance in Hargeisa. Historical documents are hard to come by, as the city was almost entirely levelled to the ground in the late 1980s when war broke out between SNM and the military regime of Mohamed Siyad Barre. Of course, these colonial documents and archives were written from particular political and administrative orientations that require careful scrutiny. One of the ways in which I tried to overcome these limitations was to use oral historical narratives as a counter-balance to colonial sources. In the next section, I will outline the key dynamics and contours of assembling data from the above-mentioned sources.

3.3 Institutional Affiliation and Accessibility of Informants

My fieldwork began in late February 2014, when I arrived in Hargeisa from London. It was a familiar environment both at the personal and professional level. At the personal level, I grew up in this city, having as a result both family and friend networks, while at the professional level, I worked with the Observatory of Conflict and Violence Prevention (OCVP). The PhD was a collaborative doctoral study co-sponsored by the OCVP and the University of Sussex. On the OCVP side, the funding was a small part of £1.8 million grant from the United Kingdom's Department of International Development (DFID) for research into conflict, governance and justice in Somalia. My affiliation with the Observatory served as an asset. It provided me with status and a visible and known base, as the organisation has a history of research in the city. It also permitted me to have access to various networks in governmental and non-governmental agencies as well as research facilities and logistical support.

In the first week of my stay in Hargeisa, I arranged a meeting with the Director, Abdullahi Odowa, of the OCVP to update him about my study and discuss the role I could play in the organisation's

research activities, while not losing focus on the data collection for the PhD, as well as how the organisation could support me in my study. My second meeting was with the Logistical and Human Resources manager, Safia Ahmed. We discussed ways in which I could share access to the organisational facilities and networks. The central focus of the meeting was office space, meeting venues and transportation. At the time of my arrival, the OCVF had several vacant desk spaces and two meeting rooms. In light of this, access to meeting venues and allocation of desk space were relatively straight forward, but the same was not the case for transportation as there were only two vehicles, a minibus and a four-wheel-drive, shared by all members of the staff for their day-to-day duties. As a result, the manager rightly asked me to provide her with advance notice of my research activities, so as to prioritise access to transportation.

One problem I encountered in fulfilling this requirement was the fact that in many cases appointments were made on ad hoc basis often requiring me to be flexible and meet informants at a time and place of their choice, mostly with very short notice. This was made all the more difficult by the fact that meetings were constantly cancelled or delayed by the informants, particularly key informants working for the government. Furthermore, the absence of public transport that could complement my access to the OCVF transportation was also a hindrance. In order to overcome these problems, there were two choices. Rent or buy a car. I opted for the latter and bought a second hand car at the cost of \$2100, payable in instalments. This was moderately cheaper than renting car at a cost of \$600 per month. Being from the local community, it is important to mention that my experience with logistical issues and their interface with safety and security was relatively cheaper than that of foreign researchers negotiating data collection in Somaliland. The latter are required to hire armed escort from special police units established to protect foreigners with two 4x4 vehicles outside the immediate borders of the city²² (Gandrup, 2014).

In the second week of my stay in the field, I turned my attention to mapping out the institutions, places and people that could shed light on urban governance dynamics and their interface with segregation. The institutions and people I identified included both state and non-state actors. Chief among the state actors were officials in local government, the statutory courts, the Ministries of Public Works, Interior, Aviation, and Planning. The non-state actors included traditional leaders, such as Akils and Sultans, as well as religious leaders, such as the clerics and

²² This limits foreign researchers' ability to meet relevant informants in the nearby villages surrounding the city.

informal Islamic courts. They also included non-governmental organisations both at the local and international level. At the international level, I was interested in the United Nations Development Program (UNDP), particularly the Joint Program on Local Government (JPLG), which supports initiatives aimed at improving local governance; and the United Nations Habitat Program, which supported some development planning exercises in Hargeisa. At the local level, I was interested in getting connections with the Academy for Peace and Development (APD), which has in the past done significant research on land conflicts; and the Social Research & Development Institute (SORADI), which also has a history in research on local governance and advocacy for human rights; and the Legal Aid Clinic, which provides legal assistance to poor people who cannot afford legal representation.

3.4 Negotiating Research in State and Non-State Spheres

I began my inquiry with selected public officials in local government and the Ministry of Planning. I assumed that elite members of society would be difficult to access (Hertz and Imber, 1993), as researchers in African contexts have pointed to the difficulty in obtaining information from public officials because they are either unused or unwilling to give data (Gokah, 2006). In the second week of my fieldwork, I formally approached the local government Executive Secretary, who is the second most powerful figure in the Municipality. After briefing him about my research over the phone, he gave me an appointment to meet him at 10 o'clock on the 4th of March 2014. However, when I reported to his offices, he was not available. I tried to call and inform him about my presence but he did not pick up the phone. I spent the day in and around the offices of local government in Hargeisa, hoping to check him again in his office. The problem of locating public officials during the formal hours is made all the more difficult by the fact that the working hours in Somaliland are only 08:00 am until 12 pm. As there was no sign of him coming to the office, I went back to my station at 1:00 pm. The following day, I called the Executive Officer and politely told him about the fact that I had waited in his office. He told me that he would be able to meet me the following day. But the same happened on the next day and I had to return to the OCV empty-handed.

The following week, I went to the Ministry of Planning and spoke to the reception about my research. After carefully looking at the list of the office bearers on the notice board, I asked for the names and contact details of those I thought to be potential key informants. However, I went through the same experience, as I was unable to locate them, except the Minister whom I found to be not only punctual but also engaging. These hiccups convinced me that I needed to

change tactics. I imagined that social networking and more informal ethnographic methods would be more effective in locating key public officials than formally approaching them in their offices. In the third week of my research, I reoriented my strategies and contacted the key people that I needed through informal social networks. The change in strategy worked for me in a very significant way. When I located individuals informally through social networks, I was able to save time and resources as my appointments were very rarely cancelled. This approach also enabled me to bypass the red tape bureaucracy of formal appointments. So I concentrated my efforts on getting key public officials in local government in this manner. Local government in itself was important to understand in order to gain insight to how recent urban politics, governance and planning in Hargeisa works, and its impact on urban-dwellers' lives. In addition, local government offices were important as they housed the Land Tribunal – or Land Commission as it is popularly known - which deals with land issues in the city, and which I regarded as a key source of information.

Through informal social networks, I managed to get hold of three councillors, one of whom was responsible for urban land management and conflicts. Aside from providing me with information and granting me an interview, he was also crucial in facilitating further contacts within the municipal council. Having secured key contacts and interviews from the municipal council, I turned my attention to the Land Commission. I approached a legal practitioner in my contacts to help me locate some of the key judges and Commissioners in the Land Commission. He was able to put me in contact with the chairman of the Commission who was trained as a lawyer at the University of Hargeisa and who also worked with the Ministry of Public Works. Our first meeting occurred in a city centre restaurant, Hadhwanaag, where we had informal conversations about my research as well as the general political climate in the country. My familiarity with local politics allowed me to engage with him informally, which in turn facilitated my later relationship with the Commission. He set me an appointment within a couple of days at the Land Commission offices in the local government premises. I had a formal interview with him and with another two judges of the same Commission in the next week. I also asked the chairman whether he could allow me to sit in some of the hearings to which he agreed. I showed up the day of the hearing.

Unfortunately, however, this did not go according to plan, as one of the judges threw me out of the court along with some journalists who wanted to cover the case. I waited for the hearing to end and then approached the chairman of the Commission to introduce me to the rest of the judges including the one who threw me out. After formal introduction to those I had not yet met

before, I was granted permission to listen to another case in the same week. As a result, I was able to attend the subsequent trial and observe how the Commission operates and discharges its duties when deciding cases. The judges also granted me access to some of the court records. They instructed the secretary to give me electronic copies of some cases and also photocopied the register for me. While I was thus able to get formal written judgements of about 100 cases, the secretary was too busy to copy the full register, but she allowed me to do so myself. This register of cases from 2009 to 2013 was a particularly important source for me, as it enabled me to see the geographical distribution of land conflicts in the city. It also enabled me to have an idea about the land conflict trends solved through the formal courts in the 5 years from 2009.

Following the successful attainment of key contacts in state domains, I turned my attention to non-state actors. I began this endeavour with international and local NGOs. While my personal networks and OCPV links were useful in accessing local NGOs, the same was not the case for international NGOs. This was because key officials in these organisations were international staff who could not be accessed through my existing pool of social networks, which mainly consisted of Somalis. Where access was possible, the international organisations were less informative and were much stricter on information sharing. For instance, I requested access to shape files held by the United Nations Habitat Program in order to make some maps of urban segregation in Hargeisa but was unable to obtain them as the UN Habitat Program keeps a tight lid on such data. This might be partly attributable to the fact that they were unwilling to share sensitive (or even non-sensitive) data which could affect their relationship with the government. Another reason why access to international NGOs might have been difficult is the fact that there was a sense of competition between researchers coming from outside and the international NGOs who conduct their own research tailored to obtaining funding from donors, which can be contradicted by funding from non-NGO circles such as academia.

Access to Islamic institutions was also difficult, primarily because of widespread feeling among the religious community that the West (and by extension those educated in the West) is often biased against them. For instance, my visit to the Islamic court and interactions with key people there was more uptight and formal than the other judicial actors I met. This was so despite the fact that I was introduced to the scholars operating the Islamic court by individuals they respected and knew. I tried to compensate for this up-tightness through contacts who had insight into how Islamic courts operate and interact with people involved in land conflicts. As evident here, individuals who come from Western countries, regardless of whether they are Somalis or not, are often viewed with suspicious eyes. More serious worries included that of

espionage. In spite of the fact that I was not directly confronted with accusations of this nature, I was made aware that social science research in Somali settings is negatively affected by conspiracy theories used by different social forces to discredit researchers. The foundation of such suspicions is not only related to recent world politics but is also rooted historically in footprints left behind by explorers who disguised themselves as Muslims in order to gain information about Somali territories. For instance, Richard Burton, a British explorer, who arrived in the Somali shores in 1854 at a time when Somali nomads in the interior parts of Somaliland had little if any interaction with people of European decent disguised himself as an Arab merchant well versed with the Islamic knowledge in order to gain trust among the locals. Somalis realised he was neither Arab nor a man of religious background, as claimed, when he had already left the country.

On the other hand, access to traditional leaders was relatively easy. This was partly because the OCVF had a vast pool of contacts in the customary domain. However, one problem I faced was that most of these contacts were extensively exposed to research activities at the OCVF. (The OCVF conducts continuous assessment of security, justice and governance and it often contacts traditional leaders to provide information). In order to avoid bias primarily induced by their familiarity with the line of work the OCVF is involved in, I sought access to other traditional leaders who had no previous contact with the OCVF in the recent past through my own independent social networks.

Having obtained crucial data on urban land management and conflict, I turned my attention to those who are involved in or affected by urban land management and conflict at the community and neighbourhood level. In the beginning, locating people involved in urban land conflicts was difficult due to the fact that the Land Commission did not keep contacts of the people whose cases it handles. Key to my endeavours for accessing particular communities was the establishment of trust (Tonkin, 1984). For Hyndman (2001) creating trust could involve the ethnographer immersing him/herself in the reality s/he is studying. The researcher in this sense becomes part of the reality and hence gets more insight, help and cooperation in the process of conducting the research. This immersion however still requires overcoming people's unwillingness to cooperate or share information. Lindley (2009) underscores the importance of existing personal and social networks as a means to start building trust.

The use of social networks and volunteering to build trust were particularly appropriate for this study given that I was already familiar with the political, social and economic life of the people

in the city.²³ I approached the Institute of Peace and Conflict Studies at the University of Hargeisa about the possibility of volunteering to help teach one of their courses. The then Director of the Institute, who was recently appointed for Chief Justice, informed me about an opening for a part-time position for teaching research methods to postgraduate students. I taught this course along with another colleague from University of Addis Ababa, spending about 6 hours a week over a period of one month. Most of those enrolled in the course were working with the government, non-governmental organisations and the media. The course was taught in two classes, with a total number of 120 students from various parts of the city, who came with a significant degree of professional expertise and their own social networks. I was also able to volunteer for another academic institution, the University of Beder in Hargeisa, in order to widen my ability to gather data from different geographical areas. The process of making new colleagues and everyday working relations paved the way for insightful chatting, informal probing and listening, which accumulates a lot more useful information than formal interviews. Hyndman (2001) provides an example in which she volunteered for an organisation and was able to establish friendship as people got used to her. In this way, she was able to gain information that would have been impossible for her to get had she not volunteered and tried to win people over by showing her impartiality to the office and organisational politics. Impartiality is even more important in post-conflict contexts where the degree to which one is seen as impartial plays a significant role in the process of establishing trust (van der Haar et al., 2013).

My association with the above universities and their students enabled me to access a pool of people and data on urban land administration and conflict management, indeed, the various issues that surfaced became too wide for my focus on understanding the interface between urban governance and segregation. As a result, I concentrated my attention on particular landmark cases where the state was engaged in conflicts with civilians. I singled out two major cases. The first case was an active on-going conflict in the airport area located in the Southern part of the city where the government wanted to expand the airport boundary but the land earmarked for such expansion was contested and claimed by local landowners. This led to a conflict in which the state and landowners nearly clashed on several occasions. A member of the staff at the OCPV, who is a driver and recent graduate of law at the University of Hargeisa and whose

²³ Nonetheless, the author notes that familiarity with context is not a guarantee for easier access to information. Even if one is familiar with the research site, there is a need to re-establish contacts as some people may have changed their contact details or left the region/county. See (Gokah, 2006).

family was involved in the conflict, Mohamed Saeed, was useful in my initial contact with the landowners.

The second case was a conflict between the military and civilians in the Eastern part of Hargeisa. The government gave the land in question to a local businessman as compensation for land confiscated by the military near their headquarters in Hargeisa. But the civilians who occupied and claimed ownership of the land claimed it had been confiscated from them for public use during the military regime and thus could not be given to the businessman, who was a civilian just like them. As the conflict deteriorated, seven people lost their lives and another five were injured following clashes between the two sides. A member of the staff in the OCV put me into contact with people who were insiders in this conflict. Key among these was the Sultan of the area who was crucial in mediating the conflict between the state and civilians. Although I was unable to get hold of those who were injured in the fight between the two sides, I managed to locate their relatives. These two landmark cases were important for my study to understand how governance practices foster urban segregation in the city.

3.5 The 'Conflict in Sitting' Parlours? Somali Teashops

Teashop discussions were particularly important in my ethnographic approach to understanding popular attitudes and identifying emerging trends and issues related to urban land administration, land markets and conflict. Although I was already aware of the importance of teashop discussions, their importance as sites of research enquiry was brought to my attention by Mohamed Seid, a close friend who is a social researcher and a trained lawyer. Bearing this in mind, I experimented with these sites, and my first teashop discussion was with a group of friends and their associates whom I had interviewed in the past. I agree with Seid that such discussions were more open and engaging than the formal interviews. This is not to suggest that teashop discussions should replace formal interviews but rather to show that discrepancies exist between the level of engagement and openness in the two techniques.

The teashop discussions often take place between 4 to 6 o'clock, but can also last longer. This temporal frame is primarily influenced by the high temperature in the city which keeps most people home and most businesses closed between 1 to 3:30 pm. One of my favourite spots was a popular teashop in the city centre. This teashop attracted significant crowds for three main reasons. Firstly, it was located in a strategic position in the heart of the city, with almost equal distance to the various neighbourhoods. Secondly, it was cheaper than most of the formal teashops – it was located in public open space in front of a former commercial bank and so the

owners do not or pay little rent. And thirdly, the chance of one finding someone they know in this teashop without necessarily having a prior appointment was higher, indeed it has the reputation of attracting people from all walks of life. Other teashops I frequented were located in Calaamadaha neighbourhood in the South, in the courts' area in the Shacabka neighbourhood in the West, and in new Hargeisa in the East. Most of these teashops were operated informally by small-scale traders and did not have names. I also held appointments and discussions in hotels and restaurants such as the Shiraaqle, Star, Maansoor and Ambassador.

More often than not, people who knew my contacts also joined us and provided crucial information and insight into the problem of urban land markets, management and conflicts. Discussions of this nature took more time than normal interviews. But the longer I sat in a tea shop with people I knew, the more likely that other people I do not know joined us and provided key insights into the topic under discussion. For example, in one instance we were joined by someone who took offence at our discussions on land grabbing, taking issue with criticism of a particular politician who had criticised a public official who hails from their clan. As a result, the visitor joining us felt obliged to shed light on a number of land allocations they knew involving officials from other clans. A major drawback of this technique, however, was the fact that some people steered the discussion into a direction which was not of interest to the research. However, I was flexible and tolerant in such scenarios, so as to gain trust and friendship with my contacts. Another downside of the teashop discussions was the fact that a significant number of the points slipped away from memory when neither notes nor recordings were made.²⁴ I often wrote down what I could salvage from memory when I got home, often after 8:00 pm.

3.6 'Over Here': Ex-Public Officials and Archival Materials

Some of the key individuals who were useful for shedding light on the history of urban governance in the city were based at the time of the data collection in England and the Netherlands. It was a daunting task to try to locate them as they lead a low profile life. I started the journey of locating them by visiting Woolwich Arsenal where there is a significant Somali community. I met a close relative²⁵ of Bille Rafle, the former governor of Hargeisa in the early and mid-1970s. I asked him to call his uncle and enquire about the possibility of an interview. A

²⁴ Research in Somali setting is more productive when tape recording is not involved. See (Balthasar, 2012).

²⁵ Who himself was a former police official in the final years of the military regime.

few days later, close relatives informed me that he was willing to speak to me. As a follow up to this permission, I called the public official to confirm his consent as well as asking him whether he would prefer to meet in person or have a telephone interview. He opted for the latter. The other public official, Omar Boss, who was a District Commissioner in Hargeisa in 1967, was also based in Woolwich. I approached him while sitting in a cafeteria and asked him whether he could talk to me about his time in Hargeisa to which he agreed. We had a lengthy chat in a coffee shop where we discussed urban governance during his time, particularly urban land and security management.

Aside from speaking to former post independence public officials, the British Library and the National Archives also held historical documents on urban governance in Hargeisa. I first became familiar with the British Library during the early stage of my study and have since niched myself a space in this revered institution for accessibility and convenience (since I lived in London) and because it has the second largest collection of research materials in the world. While the British Library was my primary base for reading and writing, I also spent two weeks in the British National Archives, selecting and scanning relevant materials. The acquaintance with these institutions was particularly important because historical materials on urban governance are hard to come by in Somaliland owing to the fact that the country went through a civil war which destroyed much of the archival record.

Except for three interviews with international staff in Somaliland, all the interviews and focus group discussions were conducted in the Somali language. In both the interviews and focus group discussions, I informed the participants about their right to withdraw at any point. The data was transcribed in the source language and then translated into English.

3.7 Ethical Considerations and Limitation of the Research

Ethical consideration for this research was drawn from the six principles stipulated in the economic and social science research council (ESRC, 2010). These principles are integrity and quality, informing research participants, confidentiality and anonymity, voluntary participation free from coercion, avoidance of harm, and independence and impartiality of the researcher. In this study, the integrity and quality of the research were safeguarded throughout the data collection and analytical processes. I made an explicit effort in collecting and analysing data to capture different perspectives.

One way in which integrity issues warranted special attention in this research relates to what Hyndman (2001) calls tribalism in the research process.²⁶ This refers to the use of social networks and national and ethnic affiliation as a way to obtain information, which could have proved difficult to obtain otherwise. As I have already elaborated, social networks were particularly important in this study and I exhausted both my professional and other social networks to identify and locate interviewees.

The research participants were fully informed about the research. Each participant was given an opportunity to ask questions, and I answered these to the best of my ability. While formal signed informed consent has been deemed obtainable in Somaliland, Mohamed and Loewenthal (2009) point to the need for considering historical background when conducting research on Somalis. They point out that Somalis are not used to being interviewed with a signed consent. However, it is important to note that this has changed significantly over the last few decades where Somaliland was relatively stable and free from widespread repression. Nonetheless, I used verbal consent in my study primarily because it made informants talk more openly. I was also at most times in possession of an information sheet developed for sharing with public officials if requested. When using discussions at teashops, I tried to ensure that everyone knew that I was a researcher, and knew what I was researching. I subjected the material collected in this way to close ethical scrutiny before using it, often approaching individuals again to ask their permission to attribute views, or more commonly, making sure that information was anonymised.

Participation in this research was voluntary and free from coercion. I paid particular attention to how I was using my social networks. Where possible, I used highly influential people as key informants but I tried to avoid using them as a means of access to other general interviewees. I wanted to avoid people feeling obliged to give me interviews because of the power relations involved. Where the service of such people became the only way through which access to the sought individuals was possible, I made every effort to remove the impression of influence by the intermediary person.

Confidentiality and anonymity were upheld in the strictest manner possible. Balthasar (2012) notes that anonymity is important as what is being said may have a significant impact on not

²⁶ Hyndman 2001 shows how identity becomes important when conducting research. She narrates that in her fieldwork, the colleagues at the UN office where she was volunteering suggested introduction to Canadian colleagues at the UN. She sees the reason for which this introduction was made was essentially to enable her get access to better facilitation and help for her research through her nationality background.

only the present but also future careers of people. I recorded the notes with an electronic pen and uploaded them onto encrypted cloud storage so as to avoid the risk of the notes getting lost with traces of participants. This was particularly important because the study encompassed interviews from government employees who could lose their jobs for having the courage of speaking candidly about the issues I investigated.

In a post-conflict city where discussion on land-related issues may evoke memories of atrocities committed during a civil war that displaced most of the residents in the city (Walls, 2011), it is important to understand that some people were unable or unwilling to share information. As a researcher, I was fully aware of this and respected people's choice, as silence can serve as a coping strategy in post-conflict context (Goodhand, 2000).

As independence and impartiality are crucial for any credible study, I made an uttermost effort to remain impartial. Nonetheless, it is important to point out that regardless of my effort in ensuring impartiality, I am aware that I may be accused of partiality. This is because Hargeisa is a contested urban space where clan politics prevail. Hassan (2015) points out that one rarely conducts research in settings where the informant is also insider without making a balanced compromise between responsibility and trust. In such a setting one might be seen as biased towards his clan and hence this may negatively affect one's image in certain quarters. Having this risk in mind, I maintained my independence from local political dynamics, assuring participants that I was impartial throughout the research process.

Some of the limitations of the research related to the lack of shape files which could have helped me map and visualise the settlement pattern of the city. I was told that some shape files are available to UN Habitat but I could not obtain them from their offices in Hargeisa, as I was told that these are unavailable for public consumption. As other researchers in Hargeisa have experienced (See Omar and Osman, 2016), further problems on visualisation also related to photos. In other words, taking photos in Hargeisa is not welcome, as many people prefer to remain anonymous both in text and image.

3.8 Conclusion

In this chapter, I provided an overview of data sources and institutional affiliation as well as accessibility of Informants. I have shown that the data was collected through urban ethnography involving both key informant participants and the general public who had personal experience of the issues related to urban land administration and conflict management. I have also outlined

the usefulness of the teashops as key sites for data collection and recounted my endeavours to trace key public officials in the diaspora. Finally, the chapter discussed ethical issues and considerations for the study. Having familiarised the reader with the methodology, the next chapters deploy my empirical data to show how urban governance shapes Hargeisa spatial form. The following chapter begins by discussing findings on governance at the municipal level and subsequent chapters zoom into narrower aspects such as land administration, conflict and adjudication.

CHAPTER 4 HISTORICISING URBAN GOVERNANCE IN HARGEISA

4.1 Introduction

In this chapter, I analyse the trajectory of urban governance in Hargeisa, situating it in a longer history of urban institutions, drawing on oral narratives, archives and ethnographic field research. This historical approach is important because history in Somaliland is a lived experience where particular episodes are often used as a point of reference positively or negatively for the legitimisation of power and authority. For instance, memories of how things were done in the past serve in many cases as examples of how a state should behave in the present or the future. This chapter will explore continuities and changes in the interaction between the state and the intermediary customary institutions through which centralised urban governance – often under Governor, District Commissioner or a Military Commander – was mediated. I argue that the centralised authoritarian history of governance and the mediating role of customary institutions have shaped and reinforced Hargeisa's spatial character as a segregated city, often along clan lines. As the 'hybridity' focused literature on Somaliland does not illuminate the complex dynamics of urban governance and its intersection with segregation, I argue that it is important to go beyond this concept to understand the spatial character of cities in Somaliland. Specifically, I argue that a deeper historical perspective is necessary on the contradictory and complementary relationship between state and non-state actors than is usual in discussions of hybridity, and I also explore empirically how legitimacy and trust can provide fruitful insight to the nexus between governance and spatial form.

The chapter begins by discussing the late colonial context and the introduction of urban councils, which undermined the powers of Akils. I show that popular resistance to the introduction of local governance contributed to the growing sense of nationalism and therefore had the potential to reduce segregation. The chapter then turns to the postcolonial context and the civilian government's continued misuse of power and recourse to Akils. It is important to note that during the military period, a significant break occurred. This break was rooted in the state's denunciation of clanism. But this effort was undermined in practice by the state's every day's interaction with the public. For instance, nepotism thrived in public service delivery and access to employment and other economic opportunities did not emasculate the resort to clan in practice. Furthermore, I argue that state led developments and re-planning of cities – i.e. through self-help campaigns and evictions – re-segregated the city, while also resulting in a cosmopolitan moment of cross-clan opposition to the government. I also discuss the post-

conflict context of democratic local government and the on-going role of Akils and clan elders in municipal elections. Despite the brief historical rupture, it is therefore the continuities in urban governance – shaped by Akils and clan mediation - that are particularly striking today.

4.2 Local Government in a Late Colonial Context: Policy and Resistance

In this section, I discuss the political and administrative dynamics of local government in a late colonial context. I show that throughout the colonial period, customary institutions such as Akils were key intermediary institutions of power. In contrast to Millman's (2013) argument that the Protectorate's survival on meagre resources was largely attributable to colonial officers' effectiveness, I argue a large part of such survival can be attributed to the role Akils played in the administration of the population. But, as independence approached, the colonial government made concerted efforts aimed at reorganising power as its policies shifted towards the creation of what can essentially be understood as responsible governance as part of preparation for independence. In theory, these policies were meant to formalise power of the Akils by setting up urban councils, designed to foster conditions conducive for a transition to civic rule based on citizenship rather than subjecthood. I argue that opposition to local governance can be interpreted as an attempt by Hargeisa residents to reject the reorganisation of power over space, providing them with common cause traversing clan interests around which they could unite and temporarily reducing segregation. While colonial authorities were not intent on promoting national citizenship in place of subjecthood before independence, they also wanted to begin a process of transition away from Akils' prior powers. In short, the introduction and resistance to local governance impacted on how people related to each other, with the effect of mitigating prior urban political segregation.

Municipal governance in Somaliland dates back to the latter decades of colonial rule in the protectorate. In 1948, the colonial government took a decision that it wanted to introduce local governance in Somaliland, bringing nearly ten years of pre and post-World War Two military rule to an end. This introduction of local governance was characterised by uncertainty, mainly about the shape of the new structures and the role of customary institutions. This marked the beginning of efforts aimed at devolving power in a limited sense to local government structures as part of a larger policy of Somalising the administration for eventual independence. The key questions were; could the Somali people practice a Western model of democracy and elect councils on the basis of universal suffrage or would it be more practical and cheaper to use the existing political institutions to introduce municipal governance? Locally based colonial

administrators were in favour of the latter which allowed them to create institutions that had the shape of Western structures and substance of native orders. Further questions however arose from issues of legitimacy as the Akil system on which the administration had so far relied was popularly considered to be a colonial invention and did not enjoy legitimate support locally.

Post-war colonial records show there were attempts to find a pragmatic and amicable approach to solving this dilemma, created by popular grievances against the Akils who were increasingly becoming corrupt (Rayne, 1921).²⁷ Proposals were thus made in the early 1950s to reduce the power of the Akils by drawing on other existing traditional public authorities for local governance, such as the jilib shir. The jilib shir is a clan meeting of up to 200 men who gather to discuss matters concerning the clan such as conflict and social welfare as well as financially and politically binding decisions on members of the clan. While this did not by-pass Akils completely, as they attend and even presided in the meetings in some cases, they did not have exclusive control over what was to be discussed and could only advance views that were agreed upon. Vertically, above this level of public authority was the equally important sub clan shir where elders of the different groups congregate and deliberate on collectively binding decisions. Correspondence between London and the colonial administrators in Hargeisa show that there was a consensus about the absence of effective public authorities suitable for local governance introduction above this level of Somali traditional decision-making platforms, except when greater clan groupings were needed for warfare or defence purposes.²⁸

Prior to the Somali participation in formal urban governance in the form of town councils and district committees, an Advisory Council was constituted in 1946 to give the Governor a consultation forum in which he could seek the advice of elite members of the clans on matters affecting their lives (such elite members were often popularly considered stooges).²⁹ In spite of this instrumentalisation of customary institutions in local governance, until 1950, there was no official written government policy regarding the association of Somalis with urban governance. In other words, decisions on the involvement of Somalis in urban governance were made on ad hoc basis by the different colonial officials in different capacities. This was, however, changed

²⁷ TNA CAA/23/6/01 Future organisation of town councils in Somaliland.

²⁸ This suggests that the Somali traditional public authority and political institutions were getting less effective as the hierarchy goes up; a weakness partly attributable to the disruption caused to the system by the successive colonial powers; firstly, the Egyptians and later the British. Ibid.

²⁹ TNA CO 535/141/11 Reorganisation of administration: advisory council legislation.

when the government declared that it aims “to evolve a simple and effective organisation which will be capable of remaining a government operated by the people that is sufficient for their needs.”³⁰ The plan shows that the ‘local authorities [were proposed] to be constituted by groups having affinities along geographical’ lines. In other words, the constituted authorities would consist of tribal leaders paid by the government and assisted by councillors who would voluntarily work for the local government.

The next step was the “setting up of district councils composed of representatives of all classes, including the local authorities, [and] they would be advised at first but might become local government bodies later”.³¹ Though the plan was seen as progress by locally based colonial administrators, London was concerned about the viability and sustainability of such local governance structures in the long run. It worried about the introduction of complex and unfamiliar systems of urban governance, which risked upsetting the status quo and undermining existing systems of decision-making and public authority. For London, it was preferable to find traditional leaders and to increase their powers on condition that they agreed to represent their people in local governance structures. Officials also suggested that Akils should be given greater financial autonomy and allowances for their local expenses as they would otherwise inevitably be reluctant to serve as local government structures.³² While pessimism characterised the views of London, local colonial administrators were more optimistic about the introduction of local governance in Somaliland. Their optimism drew inspiration from ‘the existence of tribal conferences’ and the ‘increasing desire for progress and advancement’ as well as stereotypical characterisations of Somalis as people with a ‘high level of intelligence’.³³

The local government ordinance was finally enacted in 1950 and the Governor was empowered to select those who would become members of the new council. The aim was that the Governor should retain the ability of appointing individuals seen as friendly to colonial authorities from both the traditional leaders such as Akils and elders and other notables in the town such as loyal businessmen and clerics. The primary function of the new Town Council was mainly to maintain

³⁰ TNA CO 535/152/3 The reorganisation of native administration: Somali representation and introduction of local government. (The exact date of this statement is not stated, but it relates to the 1940s).

³¹ Ibid.

³² Ibid.

³³ TNA CAA/23/6/01 Future organisation of town councils in Somaliland.

peace and the rule of law as most of the provisions in the Town Council Ordinance were inherently concerned with urban security. For instance, section 5 states that “the duty of every local authority was to maintain order in the tribe or among the Somalis residing in the area” (British Somaliland Protectorate, 1951). The colonial government was unsure about the social and political consequences that could emerge from the constitution of local councils and therefore it proposed that the introduction of local governance should be piloted in major urban settings before rolling it out to the rest of the country. This was because it was assumed that towns had some cosmopolitan areas, and that ‘tribal politics’ would be less pronounced than in rural areas.³⁴

Being the biggest towns in the protectorate, Hargeisa and Berbera hosted the first Town Councils, established in 1953.³⁵ In the case of Hargeisa, the nominated members of the Council formed the majority of the assembly and they had limited ‘legal and financial autonomy’.³⁶ The District Commissioner was the ultimate authority in the council and was empowered to manipulate rules leaving no room for deviation from the established norm of colonial administration in the Protectorate. Another opportunity for avoiding any significant devolution of power was presented by the scarcity of skilled staff, which made the staffing of council dependent on the central state.³⁷ In other words, civil servants working for the central government were transferred to local government so as to help these experimental structures perform their duties.

While the colonial government saw the introduction of local governance as a positive step towards the Somalisation of the administration, the local population was sceptical about the aims and objectives of the exercise. The locally-based colonial administrators related this scepticism to temporal and aptitude factors noting that:

this prompts the enquiry whether the Somalis are sufficiently developed to assume the greater responsibilities proposed at so early date as 1953 [or

³⁴ This was so due to the fact that it was assumed that ‘tribal politics affected less adversely the Town Council administration’ in the more cosmopolitan areas Ibid. Ibid.Ibid.Ibid.Ibid.Ibid.Ibid.

³⁵ Ibid.

³⁶ Town Councils were encouraged to come up with half of the money needed for development projects to be undertaken.

³⁷ TNA CAA/23/6/01 Future organisation of town councils in Somaliland.

*whether] it may well be that given definitive powers with something concrete, reluctance to accept responsibility will gradually disappear.*³⁸

The introduction of local government in Somaliland took place at a time when nationalism among Somalis was reaching its peak and this had an unexpected effect on urban clan-based segregation in the town. This was because the existing political cleavages between the different clans significantly decreased as a result of the shared opposition to local government, making the project less successful than envisioned by the colonial government. Eventually, Town Council committees were filled mainly with illiterate colonial-friendly figures such as former agents of the native security apparatus, messengers, translators or small scale businessmen who benefited from colonial rule, and it failed to bring about any tangible changes in urban governance. Rather, it became a justification for the District Commissioner to continue having complete control over the affairs of urban centres, making the process no more than an exercise of formalising and legitimising the status quo (British Somaliland Protectorate, 1951)

For the protagonists of local government, clannism and “nomadism inhibited district councils, while tribal incoherence neutered tribal councils before they had been formed” (Millman, 2013, p. 207). But for antagonists, asking people to pay allegiance to a process initiated by a polity they did not trust was naïve at its best. Seen this way, the Town Council was neither successful in development planning nor maintaining law and order, as people did not see local government councils as legitimate public authorities. For instance, in October 1953, attempts made by a member of the council called Gulaid Samatar to disperse a crowd which was forming at the town centre was met with severe beating by his clansmen. The colonial government took this incident seriously and arrested seven men for the assault of the councillor. Two of these men received 18-month sentences while five received 12 months. The sentences were mainly aimed at making an example of those who resist the government and disrespect its agents (British Somaliland Protectorate, 1951).

This incident did not, however, deter or reduce opposition to local government. According to a letter from the Governor of Somaliland to the Secretary of the State for Colonies, there were three categories of opposition to the government plan: nationalists who claimed to be the legitimate voice of the people, individuals who lost government jobs because of the re-

³⁸ TNA CO 535/152/3 The reorganisation of native administration: Somali representation and introduction of local government.

organisation of the administration, and Islamic clerics who habitually opposed everything that the government proposed.³⁹ Of the three groups, opposition from the nationalist movements represented the most forceful threat because of the fact that their influence was growing exponentially. Non-violent nationalist movements in the Protectorate were drawing inspiration from Farah Omar who had shown a remarkable peaceful resistance against colonial rule a decade before the introduction of local government. The nationalist movement claimed to be the legitimate representative of the people and requested that any communication between the state and the population should come through them. But the district administration had long refused to deal directly with their representatives: in a letter dated 18 September 1938, for example, the district officer in Hargeisa wrote that he

*will not recognise any person as a spokesman for any particular group, party, district or tribe [and that] in all such matters [he] will only deal through the district officers, Akils, Jawabdars [interpreters] and recognised religious leaders.*⁴⁰

Drawing inspiration from instances of civil disobedience, supporters of nationalist movements such as the Somali National League (SNL) and Somali Youth League (SYL)⁴¹ showed strong resistance to the introduction of local government.⁴² The torchbearers of this opposition were mainly urbanites who were considered by the colonial government as “detribalised and semi-detribalised progressives [with] a disruptive influence” in Hargeisa.⁴³ For these nationalist leaders, the idea of national self-determination stemmed from cities, envisaged as cosmopolitan settlements not based on clan divisions and resultant urban segregation. In their thinking, the idea of the state was embodied in urbanity and urbanisation as well as a related

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ SYL was initially set up to create brotherhood among the Somalis and reduce the violence among them but later expanded into a nationalist organisation that sought self-rule for Somalis and eventually independence.

⁴² TNA CO 535/152/3 The reorganisation of native administration: Somali representation and introduction of local government.

⁴³ Ibid.

shift away from the intermediary systems. According to Jama, a nationalist activist in the 1950s who is presently a social researcher, the anticolonial viewpoints of these young men and women was that:

*if you're not in cities, it is difficult to talk about the formation of a state. This is a desire without a foundation. It is easy to dress like an urbanised person but it is difficult to become a son of the city. If you pose a question to somebody pretending like an urbanised person and ask them about their deeper feeling on the state, they will probably tell you that at the end of the day it is necessary to become biased towards your clan.*⁴⁴

The point made here is that urbanisation and urbanism will shift people away from the colonially supported parochial relationships based on kinship towards more cosmopolitan relations, and to national citizenship as a form of belonging. It is alleged that the nomadic lifestyle and mind set inevitably hinders the formation of any relationships based on elements other than kinship. According to Jama again, clan affiliation:

*undermines the emergence of a united political vision based on farsightedness where people have identity other than the clan. For instance, in urban contexts it was usual to hear that somebody is from Hargeisa, Berbera or Mogadishu. The interaction between the two groups also significantly differ.*⁴⁵

In a bid to counter the opposition to local governance and customary institutions, the colonial administration saw it necessary to create a more British friendly environment in Hargeisa by reinvigorating broadcasting facilities.⁴⁶ Colonial records show that part of the intention of this strategy was to 'demystify' the local government policies to which the residents of Hargeisa

⁴⁴ Interviewee 1 November 6, 2014. Activist and Social Researcher.

⁴⁵ Ibid.

⁴⁶ Radio broadcast was first aired in Hargeisa in 1941. The broadcasts were used as an administrative instrument, to announce key government decisions affecting nomads etc. This was not so far-fetched from the traditional means of disseminating information, as information about security, loss of property and even foreign affairs was traditionally broadcast in the villages through gatherings in the centre of the village. When radio broadcasts were established in Hargeisa, people usually gathered around a big radio positioned in one of the popular areas of the city centre (War Office, 1946).

showed significant resistance. The objective of the information dissemination exercise was to inform people about the intention behind the introduction of local government as 'development machinery whereby the people can combine to improve their own conditions by their own efforts with government guidance on education and health services as well as water supplies'.⁴⁷ As such information alone may have been insufficient to convince Somalis of the purpose of the local government, the administrators suggested that 'leading Somalis should be taken to some suitable parts of the Sudan to see for themselves what has been achieved there'.⁴⁸ The radio broadcast was, however, a double-edged knife. On the one hand, it enabled the colonial administrators to advance support for the introduction of local governance and social development agendas, particularly education, to which the population was hostile in the beginning. But on the other hand, those entrusted with advancing these initiatives were also furthering nationalist ideas through songs and poetry which were full of idioms and riddles making a mockery of the system.⁴⁹ The colonial administration was not naive about this but faced a situation where other regional powers such as Egypt were encouraging local nationalism in Somaliland, by providing nationalists with means through which they could propagate their ideas. Thus, they tolerated nationalist figures and groups using colonial propaganda machines in a limited way, provided that they supported efforts to create a British friendly and educated ruling class.

Frederiksen (2014, p. 1287) argues that "colonial governmentality was fundamentally a project of managing contradiction and difference and those techniques of power that best managed and worked with this produced the greatest stability of rule". As evident here, to borrow Frederiksen's framing, the colonial administration was caught between a need to maintain political order and desire to bring about British-friendly social transformation. In other words, local government was used as a way of bringing about reorganising power over space – particularly in the cities - while advancement of education was used as way of facilitating acceptance for colonial paradigms. But opposition to this new form of subjectivity in the spatial reorganisation of power had given people a common reason to unite around and resist the state.

⁴⁷ TNA CO 535/126/16 Future Administration of Somaliland.

⁴⁸ Ibid.

⁴⁹ In 1954, Mohamed Ahmed popularly known as Kuluc made a live broadcast of a song that was critical of the government. This resulted in the station operator fleeing the city to evade arrest and the singer who was on government pay roll being suspended and exiled to his home village of Khatumo.

In short, the introduction and resistance to local governance impacted on how people related to each other: although evidence is sketchy, I suggest that this late colonial context of nationalist resistance had the effect of mitigating prior urban segregation along clan lines.

4.3 Bogged Down in the Colony? Civilian Rule

In this section, I argue that the postcolonial Somali state was unable or unwilling to shift away from the colonial practices of urban governance, hence undermining state legitimacy and public trust in the state. I show that power remained centralised and concentrated in the hands of public officials such as DCs and PCs who acted and behaved like the colonial masters. In other words, the political authorities failed to create a governance environment based on national citizenship rather the clan-based and highly mediated statehood where customary institutions acted and were used as gatekeepers for access to services.

Postcolonial urban governance in the Somali republic was characterised by continuity rather than change of colonial administrative practices. Notwithstanding the fact that the mantra of resistance to the colonial power had revolved around liberation and transformation, little changed regarding how the state related to its people. There were also continuities in the social and spatial organisation of the city. Pesek (2011) attributes this to what he calls the 'dilemmas' of the postcolonial African state, which inherited the structures as well as governance tactics of colonial powers but did not have the economic means and political power through which it could behave like the colonial powers without being significantly and militarily challenged.

Furthermore, the postcolonial state's lack of commitment to decentralising power reduced local governance to no more than a nominal structure. Municipal government's role was drastically limited to the management of the Zaribas (a local urban market), maintenance of roads and garbage collection. As such, it failed to attract either capable politicians or skilled labour force as most of those qualified enough for running a city had taken up vacancies at the central government level. The District Commissioners and Regional Governors in collaboration with intermediary institutions ran the show. According to Ray (1996) one of the reasons that chiefs were formidable intermediary institutions was the fact that they constituted parallel power, perceived mainly as illegitimate, because they had been used by colonial authorities, but they were also accessible to the postcolonial state as they derived their authority from precolonial sources of legitimacy. This created a situation of institutional pluralism, in which both state and traditional authorities coexist in the postcolonial context. This coexistence was however characterised by tensions. In the case of the Somali Republic, these tensions were managed

differently by the civilian and military postcolonial regimes. During the civilian government (1960 to 1969), Akils⁵⁰ assumed greater role in the mediation of the state and the people particularly during the election time. It is important to note that Akils played a crucial role in electoral processes as they mobilised people for competing political parties and candidates. Akils organised people not only because they were agents of political parties but they also had vested interests in maintaining their influence and power as well ensuring access to state resources and services for themselves and for their clan members.

The spatial manifestation of the role of Akils in politics is important for understanding urban segregation in a number of ways. Their role becomes particularly clear when one examines Somali elections.⁵¹ Firstly, political elites may see it as electorally strategic and beneficial if they concentrate their support in a particular urban space, so as to increase their chance in political participation. Secondly, it is easier to mobilise financial resources when the clan is concentrated in a particular area. Thirdly, it is logistically more efficient to reach supporters with messages and update clan members about the political dynamics for one's advantage.

The state was often tolerant with the institutions of Akils, as it neither had the capacity nor the political will to replace them. While they were at times seen as actors with disruptive influence for bureaucratic development, they were on the other hand seen as an effective way of controlling the vast unmanned territories of this young nation. As sovereignty and territorial control that comes with it depend on the availability of certain levels of resources (Pesek, 2011), the postcolonial Somali state lacked the capacity necessary for maintaining territorial and political control over its nomadic and poverty stricken rural and urban populations. The state's inability to monopolise the instruments of violence had a major impact on the spatial character of Hargeisa. For instance, the frequent occurrence of violence in the hinterlands of Hargeisa had often caused many people to fear for their lives because of the possibility of revenge attacks by relatives of the victims. Mediation aimed at bringing clan skirmishes to an end had often drained a major part of the government's efforts in the maintenance of law and order. Hargeisa's 1967

⁵⁰ Akils' relationship with the state was determined initially through their roles in the struggle for independence. Those individuals who were on the side of the colonial rulers were side-lined by the new state while those who were involved in the struggles enjoyed better status and access to the state resources and power. This, however, was not sustained for a long as criticism against the state overshadowed criticism against those who worked with the colonial officials. Interviewee 7 August 20, 2014 Oral Historian, Artist and Radio Presenter..

⁵¹ These are based on my own observation in the 2012 elections

District Commissioner recalls several incidents of conflict within a short span of time and states that the security problems were one of the major challenges the government faced at the time. The DC says that when he was transferred to Hargeisa, there were 51 cases of unresolved murder in the courts and another 50 cases for which sentences were issued but judgements were yet to be enforced.⁵²

The murders resulted from a conflict, which lasted for nearly 7 years, between Sa'ad Muse and Arab clans of Hargeisa. The DC claims that the reasons why this conflict was prolonged related to revenge attacks which all began with the killing of a reputable religious man in the outskirts of the city. This led to a chain of retaliatory revenge attacks where 46 people from the two clans lost their lives. In order to resolve this conflict, the DC appointed a mediation team of seven men from each side. The Akils from both sides agreed to this arrangement. The support of a group of religious men who were actively engaged in resolving civil affairs and issues to do with peace were also enlisted to help resolve the issue. The last dispute involved the disappearance of 5 men whose fate was not known. Both sides denied knowledge of what happened to these men. The DC informed the meeting that:

*unless the truth is told about what happened to these men, no one will leave the meeting. Then a respectable old man stood up crying and confessed that his clan was responsible for the death of the five men in retaliation for a religious man killed by the other clan. Another young man from the other clan also stood up and said that the religious man was killed by his clan and that they will give compensation for him and 20 additional camels for wrong doing.*⁵³

While the mediation was continuing, the DC issued a confiscation order to paramilitary troops for the rounding up of livestock from both clans. According to the DC, thousands of sheep, goats, cattle, and camel were rounded up, and a number of birkas (small mobile reservoirs constructed with cement) were seized. The primary aim of the confiscation was to force clans to reach an amicable solution to the security problem in the city. Moreover, the confiscated livestock would also form part of the compensation for the offences each side had committed against the other.

⁵² Interviewee 3 November 05, 2014. Former District Commissioner of Hargeisa.

⁵³ Ibid.

Following the agreement, the camels that had already been confiscated were designated to form part of the compensation. Although the amount needed for compensation exceeded that which was in government hands, the DC proposed that the livestock in his possession should be subdivided as compensation.⁵⁴ This proposition was said to have been readily accepted by most elders as it spared them from a tedious process of compensation collection and it also relieved the state of worrying about further revenge emanating from impatience with the longevity of collection time.

A similar case also occurred in the South of the city where two sub-clans, Reer Guuleed and Reer Gobdoon of the Eidagale sub-clans, clashed in 1968. Five people were killed in the clash, two from each side plus a wadad (cleric), who was trying to mediate. The DC requested a unit of paramilitary troops and a vehicle to confiscate the livestock of the warring clans, as well as the birka. The confiscation included sheep, cattle and camel. According to the DC:

*the reason why the confiscation was not limited only to camel was the fact that the consequences of the confiscation will not be felt at the household level if sheep and goats are not included. But if they are confiscated then the pain will be felt at the very local level as children will have no access to milk.*⁵⁵

As in the previous case, the support of a religious group was again enlisted and information on the background and clan dynamics of the conflict were obtained. Clan elders were taken to a remote village in the South of the city near the border. The District Commissioner identified 7 men from each group to mediate this problem. The mediating group were told that they are not going anywhere until the issues were resolved. The religious group brought some information to the DC with regards to the number of people killed and on what sides each came from. The compensation for the dead men was agreed in the limited time that the DC had given: 24 hours.

The above cases demonstrate that the memories of past colonial ways of governance shaped the manner and mechanism through which urban governance and particularly conflict-resolution was practiced in the postcolonial context. Contrary to the general rhetoric against the state during the colonial times and early nationalist agendas, the postcolonial state was unable

⁵⁴ The clans agreed to this arrangement except for one sub clan which refused to accept the compensation, alleging that their man was killed without reason. The Akils of that clan then told the DC to keep the camels for them pending side talks with his clan.

⁵⁵ Interviewee 3 November 05, 2014. Former District Commissioner of Hargeisa.

to break away from the use of customary institutions as intermediaries between the state and the people. By contrast, the state continued to use the intermediary system of Akils for almost the same reasons and in the same ways that they were used during colonial times.

The clan conflicts and insecurity seem likely to have undone some of the prior impetus to cosmopolitan choice of residence in urban contexts, promoting a recourse to segregation. In other words, security concerns and fear of revenge attacks by other clans as well as the fact that the state was unable to guarantee safety in Hargeisa made it difficult for people to trust neighbourhoods unpopulated by their clans, perpetuating segregation along clan lines.

4.4 Breaking with the Past? Military Rule

The civilian era thus did not usher in change regarding the importance of clan and the first notable break with the past came in 1969 when the military took over. Of particular importance in terms of breaking with the past was a set of policies aimed at promoting national citizenship and intended as a departure from the highly clanised belonging prevalent under the civil leadership. In these exercises, the military regime embarked on policies of clan denunciation and militarised development campaigns.

When the military took over the administration of the country, municipal governance in Hargeisa was further weakened. Councillors were dismissed and the role of municipality in city management remained limited. Urban governance was militarised and most of the civilian District Commissioners were replaced by Military Officers. Neighbourhood management was also closely tied to ruling party structures. Each 50 houses were put under the management of a loyal socialist supporter called tabeele (sign holder).⁵⁶ Orientation centres were also erected in most of the neighbourhoods where people were called in on weekly basis to hear long sermons about how the state was different from that which existed before it and how nationalism can be nurtured through collaboration with the state. Subjugation and suppression of opinion became a marker for the new government and dissenting voices were punished in the most severe manner possible.

There was a specific rhetoric and policy of denouncing clan, as the government issued directives criminalising clan identity. In 1971, the state declared clannism, “which was associated with nepotism and corruption, officially banned and ritually buried” (Lewis, 1989, p. 573) in

⁵⁶ Interviewee 7 August 20, 2014 Oral Historian, Artist and Radio Presenter.

cemeteries across the country. People remember in particular, the government's symbolic 'burial' of tribalism in an orchestrated public gathering in Hargeisa, which was supposed to be a sign of a paradigm shift from clannism. This rhetoric was however not accompanied by concrete action as the state revived clanism and nepotism in its every day governance practices.⁵⁷

Loyalty to the socialist party was maintained through a *guulwade* (*guulwadeyaal* in plural) system. *Guulwade* in Somali is a word which loosely translates as victorious. According to Gulaid (undated, p. 134) *guulwade* were designated as revolutionary guardians and were "given the power to judge any individual they encountered, on a daily basis, while they were administering their roles as guardians of the Revolution....no other authority had the power to reverse their judgment once they had formulated their perception of those who crossed their roads". The practices of the *guulwade* has given rise to the emergence of a concept, *guulwadeyn*, which captures the culture of obedience created under repressive conditions where people play to the tune of the oppressor for personal and political survival.

Being the second biggest town in the republic, Hargeisa was an important centre of activities for the revolution. It was also here where resistance to the state was most active. For this reason, Hargeisa was given unparalleled attention by the security forces and most importantly by *guulwadeyaal*. As repression and forced compliance with government directives became the norm rather than exception in Hargeisa, everyone started fearing for their lives including the 'hard headed nomads' in colonial terms. This unprecedented level of fear led to a reduction in violent conflict among the clans as they feared the dire repercussion that could result from getting involved in conflict.⁵⁸ For the first time in many years, violence in the hinterlands and subsequent revenge attacks carried out in major cities went down. This reduced level of violent conflict led to the emergence of cosmopolitan spaces as people could trust residing in spaces dominated by clans other than their own. These cosmopolitan mixed clan neighbourhoods were comprised of relatively well to do families – residents were often middle-class people mainly consisting of senior government officials, businessmen and wealthy people from the Somali Diaspora – such as the Red Sea neighbourhood formed in the West of the town.⁵⁹ As evident here, the urban desegregation seen under military rule did not result from intentional anti

⁵⁷ Participant in Agip Teashop Discussion April 11, 2014. Hargeisa Resident.

⁵⁸ Participant May 13, 2014. Hargeisa Resident. *Focus Group Discussion*.

⁵⁹ Participant in Star Area Teashop Discussion May 17, 2014. Hargeisa Resident.

segregation policy but rather as a reduction of insecurity under repressive conditions. Moreover, there is no evidence that this desegregation occurred in less affluent parts of the town.

Despite the denunciation and criminalisation of clanism in the early years of the military rule and the creation of highly structured party powers, the military government did not break away from the use of the intermediary customary institutions but it changed the parameters within which this system worked. Bank and Southall (1996) see the manipulation of chieftaincy institutions as attempts made at changing the legitimacy and autonomy of chiefs. In the case that concerns us here, structural and semiotic changes altering the mechanics and language of power were made to the institution of Akils. This was done by relabelling their titles to reflect the functions that the state identified for them to perform. For instance, the title of Akil and Chief Akil (Paramount Chief) were respectively renamed Nabadoon and Samadoon. The former translates as the Seeker of Peace whereas the second translates as the Seeker of Good. In the urban context of Hargeisa, these new roles for Akils were delinked from clan and instead tied to a specific geographical area – a town neighbourhood for example (or a village in rural contexts).⁶⁰ The new arrangements thus spatialised and territorialised the operation of the institution in such a way that the authority of the Akil was no longer necessarily confined to the clan he comes from.

I argue that this move can be seen essentially as a way of undermining Akils' legitimacy and jurisdiction, as the state was far from ditching the institution as it often had a cause for which it could be used. For instance, in addition to their role in the maintenance of peace and security, the Akils in urban areas were at the centre of military campaigns. One of these campaigns focused on building a major dam for Hargeisa. The resources and manpower for the construction of this water facility were raised through a combination of government funds and public support in the form of equipment and manpower, much of which mobilised by rebranded customary institutions such as Nabadoon and Samadoon (Akils and Chief Akils). Essentially, this campaign can be seen as an attempt aimed at legitimising and mobilising total support for the socialist regime's self-help approach to development particularly the improvement of education, agriculture and infrastructure. Pesek (2011, p. 54) conceptualises campaigns as a "temporary and concentrated attempt to change within a short span of time particular aspects of social configurations of a given society". As in other newly independent African states, Barre's

⁶⁰ Participant in Commercial Bank Teashop Discussion June 13, 2014. Hargeisa Resident.

campaigns supposedly aimed to break with the past through self-sufficiency rhetoric through which the population was mobilised for undertaking grand development projects with resources locally available.

Akils were also instrumental in the campaign for grandiose state led development and nation-building projects mentioned above. In Hargeisa, these projects included the construction of the major socialist party building and orientation centres, schools, national museum and library – all of which dated from this period. Aside from the meagre resources available to the state, the manpower and equipment necessary for constructing these projects were not in the hands of the government. Akils helped the government pull up all the regionally available resources from private individuals voluntarily or involuntarily: they were thus once again in their (colonial) role of state agents, as tax collectors and mobilisers of labour for the state. According to the Governor, the reason for which the revolutionary government was interested in the urban development in Hargeisa was to uplift the status of Hargeisa so as to bring it at par with the image expected of a 2nd capital city. The Governor recalled:

*the government had long-term programme for the city and all my programs are interconnected; wells, library, museum and the airport as well. When I came to Hargeisa. The airport did not have a place where passengers could sit, they used to stand-up but I added a VIPs section. The idea was that when dignitaries arrive, they will be welcomed there than they should be taken to the museum, the library then finally entertained at the National Theatre.*⁶¹

This urban development narrative is, however, challenged by many people⁶² in Hargeisa who claim that far from promoting Hargeisa to a second capital city, the government had an unwritten rule of blocking development, as evidenced by the banning investment of buildings of more than three stories in the city. They allege that the government was less interested in the urban development of Hargeisa for political reasons.

On the other urban land tenure security had improved under military rule. People no longer feared owning land in areas populated by other clans. While this facilitated the integration of the clans who traditionally hailed from Hargeisa, it also increased the rift between those who

⁶¹ Interviewee 10 October 29, 2014. Former Governor of North Western Province.

⁶² Participant in Commercial Bank Teashop Discussion July 01, 2014. Hargeisa Resident.

were associated with the government and those who were opposed to it. In other words, non-Isaaq clans such as Daarood were viewed with suspicion due to their support, or perceived support, for the regime. This led to new concentration of people of particular clan orientation i.e. Southerners in a particular space. On the other hand, this was often used by antagonists to show that their city is at risk for being overtaken by foreigners due to the formation of new clan spaces.

This section has shown that the focus of urban governance during the periods of civilian and military rule was on security and development. Urban segregation during civilian rule was exacerbated by increasing marginalisation of Hargeisa and lack of employment opportunities which forced many people to stay areas closer to where they could get access to kinship based communal support. Similarly, insecurity emanating from clan skirmishes caused many people to watch their back for possible revenge attacks. Customary institutions mitigated these problems by helping the state maintain law and order and facilitate access to service for their subjects. It is important to note that while signs of diversity emerged in the spatial character of the city during the military regime mainly due to the improved security, the state was unable to break away with the past despite repeated efforts or at least rhetoric to this end. The contours of governance in the country and the fact that cities were managed in a militarised way for a good part of the postcolonial period led to great continuities in the spatial character of the city.

This episode of urban development ended abruptly with the near complete physical destruction and emptying of the city during the war with mass population flight. The conflict destroyed its physical and institutional structures, claimed the lives of more than 50 000 residents and displaced nearly its entire population in the late 1980s (Bradbury, 2008). The next section turns to the next phase in the city's history and the trajectory of post conflict recovery.

4.5 Re-establishing Local Governance: Post-Conflict

Below, I argue that insecurity in the immediate aftermath of the Barre's ouster in most cities reinforced the utility of clan as an important element in choosing where to stay and who to relate to. Furthermore, I argue the role the clan continues to play in the democratisation process and the way political parties use it or abuse it reinforces the utility of clan as a unit of identity. This, combined with the key roles the customary institutions continue to play in mediating access to services in the post-conflict context, strengthens clannism and hence perpetuates segregation.

For three years following the war in 1988, the city remained almost vacant as it was flattened to the ground and residents fled to the neighbouring country of Ethiopia and elsewhere. When the military regime was ousted finally in 1991, people started coming back from the refugee camps. Due to the fragility of the state in the early years of the post-conflict context, clan became more important than ever before for security purposes in urban areas, causing many people who owned land in areas populated by other clans to move to strongholds of their clans (APD, 2010). In other words, the conflict seems to have removed whatever solidarity may have existed between the clans in Hargeisa and reconstituted segregation.

Refugees and other rural migrants aiming to take advantage of the post Barre freedom have gradually refilled the empty and ruined spaces of the city. Reconstruction began mostly through remittances from the diaspora and emanated mainly from the Middle East, Western Europe and North America. This ushered a new wave of urban development or redevelopment and rapid growth, which made Hargeisa more than twice as big as before, both in terms of its geographical areas and population size. This rapid post-war growth⁶³ gave rise to various urban governance challenges at a time when Somaliland was struggling with post-conflict institutional weaknesses and lack of capacity to deliver services.

From 1991 to 1993, the weakness of the state and its inability to monopolise power in the post-conflict context had a major impact on the reestablishment of local government institutions. Attempts at establishing local administrative structures were overshadowed by efforts aimed at ensuring safety and security in the city as law and order broke down in the aftermath of Barre's removal from power in 1991.⁶⁴ This was attributable to political and personal differences among the SNM leaders fuelled by the fact that the clans were armed and military command had little or no influence over the affairs of the clan militias.⁶⁵

Politicians in the post-conflict context articulated two major views on the role of clan and Akils in state structures, which had implications for Hargeisa local government; institutionalism and

⁶³ This rapid growth can be related to three main reasons. Firstly, Hargeisa had been and continues to be a major administrative centre. Secondly Hargeisa is the epicentre of the inter-urban migration as well as rural-urban migration where those moving from other urban or rural areas in the country stretch the boundaries of the city. And thirdly Hargeisa had in the past four decades produced a significant diaspora who contribute significantly to its rapid economic and spatial growth.

⁶⁴ Interviewee 2 November 8, 2014 Former Chairman of Somaliland Atrocities Commission.

⁶⁵ Ibid.

deferralism⁶⁶. These positions had their history in the context of the SNMs military struggle against the regime. Those in the former camp were concerned about the increasing influence and authority of the clan elders in the organisation and they proposed to professionalise and detribalise the armed wing of the organisation. The idea here was instead of the clans providing rations and logistics to the soldiers, they should support a centralised authority so as to make sure that the forces fighting for the organisation are accountable to its command. If people wanted to provide supplies for the cause SNM was fighting for, then they should make all contributions through a central fund managed by the central command. The other group believed that the priority of SNM was to remove the military regime from power at any cost and through any available means; the assumption was that the removal of Barre would lead to an environment in which the organisation would be able to reorganise itself and put an effective administration in place. The differences between the SNM leadership was mainly suppressed during the struggle. According to a former SNM official during the war with Barre:

*to say things should be done in a proper manner was akin to treason. The confidential discussions we had in the central committee meeting were often leaked to the civilians. Propaganda would spread against anyone coming up with a different narrative. People would say today is not the day to talk about these issues and those who voice their concern would be branded as traitors.*⁶⁷

These pre-incursion differences between the SNM officials created a hostile political environment in the post Barre administrative and political dispensations. In other words, Post Siyad Barre local governance was marred by internal power struggles and insecurity problems. This particularly negatively impacted the reestablishment of an effective local governance in the immediate aftermath of Barre's fall. The spatial consequences of this was that members of clans who resided in an area where their clan is not predominant moved to other areas where their clan had significant presence as that would reduce the risk of being victimised by marauding militias of other clans. For instance, many families who were from the Awal clans moved out of

⁶⁶ Ibid.

⁶⁷ Ibid.

area populated by the Garhajis and vice versa.⁶⁸ The security utility of the clan seems here to have undermined national belonging and citizenship. Ray (1996), and Skalník (1996) argue that there is a tension between the concept of citizenship, which grants the bearer individualised rights such that one could theoretically live in any place of his/her choosing within the polity; and the subjectivity inherent in the traditional public authorities where the individual is expected to pledge their allegiance to the customary institution of chieftaincy.

Such division in allegiance became a recipe for the widespread post Barre deterioration in security in Hargeisa. As urban safety declined between 1991 to 1993, non SNM politicians used this as an opportunity to present themselves as an alternative to the failed SNM leadership, culminating in the election of Mohamed Ibrahim Egal, a former Prime Minister of Somalia. The new President came to power at a time of insecurity. He spent a significant part of his political energy on undermining tribal influence on the armed forces as he embarked on a demobilisation process, which was largely successful (though at times there were problems, e.g. the government overlooked the fact that the armed young men had long made a living out of the checkpoints and any handover needed to furnish them with a new source of income).⁶⁹ The new President appointed Mohamed Hashi Elmi from Awal clan in Northern and Western Hargeisa as a Mayor in 1993. Hashi was a trained engineer and a key figure in the SNM political structure. The President made the appointment at a time when armed opposition against him was active in the city. This was the first major attempt at re-establishing local government in Hargeisa. The new [Post SNM appointed] mayor prioritised law and order and established 22 police stations and substations in a corresponding number of newly restructured districts and sub districts.⁷⁰ The increase in security installations were seen as important⁷¹ by the Post SNM government for not only maintenance of law and order but also as a prelude for the establishment of a revenue base in a hostile political environment where people were armed and could challenge tax

⁶⁸ Interviewee 62 May 12, 2014. Land Broker .

⁶⁹ Interviewee 2 November 8, 2014 Former Chairman of Somaliland Atrocities Commission.

⁷⁰ Interviewee 9 August 16, 2014. Former Mayor of Hargeisa.

⁷¹ Participant in Kaah Restaurant/Tea Discussion August 07, 2014. Hargeisa Resident.

collection attempts.⁷² The new mayor's rearrangement of administrative structures was, however, heavily criticised as this came at a time when the government was facing armed resistance from disgruntled Garhajis clans in the East and South of the city. He was accused of taking advantage of this and destroying properties located in the city centre belonging to the clans who fought with the government between 1994 and 1997 without due process.⁷³

As detailed in chapter two, traditional authorities played a significant role in the re-establishment of law and order in Somaliland after the war, helping the state to disarm the militia and facilitating dialogue between warring clans. As a result, they are often represented as an important institution, and invoked as an explanation to account for the differences in state building processes between Somalia and Somaliland (Walls, 2009). Advancing this representation are state officials who for political reasons seek to legitimate their cause for independence on the basis of identity politics where reference is made to how Somaliland is a cultured nation with traditional authorities that saved it from political catastrophe as opposed to the South which lacks this.⁷⁴

Despite this romanticised representation, I argue that tensions characterise the relationship between the state and traditional authorities in Somaliland, and specifically in Hargeisa. These tensions are attributed to the inability of the state and the customary institutions to manage the complex post-conflict political, cultural and social dynamics. While the statutory system is accused of being ineffective in resource and conflict management, the traditional system (as represented by Akils) is accused of lack of innovation to keep pace with the changing reality of modern lives and being an obstacle to the formation of state bureaucracies. For instance, the Former Minister of Interior believes that Akils have outlived their usefulness as.

the harm they cause is more than the good they do for governance and maintenance of law and order. The problem now is the fact that there are

⁷² Revenue collection started with a modest levies small shops and hawking stands but this gradually increased and the local government finally managed to have a source of funding independent from the presidency.

⁷³ Participant in Star Area Teashop Discussion May 17, 2014. Hargeisa Resident.

⁷⁴ Interviewee 28 August 12, 2014. Politician.

*too many of them and when conflicts arise each side whether right or wrong will have an Akil on their side.*⁷⁵

In 2001, a referendum was held for a new constitution. While the constitution of Somaliland (Republic of Somaliland, 2001) incorporates traditional authority at the political level, this was not the case at the administrative urban level. For instance, apart from being registered with the Ministry of Interior, the Akils' role in local governance is not clear. This is despite the fact that they are considered crucial actors in peace-making and a formidable force in electioneering where they mobilise support for the different political parties.

In addition to the elections, services provided through clientalism and patronage necessitates clans to strive to put one of their own in government positions. In other words, once the clan's candidate is in position in a service department for a local authority, members of the clan expect that they will have privilege in accessing services legally or illegally.⁷⁶ Mediated often by Akils, this kind of political environment increases the need for clan solidarity towards political participation and representation and this in turn reinforces urban segregation.

The new constitutional provision for local government elections in 2001 marked an important break with the past, as there was from then, a system of local government that promised to quite dramatically alter local governance institutions with a history of authoritarian practice and lack of accountability. While Akils retained their role in the central government, they were not formally incorporated into the local governance structures. According to the former Minister of interior, 1200 Akils are now on the government payroll across the country while 400 more are on a waiting list for approval.⁷⁷ The major function of their pay is to ensure that the state can enrol their services on issues related to peace and security. The process through which the appointment or recognition of Akils' statehood is achieved is not well defined. The Interior Ministry officials point out that Akil candidates come with a handful of members from their clan who demand recognition of the candidate of their choice. The state sees this practice as being informal and for the purpose of controlling them it is better for the government to reduce the

⁷⁵ Interviewee 8 August 19, 2014. Former Minister of Interior.

⁷⁶ Participant in Star Area Teashop Discussion May 17, 2014. Hargeisa Resident.

⁷⁷ Interviewee 8 August 19, 2014. Former Minister of Interior.

number of Akils.⁷⁸ While officials thus tried to control and reduce Akils' power, politicians nonetheless depended heavily on them. In the local council elections of 2002, politicians actively engaged Akils to broaden their political base and legitimacy.

Mayor Ji'ir, came to power through this first set of municipal elections in 2002, bringing an end to more than a decade of executive appointment of mayors. More than a dozen political parties contested for seats in the municipal elections but only 3 political parties emerged as national parties; UDUB, Kulmiye and UCID.⁷⁹ Eleven councillors were elected on UDUB tickets and another 6 councillors joined them from the parties which did not make it to the final 3 national parties. This made the number of the ruling party councillors 17, trailed by Kulmiye which had 4 and UCID with 3. The Mayor and the deputy mayor served as executive and the rest of the councillors were divided into 4 committees with chairs, deputies and secretaries. The city was divided into 5 districts and one councillor was put in charge of each district. In other words, every councillor also had another executive or 'semi executive' position. The key committees were the finance and the land committees but equally important were the social welfare committee which was responsible for the sanitation and social affairs and the security committee responsible for issues to do with security at the neighbourhood level.

For the first few years, the mayoral seat of Hargeisa was politically unstable as councillors often made attempts to remove the sitting mayor for personal or political differences. Removal was often attempted through a vote of no confidence, which required the support of only 8 councillors. Interestingly, this politics did not map straightforwardly onto clan politics. According to a former mayor, impeachment was often attempted for political gains as:

*everybody wanted to become a mayor. Mayors may have to be dislodged constantly for the opportunity to come up. At the time the issue was less to do with clan politics as some councillors from my own clan used to oppose me. It was more to do with other associations like friendship and personal interests.*⁸⁰

⁷⁸ Ibid.

⁷⁹ Ururka Cadaalada iyo Daryeelka (Welfare and Justice Party).

⁸⁰ Interviewee 9 August 16, 2014. Former Mayor of Hargeisa.

The focus of the new elected council from 2002 was on strengthening the tax regimes. Previously local government tax collection had been done through informal practices heavily reliant on individual collector's aptitude in using their social network as a potential source of identifying key taxpayers in a highly segregated city. Urban segregation served the new town council well as they were able to identify potential tax payers through the clan and kinship based networks. In other words, since there were/are no addresses and personal documents for identification, clan membership which assigns everyone with a lineage based identity label became a useful tool through which tax collectors locate potential taxpayers.⁸¹ The aim was to increase the tax base of local government but by implication it reinforced service provision along clan lines. Local government staff were often sent to neighbourhoods populated by their clan not only for security reasons but also for ease of access and identification purposes. Borsdorf and Hidalgo (2009) argue that segregation of urban space is sometimes bridged by the existence of social networks between actors who try to mitigate the negative consequences of segregation. In the case of Hargeisa, even after the local elections, tax collectors used kinship based social networking to identify potential tax payers. One major flipside of this mechanism was however the fact that it recorded a very low rate of tax collection understandable because of nepotism and corruption.

As tax payment is a key component for accountable governance, it is also an important element through which state legitimacy can be measured. In situations like Hargeisa, where the state is believed to misappropriate revenues generated from tax payers, such taxation is used as means to discredit the state, and to reinforce a rationale of electing someone from one's own clan. In the 2012 local government elections, an informer in a teashop pointed out that:

*There were two candidates from his clan where as one was a man of integrity and the other was not. We elected the candidate with less integrity as tax collected from us was/is anyway misappropriated...so let him (with the guy with less integrity) eat with them. Had we elected the other guy he would do that and hence our money would all be eaten by people other clans.*⁸²

⁸¹ It is important to point out here that Akils are not used to collect revenues from members of their clan.

⁸² Participant in Commercial Bank Teashop Discussion July 01, 2014. Hargeisa Resident.

The concern here is that if a clan elects a man of integrity but his colleagues from other clans are not, he/she will not be involved in irregular or corrupt practices or sharing of misappropriated taxes or resources looted from the state with his clansmen/women whereas others are doing what he refrained from to the disadvantage of his clan.

The new system of tax collection introduced by the elected new mayor, Ji'ir, took the form of an incentive, through which tax collectors who recorded the largest number of payers would be rewarded. However, this once again had a negative effect on the tax collection regime in the town. The tax collectors placed their focus on the individuals that pay most taxes so as to maximise their tax collection strategy. As the previous incentive-based strategy for tax base expansion failed to bring about any tangible increase in the number of tax payers in the city, the new mayor approached the United Nations Habitat programme to help with the creation of a GIS which would enable the local government to record the cadastral boundaries of the properties and the built environment in general for revenue collection and planning purposes. UN habitat accepted the proposal and implemented the GIS project in 3 phases. The first part was completed in 2005 and the 2nd in 2008 when 25,000 properties were recorded. The data was used for three reasons; tax collection, land management and town planning. At the end of the project, 90% of the businesses in the city were recorded. The recording of the properties in the town has increased the revenue of the local authority by a significant margin, 300%.⁸³ Though important in terms of local government capacity, this did not help much with the land conflict problems in the city (as we shall see in chapter 6).

This section has shown that the focus of urban governance in the post-war period was the reestablishment of urban governance structures and transition to democracy, and redefining the role of the customary institutions such as the Akils in the political and security dynamics of the city. I have shown that the existing rifts between the SNM factions complicated the reestablishment of local governance in the immediate aftermath of Barre's ouster as efforts aimed at ending the armed conflict overshadowed the need for establishing local governance structures. I argued that post-conflict urban governance did not shift from the use of customary institutions as a means of delivering services. I have shown that they played a key role in the political and security stabilisation of the town. They also continue to play a key role in the municipal politics particularly the election and re-election of candidates.

⁸³ Interviewee 9 August 16, 2014. Former Mayor of Hargeisa.

4.6 Conclusion

In this chapter, I provided a historical narrative of segregation and its interface with local governance in Hargeisa. I argued that segregation in Hargeisa could be understood as a response to political, economic and security issues that persisted due to the state's inability to bring about change and shift away from the past. For instance, Hargeisa's segregated spatial character was entrenched during the postcolonial period by the state's inability to deal with the dire economic and security problems in the city, which made it necessary for people rely on the clan as a risk mitigation mechanism. The most significant sign of change in urban segregation came during the socialist regime when militarised and repressive approaches to urban governance improved security in the early years of the revolution and cosmopolitan spaces emerged in certain areas of the city. But this did not last long as the state metamorphosed again to its familiar patrimonial and clientalist form further exacerbated by predatory and dictatorial governance practices that undermined what was left of the public trust in the state. Urban segregation in Hargeisa was finally taken to a new height by the dire security situation in the immediate aftermath of Barre's removal from power and the successive fragile transition to democracy. This historical trajectory of urban governance can elucidate the factors that have entrenched the spatial segregation of Hargeisa amid rapid urban growth. While this chapter focused on municipal politics/governance, the next chapter further zooms in on land administration to reveal how specific governance practices shape Hargeisa spatial character.

CHAPTER 5 HISTORIES OF TOP DOWN URBAN LAND MANAGEMENT

5.1 Introduction

This chapter focuses on urban land administration, past and present. It provides a historical overview of the colonial land management practices and their impact on shaping people's attitude towards the state as well as the dynamics of post-conflict urban land management practices. I argue that the weak state capacity and lack of resources and skills to put in place an effective regulatory framework can explain the continued large number of land conflicts in the city. I also argue that the "modern" land administration, which is characterised by a weak state and plural justice system, has undermined public trust in the state. The chapter builds on the previous chapter's account of histories of local government that detailed the role of Akils and urban councils to focus on urban land administration. I provide a further layer of empirical evidence to support my argument for how urban local governance institutions have shaped the city in spatial terms and particularly how they have reinforced the spatial segregation of the city along clan lines. Throughout the narrative, I attempt to show that urban segregation in Hargeisa along clan lines can be viewed as a geographical manifestation of people's response to state policies and practices. As I have argued, the present hybridity focused literature on Somaliland fails to provide adequate explanation of the relationship between governance and spatial form at the urban level. I argue that it is important to go beyond the brief references of urban governance as hybrid to explore the specific modes of land administration over time. I also seek to explore the idea of segregation as a concept, which is more useful in terms of explaining the spatial character of cities in Somaliland.

The chapter is organised into three sections. In the first section, I look at the early history of land administration and its legacies, particularly the association between land administration and appropriation, and the late-colonial attempt to register individual urban landholding for elites and its effects. In the second section, I present evidence for postcolonial legal continuities in land administration. In this postcolonial period, I argue that urban land was not a priority, partly due to a lack of capacity, but the result was a proliferation of land conflicts, which reinforced the importance of clan and segregated urban spaces. Finally, I discuss the importance of the 2001 legal and policy frameworks for urban land intervention and a series of state/NGO efforts to regulate urban land.

5.2 Emergence and Continuity of Top Down Land Management

Understanding the dynamics of the current state of urban land management in the post-conflict context begs for a revisiting of the past. This will enable us to see how urban land governance approaches during the colonial and postcolonial periods shape the present day urban land management practices. As shown in the previous chapter and is also relevant here, history is a lived experience in the context of Somaliland as it is used or abused to justify current thinking, processes and practices. In my examination of the past, I argue that urban land management during the colonial period was highly centralised: authorities did not consult the Somalis about ways to manage their cities, presumably because of an assumption that the Somalis were not educated or knowledgeable enough to pass judgement on ideas about land management. I also argue that this authoritarian form of governance laid the foundation for the mistrust between the state and the public hence undermining state legitimacy. I also argue that the postcolonial state did not shift away from this practice, further entrenching the lack of trust in the state and by implication the low level of state legitimacy. The response to the lack of trust and legitimacy is manifest in the form of spatial segregation as members of the same clan conglomerate in specific chunks of the city to increase their chance of survival in the city.

I begin this examination with colonial land management in Somaliland, which can be traced back to the early years of the protectorate's formation when the government introduced the registration of documents ordinance in 1912. This legislation provided the colonial administration with a tool through which they could record and manage individual ownership of land and immovable properties. The register was lost during the war with the Italians. This led to post-World War Two land conflicts as people made claims to vacant government lands. Land claims were at the time mostly submitted by elites who wanted to occupy important parts of the city or further commercial gains.⁸⁴ Controls were initially limited to the coastal towns but as urban centres grew inland the land administration framework was also expanded into the interior parts of the country. Colonial officials introduced the township's ordinance in 1924 at a time when the Protectorate was emerging from a protracted conflict following the Mullah's uprising. This act was minimalist in its first version mainly focusing on political control, but in 1927 the government amended the ordinance to provide colonial officials with sweeping powers of reordering settlement patterns in townships. It is particularly relevant to the focus of this

⁸⁴ TNA CO 535/149/4 Land Tenure.

chapter on land administration because it permitted the Governor to confiscate land required for 'public purpose'.⁸⁵ The public purpose for which the amendment was justified included the construction of new roads and bridges as well as the realignment of existing streets and the construction of public offices, buildings and any other purpose deemed fit by the Governor.

Compensation, where it existed, was often determined through government led assessments. Land owners who did not have title deeds qualified only for the payment of present value of their buildings without regard to the value of the site whereas those who held government issued free or leasehold qualified for payment of the land value together with any buildings, trees, cultivation et cetera on it.⁸⁶ The introduction and use over subsequent decades of these expropriation rules were unfathomable to the vast majority of people in the Protectorate, and have a place in popular historical memory. This apprehension and memories of land expropriation that continue to be retold can be exemplified by a clan elders' story in which a:

senior Somali official named Ina Igare, working for the colonial government issued an order for the expropriation of land. An old lady who was among the evictees was told the fact that Muse Igare acting on the instructions issued by the Governor wants her to vacate the land to which she replied 'he who speaks nonsense is Ina Igare'.⁸⁷

My argument here is that this simple utterance became an idiom of resistance used to dismiss state actions lacking credible rationalisation. The endurance of this simple utterance across time and space sheds light on how unsophisticated mundane language was used to defy the state. It also shows that Somalis at the time could not imagine and make sense of why the colonial government would want to move people around when there is a plenty of vacant space with which it could do whatever it wanted. It highlights the importance of land administrative regulations both to colonial power and to popular resistance and perceptions of its illegitimacy. This incomprehension does not suggest that land use management was a foreign concept to the Somali people in the interior parts of the country. Venema et al. (2009) observe that Somali people had a history of land use management, though this was upheld orally, varied over space

⁸⁵ Ibid.

⁸⁶ Failure to comply with this stipulation often warranted a fine of 500 shillings.

⁸⁷ Interviewee 24 August 15, 2014. Clan Elder.

and was not formally codified. For instance, pastoralists often planned which area of the country might be suitable for migration during the dry seasons basing their assessment on the environmental footprints of the preceding season (i.e. rainfall) while farmers used to enclose certain parts of their land for use in the dry seasons when supplies might be less abundant. An intellectual represented traditional land management in the following positive terms, emphasising mutual consent and negotiation, disrupted by colonial interventions:

*when people come watering places such as wells, they used to enquire about whose turn is it or whose clan is supposed to water their animal in a particular day of the week. The other clans used to step back and let that particular clan quench their animals. So, it was a system based on mutual respect and agreement between the clans. The problem is that the traditional systems was disrupted by foreign influences which increased the competition for resources.*⁸⁸

The point here is that local people's approach to land use management was based on consultation and voluntary adherence as opposed to colonial actions. Colonial interventions were often constituted through a top down process requiring involuntary enforcement mainly shaped by disregard for local knowledge that cast doubt on people's ability to govern their relationship with the environment in a mutually beneficial way. In relation to urban space, the techniques through which colonial urban land use management operated differed fundamentally from that which was understandable to the Somalis whose land use management was based on seasonal calendars where certain grazing activities were not allowed in certain times but eviction and expropriation of land was unnecessary.

Hargeisa, like other major townships, was significantly affected by the introduction of the new land management ordinance. According to correspondence between the secretary of the state Lieutenant Col Amery and the Governor of Somaliland Kittermaster, expropriation of land in Hargeisa became necessary because of the city's expansion in one direction. Prime land along the only main street in the township was identified for one of the major expropriation exercises in line with the new rules. The land in question was granted to the owners in 1922 and temporary traditional structures were thereafter erected. The view of the administration was however that

⁸⁸ Interviewee 14 September 03, 2014. Academic.

the land was granted on a temporary basis and this allocation did not entail guarantee of tenure security. Moreover, they argued that the occupation of this land fell outside the category of private ownership as structures were not permanent and owners held neither title deeds nor paid taxes hence providing government with sufficient grounds to remove and pay them an amount of money equivalent to the simple structures on the land and not the land value.⁸⁹

However, the colonial office in London believed that private ownership of land should be respected and those who currently occupy the land should be considered as private land owners as their occupational right should remain during the lifetime of the guarantee.⁹⁰ In the end, the local administrators proposed to compensate owners in a manner that did not take into account the site value.⁹¹ The proposed compensation therefore entailed only the labour and the material cost of temporary structures. In a letter dated on the 23 of December 1937, the Governor announced that land along the main street would be expropriated to pave the way for the construction of new blocks of permanent buildings. Notices to this effect had been served with the occupiers, giving them seven days to make the necessary arrangements for the expropriation. Sixteen dwellings were affected by this expropriation and a committee from various agencies including the Treasurer, and Chief of Customs, Director of Public Works and a 'leading Somali resident' were put together to evaluate the cost of the dwellings. The evaluators came back with an estimated compensation of Rs.2350. Occupiers were notified that the compensation will be paid to them next year.⁹²

The expropriation of land affected the spatial character of the city in two important ways. Firstly, those who were evicted from the land had no channel through which they could complain about the government's position other than the traditional institutions such as the Akils. As I argued in the previous chapter, this lack of other leverage against the state inherently made people stick to the parts of the town in proximity to particular Akils, where they could easily get social support and solidarity particularly if they experienced negative encounters with the state.

⁸⁹ TNA CO 535/80/1 Township amendment ordinance. Expropriation of land ordinance.

⁹⁰ Ibid.

⁹¹ Ibid.

⁹² TNA CO 535/126/20 Compensation for the removal of wattle and daub structures in Hargeisa town.

This renewed effort in state land management practices officially introduced a new paradigm for conceptualising land ownership. Conceptually, land management mechanisms in Somali culture were rendered within a resource sharing framework resting ownership of land in the domain of God. In this approach, people were seen as mere caretakers with usufruct rights to land. Two forms of ownership were recognised by this system namely 1) communal ownership of pastoral land where clans are identified with a particular turf but do not monopolise its use exclusively and 2) private ownership where individuals may carve out a piece of land in the village or urban area for cultivation or permanent settlement. This bottom-up traditional land management approach was altered incrementally over a period of 85 years in which Somaliland was part of the British Empire mainly through a top-down process. The most significant alteration came in the late 1930s when local colonial officials embarked on efforts aimed at relieving London from the financial burden of the Protectorate⁹³ by exploring the possibility of discovering mineral deposits that could support the administration in the long run. As a result, in 1939 the government introduced a new land tenure ordinance designed to respond to these possibilities. While the colonial government consulted the traditional leaders on local political issues such as peace and security, the same could not be said for land management. This lack of consultation might have been justified on the basis that there was lack of knowledge about urban land issues in Somaliland as there were very limited number of towns in the country notwithstanding the typical colonial mentality of underestimating local knowledge and the intellectual capacity of natives. In the late 1930s, London became much more reluctant to provide sufficient funds for development at a time when a number of significant townships were emerging in the protectorate (Millman, 2013)

According to colonial records, the approach to land ownership by the state was initially justified on the basis of treaties signed with the clans in Somaliland. But the legal officer in the Protectorate raised his concern about this, saying they make no mention to any acceptance of the state's ownership rights over land. On the contrary, an article in the treaty states that the tribes will "never cede, sell, mortgage or otherwise [dispose of] ... any portion of the territory presently inhabited by them or being under their control". According to the legal officer, this did not provide the government with a legal framework through which transfer the state ownership of land could be justified.⁹⁴ The legal officer, however, advised his superiors in London that an

⁹³ The protectorate was heavily reliant on funding from the colonial office

⁹⁴ TNA CO 535/149/4 Land Tenure.

article in the Principal Order in Council of 1929 (which replaced the Order of 1889)⁹⁵ contains provisions that could allow the state to take ownership of land. According to a letter signed by Malcolm Macdonald on the 19th of August 1939, landownership in this order was divisible into three categories namely crown land, public land and tribal land.

Crown land was defined as “all public lands in the Protectorate which are subject to the control of his Majesty by virtue of any treaty, convention or agreement, or of his Majesty’s Protectorate”; public land was defined as “all lands which shall have been required by his Majesty for the purpose of public service or otherwise howsoever”, and private land was defined as a land the surface of which is vested in an individual or corporation whether by virtue of grant from the Crown or otherwise” but beneath of which, i.e. mineral reserves, rights are vested in the Crown.⁹⁶ He argued that “the only crown land is that which has been acquired for the purpose of public service or ‘otherwise howsoever’”. He contended that the “meaning of the words ‘otherwise howsoever’ [was not clear but could be taken as reference to the] acquisition by a formal transfer from the tribes to the Governor or by a legislative act either declaring land to be crown land, [or] to be converted into crown ... giving the Governor powers to dispose of or exercise control over it”.⁹⁷

The legislation, introducing different forms of state, private and communal tenure challenged how land ownership was conceptualised among Somalis and the transfer of ownership from the domain of God to the domain of government delegitimised the land management process in the eyes of the public, who continued to perceive it as a colonial project designed for the subjugation and confiscation of their property without equitable compensation.⁹⁸ The unpopularity of histories of land administration in both urban and rural contexts, particularly through their role in expropriations, thus contributed directly to nationalist resistance. The relevance of this history to the narrative that follows, is that as we shall see, there are direct continuities with modes of land management in Hargeisa over time and into the present.

⁹⁵ Where tribes signed an agreement with the government.

⁹⁶ TNA CO 535/149/4 Land Tenure.

⁹⁷ Ibid.

⁹⁸ Participant May 13, 2014. Hargeisa Resident. *Focus Group Discussion*.

As evident above, colonial administration was a top-down process characterised by lack of consultation with the public and local authorities. This authoritarian state culture had a significant impact on the future of urban land management in the country as most of the colonial land policies and laws were retained in the postcolonial period. The continuities are more striking than the changes. Attempts aimed at change often failed. For instance, in 1960 the government appointed a Parliamentary Commission to deal with land reform, but after six years of work they came up with a draft which failed to pass in parliament (Besteman, 1990). From the beginning this reform initiative had the hallmark of a failure as it was laden with elite interests and also was geographically skewed in favour of the fertile commercial farmlands in the South as the idea behind the initiative was to redress the colonial acquisition of significant cultivable land along the rivers in Juba and Shebelle. Details of the how they wanted to do this (i.e. nationalisations or restitution) could not be obtained. A District Commissioner in Hargeisa during this time attributes the failure of this attempt to the absence of national coverage and consultation with local officials at district level.⁹⁹ He stated that the Commission neither visited nor consulted with him or the people in Hargeisa:

The legislation was cooked up in Mogadishu and at no time, while I was in the district, was I consulted or asked to organise people who could contribute noteworthy ideas to the proposed legislation on land. At the time, we in Hargeisa also had significant land management problems as conflict often used to arise from landownership disputes in the city...we could have added a substantial contribution from this part of the country.¹⁰⁰

The continuation of many of the laws inherited from the colonial administration and the Somali government's failure to formulate new land management regulations permitted District Commissioners to exercise colonial style powers in Hargeisa, which alienated people and fostered hostility and mistrust towards the state. According to a legal practitioner in Hargeisa, land decisions were based on the wishes and whims of officers rather than laws and policies.¹⁰¹

⁹⁹ Let alone the public.

¹⁰⁰ Interviewee 3 November 05, 2014. Former District Commissioner of Hargeisa.

¹⁰¹ Interviewee 34 August 30, 2015. Lawyer.

This view of arbitrary decisions to resolve conflicts is supported by the former DC of Hargeisa's memory of land disputes in this period. In 1967, he recalled finding it difficult to manage land and as a result took stern measures including banning issuing land titles to applicants who wanted to either legalise their existing landownership or apply for registration of a new plot for two years.¹⁰² This did not increase confidence in state authority. I argue that the way in which the state managed urban land in Hargeisa led many people to lose faith in the system and rely on other means of dealing with their problems. This lack of faith in state institutions shaped the way in which people think about and choose residential and business settlements in the city. In other words, they located themselves in areas predominantly populated by their clans, to build property and worry about legalisation later. When the military regime came to power in 1969, the lack of consultation on land management policies and legislation had not changed.

The most significant land use change under military rule came in 1972 when Bille Rafle, former Governor of North Western Region of which Hargeisa was the capital, removed informal settlements near the city centre in order to improve the city's image. Evictees were resettled in peri urban areas South of the city with limited access to water and other essential services, leading to a mixed reaction, discussed below. It is important to understand how particular episodes of land management practices such as this shaped public perceptions of the state. While this move pleased some, such as those whom the government provided with urban land and who gained a degree of tenure security,¹⁰³ many others were disgruntled because they were moved away from areas in which opportunities and access to services were higher. Indeed, many of the residents I spoke to were not issued with papers at the time, which also contributed to later land conflicts in the period of rebuilding after state collapse.

The most prominent such scheme of eviction and resettlement was the movement of the Dunbuluq neighbourhood to the outskirts of the city. Dunbuluq at the time was a neighbourhood consisting mainly of Garhajis and Arab clans. Critics point out that the removal of people and expropriation of land was done in a manner not dissimilar to the urban governance practices of the past where people were often left with no choice other than accepting the government proposals, conveyed as orders.¹⁰⁴ They complain that people were

¹⁰² Interviewee 3 November 05, 2014. Former District Commissioner of Hargeisa.

¹⁰³ Participant April 07, 2014. Hargeisa Resident. *Focus Group Discussion*.

¹⁰⁴ Participant in Agip Teashop Discussion April 11, 2014. Hargeisa Resident.

settled in areas far removed from the city centre and most of the employment opportunities.¹⁰⁵ The government version, however, brushed such criticism aside. According to the former Governor, under military rule, eviction was necessitated by the fact that the area was inaccessible to the authorities, as the structures were built very close to each other and posed a danger to its inhabitants due to the possibilities of disease transmission, as well as creating a public health hazard for the rest of the city.¹⁰⁶ The government planning for the re-location of people from the city centre to the outskirts did not, however, reconfigure the clan-based spatial character of the city. This is because the area of the city that the evictees were moved to abutted the neighbourhood of the city in which rural populations of the same clan background were living. Stated differently, these evictions have further reinforced Hargeisa's clan-based spatial character.

According to Dauskardt (1993) evictions can have profound socio-economic and cultural impacts on communities. But Tröger (2009) points out that eviction is not only about exclusion but it could as well be a mode of achieving inclusion. In other words, people are initially excluded from a particular space but included in another. He seeks to problematise the representation of exclusion and inclusion as two separate and irreconcilable processes and points out the inherent interwoven-ness between the two. The author shows that conditions of evictees from the inner city of Addis Ababa improved in a new peripheral location, which had better access to water and road networks. In opposition to representations of peripheral neighbourhoods as entirely excluded from the social fabric of the city, the study found that various forms of communication and networks have enabled evictees get access to opportunities and services for those living in peripheral areas. In relation to the Hargeisa evictions from Dunbuluq, the Governor insisted (contra to popular opinion and memories of the shift as forced displacement) that:

there were a lot of praises for the project and people in the end were quite happy with what we have done. Each family was located a plot of about 20 m², bearing in mind that families used to leave in 3 or 4 m in their previous locations. Once the necessary planning was undertaken, representatives of the people were taken to the new site so as to see the place for themselves before they are moved. We brought the people vehicles to move them. Each

¹⁰⁵ Ibid.

¹⁰⁶ Interviewee 10 October 29, 2014. Former Governor of North Western Province.

*plot and family were given a number. Once we moved them with our vehicle, I instructed the government officers to help them with the unloading of their stuff from the trucks. Once we have completed the process, people were quite happy with it and they started celebrating the moment.*¹⁰⁷

The resettlement of evictees in the South of the city reinforced the clan based spatial character of the city given the shift to areas predominantly populated by their respective clans. Many people believe that the government had an opportunity to alter the city's settlement pattern as these exercises could have been used to promote spatial integration and to break up concentrations of particular clans.¹⁰⁸ It is important to mention that these evictions took place at a time when the government announced a new state policy on eradicating and burying clanism in public life. Yet the land management practices of the state were in practice in contravention with this policy, as the state failed to promote its rhetoric through existing government interventions such as the movement of people to areas populated by other clans. Equally, the state also failed to bring about meaningful land reforms despite several half-hearted attempts.

It is important to point out that land management policies and laws had a rural focus throughout the postcolonial period. But such policies are nonetheless relevant for the Hargeisa context as the boundary between rural and urban is blurred in Hargeisa (Moolla, 2009). Aside from the fact that a significant number of 'urban' people lead a semi-rural life where they keep animals such as chickens and goats for milking, a major seasonal river flanked by farms runs through the city. In other words, the land reform policies designed for rural based sectors such as agriculture and livestock also had a significant bearing on urban life. Land tenure reforms in Somalia date back to the immediate postcolonial period when the civilian Somali government made an attempt in which it sought to codify aspects of the customary law on land as part of a greater attempt to consolidate the different laws in the country (Contini, 1967). Subsequent attempts followed in 1975 when the military regime issued a decree putting land ownership in the hands of the state in a bid to increase agricultural production (Bruyas, 2006). This was premised on the classical postcolonial assumption that sees land rights as key economic drivers able to reverse the economic and social problems in Africa (DFID, 2007). Like the rest of its postcolonial brethren,

¹⁰⁷ Ibid.

¹⁰⁸ Participant in Star Area Teashop Discussion May 17, 2014. Hargeisa Resident.

the Somali state's attempt to reform land ownership was largely unsuccessful and the state's intention of unlocking land as an economic resource was not realised.

Even though the epicentre of postcolonial land reforms in Somalia ushered in by the military administration was the fertile regions in the South, the arid lands of the North were not spared. The reforms were mainly undertaken in two districts, Erigavo in the East and Gabiley in the West. In Gabiley, the government established a large scale state-owned farm as an experiment aimed at increasing the agricultural production capacity of the region, but this miserably failed and pastoralists once again informally regained control of their lost land (Norton and Flyktningeråd, 2008). Similarly, in Erigavo, grazing reserves were established by the livestock development agency for the formation of cooperative societies aimed at empowering pastoralists. The cooperatives were designed to consist of 45 households each contributing 10 sheep and 1 cow. However, the programme was counterproductive as it was exploited by elites who bought off the shares of those unable to contribute the 10 sheep and 1 cow required for cooperative membership (Norton and Flyktningeråd, 2008). In both cases, the land tenure reforms were seen as government encroachment on pastoralists' traditional rights of pasture and watering.

It is important to point out that urban land management was neglected during the military regime in Somalia, aside from the evictions discussed above. Robleh and Hussen (1977) cited in Besteman and Roth (1988), observe that the government passed 22 pieces of legislation governing the agricultural sector, yet only one law (the Urban Land Distribution Law of 1973) dealing with urban land management, which was not widely promulgated, and was amended later in 1980 (Democratic Republic of Somalia, 1980, Democratic Republic of Somalia, 1973). This lack of urban focus was attributable to the fact that the state was trying to bring about change in overdependence on pastoral livelihoods, perceived to be highly vulnerable to seasonal variations. Agriculture was seen as a more stable mode of livelihood even though the country had only limited fertile land along the rivers in the South. Among the key legislation and policies introduced were the agricultural land law of 1975, which according to Besteman (1990) was by far the most extensive piece of legislation dealing with land management in the postcolonial period.¹⁰⁹ One of the cornerstones of the new legislation, which also had implications for urban contexts, was the fact that it not only enhanced the authoritarian colonial approach to land

¹⁰⁹ This legislation paved the way for the establishment of development cooperatives and also enhanced the existing agricultural crash programmes through which land was allocated to government employees and graduates of agricultural colleges.

management but it also furthered the notion of state ownership over land. Besteman (1990) points out that the 1975 law nullified the recognition of traditional authority of landownership as it vested all land in the hands of the state, reducing communal and private ownership to mere tenancy. The renewed state interest in vigorous land management can be seen as an attempt at strengthening its grip on power and implementing its socialist ideologies. This land management focus could also be seen as a prime opportunity for demonstrating the shift from a capitalist free market to a socialist economy where cooperatives rather than companies play a central role in the economy (Roth, 1989).

Another key corner stone of this law was the imposition of compulsory registration for landownership. Again, there were ramifications of this policy in urban as well as in rural contexts. While this law was justified through the lense of poverty alleviation, it alienated the poor and empowered the elites in the country at least in two ways. Firstly, it enabled them to get title deeds for unclaimed land¹¹⁰ at a time when the country was going through steep economic decline worsened by insurgencies in the North. Secondly, it enabled them to salvage some of their savings at a time when the country was facing high rate of inflation. Roth (1989) notes that “high price inflation discourages investors from holding financial assets, and increases the incentive for holding land or commodities (e.g., gold or livestock). Price levels, as measured by the GDP deflator, rose at an average annual rate of 10 percent over the period 1965-80, and in excess of 45 percent annually between 1980-5. Based on a 14 percent nominal rate of interest on bank deposits in 1985, 10 financial assets in real terms would have yielded a 31 percent negative annual return” (Besteman, 1990).

Overall, the introduction of compulsory registration was counter-productive. For instance, the prohibition of sales or transfer of land negatively affected investment as owners were legally unable to sell or transfer their proprietorship to others. Moreover, it increased competition over landownership and speculation as well as commercialisation of rural farmlands at the expense of the poor. It also led to the breakdown of existing traditional ways of managing and adjudicating land conflicts without creating credible alternatives. According to Besteman (1990), a more appropriate land management scheme could have been found in the enhancement of communal ownership of land instead of the individualised ownership approach promoted in the 1975 legislation. This would have enabled members of the community to continue using the

¹¹⁰ In most cases the elites who acquired registration for unclaimed land in Somalia have had no immediate intention or ability to invest in the land.

traditional systems while also getting access to government documentation guaranteeing security of tenure (Besteman, 1990). Besteman (1990) defines tenure security in the Somali context “as the [land owners] perception that s/he will be able to sustain rights to use the land and obtain continuing benefits from investment in the land”. The introduction of land registration in Somalia posed a challenge to this perception as it changed land rights from communal to individual. The idea here was to alter the way land owners see their ownership to the land and hence increase tenure security.

While in some contexts legal titling may increase tenure security, this was not the case in Somalia following the military regimes registration policy. According to Besteman, in “situations of high population pressure, rising land values, land speculation, unequal access to land under customary tenure, or encroaching control over land by a dominant group, legal title conferred by the state may increase tenure security”(Besteman, 1990). But, under the military reforms, this was not the case and the measures contained in the agricultural land law were mainly counter-productive. One of the reasons why customary tenure continued to be seen as more able to confer security was the fact that rural populations were dispersed and the level of urbanisation was significantly low. But more importantly, ownership was governed by a set of principles that are known to villagers and the government alike (Besteman and Roth, 1988). For instance, customary tenure recognised land ownership on the basis of investment in vacant land through either labour or other ventures such as capital, inheritance or gift(Norton and Flyktningeråd, 2008). Even though the introduction of the 1975 agricultural law rendered the existing customary tenure null and void in legal terms, in practice it prevailed in most parts of the country, including in some urban areas. The challenge to the introduction of the registration process was therefore the fact that the public did not universally accept it. Besteman and Roth (1988) argue that a “high levels of tenure security can exist without state recognised title. For example, customary land tenure can, under certain circumstances, provide individuals with tenure security having grazing and cultivation rights, without any state recognition of title” (Besteman, 1991). The formalisation of land registration in the country did little to prove that customary tenure was an impediment to economic development.

In Hargeisa, there was rush to register urban land by elites as a result of these measures. The imposition of compulsory registration for land in the country was interpreted in the North as a measure through which the government wants to impose further punishment for their

resistance to the state.¹¹¹ As a result, many elites who owned agricultural land, particularly urban farms along the river running through the centre of Hargeisa, rushed to register their land so as to deny the government the chance of making this process a pretext for accusing them of disobedience.¹¹² Another important factor which compelled land owners to register their land during this period was the fact that Hargeisa attracted significant investment in the construction industry as members of its diaspora communities increased demand for land so as to construct residential houses mainly as a result of increased outflow of migration to the Middle East where employment opportunities were higher. However, the heightened opportunities for land transactions in the city led to a rise in land conflicts complicated by the absence of proper measurement of the farmland boundaries. As people had no faith whatsoever in the military regime, traditional institutions often dealt with the problem through the backdoor of the state.

These processes were brought to a halt through the war and destruction of the city. They did, however, have important legacies for the period of post-conflict reconstruction, as we shall see in the next section.

5.3 Development (s) of Post-Conflict Land Administration and Land Conflicts

In this section, I discuss the development of post-conflict land administration and its relationship to land conflicts. I do so by examining urban land management law, which has been criticised for being complex and ambiguous (Bruyas, 2006) and I show that this law failed to strengthen the urban regulatory framework which was and continues to be weak. I also show that the urban land regulatory system in place creates more confusion than it solves and plays a key role in the rampant land conflicts in Hargeisa. As a result, I argue that this undermines public trust in the regulatory system and hence fosters the continued reliance on the clan network and hence segregation.

Prior to 2004, each district in Hargeisa had its own land committee dealing with land related issues. Procedures were weak leading to multiple issuance of titles for the same piece of land. Bruyas (2006, p. 19) notes that the registration procedures were inherited from the previous regime and the legal regulatory framework within which they operated were either “inefficient or disconnected from the reality on the ground”. The conflict itself reconfigured and reinforced

¹¹¹ Interviewee 7 August 20, 2014 Oral Historian, Artist and Radio Presenter.

¹¹² Ibid.

the city's clan-based settlement, but the post-conflict land management exacerbated insecurity and distrust of the state, and hence reproduced the importance of a clan-based settlement logic. In 1999, the government introduced an agricultural land law which was equally important for urban land in Hargeisa as the city was (and still is) increasingly expanding into agricultural and pastoral land within its immediate vicinity. The land management regime in place could seldom cope with the demand and pressure placed on it by such rapid growth. Attempts aimed at bringing about reforms were mainly unsuccessful. This was partly attributable to the non-existence of previous land records and municipal bylaws. Land reforms in Somaliland were, therefore, started from scratch as a parliamentary-led legislative process aimed at producing comprehensive laws governing land both at the central and the local governments' level. In 2001, the population of Somaliland voted for a referendum on a constitution which placed land management in the hands of the state but guaranteed respect for private ownership (Republic of Somaliland, 2001).

In 2002, the government introduced the first land management law (Republic of Somaliland, 2002a) exclusively dealing with urban land which was later amended in 2008 as the law attracted substantial criticism for its superficiality (Republic of Somaliland, 2002 amended in 2008). Such criticism was carried over to the amended version, which was equally accused of being overly concerned with plan management rather than creation. Nonetheless, it was by far the most significant attempt at delineating the institutional boundaries between the local and the central state with regard to land management. While regulatory and policy-making responsibility were given to central authorities, the micromanagement of land was entrusted to local authorities. According to this law, the municipal departments directly involved in local land management are the departments of land, physical assets, and land records transfer (Bruyas, 2006). At the central state level, the ministries of agriculture, pastoral development and environment, interior, health, communication, mineral resources and water, the Ministry of public works, and the parliamentary subcommittee on natural resources and environment are all institutions concerned with urban land management (Farah, undated).

Aside from the large number of ministries and departments involved, the provisions of the new wide-ranging urban land law are numerous and detailed. This in itself did not make for easy implementation. Nor was the law widely understood. In addition, McAuslan (2006) criticises this urban land management law for its tendency to presume the existence of a master plan [which at the time of data collection did not exist] and its central concern with revising plans rather than putting in place guidelines on which plans could be made and land registration

problems could be addressed. In 2004, the municipality of Hargeisa in collaboration with UN Habitat started a registration of properties exercise where information was gathered through GIS using satellite digital images and GPS devices (Turkstra, 2008). The idea was to strengthen the local state's ability to manage urban land by developing a reliable cadastral system.¹¹³ A major problem with the system, however, was that it did not record the dimensions of the plots as this was perceived as information that would increase boundary conflicts. This limited the use of the system to a mere revenue collection mechanism (as shown in previous chapter).¹¹⁴ Moreover, the technical expertise necessary for the maintenance of such a system is not widely available in the city and those who are trained to manage the system take up more lucrative jobs in the non-governmental organisations sector (APD, 2010). At present, only 3000 properties out of 60,000 eligible for registration in Hargeisa are actually listed. This attests to the magnitude of the land registration problem in Hargeisa. (Barry and Bruyas, 2009) suggest the introduction of a comprehensive cadastral system as a way of reforming the land registration processes in the country. They define cadastral system in this context as “a system incorporating evidentiary documents, unrecorded community knowledge, land registration, boundary definition and cadastral survey”. They advance this cadastral system not only as a way of enhancing land registration processes but also as a way of improving access to land.

The land titling system is one of the major contributors to land conflicts in Hargeisa. Owing to the lack of transparent, accountable and stringent land registration mechanisms, irregular issuance of titles is not uncommon. While in general this negatively affects landowners by creating a condition in which they have to bribe public officials to obtain the necessary documentation, marginalised social groups are by all accounts more vulnerable.¹¹⁵ The lack of a functioning regulatory system that is accessible to all as well as the lack of capacity to register continually and re-register land ownership creates massive inequalities. The problem is further complicated by the lack of unified coherent system. Little if any coordination exists between the local and central state institutions on urban land management (Farah and Ali, undated).

¹¹³ Cadastral system here refers to “a system incorporating evidentiary documents, unrecorded community knowledge, land registration, boundary definitions and cadastral survey. See (Barry, M. and Bruyas, F. 2009).

¹¹⁴ Using the cadastral system, taxes are levied from the occupants of the building rather than the owners of the building.

¹¹⁵ Interviewee 36 August 20, 2014. Director of Civil Unit - Legal Aid Clinic.

The most important institution for urban land management at the central state level is the Ministry of Public Works, which hosts the Land and Urban Management Institute (LUMI). LUMI was set up in accordance with urban land law to work closely with the National Urban Planning Board to form the basis on which central government policies are translated into technical sets of rules and regulations concerned with urban land management (Republic of Somaliland, 2002 amended in 2008). The Institute was proposed to have various sections, including a land administration division responsible for the provision of technical expertise on land policy and regulation as well as a physical design section, which deals with the preparation of master plans and mapping. The master plans ought to cover a radius of no more than 5 km beyond the fringes of the city and they are used for zoning purposes – i.e. residential, industrial, commercial and public – as well as the mapping of utility services such as electricity, water and communication lines in the city (Republic of Somaliland, undated). This Institute, however, exists only in name as it has neither the technical capacity nor financial ability to discharge its duties.

At the local level, the new urban land management law of 2002 (particularly article 2) made the administration and the allocation of urban land (including land within the immediate surrounding of the city) the prerogative of local government particularly the executive committee of the councils. Land located on the fringes of the city, according to this law, remains in the hands of those who hold titles, but if the owner decides to convert it into a built environment such residential or business buildings, 30% of the land will be taken by the municipality. The mountainous areas surrounding the city where cultivation is impossible cannot be recognized as farmland and their occupation is illegal and subject to confiscation without compensation. This creates friction between the adjacent local authorities of Hargeisa and Salaxley as each claims to have legal jurisdiction over the land on the fringes of the city (Republic of Somaliland, 2002 amended in 2008). Sometimes these jurisdictional disputes result in violent deaths as happened in 2013 when fire was opened by respective armed guards accompanying the officials from the two sides, leading to the death of one security officer. Local governments are required under this law to register properties within the city based on existing ownership papers and in conjunction with the records held at the Ministry of Public Works as well as the municipality (Republic of Somaliland, 2002 amended in 2008), but this leads to multiple issuance of ownership papers by the respective municipalities.

While the urban land law makes a significant attempt at delineating the vertical relationship between institutions dealing with urban land administration, i.e. central and local authorities, it fails to cater for the horizontal relationship and interface between the local authorities

themselves.¹¹⁶ The failure to separate political from administrative issues further complicates the fragile regulatory system in the country. This is because the lower structures of the government do not function well and do not provide the badly needed services due constant meddling and interference from the centre. In many instances, this blurs the boundary between the political and administrative functions of the state, as spelt out by the Solicitor General:

*if the local government is not happy with the directives of the Minister of Interior and Ministry of public works, the legal avenue through which this is supposed to be solved is to take the matter to the High Court. What however happens is that these legal jurisdictional issues are often solved in a political way by mobilising various actors that include the traditional leaders and other influential bodies. But what we do not realise is that this kind of arrangement are temporary and don't last long and this leads to recurrence of the problem more frequently than could be the case if the problem was solved through legal means.*¹¹⁷

This poor regulatory framework and lack of harmonisation of land laws are partly responsible for the institutional weaknesses in the country (Farah and Ali, undated). Attempts to consolidate and strengthen the institutional capacity of the agencies dealing with urban land in the country remain problematic. According to a development worker for a local NGO, lack of political will, on the part of the government and political parties, hampers efforts aimed at strengthening the regulatory framework for urban land management. This produces both lack of accountability among officials and lack of trust from the public.

This lack of political will is rooted in the way people come to power in the first place. People are not voted in because of their political agenda. They are voted in because of their affiliation with clans. So instead of politicians developing programs for the public to be able to decide, votes are solicited on the basis of clan membership. This led to lack of accountability. For instance, if today we are working here and there is no one asking me about

¹¹⁶ Despite this, clashes over the jurisdictions of land management between the various governmental agencies are also common. i.e. Ministry of Agriculture versus Ministry of Public Works, and Municipal Council versus Ministry of Public Works.

¹¹⁷ Interviewee 23 August 14, 2014. Solicitor General of Somaliland.

*my work and there is no one to whom I am accountable, it is most likely that I will earn my salary without doing anything. The same is the sitting members of the council and parliament who know that they are not accountable to the public and therefore they don't care. The senior civil servants also are the same....they do things as they wish.....because after all they will be nominated to their positions due to clan membership or affiliation in the name of representation.*¹¹⁸

Two major themes often recurred in my discussions with interviewees as to why the regulatory system for land management is so ineffective. Firstly, government agencies are susceptible to clan pressures, making the application of rules and regulations difficult. For instance:

*if government officials attempt to implement policies, their effort is undermined by people going to their seniors and saying official X and official Y are up to no good and they want to make the public go against you.*¹¹⁹

Secondly, the weak regulatory system is attributed to government's susceptibility to international pressure as officials do not like to appear to be against the international community, hence they develop policies that are not based on local desires and circumstances. In a political environment where international Non-Governmental Organisations (INGOs) have a significant financial, development and planning clout over the state, externally funded policies do not in many cases arise from local needs as they are conceived and produced through outside interests, putting a question mark on their applicability and acceptability in the local context. As a politician explained to me:

Donors have ideological and economic interests and they often want these interests to be reflected in the making of the regulations. In some cases, they may become an obstacle to the making of regulations as particular clauses may not be serving their particular ideological interests. They want the final product to be in line with particular visions they have in mind. This makes it

¹¹⁸ Interviewee 29 August 16, 2014. NGO Worker.

¹¹⁹ Interviewee 23 August 14, 2014. Solicitor General of Somaliland.

*difficult for the Somaliland state to bring about regulations that are acceptable to the people.*¹²⁰

For their part, the law-making bodies claim that they do not have the necessary financial and technical expertise to draft or scrutinise bills submitted by the government ministries to ensure that laws are not based on narrow agendas. The MPs and members of the local council claim that:

*they can't serve their constituencies because of lack of resources as they don't get travel allowance for going back to their constituencies and as they also don't have offices in their constituencies.*¹²¹

In Hargeisa, lack of legal certainty emanating from the poor regulatory system has contributed to low compliance levels with land management rules among property owners. Unnecessary red tape bureaucracy hampers the strengthening of the land regulatory system in the country and this negatively impacts on the city's economic development.

According to a report on the business sector in Hargeisa jointly prepared by the World Bank (WB) and the International Finance Corporation (2012), Hargeisa is ranked as 86 of 183 when it comes to the bureaucratic difficulties of setting up a business. The procedure for setting up a business in Hargeisa goes through 15 steps over a period of 56 days. This means Hargeisa is more bureaucratic than many African cities when it comes to the establishment of businesses. It also makes it more expensive. For instance, the "cost of dealing with construction permits in Hargeisa is 1,038.8% of income per capita. This places Hargeisa among the top 20 most costly economies globally. Only 16 economies are more expensive i.e. Afghanistan, Burundi, Chad, Djibouti, Tanzania and Zimbabwe" (WB and IBRD, 2012). It is important to mention that 90% of the cost incurred during the process of getting the construction started is spent on utility connections and only 10% of the cost is levied by the government. In other words, the local authorities do not significantly benefit from the red tape bureaucracy in place. According to the Solicitor General, one of the main issues with the red tape bureaucracy is that:

¹²⁰ Interviewee 28 August 12, 2014. Politician.

¹²¹ Interviewee 79 August 12, 2014. Member of Parliament.

it facilitates corruption. The influence of the clan and interference of the due process is part of the corruption. Corruption is not only about giving money to someone in order to achieve a particular aim. Corruption could as well be interference with due process. There are two kinds of corruptions; active corruption and passive corruption. The passive corruption is if somebody turns away from an action he was supposed to carry out in order to benefit a particular group of people or person. The active corruption on the other hand is that which the individual actively participates in a corruption process.¹²²

In addition to these obstructive rules and corruption, the regulatory system faces serious challenges from the long tradition of top down processes, which undermines its legitimacy and makes enforcement of governmental decisions mostly involuntary. Very little attempt has been made to change this top down culture except for a few instances when donor agencies help to formulate plans incorporating some level of consultation. Thus far the only plan involving participatory planning is the recent constitution of District Development Framework (DDF) documents aimed at identifying the social and economic as well as physical development deficiencies in the city and priorities for intervention. The DDF identified several priority areas for immediate attention such as the need for improvement in physical infrastructure, water supplies and dilapidated pipelines and access to healthcare (HM, 2010).

While such participatory planning can facilitate change in the top down mentality of making regulations, it is important to point out the anomalies in such exercises. One major challenge is the fact that people rarely come to consultation sessions unless they are paid a daily subsistence allowance.¹²³ This demand for money developed from a culture in which the INGOs pay participants for consultation so as to make their programs look consultative. In reality, those who report for such forums are a group of people who make a habit of earning from these practices, undermining the value of consultation.

In short, weaknesses in the regulatory system have undermined public trust in the administrative framework of urban land in the city and this negatively affects service provision. The state's inability to mobilise the necessary resources for improving access to services coupled

¹²² Interviewee 23 August 14, 2014. Solicitor General of Somaliland.

¹²³ Interviewee 4 August 16, 2014. Lawyer .

with lack of political will to bring about change are believed to exacerbate the situation. This discredits the state further and undermines what is left of its reputation to manage public life. In other words, public confidence in the system is heavily eroded, inherently promoting people's reliance on other means of resolving land disputes and sticking to areas in the city where they can access clan support network necessary for access to services. While this erosion of public confidence cuts across the social and economic spectrum of the people in the city, the poor and underprivileged such as minorities and women are affected most severely as the current land governance practices inhibits access to land which is one of three major obstacles to urban development in Somaliland, according to panel discussion facilitated by the World Bank (WB, 2014). While, on the one hand, clan-based segregation may give an impression of social integration transcending class, it is important to point out that this can also be viewed as inconvenient cohabitation where the rich often exploit the poor financially and politically.

5.4 Access to Land and the Alienation of the Poor

Access to land in Somaliland is characterised by severe inequality between poor and the rich. In this section, I argue that such inequality is not only due to a disparity of wealth but also structural exclusionary state land management practices. For instance, the legal framework leads to differential treatment of the poor and the rich. This is because the law imposes greater restrictions on the poor than their wealthier counterparts. An example of this can be found in article 15 of the urban land law which stipulates that plots should be allocated in a just manner on the basis of citizenship (Republic of Somaliland, 2002 amended in 2008). While this would appear egalitarian, fame and privilege creep in because of the difficulty for many to prove their citizenship. In other words, while those who are well known are not usually required to prove their citizenship, poor people and women have to enlist the help of an Akil or prominent member of their clan to vouch for their citizenship. Moreover, while the law permits the absence of a planning process for the construction of non-permanent structures,¹²⁴ this impermanence also forms the basis on which such buildings are often removed.

The poor also face further challenges when given land in a prime area, because security of tenure is linked to building and investment in the land. The law stipulates that if somebody is given land

¹²⁴ Plots can be categorised into permanent residency plots consisting of materials such as bricks, cement et cetera and temporary residencies consisting of Somali traditional mats and houses made of ceiling boards. Temporary structures will not require to have plans whereas the permanent structures should have building plans (Republic of Somaliland, 2002 amended in 2008).

in prime area facing a major road and he/she is unable to build on it, the municipality can reinstate the allocation of such land and the occupant will be given land in another locality. Wealthier people do not face these challenges as they can often conform to the conditions of the law regarding new land allocations. Article 19 stipulates that anybody who is given a piece of land by the state and who invested in that piece of land and built a structure of a permanent nature will be recognised for owning that land for ever.¹²⁵ Similarly transfer and sale of land is subject to the ability of the person acquiring land for permanent residency as stipulated in article 25 which states that anybody who is/was given land for permanent residency can sell, transfer, give the land as a gift or dispense the land in any form he/she finds it fit in accordance with the law.¹²⁶

Further challenges face the poor living in peri-urban locations by the agricultural land law introduced in 1999. Article 6 of this law – which also applies to urban contexts as the city is increasingly expanding to agricultural and pastoral land in peri-urban areas – limits allocation of land to one plot of eight hectares which cannot be sold for three years (Republic of Somaliland, 1999). For many poor people waiting for three years to sell their land is a luxury they cannot afford. While wealthier people in the city access peri-urban land in the name of investment and development, poor people do not have the ability to organise the resources necessary for acquiring land in the name of development. According to article 12 of the Somaliland Investment policy, land given for development should be built up within one year.¹²⁷ But businessmen rarely conform to this requirement yet are not subjected to eviction whereas the poor often face the risk of expropriation. On the other hand, land given for temporary residence must have the necessary structures erected within three months from the time it is granted (MTI, 2014). In many cases, poor people may not have the financial ability to fulfil this requirement. The law states that if land is granted for development such as industry or other businesses, it cannot be used for residential purposes,¹²⁸ (Republic of Somaliland, 2002 amended

¹²⁵ According to the constitution of Somaliland foreigners who are given land in the country have the same privilege as the locals when it comes to land ownership and transfer. Landownership title can be given to the owner once the building is above the ventilation.

¹²⁶ The above rights do not extend to the people who make habit of trading land.

¹²⁷ If the person fails to build the land within this time, a yearly tax is levied from him or her.

¹²⁸ Allocation of plots for residential reasons will have to be advertised in noticeboards and the newspapers so as to allow those who want a dispute the ownership time to raise their concerns.

in 2008) but wealthy people in the city defy this as land allocated for business is turned into grand residential houses.

As evident from the above, the land regulatory system in the country creates differential access to land and often excludes underprivileged people. These practices widen the gap between the haves and the have nots in a country where poverty is the order of the day for the majority. Somaliland ranks 4th in the league of lowest GDP per capita income countries.¹²⁹ There is also inequality in how men and women access job opportunities in the country, with an employment to population ratio of 28% for males and 17% for females. Urban poverty in Somaliland is estimated to be in the region of 29%. The future does not look bright, as only 50% of the 6-13 age group go to school. This is in sharp contrast to the neighbouring country of Ethiopia where 87% of the same age groups are school goers (WB, 2015). Moreover, one in four households are unable to meet their daily basic needs (WB, 2014). According to King et al. (2003), poor households in Hargeisa survive on roughly 2\$ a day. A recent report by the World Bank also indicates that poverty in Somaliland is widespread, a condition which is compounded by lack of recognition and absence of economic opportunities. Access to services is also unequal for the poor and the wealthy in the country (WB, 2014) .

Due to the fact that the legal mechanisms through which land in the country is managed presents a far great challenge for accessing land to the poor than the rich, the poor often resist the encroaching state through clan mobilisation. In some cases, this mobilisation enables them to access and retain land illegally.

According to the World Bank (2014), access to land is one of the most important obstacles to business in Somaliland. Poor and weak regulatory and enforcement systems are partly responsible for this challenge. According to the Academy for Peace and Development (2010), the state in many cases is unable to evict people from government buildings despite the existence of a legal mechanism allowing the state to evict and confiscate property from these people¹³⁰ (Republic of Somaliland, 2002 amended in 2008). The state's inability to enforce its

¹²⁹ Surprisingly, with a GDP per capita estimated at \$347, Somaliland is ahead of diplomatically recognized countries such as Malawi, the Democratic Republic of the Congo and Burundi.

¹³⁰ For example, the urban land law states that the municipality has the right to remove illegal settlements in accordance with the master plan (article 21). Such eviction could be subjected to both permanent or temporary structures. But the evictees have to be resettled in appropriate places and the cost of removing them will have to be shouldered by the municipality. Equally, the Mayor of the city in consultation with the National Urban Planning Board has the right to issue orders of confiscating properties for public

land regulations is in many cases attributable to corruption. These malpractices are nowhere more evident than in the multiple allocation and issuance of title deeds for the same pieces of lands. This leads to lack of faith in the land management system which in turn lead many people to build on land and worry about the consequences later (APD, 2007). A study conducted jointly by the World Bank and the International Finance Corporation (2012) points out that the high cost of acquiring a construction permit forces many small companies and people to build without a permit and then seek to legalise their ownership afterwards. As access to land in the post-conflict context is increasingly becoming difficult for individuals from poor backgrounds, evasion of authorities has become inevitable for many poor people to put a roof over their head. The state is particularly susceptible to being undermined in areas where individuals can have access to greater support from members of their clan. This cements further the clan-based character of the city as demonstrated by a key informant interviewee who said that:

*One of the reasons why this irregular access to land happens includes the fact that people themselves find a space to settle in areas populated by their clan before legalising it. If the government had the power of giving the land to the applicants first before it legalises, this would have probably altered the spatial distribution of clans in the city. This is so due to the fact that the government would then have the opportunity to integrate different clans into particular spaces.*¹³¹

Being within close proximity to areas dominated by one's clan is important partly because of the fact that the state is unable to regulate land in an effective way that safeguards land ownership and provides tenure security for the poor. In other times, rules are implemented in an illegal way alienating the vast majority of urban residents through corruption. Affiliation to and membership of particular clans and remaining within vicinity dominated by one's clan is therefore an essential mechanism to resist unfavourable government policies and decisions. In short, abject poverty coupled with the failure of the state to regulate access to land and conflict in a manner that is favourable to the poor and the underprivileged has reproduced clanned spaces as a means of dodging the odds against poverty and state action. Amid the concentration

interest. Land confiscated because of public interest will only be used for public purpose and not any other use. Illegal settlements will have no compensation in this regard.

¹³¹ Interviewee 28 August 12, 2014. Politician.

of businesses, government services and aid programs in the capital, spontaneous land disputes occur frequently and at times spiral into major conflicts involving not only the disputing parties but also their respective clans often occur in Hargeisa.

5.5 Conclusion

In this chapter, I argued that urban land management practices in Hargeisa – from early on when Somaliland was formed as a protectorate till the present time – have consistently been based on top down processes. For instance, during the colonial period, the introduction of land management laws involved no consultation with either the public or the traditional leaders.¹³² This top down culture was carried forward through independence as the state often relied on laws made during the colonial period. Neither the land reforms attempted during the immediate postcolonial civilian government nor the subsequent socialist land management regime introduced during the military administration involved public consultation. Similarly, during the post-conflict period, land management practices remained top down in sharp contrast to the bottom up peacebuilding process.¹³³ Very little has changed in the post-conflict context as institutions remained centralised with policies “hanging up in the clouds with no signs of coming down”;¹³⁴ a practice which led to the development of land management instruments which are divorced from the reality on the ground. This has contributed to the development of increasingly negative public attitudes towards the state, reproducing the endearment of people to customary institutions and lineage identity and by implication settlements patterns along clan lines.

Having discussed urban land administration in Somaliland, the next chapter discusses the dynamics of adjudication mechanisms for urban land conflict to demonstrate how resource and conflict management as well as service delivery shape the spatial character of cities in Somaliland.

¹³² Note, as mentioned elsewhere, colonial authorities consulted Akils and friendly elders on issues on issues to do with law and order.

¹³³ Through the bottom up approach for which Somaliland is notably praised.

¹³⁴ Interviewee 34 August 30, 2015. Lawyer.

CHAPTER 6 PLURAL ADJUDICATION OF URBAN LAND CONFLICTS

6.1 Introduction

Land conflicts are some of the major problems facing urban places in Somaliland. The capital city, Hargeisa is particularly reeling with such problems because it is increasingly becoming a magnet for rural-urban migrations, relocations and investment from the diaspora, as well as return movements from refugee camps around the country. The city also hosts refugees from the South and internally displaced people. The problem is exacerbated by the lack of coherent means through which such conflicts can be speedily and justly resolved. This is because the justice landscape in Somaliland is characterised by the coexistence of plural (at times) competing, contradictory and occasionally complementary sets of laws i.e. statutory, Islamic and customary laws. In this chapter, I argue that the manner in which conflicts are adjudicated reinforces the city's clan-based spatial character. This is to say that the failure of the statutory system to manage conflict or enforce judicial decisions has eroded and undermined public confidence in the state. I also show that this ineffective justice landscape marginalised the poor. Consequently, the poor and others who lost trust in the system rely on adjudication by non-state institutions, increasing the attachment of urban residents to local spaces dominated by their clan where services and support are more accessible. Once again, the concept of 'hybridity' as it has been elaborated in the recent state-building literature is a blunt tool, as I have argued in chapter 2, and my focus here is on a plurality of discrete, yet overlapping institutions.

The chapter is organised into three sections. In the first section, I discuss the plural justice system in the country. In the second section, I turn to the challenges facing the judicial system, its development trajectory, the failure to address urban land conflicts as well as the impact such failure has on state legitimacy. In the final two sections, I discuss the establishment of the urban Land Commission and the manner in which it operates, arguing that red tape bureaucracy, low level of capacity and interference from the state makes it unable to bring about any significant changes in the quest for resolving proliferating land disputes.

6.2 Plural Justice: Harmonisation and Reforms

Land conflict adjudication in Somaliland is underpinned by a plural legal system that consists of customary law, Islamic sharia and statutory laws. According to UN (2006, p. 35), "traditional, religious, and secular (modern) systems, functioning in parallel, regulate a wide range of affairs,

from the resolution of constitutional disputes in regional political administrations to the enforcement of business contracts and the settlement of family disputes". This plurality dates back to the precolonial Somali judicial practices when Islamic sharia influenced customary law and in many cases informed the rulings. The introduction of colonial laws created further new institutions and enhanced the plurality of the justice systems as both sharia and customary laws were allowed formally to coexist and serve different colonial agendas, and were incorporated variously into state legislative frameworks (as we have seen with the Akils in chapter 4). It is important to note that prior to the arrival of the colonial powers, Somalis used customary laws known as (Xeer) which reads in English as heer. Heer are agreements between clans about their interaction with each other: they are not limited only to conflict and justice but include social interactions, marriage, economic and cultural cooperation.

Abdile (2012, p. 87) examines how heer works and identifies three layers in which the system operates namely negotiation, mediation and arbitration. He argues that heer is an "alternative dispute resolution system that facilitates reconciliation and promotes restorative justice". The use of the term alternative suggests that heer is a substitute for something more important than itself. It reinforces the positioning of statutory law as the primary system of laws in the country to which all other forms of law should conform. Abdille's proposition of heer as an alternative restorative justice system is opposed by Schlee (2013) who argues that negotiations in heer take place between often unequal opponents and this compromises justice. He criticises the idealisation of the Somali statelessness. He argues that the strength of heer lies in its ability to maintain peace, but it does not help in the achievement of justice. According to Schlee (2013, p. 261) "mediation and compensation do not re-establish a moral order or enforce 'law', and they are not meant to please higher authorities like God, the State or to conform to lofty ideas of Justice". However, this statement overlooks the fact that customary laws are informed by sharia and could partly be aimed at pleasing God. This is evident in the Somali saying, "illahow eexna ha nagaga tegin, garashana ha nagu cadaabin. Loosely translated, this means "oh god do not forgive us if we side with either of the protagonists, but forgive us if our judgements are based on the extent of our intellect".

Owing to its popular familiarity, heer remains strong, and has outlasted the collapse of the country, playing an important role in the restoration of peace and stability in the nation. Thorne (2011) points out that the informal justice mechanism in Somalia has taken the place of the statutory system or complements it where both exist. The author rightly criticises the assumption inherent in many studies of a justice vacuum created by the collapse of the state,

but falls into the same trap of seeing heer as an informal fall-back and inferior alternative, by saying “people will always need ways of settling their disputes, and if there is no more formal way of doing so, they resort to other means” (Thorne, 2011, p. 3). This supposition is further reinforced by Notten and MacCallum (2005) who also argue that Somalis have returned to their customary law to fill the gap left by the statutory state laws. This problematic assumption inflates the value of the so-called formal by assuming that people were more inclined to use the statutory justice system than the customary one and that the absence of the statutory led people to fill the gap by applying customary laws. I argue that the opposite accords better with Somali history, as a critical mass of people have at no time preferred the statutory laws over the customary.

Le Sage (2011) questions the extent to which heer could be harmonised among the Somalis since it is often based on clan arrangements which may differ from one clan to another. This concern is, however, undermined by the fact that in many cases the general principles of the heer are the same regardless of the clans between which agreements take place. The resilience of heer despite a century long influence by both the colonial and postcolonial states is notable and can be partly attributable to the universal nature of heer among Somalis. But Abdile (2012) argues that universality alone may fall short of explaining the survival of heer amidst state collapse. He emphasises rather the conservativeness of Somali society and resistance to foreign influence; the suspicion and mistrust they direct at the statutory laws; and the respect they have for their own customary laws, which they regard as superior to the codified statutory laws introduced by the colonial powers. Thorne observes that the limitations of customary laws include their failure to keep pace with changing urban contexts where “defining lines between clans become blurred” (2011). This is, however, contradicted by the evidence emerging from the settlement patterns in Hargeisa that I present here. Yet there are drawbacks, because enforcement of rulings is voluntary and there is no ‘central authority’ to resort to, while customary law also places great emphasis on community relations at the expense of individual rights. For instance raped women might be forced to marry their tormentors in a bid “to protect the woman’s honour [and ensure] full payment of her dowry by the attacker’s clan to the victim’s clan” (Wojkowski, 2006, p. 21).

There have, however, been attempts aimed at bringing heer into international standards. According to Namibia and Ubink (2011), elders in Burao approached the Danish Refugee Council (DRC) in 2003 with an idea of reforming customary law so as to bring it in line with the international standards. The conference in Burao agreed on the elimination of communal

responsibility, and enshrined protections for vulnerable groups, and the protection of the rights of widows in particular. An assessment of the impact of these changes estimated that the result was a 90 percent reduction in murder cases. However, such assessment is problematic and could have been related to other social changes given the fact that “awareness of the National Declarations among the general population was found to be minimal” (Namibia and Ubink, 2011, p. 15). In other words, if awareness of the declaration was so low, it is difficult to assume that these declarations had made changes in the public mind-set towards these issues. Unlike customary law, the introduction of the statutory laws is a relatively new phenomenon in Somaliland, dating from the colonial contexts. Yet the statutory laws are of course important, and as we have seen already in relation to chiefs and land, the present and immediate post-colonial judicial organisation in the Somali lands were modelled on the colonial system (Hersi, 2009).

The adoption of colonial justice structures and their post-independence application were complicated by the inheritance of two colonial systems; Italian in the South and British in the North. In the ten years following the independence, the judicial system in the country continued to follow these two different systems, which at times was ineffective, and meant that cases were dropped – famously in the case of an attempted coup by British-trained military officers, who could not be convicted due to loopholes created by a dual system.¹³⁵ Serious attempts have not been made to rectify the limits of the previous judicial system in terms of both content and structure in the post-conflict Somaliland. The current judicial structure in Somaliland consists of mainly urban-based Supreme, Appellate, Regional, and District Courts. The Regional Court hears cases with 3 years’ punishment while District Courts deal with a sentence under three years. The Appellate Court deals with all civil and criminal appeals from the regional courts.¹³⁶ It could be argued that the limitations of the statutory laws continue to exist partly because they do not enjoy the trust nor the resources required for its highly bureaucratic nature. This weakness allows both the customary and the sharia laws to compete and at times outperform the statutory laws. As evident here the existing plural forms of the judicial system have their respective weaknesses and strengths and future judicial reforms need to strike a careful balance

¹³⁵ Interviewee 2 November 8, 2014 Former Chairman of Somaliland Atrocities Commission.

¹³⁶ Interviewee 34 August 30, 2015. Lawyer.

between them so as to bring out the best features of each, rather than prioritising one set over another.

Efforts aimed at reforming the justice system are not new. The post-colonial Somali government had to contend with the challenges of integrating plural justice systems consisting of statutory laws left behind by the colonial powers and the sharia and customary laws widely practiced not only in the rural areas but also in towns. The civilian Somali government established a Consultative Committee for the Integration of the Legal System who put forward a set of confusing recommendations suggesting the use of the Italian penal code for civil cases, Indian 'penal code for criminal procedures', sharia for family and minor cases, and heer for the conflict resolution among the clans (Le Sage, 2011). This made the dispensation of justice difficult and in practice Northern judges used their previous laws while Southerners continued with the Italian system. Equally the military regime made an attempt to reform the system and in 1973 changes placing responsibility for crimes on the perpetrator as opposed to the clan were enacted, but this failed to take effect as clans resisted implementation. The government had to retract in 1974 and allow the simultaneous use of both heer and sharia for family matters and maintenance of peace and security (ibid).

As shown above, successive Somali governments failed to bring about meaningful judicial reforms and integration between the overlapping and competing forms of Islamic law, statutory and customary laws. Ganzglass (1996) argues that the failure to establish an integrated judicial system in Somalia was not just a failure of the Somali state, but that the UN also deserves some of the blame. He outlines how the UN failed to lay the groundwork for reforms as it 'missed the opportunity' of putting in place proper mechanisms to revive the Somali judicial system. At the height of the UN intervention in 1993, plans were drawn to undertake transitional justice, but such plans were 'ambitious' and discussed judicial structures along the line of "the 1962 Somali three-tiered judicial system consisting of 21 District Courts, Regional Courts in seven regions and two Courts of Appeal, one in Hargeisa and the other in Mogadishu" (Ganzglass, 1996, p. 125). The judicial system envisioned by the UN was not creative enough to take account of the dangers of recycling the state of justice that existed before the collapse of the state. In other words, these efforts failed to devise a form of legal empowerment different from those of the past. Namibia and Ubink (2011) point to the importance of legal empowerment in post-conflict contexts, and the need to address characteristically overlapping and sometimes contradicting plural legal systems.

Reforming the plural judicial system has been cast as key to maintaining stability. Adam (1991) argues that sharia law should be integrated formally into any future Somali justice system, and the same holds for customary law. Such a move would remove the concerns of many who have a higher level of trust in that which they know, customary and sharia, than that which they do not know, statutory law. Political movements in Somaliland have long recognised this, as almost all the major movements have a clause in their charters indicating that the customary or statutory law should be used only when not in contradiction with the sharia law. According to Le Sage (2011) historical footprints about the application of sharia, statutory and customary laws in the Somali context provide a basis on which harmonisation could be implemented.

6.3 Judicial Challenges and their Effect on State Legitimacy

Copp (1999, pp. 4-5) writes that “when we evaluate a state for its legitimacy, our concern is to assess its moral authority to govern. The laws of a state require or prohibit us to act in certain ways, and the state typically enforces its law by attaching punishments or penalties to failures to comply...The problem of legitimacy is, then, to explain how a state can have the moral authority to do the kinds of thing involved in governing”. Like other key services, justice is generally regarded as a crucial component of state’s moral authority to govern, more so in post-conflict contexts where the society is in the process of healing from devastating conflict much of which was caused by subjectively perceived or objectively proven injustice. In this section, I argue that the manner in which the state manages the plural landscape of the justice system undermines its legitimacy and people’s consent for its moral authority to have a monopoly over violence.

The challenges of the justice system in Somaliland are many. For instance, the statutory system stands accused of incompetency, widespread corruption, and subject to the meddling of justice by powerful politicians and clans, while the sharia and the heer are criticised for being out of touch with the international conventions on equality and rights. Collective responsibility, unequal representation, and immunity present problems to the future integration of judicial systems in Somaliland. Thus far, attempts at improving justice have concentrated on strengthening the statutory laws in spite of the fact that very few people either trust or have access to this form of law. While the importance of the statutory laws cannot be overlooked, it is also important to place the central emphasis on what works best on the ground. Customary law is particularly crucial because it enjoys relative legitimacy and trust among the populace as it is based on social, cultural and power dynamics with which locals are familiar. For instance,

land in customary law is considered a symbol of power and communal property to which everyone is entitled to have a share, as opposed to a commodity to which certain individuals own and reap the benefit. Bruyas (2006) observes that customary law is more adaptable to the context in Somaliland than the other two forms, especially when it comes to the administration of common properties such as grazing, water and pasture. The advantages of customary laws include that they are cheaper and less time demanding as customary decisions are reached within a reasonable timeframe (APD, 2008).

The mediation process of customary laws focusses mainly on bringing about a solution to problems rather than deciding on who is right or wrong in a dispute. Critics, however, argue that mediation teams are not neutral as they are drawn from the disputing parties.¹³⁷ Moreover, further criticism is directed at the fact that customary laws can be reactive rather than proactive. Even though customary laws are highly effective when it comes to conflict resolution and particularly land conflicts, they have some well-documented weaknesses (Hashi, 2005, Hoehne, 2011). For instance, the process lacks uniformity in the sense that different territories may have different precedents. This lack of uniformity makes inter clan conflicts likely. Another weakness is the fact that the traditional mechanism prioritises the wellbeing of the clan over the right of the individual. Despite these weaknesses, customary laws remain the favourite choice for land conflict resolution (OCVP, 2014) mainly for their simplicity and familiarity. In a conflict mediated by customary law, close family members of the conflicting parties are involved in the mediation process, guaranteeing the voluntary implementation of decisions. The process is also relatively straightforward (Bruyas, 2006). Firstly, a committee comprising both sides is put together. Secondly, the defendant and the plaintiffs are summoned to accept decisions, as a prerequisite for the case to commence. Thirdly, the committee members swear that they will be impartial. Fourthly, the plaintiff is requested to produce witnesses for his/her claim. Fifthly, the defendant is given an opportunity to accept or contest the legitimacy of the claims submitted by the plaintiff and is asked to present evidence for his/her objection. Sixthly, the defendant is asked to swear in the name of God that the property belongs to him/her and that the plaintiff's submissions are untrue. Seventhly, the committee decides on ownership of the particular piece of land. The last part of the process involves a harmonisation process where certain steps are taken to normalise relationship i.e. gifts (APD, 2008).

¹³⁷ Interviewee 4 August 16, 2014. Lawyer .

Islamic law in relation to land does not just sit alongside statutory and customary laws as a separate corpus of rules, but¹³⁸ is also a significant source for the two other forms of laws governing urban land management (Bruyas, 2006). Indeed, the constitution acknowledges the role of Islam in the formulation of statutory law. But when it comes to application, Islamic law is often limited, in relation to land, to the mediation of inheritance related cases. Nonetheless, the sharia courts enjoy higher legitimacy than the other forms of mediation partly due to the fact that Islam is highly regarded as a religion among Somalis. According to a religious leader:

*The Islamic law enjoys overwhelming support from the public. The reason why they enjoy this support is because people respect religion. Somalis do not show the same level of resistance to the Islamic laws as the formal statutory laws. Those who are against the imposition of severe sharia punishments do not normally state their intention straightforward. They often say sharia is applied without sufficient evidence. The reason for which this diplomatic framing of the situation is necessary is because of the fact that it is generally unacceptable among the public to oppose Islamic sharia for religious reasons.*¹³⁹

Like the customary institutions, the Islamic court places emphasis on harmonising the relationship between the plaintiff and the defendant and they do so by firstly reminding both sides of the sanctity of the sharia laws. A defining feature of the sharia court is the fact that the conflicting parties come to the court willingly and in most cases decisions are abided by voluntarily. Unlike the customary institutions, the sharia courts follow a procedure where the representatives of the conflicting parties are not part of the panel that decides on the cases. The process in sharia law is that both parties are listened to by a panel of expert clerics who review the facts and consult the relevant sharia sources to make a judgment. If the defendant contests the validity of the facts presented by the plaintiff, the court asks the defendant to produce a

¹³⁸ The sharia law categorizes land into seven discrete areas: clearing a vacant land, receiving land as a grant, leasing a land from the state, charitable land, reserved land for a defined purpose, “*unviolated zones of land and the office of public inspection*” (APD, 2008).

¹³⁹ Interviewee 21 August 15, 2014. Religious Leader.

witness¹⁴⁰ or swear in the name of God that the property belongs to him or her. The conflicting parties in sharia courts are not often represented by lawyers. Religious leaders “who participated in FGDs explained that the Sulxi¹⁴¹ mediation process [requires] each party in the dispute [to bring] two male witnesses or if two males are unavailable one male and two female witnesses” (OCVP, 2014). The lower status women hold as witnesses suggests the “possibility of bias against females in this mediation process” (DS, 2008). The study notes that the Islamic sharia also has a number of issues which do not conform to internationally sanctioned human rights laws particularly concerning women as Islamic sharia is perceived to have differential treatments for men and women not only in testimonies but more importantly inheritance.

The statutory laws, on the other hand, are less flexible and mainly rely on pre-conflict laws dating from before the civil war (DS, 2008). In the statutory system, the focus is placed on reaching a decision on the basis of the legal mechanism available to the judges. In the context of land disputes, more often than not decisions become unsatisfactory for one of the parties and this jeopardises the process, leading in many cases to violence among the competing parties. Moreover, the statutory laws are mainly weak because of the fact that the institutions that were supposed to produce laws are either malfunctioning or do not have the capacity to do so (DS, 2008). They also suffer from a lack of legitimacy among the public and they are also inaccessible. In addition, the legal codes and complex terminology used in the statutory system are not commonly understood by the public, resulting in apprehension and lack of confidence in the judiciary system. Moreover, the statutory courts are accused of being very corrupt in addition to being time-consuming, a luxury which the poor cannot afford as pointed out by a key informant interview:

Poor people can't afford to commute and come back so many times to the courts. They can't either afford to pay for the case adjudication fee let alone lawyers. The situation is even worse for internally displaced people who are

¹⁴⁰ One of the distinctive features of the sharia law is the fact that testimonies of male and female witnesses do not weigh the same. While one male witnesses can testify for a case, this is not the case for females as two female witnesses weight the same as one male testimony.

¹⁴¹ This is a reconciliatory mediation where the focus is placed at bridging the gap between the sides by seeking voluntary compromises.

*forced to seek help from the statutory system as the customary law might not be very useful to them.*¹⁴²

In the customary system, conflicting parties are represented by people from their respective clans and the process has some degree of security built into it where mediators consider repercussions that could result from neglecting the interest of one of the parties. Since internally displaced people do not belong to dominant clans with political clout in the city, they are marginalised by the customary institutions. The same is the case for the minority groups.

Generally, judicial proceedings rely heavily on testimonies (as will be seen in the court case discussed in detail) and it is difficult for the poor to bring witnesses to court as witnesses usually do not come to the courts unless they are paid. Similarly, it is difficult for the poor to gather the documentary evidence required for filing cases as they are unable to mobilise the resources necessary for undertaking this exercise. As most people in the country are not familiar with laws as well as the complex codes and terminologies used in courts, legal representation is essential for winning cases but this is beyond the reach of the poor in the city. There is also very little help available from NGOs. The Legal Aid Clinic, which is a project based in the Faculty of Law at the University of Hargeisa and funded by the UNDP, is one of the few organisations that provide help in access to services for the poor. It helps those who cannot afford lawyers with basic legal representation, but due to the limited resources available, the stringency of their vetting may discourage many people from seeking their help.¹⁴³ The clinic liaises with the courts and in some instances may obtain a waiver for court fees. One of the lawyers working with the clinic said that:

in some cases, we ask the court to consider cases from these people differently as they may not be able to afford the financial requirements for

¹⁴² Interviewee 21 August 15, 2014. Religious Leader.

¹⁴³ The need of the person to get access to their services is that they ask them to bring people who know them and who can vouch for them. The centre only takes the case of one side and ask the other side to seek a different avenue for their representation. the legal aid clinic takes a small amount of cases determined on assessment for their need.

*filing a case. In some cases the court's accept our plea and allow the poor people file cases.*¹⁴⁴

Difficulty in access to justice is also gendered as the way men and women access legal services are different in a number of ways. For instance, interviewees who is a prosecutor pointed out that:

*men are often prepared to pay corrupt officials or at least seem to know exactly how to go about it whereas woman suffer because there might be a perception among the officials that women either pay little or not at all therefore they might be subjected to more bureaucracies than the men.*¹⁴⁵

Women's ability to access justice services is also inhibited by the fact that the judicial environment is also gendered as most of the staff working in the justice system are men who:

*show very little empathy for women in courts. We are the first cohort of women public prosecutors in the justice system. So, the problem is woman are marginalised in the justice system and this affects the way in which justice is delivered. Now we are only six women prosecutors and there is no single female judge in the city.*¹⁴⁶

These difficulties in access to justice reinforce the habit of bypassing the due process as people pursue other means of accessing services i.e. social networking where one may seek the help of a member of his/her clan. Aside from clan relations, access to services, are also determined by who you know. For instance,

¹⁴⁴ Interviewee 36 August 20, 2014. Director of Civil Unit - Legal Aid Clinic.

¹⁴⁵ Interviewee 19 September 04, 2014. Prosecutor.

¹⁴⁶ Ibid.

*in every Ministry, there are some junior officers who are powerful and have direct access to the higher-ranking officials. This people can make you bypass any formal requirements and have you sorted out.*¹⁴⁷

The challenges in the judicial system can be situated in the dynamics of the state building processes and its interface with legitimacy. Some suggest that the justice system got weaker as the state became more stable, gaining increasing power and economic clout.¹⁴⁸ In the beginning the state was unable to influence the justice system because it did not have full financial control over the affairs of the judiciary as judges operated voluntarily without getting paid by the state. Evidence for the independence of judges from the state is sometimes argued to reflect the fact that during the immediate post-war period, judicial decisions were at times made amid the presence of armed groups in the doorstep of the justice chambers.¹⁴⁹ In some cases, judges had to make decisions while militias supporting the plaintiff and defendants respectively threatened to take action if sentences were issued against their person. Yet this did not mean that judges were independent of clans. Quite the opposite, as judges may have been dependent on the political clout of their respective clans which implicitly or explicitly provided them with a degree of protection for their personal safety and security.¹⁵⁰

The anomalies in the justice system attract a substantial level of criticism from the public. Various state led attempts to respond to this criticism have not born fruit. In some instances, international NGOs have provided funding for reforms, but they are seldom seen as a positive influence, as spelt out by an interviewee in Hargeisa, saying that:

what's this NGOs are doing is sneaking Western influence and blocking justice. An example of these is the government's inability to carry out capital punishment sentences because of interference from the international NGOs. This negatively affects the security of the city. There was a case in which a man killed another man from his clan and a court issued a death sentence for the perpetrator. However, the sentence has not been carried out due to

¹⁴⁷ Interviewee 29 August 16, 2014. NGO Worker.

¹⁴⁸ Interviewee 23 August 14, 2014. Solicitor General of Somaliland.

¹⁴⁹ Ibid.

¹⁵⁰ Ibid.

*interference from the international NGOs. This led to a greater instability for which the government was unable to control as clans nearly clashed over the inability of the government to carry out the death sentence.*¹⁵¹

For most critics, neither intervention from NGOs nor the government driven attempts have so far brought about a significant change in justice delivery. This lack of change is attributed to either inability or lack of commitment to deal with the problem effectively. One interviewee sums up the situation saying that the

*lack of seriousness about the judicial reforms in the country can be exemplified by the fact that the government did not build a single court room while almost every Ministry in the country has new buildings. The High Court is housed in a dilapidated colonial building. This shows the lack of a political commitment to improve the judiciary infrastructure and system in the country. The Ministry of Justice which is just an administrative executive branch of the government is housed in a decent building that was constructed recently while the judges in the High Court and the Supreme Court don't have proper chambers to work. There is only one vehicle for the High Court in the country. The judge's mobility is limited and most of the courts don't have transport of their own.*¹⁵²

Moreover, the judicial system is politicised and subject to interference from the executive. Sensitive cases are allocated to judges who may steer the case in the direction the state wants. Such interference happens in a systemic way where the chairman of the judges is called by senior judges who order him to allocate certain cases to certain judges, often justifying their interference on a pretext that the case is too complex for judge A or B's ability for adjudication. This is a lexicon for removing cases from the docket of reluctant judges. In such instances, what happens is that the:

chairman will call you and ask you to do something about a particular case as he received a call from the upper corridor of the justice system hierarchy

¹⁵¹ Interviewee 33 May 30, 2015. Divisional Manager of a Corporate Company.

¹⁵² Interviewee 23 August 14, 2014. Solicitor General of Somaliland.

*requesting that a ruling should be made in a particular way. This causes fears among the sitting judges and they have to abide by such request made to them through their bosses.*¹⁵³

According to key informant interviews and group discussions, in the case where some judges refuse to abide by the orders from above, they are either subject to harassment or removed from office. It is important to mention that the judges do not have entitlements after they leave or are suspended from their job. For this reason, the judges mostly concentrate their energy and effort in enriching themselves and protecting their jobs by not going against the will of the executive. Judges also avoid becoming jobless in the streets for security reasons, as they may have passed judgments with which many people may have not been happy, making them vulnerable to a revenge attack particularly when their protection is no longer guaranteed by the state. Promotions are also made according to the level of obedience displayed by sitting judges.

Furthermore, judges are not appointed on the basis of their competence for the job but they are rather selected on the basis of who they know and to a lesser degree clan representation. While high court judges are directly appointed by the President and the prerogative of firing them remains with him, regional and district judges are hired or fired by the chief justice who is also a presidential nominee approved by parliament. The chief justice heads the dysfunctional Justice Commission used mainly for disciplining dissenting judges. The Commission consists of 10 people most of whom hold key national positions i.e. the Chief Justice, Attorney General, two senior judges, Director General of the Ministry of Justice and the Director-General of the Ministry of Labour. The other four are appointed by the upper and lower chambers of Parliament. The role of the Justice Commission includes improving the justice system and removing and transferring judges¹⁵⁴ but a number of people from the legal community in Hargeisa told me that the Commission is used to manipulate the justice system as:

all those who are represented in the Commission have somehow power over the delivery of the justice services. For instance, if you clash with the prosecutors, what happens is that you are summoned by the Justice Commission and you will be suspended from the job. This is so due to the fact

¹⁵³ Interviewee 38 August 08, 2014. District Court Judge.

¹⁵⁴ The quorum is usually five and agenda is proposed by the chief justice. The chief justice is not independent for his job as he is indirectly controlled by the executive through the Parliament.

*that the prosecution is represented in the Justice Commission and they have an influence in who gets hired or suspended. This interferes with the delivery of justice in the courts and it makes the job of the judges difficult to perform. In addition to these, there is no mechanism to complain against the Justice Commission and the head of the Justice Commission himself is subject to political interference.*¹⁵⁵

The other form of interference is that which comes from clans. Clan pressure can be interpreted as a response to the poor performance of the judiciary system in the country. In such cases, people explore the relational web of the clan and try to find somebody who is related to the judge. The practice is usually that:

*you would be visited privately and told about some sort of injustice been committed against the person seeking the help. In that case members of the clan would expect you to intervene and do something about it believing that the case of their member is just one. Corrupt judges help their kinsmen in any available way but those who resist the clan pressure face some sort of labelling in their community.*¹⁵⁶

Interference in the formal judicial system contributes to the negative popular conception of state institutions not least because such interference does not exist in the traditional mechanism of solving land conflicts. Customary institutions have proven to be more effective in resolving issues of this kind because they are highly accessible to the vast majority of the public and are also cheaper. While customary institutions have provided people with an alternative means through which they could manage land issues, it has on the other hand significantly eroded public confidence in the statutory laws. This is not to suggest that clan mechanisms of resolving land conflicts are a fall-back due to the absence of properly functioning state institutions to deal with the problems of land, but rather to acknowledge the outperformance of one system over

¹⁵⁵ Interviewee 32 August 03, 2014. Ministry of Public Works Official.

¹⁵⁶ Interviewee 38 August 08, 2014. District Court Judge.

another in a customary legal environment characterised by multiplicity of institutions, competition and coexistence.

The above challenges in the judicial system emasculates state legitimacy, which was already suffering from a long history of strained relations, mistrust and negative perception among the populace. While the plural nature of the justice system in Somaliland helps the state dispense services it does not or cannot provide formally, the flipside of this is the challenge presented by the coexistence of the various justice dispensations. The manner in which the complementarity, contradiction, competition, and coexistence of this plural justice is managed to some degree undermines the legitimacy of the state. According to (Lund, 1997, p. 100), the “legitimacy of state institutions implies a recognition and thus an appreciation of them, and this is intimately linked to the concepts of justice and propriety”. Neither appreciation nor recognition of a sense of justice exists among the public in Hargeisa.¹⁵⁷ Such overreliance on the customary institutions has arguably also further segmented the urban population, encouraging them to reside in areas dominated by the clans from which they hail.

6.4 Towards Specialised Intervention: Land Commission

Prior to 2005, land conflicts in the city were dealt with by a committee within the municipality structure and appeals were handled by the formal courts in line with the District Administration Law which empowered local authorities to mediate land conflicts as a matter of peace and conciliation (Republic of Somaliland, 2002b). In 2005, however, this was changed and land dispute adjudication was transferred to the formal courts (APD, 2008). In 2002, an administrative Land Commission was established in accordance with the urban land law, which was amended in 2008. The Commission consists of seven members from the ministries of public works, interior, agriculture, religion, pastoral development and environment, and the municipality of Hargeisa.¹⁵⁸ The members are nominated by their respective institutions and are then officially appointed by the Minister of Interior. The committee sits in Hargeisa municipality

¹⁵⁷ Participant in Hadhwanaag Teashop Discussion September 19, 2014. Hargeisa Resident, Participant in Kaah Restaurant/Tea Discussion August 07, 2014. Hargeisa Resident, Participant in Maansoor Hotel/Tea Discussion October 21, 2014. Hargeisa Resident.

¹⁵⁸ Members of the Commission are legally free from the ministries that nominated them and cannot be assigned with other duties other than the land adjudication work they are engaged. Equally, the ministries cannot change a member and replace him with someone less the he is legally discharged from the Commission.

premises and the representative of the Ministry of Public Works chairs the Commission because his Ministry is the line Ministry for urban land management in the country.

While the Commission is empowered to mediate land conflicts in urban places in a variety of contexts, there are limitations on their jurisdiction. For instance, the commission cannot adjudicate land conflicts in which a court's decision has already been made, where land is located in an area beyond the urban master plan, pastoral land in rural areas, public land, and land disputes where a criminal offence is committed and is under trial in a court of law. It is important to point out, however, that the data collected from the Commission for this thesis, shows that in practice the Commission adjudicated land outside their jurisdiction: nearly two percent of the land adjudicated by the Commission falls outside the city where the Commission is not legally allowed to mediate and is home to minority groups who might have been subjected to more land disputes than any other area in the city (See figure 2).

In some cases, the Commission adjudicates conflicts where the local government is party to the dispute – i.e. if people who own land in peri-urban areas refuse to give the 30% of their land required for public service to the local government. The Commission also adjudicates cases in which local government submits an application for the reacquisition of land whose owners failed to build or pay taxes. In such cases, if convicted, the Commission orders land owners to give part of their land equivalent to the tax owed to the local council. Moreover, wherever there is a case where both parties lay claim to vacant land where the Commission is not convinced that ownership of the land is for neither parties, the Commission recognises such land as public land¹⁵⁹ (Republic of Somaliland, 2013). This kind of ruling is rare, but when it happens, it often leads to greater security problems as such decisions are violently contested.

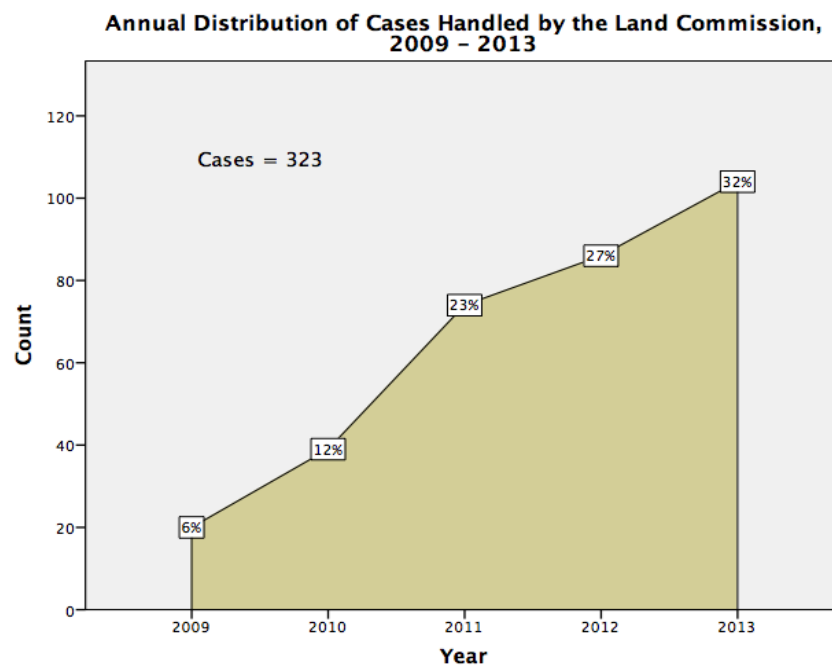
While it is difficult to gauge the effectiveness of the formation of the Commission in reducing occurrence of land conflicts in the country, security and administrative officials in Hargeisa claim that land conflicts have been reduced over the last five years.¹⁶⁰ Should this be the case, a number of factors might have led to this decrease besides the establishment of the Commission. One of these factors is that land transactions involve greater risk mitigation processes such as the verification of ownership and assessment of potential risk of disputes arising after the sale.

¹⁵⁹ The Commission gives a copy of the decision to the executive officer of the local authority and they will also give a copy to the Minister of Public Works in order to register the land for government ownership.

¹⁶⁰ Interviewee 66 August 10, 2014. Police Station Commander.

Similarly, public land available in the urban periphery has decreased as the city is currently expanding to farms previously owned by people who hold formal title deeds. Yet the government proudly relates the decrease of land conflicts to the establishment of the Land Commission. While this claim cannot be ruled out altogether, it is important to point out that the land conflict records in the land registry (where all land related cases are recorded) suggest that the cases of land conflict submitted to the Land Commission have been steadily on the rise for the last five years (See Figure 1).

Figure 3: The annual Distribution of Cases handled by the Land Commissions, 2009-13



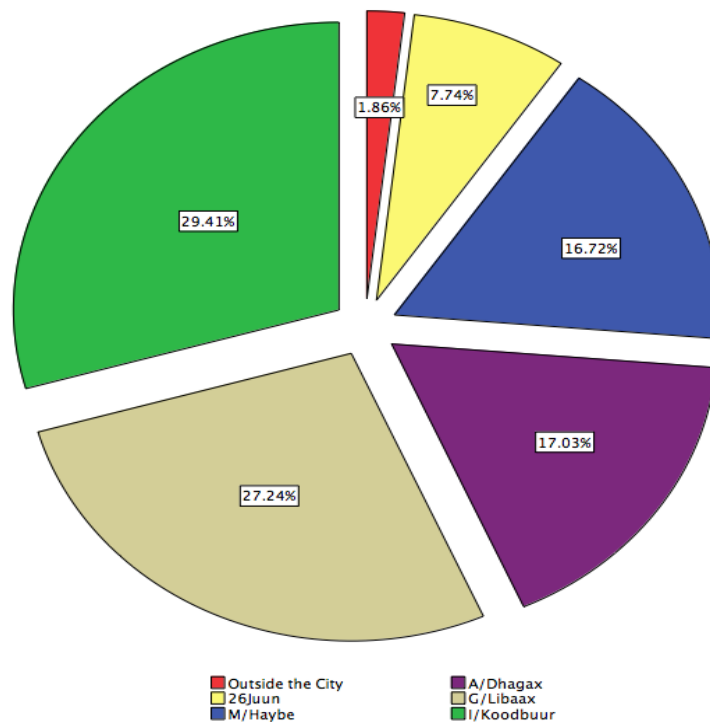
Source: data for this figure are obtained from the land conflicts registry at the Land Commission's offices in Hargeisa.

Between 2009 and 2013, the Commission handled 323 cases. Only 20 of these cases were handled in the first year, 2009. This number almost doubled in the following year. Similarly, 2011 and 2012 have also seen a sharp increase as the Commission handled 74 and 86 cases respectively. In 2013, the number of cases handled by the Commission reached a record of 104. As apparent from this data, the cases submitted to the Commission were rising exponentially. The reason why there was substantial increase year by year might relate to the fact that the Commission was not in the beginning familiar or popular among the public but as people became aware of its existence, more cases were submitted for adjudication. The counterargument to this position is, however, that cases were referred from the courts to the Commission from the

beginning and therefore awareness existed among those interested in getting their dispute resolved through at least the statutory system.¹⁶¹

Figure 4: The Spatial Distribution of Land Disputes Handled by the Land Commissions, 2009-13

Spatial Distribution of Land Disputes Handled By the Land Commission, 2009 – 2013



Source: data for this figure are obtained from the land conflicts registry at the Land Commission's offices in Hargeisa.

The land registry also shows some discrepancies in the spatial distribution of land conflicts in the city (see figure 2). According to this data, Ibrahim Koodbuur and Ga'an Libaax had the highest number of land conflicts as the two neighbourhoods accounted for 29 and 27 percent of the total number of cases submitted to the Commission. A number of factors could help explain why these two neighbourhoods have a greater number of land disputes than other areas in the city. Notwithstanding their peculiarities, one common element between these two neighbourhoods is that both areas are perceived to be relatively more strategic and have higher land values than most other parts of the city. For instance, Ibrahim Koodbuur had traditionally better access to

¹⁶¹ Participant in Commercial Bank Teashop Discussion July 01, 2014. Hargeisa Resident.

water¹⁶² and as a result land in this area remains expensive. Equally, it had significant state properties and the elites of the previous government were mainly housed in this neighbourhood. At present, a number of international NGOs have their bases in this neighbourhood. On the other hand, Ga'an Libaax is within very close proximity of the city centre and it is also increasingly expanding into peri-urban areas, which in the past were mainly mountainous public land in a highly strategic direction of the city i.e. the road to the important national port of Berbera which runs through this neighbourhood, making land in this area more valuable than many other parts of the city.

Land disputes are some of the most pressing urban issues that the post-conflict state in Somaliland faces. Urban authorities across the country are confronted with serious land issues ranging from the inadequate land registry to encroachment of public space and illegal appropriation of peri-urban land (King et al., 2003). The vast majority of these conflicts are resolved through customary laws as indicated by a survey conducted by the Observatory of Conflict and Violence Prevention, which found that 44% of respondents prefer resolving their land disputes through customary institutions (OCVP, 2014). But a significant proportion of the conflicts are also adjudicated by the Land Commission which employs formal processes detailed in government published guidelines.

The Commission decides how to handle cases based on a judgement of their magnitude and complexity. Non-complex cases are handled in a different way involving few procedural steps. In these cases, the Commission makes quick rulings mainly based on expert opinion. Equally, Land Commissioners request evidence of ownership from the municipality in order to speed up rulings. Provision of evidence is governed by Islamic law and the other administrative laws regarding land management. Acceptable evidence includes documentations issued by the relevant authorities,¹⁶³ testimonies of long-time residents,¹⁶⁴ oath, and visible investment such

¹⁶² Access to water is one of the key factors that people consider when buying land.

¹⁶³ Previous government issued documents have significant weight if they cannot be proven to have been gained through corruption. Equally documents will have significant weight if a provable ownership did not precede the issuance of such documents, or if the document is not issued during the time of the conflict, that the document was not issued illegally, and that there has not been visible investment by another party on the disputed piece of land prior to the conflict.

¹⁶⁴ Testimonies are considered as crucial evidence in line with the Islamic law when proving on or disproving ownership of land.

as building and erection of foundation or fences.¹⁶⁵ The Commission makes the decisions through simple majority vote and also gives the ruling in a written form. The chairman of the Commission communicates the decision to the regional court, which has the responsibility of enforcing the Commission's decisions, within a month.

In more complex cases, the chairman appoints an adjudication committee consisting of three, five or seven members for each case submitted to the Commission.¹⁶⁶ In the first sitting, the committee sorts out procedural issues, i.e. both sides are represented in the hearing and ensuring that lawyers of both sides have had the opportunity of speaking to the sides they represent. This is followed by the formation of a committee and a visit is paid to the land in question so as to enable the committee to assess the situation on the ground. The committee is empowered to enlist expert opinion. In the initial stages, the committee often enquires about the possibility of out of court settlement drawing on a number of options such as that parties resolve their issues by 1) agreeing within themselves through negotiation, 2) nominating a mediation team consisting of their representatives and overseen by a member of the Commission, and 3) seeking the mediation of elders.

Should the parties agree to this out of court settlement option, the Land Commission authorises the commencement of the procedures and issues a decision supporting the resolution of the case. If the mediation fails, a normal hearing of the case commences. While the trials go on, it is very common that the Commission issues restrictions on ongoing construction or registration of property. The imposition of such restrictions is applied for by one of the sides. If the Commission is convinced to apply the restriction, it asks for the person who submitted the application to provide a guarantee for the reimbursement of the cost incurred as a result of the restriction, in case he/she loses the case.¹⁶⁷

To understand not only the procedural but also the practical adjudication of cases, it is important to review one of the cases handled by the Commission in detail. The case discussed below has

¹⁶⁵ Existence of structures such as fence or foundation can be considered as an evidence if it can be proved that they were not constituted by force, grabbing or other corrupted means.

¹⁶⁶ The number of the Commissioners for mediation is determined by the nature of the case to be mediated.

¹⁶⁷ There are two forms of restrictions, one imposed on one-party or another imposed on all parties involved in the dispute. The Commission can impose restriction on an ongoing construction, processing of ownership papers.

been chosen because it shows the dynamics of the legal, institutional and skill gaps in resolving land disputes through the statutory system.

6.5 Land Commission: Adjudication of a Selected Case

The case discussed in this section pitted Mahamed¹⁶⁸ (hereafter referred as plaintiff) against Marwo¹⁶⁹ (defendant). The case was opened for adjudication on December 12, 2010 in the Land Commission.¹⁷⁰ The hearing panel consisted of five out of the seven members of the Commission.

In his opening remarks, the defendant's lawyer contended that his client was sold a plot of land by the defendant on December 19, 2003, as shown in a notarised sale agreement. The lawyer argued that two weeks prior to the date the case was brought to court, the defendant destroyed concrete blocks, commonly erected as a sign of land ownership, on property owned by the plaintiff. When the plaintiff asked the defendants why they did so, the defendant said that the land was purchased from them below the market price. The lawyer argued that the defendant sold the land to the plaintiff, and her son was a witness in the notary. The lawyer therefore requested the court to rule the land belonged to his client and order the defendant to pay legal expenses.

In his counterargument, the defendant's lawyer denied these allegations. The lawyer argued that his client did not sell the land to the plaintiff but there was a verbal agreement between his client and the plaintiff. The agreement was that the plaintiff should help the defendant's daughter migrate to an overseas country. The plaintiff was also supposed to register the land for the defendant, and contribute financially to the upbringing of the defendant's orphan children. In return, the defendant told him that she would give him land, without specifying any particular size of this land. The plaintiff did not fulfil the terms of the verbal agreement. He did not also offer her any financial help other than \$100 dollars and another \$500 sent through a remittance company. The lawyer argued that when his client was collecting the money, she was

¹⁶⁸ Pseudo name.

¹⁶⁹ Pseudo name.

¹⁷⁰ This is part of the tribunal data, which I have anonymised.

made to sign a paper presumably as a receipt for the remittance. The same paper was presented in the court as a sale agreement. He argued that it is impossible to suggest that 200x150 of land could be sold for \$600 in 2003. He also dismissed the notary, as the area was not even at the time planned for residential purposes.

The Hearing

The court convened four sittings on this case. The first was held on December 25, 2010. The plaintiff's lawyer argued that the reason why the land was sold cheaply to his client was that there was no high demand for land at the time. He also argued that the defendant approached his client, who is from the same clan as him, and begged him to buy the land from her as she needed the money. Considering the kinship-based relations between the two families, the plaintiff bought the land from her under one condition: that she will bring a guarantor. As a result, she brought her children's grandfather who has since passed away.

In an attempt to pre-empt possible questions about why the defendant allowed the construction of the concrete blocks in the property as a demarcation for ownership, the defendant's lawyer focused his counterargument on justifying the reason why his client accepted the demarcation in the first place. He argued that as an old person, his client was feeble and unable to verify the facts of the matter. The lawyer also pointed out that the defendant's son signed the notary thinking that his mother was sent money by someone overseas. He also stated that her son at the time of signing the letter was underage and did not know what was going on. He also argued that the son was illiterate and could not know the content of the latter, as he signed the letter with his thumb.

The second sitting was convened on December 26, 2010. In this hearing, the Commissioners were taken to the land in question, located in G/Libah, Warabe Salan, Aw Adan. The lawyers showed the Commissioners around the property. The Commissioners gave instruction for the land to be measured, which was recorded as 250x150m. They also identified the private properties and public spaces surrounding the land. The plaintiff's lawyer also showed the Commissioners concrete blocks with some scribbling on them, and an earthwork which has since been levelled. He argued that these concrete blocks belong to the plaintiff, and they are damaged by the defendant and her family. While on the site, the Commissioners asked the defendant some questions in the presence of her lawyer. These included

Q: Were you there when the concrete blocks were erected?

A: No it was built in the middle of the night.

Q: Did your sons work in the construction and earthwork?

A: No.

Q: What is your relationship with the plaintiff?

A: Nothing.

Q: Who erected the concrete blocks?

A: They are the ones who constructed and came with soldiers chasing our children from the areas.

Q: Who are 'they'?

A: The plaintiff and his family.

Q: Who bulldozed the area on the second time?

A: My children did so when we did not see anyone coming for six years?

The last two sittings were dedicated to hearing the witnesses. However, they demonstrated serious legal incompetence by both the lawyers and the judges. This is because, as will be seen below, the witnesses were asked very mild question which did not challenge them enough to reveal the truth. Very few background checks, if any, were also done by the lawyers to scrutinize the integrity and credibility of the witnesses, as would be the case in any credible legal procedure of this nature. The third sitting occurred on January 4, 2011. The plaintiff's lawyer produced four witnesses to support his case. The first witness was a 34-year-old construction worker who is a resident of Hargeisa. He said that he worked on the construction site on the date when the concrete blocks were erected, and there was no land dispute at the time. The plaintiff lawyer asked him:

Q: There were soldiers at the time?

A: No.

Q: Did the children work in the construction?

A: I have seen one of her children at the construction site.

The defendant's lawyer did not cross-examine the witness, but the Commissioners asked him one question:

Q: Who was supervising them at the time of the construction?

A: A foreman.

The second witness was a 50-year-old builder. He said they were taken to the site by a construction company under the supervision of an engineer who has shown them the site. He said, at the time there was no any sign of land dispute. The plaintiff lawyer asked him:

Q: There were soldiers in the site at the time of the construction?

A: No.

Q: Were the defendant's family working on the site?

A: Some of them were working in there, one is in court now.

The defendant's lawyer did not cross-examine the witness again. A Commissioner asked him:

Q: How many days there were working in there

A: One day.

The third witness was a 60-year-old resident in the area. She said she was a make shift food seller, and while she was selling her food on the construction site, she did not see any problem. The plaintiff's lawyer asked her whether the:

Q: family who sold the land to the plaintiff were present at the time of the construction?

A: Yes

Q: Do you see anyone who was there in this room?

A: Yes, pointing at the defendant's son, he was thinner at the time.

The Commission also asked the witness some questions:

Q: Where were the family who sold the land at the time of the construction?

A: They were resident in a nearby place.

Q: Did you see the defendant in there?

A: I was there twice, and I have seen her.

The fourth witness was 36-year-old driver who said they went there at 6 in the morning. He testified that there was no land depute when he went there in the morning of the construction. The plaintiff's lawyer asked him whether:

Q: There were soldiers in the site on the day of the construction?

A: No.

The Commissioners asked him

Q: What were you doing on the site on that day?

A: I was driving the plaintiff sisters to the construction site.

Q: Do you recognise anyone who was there on that day?

A: He pointed to the defendant's son.

The fourth sitting was held on December 18, 2011. The defendant's lawyer produced two witnesses. The first witness was a 55 years-old neighbour who testified that the plaintiff and the defendant came to her in a teashop. She said to him that she wanted to give land to this man who was from London. They went to the farm together, and she pointed at the Western part of the farm, saying she gave it to him. The land given to him was not demarcated at the time. The plaintiff gave her \$200 and sent her another \$400 later. The grandfather of her children was the guarantor who said they would be responsible for any problems. The notary was then signed. The plaintiff erected concrete blocks on the site to demarcate ownership. A while later, they came to know that the concrete blocks were destroyed. The plaintiff's family went to the witness and gave him some money to hire a bulldozer. They took the bulldozer there to demarcate the land again, but the defendant's sons prevented them from doing so. They then went to the guarantor and asked him to intervene, and he told them to go with police officers. When they went to the site with the police, there was no one there, and they continued their work. Despite all this, the witness testified that he does not believe that the land was sold to the plaintiff. He insisted that it was a gift. The plaintiff's lawyer cross-examined the witness briefly. He asked

Q: Was the content of the notary of which you were a signatory read to you?

A: I thought they were God fearing people.

Q: Who asked you to bring the bulldozer?

A: The relatives of the plaintiff.

The defendants lawyer cross-examined the witness. He asked

Q: Were you taking part in the construction activity?

A: Yes

Q: Did you see the children of the defendant?

A: My eyes did not catch them.

Q: Tell us how much land was demarcated for the plaintiff?

A: The lower western parts of the farm.

Q: When you used the bulldozer, what was guiding you?

A: I followed previous demarcations.

Q: Did the plaintiff buy land from you?

A: Yes.

Q: What was the size of the land?

A: 100x150.

Q: How much did he give you?

A: \$2500.

Q: Do you have a proof?

A: Yes.

Q: Are you one of the signatories in the notary?

A: Yes, I am, but it was a gift, not a sale.

Q: If it was not sale why did the guarantor sign it?

A: I did not know, I signed the notary later.

The second witness was a 35 years-old builder. He told the court that they started the construction of the concrete blocks in the morning. At the time, there was no sign of the presence of the defendant's family. But two guys came to the site when the construction workers were leaving. He said that he overheard them saying that they will destroy the concrete blocks if their dues are not given. The Commissioners asked him further questions.

Q: Were you one of the construction workers?

A: Yes. Did you see the defendant's family in there?

Q: No.

The plaintiff lawyer cross-examined the witness. He asked him

Q: When you were taking part in construction, did you see soldiers?

A: No.

Q: Was there a dispute in the site?

A: No.

Q: Who were the defendant's two children?

A: Mohamed and Abdi.

The Commissioners asked the witness:

Q: When you were constructing the concrete blocks which was supervising you?

A: An engineer.

Q: Was the other side, defendant, represented in the demarcation process?

A: No

The Commission asked the two sides to present their concluding remarks on December 23, 2011. The plaintiff's lawyer presented his concluding remarks, but the defendant's lawyer did not.

The Ruling

Following the hearing of the witnesses, the Commissioners deliberated their ruling on December 15, 2012. They stipulated that they based their ruling on a range of statutory and sharia laws. They pointed out that, in line with Article 79 and 80 of XHM, the Commission compared the evidence presented by the two sides in the form of witnesses and documents. This is so despite the fact the only written document submitted to the court was the notary sale's agreement disputed by the defendants. This makes the witnesses the only significant evidence for both sides of the land dispute. In the ruling, the Commissioners also claim that upon a close examination of the testimonials, they were satisfied with the accounts provided by the plaintiffs' four witnesses.

In summary, the Commissioners pointed out in their ruling that the first witness who was a construction worker testified that when the construction started there was no land dispute or presence of police. The second witness testified that one of the defendant's son was working in the construction and that there was no dispute between the sides. Similarly, the third witness who was a cook for the construction workers reinforced that there were no disputes between the sides and the defendant's children were on site at the time of the construction. The Commission was satisfied with these testimonies.

The defendant's witnesses were two. The first witness testified that he accompanied the defendant and the plaintiff to the farm at the time of the exchange. He testified that he was also aware of the payment, and he was a signatory in the notary. The only difference he pointed out was that the land was a gift and not sale. His testimony therefore does not support the defendant's case in any way. The second witness who was construction worker did not also testify in a way that supports the defendant. He affirmed that there were no disputes at the time of the construction. The Commission was therefore satisfied with the testimony given by the witnesses, which did not in any case support the defendant. Taking this into account the Commission accepted the testimonies and the notary as evidence by the plaintiff.

The Commission's brief ruling on this case was thus based on laws, both Islamic and statutory, whose relevance to the case was not explained at all in the ruling. In essence, the ruling was four

lines long and was laden with references to articles and sections of the relevant laws. The ruling was issued in the Somali language, and its transliterates as follows:

The Commission – in consideration of the above testimonies and in accordance with articles 82, 80, 117, 119 of the XHM; as well as articles 92, 193, and 272 section 1 of XHM; read together with 723 of XM and article 25 section 1 of Law No: 17/2001; and in conformance with the Islamic Sharia Law, particularly the Qur'an, Chapter, 1 (Baqara), verse 275, 282 and 283 – issued the following ruling:

1. The Commission ruled the case against the plaintiff.
2. The size of the land ruled for the plaintiff is 200x150.
3. The Commission ordered the defendant to pay the legal expenses
4. The ruling was made on December 15, 2012.
5. The chairperson chaired the sittings and attended by four Commissioners

I have detailed this case at length because it shows the absence of proper documentation, adequate legal training, sufficient financial resources, and investigative capacity. Taken together, this leads to over-reliance on witnesses. It also points to the grave weaknesses in the land registration system of the city. Furthermore, it explains the reason why the adjudication system relies on other means of proving ownership such as through witnesses. Both sides of the dispute mobilised witnesses to defend their case. Neither had evidential documents other than a notary signed agreement, which one side presented as evidence and the other disputed. One major problem with the reliance on witness accounts relates to their authenticity. Sources knowledgeable about the land disputes in the city informed me of the existence of a group of people who are commonly known as dheer beenaalayaal, which can be loosely translated as false oath takers. The group benefits from the over-reliance on witness accounts as a key mechanism of proving or disproving land ownership. They take Islamic oaths on behalf of their clients who enlist their service.

Moreover, the state fails to check claims through alternative formal means. For instance, the Commissioners have overlooked the possibility of verifying disputant claims from the police records. In other words, the police could have been requested to check whether they sent officers to the construction site as claimed by one of the disputants. Such poor coordination between the various agencies involved in land conflicts makes adjudication processes weak but also compromises revelation of the truth.

The manner in which judgments are passed indicates a lack of sophistication and shallowness not only on the part of the Land Commission but also other statutory courts. The judgments are justified on the basis of a range of statutory legal instruments and sharia law, but scant details are given about the meaning of these articles and section of laws and verses of the Qur'an, or how they relate to the case. This ambiguity in the application of the law discourages many people from using the statutory system as they are confused by the complex legal organisation whose details are buried deep in books that are barely accessible or available to the vast majority of people in the city. The way this case was handled echoes issues raised in focus groups,¹⁷¹ which support my interpretation of the lack of trust in the Commission's process and judgements. Taken together, the above-mentioned weaknesses undermine the state's credibility and legitimacy to govern, encouraging people to rely on other means and networks to mediate their conflict and defend them against the state. The spatial manifestation of such mistrust, I argue once again, is segregation, aspects of which enable people to resist the state's attempt to enforce rulings and other regulatory decisions.

6.6 Weak State? Dynamics and Dilemmas of Enforcement

The above case demonstrates that weak state capacity in delivering justice may exacerbate land disputes that can have serious security implications for the city, as claimants may come armed to the teeth fighting on the disputed site. In most cases, armed violence happens after the adjudication.¹⁷² This suggests that the problem arises from the weakness of the state to enforce court rulings and other government decisions. The reason why the government cannot enforce sentences varies depending on the case and context but one common element that recurs in the discussion on the justification for the poor enforcement is that it jeopardises the security of the city as clans may mobilise themselves on a large scale. This undermines the judiciary and the executive arm of government, which is entrusted with enforcing judicial decisions. One former security official told me what happens when courts issue them with decisions for enforcement:

when a warrant reaches the station commander, he communicates the divisional commander and then the divisional commander communicates the police Commissioner and then the police Commissioner communicates the

¹⁷¹ Focus Group Discussion August 31, 2014. Various Participants. Hargeisa Residents.

¹⁷² Participant in Kaah Restaurant/Tea Discussion August 07, 2014. Hargeisa Resident.

*Minister and then the decision comes from the Minister saying that enforcement of court sentence could cause greater political repercussion and therefore there is no need to enforce it.*¹⁷³

As evident here, the key challenge facing the Land Commission is a lack of enforcement. Similarly, clan mobilisation makes it difficult politically for the state to take action against individuals. Some of the reasons that make clans render support their kinsmen is that many of the judgments are perceived to have been issued through corruption or nepotism. But it is also important that sometimes the clans side with people from their own ranks without any justification. A retired agricultural economist pointed out:

*What people want is that they get their rights but deny the right of the state. People go to government officials and if they don't find what they want from them they bypass the system and go to someone and above them through social networks and try to impose their orders from above. This kind of bypass weakens the rule of law as officials will have a tendency of not keeping the law as their orders will be cancelled by higher authorities.*¹⁷⁴

*The other problem is lack of capacity on the part of the state. Those who are working for the state can be corrupted because of the fact that they don't get enough benefits to take care of their families. There are also lack of administrative skills for civil servants to discharge their duties. This therefore causes a problem to the enforcement process. In many cases you will see a small plot of land causing havoc in a neighbourhood as people dispute and sometimes use violence mainly because of lack of enforcement on decisions made through courts.*¹⁷⁵

Aside from the fears of the destabilising repercussions resulting from enforcement, security forces exercise extreme caution in enforcements due to the fact that if they harm somebody in the line of duty, they are held

¹⁷³ Interviewee 23 August 14, 2014. Solicitor General of Somaliland.

¹⁷⁴ Interviewee 35 August 16, 2014. Retired Agricultural Economist.

¹⁷⁵ Interviewee 27 August 12, 2014. Politician.

*responsible personally for these acts by the clan from which the victims hail. Recently, the government adopted a new policy in which it pays blood money to the clans on behalf of its security officers but the amount of compensation is lesser than the standard clan-based arrangements and this leads to unacceptability of government compensation.*¹⁷⁶

Enforcement is also weakened by the mutual exploitation of government and traditional institutions/Akils. In other words, the government exploits the traditional system in order to enforce its rules and regulations and the traditional authorities exploit the government structures by exerting political clan-based pressure on the government in order to achieve particular goals and interests. An example of this could be found in an instance where a sitting judge's authority was defied in court by an Akil representing a member of his clan. The judge recalls:

I instructed the police in the court to take him out of my chambers but while they were trying to do so, he pulled a pistol and fired one shot in the air and then fled. I issued an arrest warrant for him and police sieged his house but the lead officer received a call from the Provincial Commissioner (PC) saying that he should withdraw his forces from the area. The officer informed his boss that he is under court instruction to arrest the man and bring him to court but was challenged that he will be responsible for any insecurity that results from this attempt. The following day, a group of Akils came to me requesting a mediation between me and the man who challenged my authority. I told them this is not an issue of Akils. I instructed the judges and other staff in the court to take leave since the government is unable to ensure their safety.

Following this, the provincial prosecutor and the police divisional commander came to me, asking that I should recall the court staff and judges on condition that they will bring the Akil who caused the problem in court. I told them if you can't bring those I tell you to bring to court then I cannot take those you bring to court on your own. The man was in hiding for few days then he came

¹⁷⁶ Interviewee 28 August 12, 2014. Politician.

out of the hiding after a week and he accidentally met the police divisional commander in the local government offices. One of the soldiers recognised him and he was arrested on the spot. Clan elders tried to intervene but I told them that the man challenged the rule of law and authority of the state and for this reason he is under arrest for the state. My point was to ensure that the due process is followed. Of course, that was when the judiciary was more independent for at least petty cases back in the late 1990s.¹⁷⁷

While elites and public officials rhetorically dismiss clanism, it is rare to see direct confrontation over instances where clans have undermined judicial authority, particularly in issues where the political stakes are not high. The reasons why elites and public officials avoid clashes with clan elders is not only about security, but also relates to social and political interests. Since the introduction of multi-party politics in Somaliland, it is common to see clans gathering in their strongholds and making political deliberations in support or opposition to political leaders. In some instances, clans have been instrumental in the making of power. The current government for instance, came to office through fierce mobilisation of Habar Jelo and significant proportion of Awal clans. It can be argued that this mobilisation of clan support weakens the development of political parties' ability to compete on the basis of ideological differences. This can lead to security concerns as the different clan based political forums and gatherings can issue inflammatory statements that can fuel conflict between the clans and the state or within the clans themselves.

¹⁷⁷ Interviewee 37 March 30, 2014. District Court Judge.

Figure 5: Active Conflict on a Plot of Land in Masalaha, a neighbourhood in Southern Hargeisa¹⁷⁸



Source: Photo taken by author

While the establishment of the Commission on the one hand may have had a significant impact on the way land conflicts are resolved through the statutory system by speeding up cases, it faces serious challenges that undermine public confidence in its ability to resolve land conflicts in the city. Many people accuse the system of being as corrupt as the courts while also significant interference exists from different sources such as the government agencies as well as the clan pressures. But by far the most important issue that makes people doubt the functionality of the Commission is the fact that there is a serious lack of enforcement of decisions it makes.¹⁷⁹ This makes public confidence swing in favour of customary and Islamic institutions, which have some sort of voluntary enforcement mechanism built into them as family members of both sides take part in the mediation process and provide guarantees that the verdict is accepted by all.

¹⁷⁸ I have taken this photo in May when I came across a group of people fighting over a piece of land. One of the sides came to construct a demarcation foundation in a contested plot of land. This was stopped by another group of men who also claimed the ownership of the plot. The police intervened the conflict and prevented the two groups from becoming violent towards each other.

¹⁷⁹ Participant in Hadhwanaag Teashop Discussion September 19, 2014. Hargeisa Resident.

As can be seen in the above narrative, the importance of clan membership that is perpetuated through the plural and overlapping judicial structures, has developed as a product of the struggle between customary and statutory institutions. Such struggle rests on antagonistic practices of legitimisation and delegitimation of authority (as will be demonstrated in the next chapter) where land conflict management is the field in which aspects of the struggle take place. I suggest in this thesis, that the way the Land Commission and other legal institutions operates is thus also implicated in the perpetuation of territorial segregation. This is because the way urban land conflicts are managed to a significant degree can change or reinforce the spatial character of the city. For instance, if the constitution of a specialised Commission for land conflicts succeeded in bringing about tenure security, such that land owners did not live in continual fear of unnecessary disputes, this could have contributed to the emergence of non-clan based attitudes to choice of settlement. The opposite, however, seems to be the case, as the state's failure to enforce judicial decisions arguably reinforces the current clan based spatial pattern of the city as people see no alternative to staying in an area where they can access other means of resolving their land issues.

6.7 Conclusion

Given the fact that the statutory system has at no time monopolised the local governance landscape in urban places, customary institutions have successfully positioned themselves as a better alternative to resolve land conflicts. This happened against a backdrop of a relationship characterised by inconvenient coexistence and constant struggle for governing spaces. While the statutory institutions have the upper hand in such struggle, in the sense that the state often sanctioned them, the customary institutions enjoyed much higher legitimacy and popularity. In my narrative above, which cuts across historical and recent land management practices, I argue that the clan based spatial segregation of Hargeisa is partly a geographical manifestation of the struggle between the statutory and customary institutions. In other words, the greater the level of legitimacy and access to customary institutions, the more likely that people will make their choices of abode in areas where they could get access to such informal justice arrangements.

It is important to note that the adjudication mechanism discussed in the chapter neglects land conflicts in which the state is party. While the statutory system is reeling with problems resulting from both formal and informal interference from the executive, the traditional institutions are also subjected to a significant level of manipulation. Such manipulations are multidimensional. Some are formal such as the fact that a significant proportion of the traditional structures are

on the government pay roll and hence are seldom trusted as independent mediators. Others are informal in the sense that the state uses various mechanisms to undermine traditional leaders who do not play to their tune. This includes the creation of parallel traditional figures who hail from the same clan as that of the dissenting elder to break up their support base. This creates mistrust not only between the state and customary institutions but also the state and the public. In the long run, such mistrust undermines state legitimacy. In the next chapter, I examine further how this struggle for legitimacy contributes to urban segregation in Hargeisa.

CHAPTER 7 LEGITIMATION FUNCTION OF URBAN LAND CONFLICTS

7.1 Introduction

In 2012, the government of Somaliland embarked on efforts aimed at expanding Egal International Airport in Hargeisa, following an infrastructural development grant from the Kingdom of Kuwait. The proposed expansion included the construction of a runway as well as the demarcation of a boundary and security fence around the airport.¹⁸⁰ One of the major challenges facing this project was however the fact that the land surrounding the airport was in the hands of local land owners/claimants who were mainly low-income people from the Eidagale which is one of the major clans in the city. This led to a land conflict, pitting the state against land owners. In several instances, this conflict almost translated into violent confrontation as the state threatened land owners with eviction and land owners warned the state of dire consequences. Evidently, the two sides were engaged in a legitimacy struggle in which each side sought to legitimise its actions and delegitimise those of the other. In this chapter, I argue that this legitimacy struggle marginalises the poor due to unequal power relations, undermines public trust in the state, and forms the basis on which violent resistance is justified. Insecurity and lack of trust contributes to the perpetuation of clan-based settlement patterns where resisting individuals or groups favour to locate themselves in areas dominated by their clans so as to mobilise support and resources for challenging authorities. The dispute documented in this chapter that pitted the land owners, in the airport who all but few belonged to the Eidagale clan, against the state worked to reinforce their clan identity as a prime source of protection, while the coverage of this dispute in the media also encouraged others not to neglect their investment in clan networks as a source of security. The dispute also worked to increase popular sentiment that the state could easily become the enemy.

This chapter relies on key informal interviews, archival materials, and media sources. While discussions on the concept of hybridity make references to the dynamics of state legitimacy and the essential single nature of legitimation through the fusion of state and customary institutions, the spatial manifestation is neglected. Simply casting institutions that shape the spatial character of the cities in Somaliland as hybrid, thus works to obscure rather than illuminate important social and political processes. The chapter is organised into five sections. In the first

¹⁸⁰ The northern direction is exempted from the expansion due to the existence of substantial urban development consisting of both commercial and residential areas.

section, I discuss the history of airport expansion. In the second and third sections, I discuss the significance of the airport and territorial control as well as the importance of the airport for state legitimisation amid a long history of negative perceptions towards Somali state building. In the fourth and fifth sections, I discuss how the state rationalises and seeks to implement land expropriation as well as how land owners rationalise and organise their resistance. Equally, I examine the processes and practices of conflict mediation as well the valuation of properties and compensation.

7.2 Pushing the Boundary: The Past Airport Expansions

Legitimacy lies at the heart of modern state-building discussions. Despite this, the legitimacy of public authorities attracts inadequate attention in the literature on Somali state-building. The limited available literature on legitimacy places the focus on the national and regional subnational levels overlooking the local and more specifically the urban (Pegg and Kolstø, 2015, Richards, 2015, Wiuff Moe, 2011). Hoffman and Kirk (2013) underline the importance of localising legitimacy debates as they are shaped by the everyday interaction between people, influenced by cultures and beliefs. Moreover, legitimacy discussions at the local level are important for understanding the rationales through which people may assess legitimacy, which is largely shaped by the meaning citizens attach to state behaviour (Gupta and Sharma, 2006). According to Nora and Réginas (2014) differentials in how people may rate legitimacy and ascribe different levels to various institutions within a state,¹⁸¹ can be accounted for through examination of the local. Thus, examining the localised conflict over the airport expansion in Hargeisa, will enable us to understand more closely the political, economic and social factors underpinning the various ways in which perceptions towards the state legitimacy are formed.¹⁸²

As legitimacy is characterised as a continuous process of social and political construction conditioned by constant interaction and contestation between various social and institutional actors (Lund, 2006), the airport expansion in Hargeisa can best be understood as an attempt by the state to increase its political legitimacy and state viability both locally and internationally, facing in the process a stiff resistance from other social actors i.e. local residents who oppose the airport expansion for various reasons. The proposed expansion mainly seeks to push the

¹⁸¹ i.e. local and national or executive and legislative institutions.

¹⁸² For instance, there may be difference in how the elites and masses, interest or social groups, or people from different regions may evaluate legitimacy.

airport boundary towards Uubaale settlement whose formation preceded the airport establishment, dating back to the mid 1940s. According to an old lady in her 70s who spent most of her life in the area, the space on which the airport stands used to be a playground where young people perform Somali traditional dances during spring.¹⁸³ The growth of the settlement gained momentum in the early 1950s when Sultan Abdullahi Dirie of the Eidagale clan registered 33 farms with the colonial government on grounds that he wanted to diversify his clan's¹⁸⁴ nomadic lifestyle so as to make them resilient to environmental hardships by settling some as farmers in close proximity to the city where greater opportunities existed.¹⁸⁵

Pioneers of the settlement included the family of a famous playwright, Ahmed Suleiman Bidde, and others such as Aw Tahir, Aw Farah, Ali Barre, Bodle, Leh Tur, Salan Jirde, Adan Iman, and Saqafale. The settlement grew incrementally as other nomadic families joined the previously small band of settlers.¹⁸⁶ Infrastructural development in the area begun in the early 1950s at a time when the colonial government was preparing the country for possible attainment of self-rule or full independence subject to the then ongoing local, regional and global political dynamics. Among the most significant of these developments was the construction of the airport in 1952. Prior to this, the colonial government constructed a semi-tarmac road on the Southern side of the airport in 1951.¹⁸⁷ For the first few years, airport activities remained limited due to the fact that scant facilities and equipment were available for airline operations. For instance, there were no firefighting machines and accommodation to house ambulances at the airport. The situation was, however, improved in the run-up to the independence in 1960 when the Protectorate's treasury included the provision of firefighting machines for the airport in its 1956/7 budget. Despite conflicting advice on the issue between the various departments concerned (Treasury, 1958), the treasury approved a grant of 14,180 to finance 95% of the construction cost for a new airport terminal in 1956/7 fiscal year. By the end of 1958, the

¹⁸³ Interviewee 45 April 22, 2014. Land Owner.

¹⁸⁴ It is however important to note that individuals from other clans are also found in the area. But it is not clear whether they took advantage of the Sultan's proposal or settled in the area on their own.

¹⁸⁵ Interviewee 39 June 05, 2014. Playright.

¹⁸⁶ Ibid.

¹⁸⁷ Interviewee 51 March 30, 2014. Land Owner.

terminal, main building, garage and access roads for the airport were completed (British Somaliland Protectorate, 1958).

The airport was thereafter expanded several times. The first expansion occurred in 1965 when a unit of the Somali Armed Forces established a base near the airport. They constructed few houses on the Western side and installed radars on the right side of the airport. The military base was further expanded under the leadership of Mohammed Midah who served in the army at different capacities and later became a senior official in the Defence Ministry. A few more military facilities were added. These included stores for light arsenals and fuel tanks.¹⁸⁸ According to local residents, the initial expansion of the airport did not encounter stiff resistance from landowners in the area partly because of an understanding that the military will not further their position towards the farmers. The landowners, for their part, also were expected not to encroach on the government properties in the area. The expansion only affected a few farms, so this probably compromised any greater resistance to the expansion at that time. Furthermore, the Governor of the then North-Western Province for which Hargeisa was the capital refurbished the airport facilities and added resting rooms in the early 1970s.¹⁸⁹

Aside from the fact that the airport was, and still is, a valuable transport hub in the country, it was also, and remains a strategically important focal point for state legitimacy. For instance, during the conflict between Ethiopia and Somalia in the late 1970s and early 1980s, the city of Hargeisa was vulnerable to Ethiopian airpower due to its close proximity to the border. As the airport is located on higher ground than most parts of the city, it served as one of the most important strategic places where air defence systems aimed at preventing Ethiopian jetfighters from bombarding the city could be installed. As a result, the Somali government placed a significant arsenal in and around the airport. The airport also became a strategic ground for political control and power. This strategic role became more apparent during the civil war in 1988 when the airport became a major hub for the military activities of the former dictator, Mohamed Siyad Barre, who used the airport as a key base for hosting his air power and artillery aimed at shelling the city in a bid to bring the SNM rebellion to an end.

Upon the disintegration of the Somali state, the airport became a significant base for some of the clan militia in the city for almost three years before Mohamed Ibrahim Egal, the second

¹⁸⁸ Interviewee 39 June 05, 2014. Playright.

¹⁸⁹ Interviewee 10 October 29, 2014. Former Governor of North Western Province.

President of Somaliland, came to power in 1993. One of the most daring episodes of resistance the President faced during his time in office came from militias based in the airport. This resistance finally resulted in a stalemate emanating from the President's attempt to forcibly demobilise the militias and gaining control over the airport not only because of its strategic transportation vitality but also for its importance in strengthening state control over the city. Militias in the airport who were unconvinced about the legitimacy of the President's ascent to power and the means through which he wanted to gain control over the airport resisted his attempt, leading to an inter clan civil war that lasted for almost three years.¹⁹⁰ Even though the conflict initially began as a low level skirmish involving clan militia fighting over the distribution of state resources, it later degenerated into a bigger political struggle involving politicians with varying views and agendas. The conflict was exacerbated by the fact that a significant number of the security personnel defected to their respective clans and their militia. The clash displaced more than 150,000 people, and most of those fleeing the war sought refuge in areas predominantly populated by their clans (Bryden, 1994a). This war came to an end in 1997 when the President agreed to meet some of the demands put forward by resisting clans, Garhajis of which Eidagale is part, and their militias, and sacked some of his key political allies who were considered as spoilers in the peace process. The culmination of the war enabled the nascent state to impose effective control on almost all the major government facilities such as the ports and airports in the country.

7.3 Territorial Control and Significance of the Airport

Territorial and state-owned property control was an essential element of state building in Somaliland throughout its post-conflict history. It was particularly a priority for Abdirahman Ahmed Ali (Tuur)¹⁹¹ and Mohamed Ibrahim Egal, the first and second Presidents of Somaliland whose central themes for re-establishing the state revolved around demobilisation of militias and control of essential revenue generating properties. In an interview with Matt Bryden, a long time humanitarian worker and researcher in the region, Egal said "we are very much handicapped by lack of resources, but my government has to establish itself as being completely in control of the country before we can embark upon an international campaign for recognition"

¹⁹⁰ This conflict denied the state the ability to exercise control over most parts of the country.

¹⁹¹ Abdirahman Ahmed Ali (Tuur) attempted to take control of Berbera port as a revenue generating state property but encountered stiff resistance from some of the local militia.

(Bryden, 1994b, p. 4). As evident here, full territorial control was a necessary precondition for the quest of state legitimacy in the eyes of the international community, but it was also used for bringing about local legitimacy as the state sought to show its effectiveness to the Hargeisa and broader Somaliland public. The subsequent administrations in Somaliland built on this focus of controlling revenue-generating properties and treated ports and airports as important sites for national development. For instance, the National Development Plan bands the airport with a range of other key transport infrastructures as vital drivers for economic growth (MNPD, 2011). Hargeisa airport in particular continues to receive significant attention from authorities in Somaliland partly because of the fact that traffic in the airport has seen significant growth, generating a greater level of revenues for the state.¹⁹² For instance, flights from/to Hargeisa have increased from 1422 to 2581 between 2006 to 2007, a sharp rise of 82%¹⁹³ (See table 1).

Correspondingly, both the cargo and passengers in the airport have increased. For example, in 2006, the number of incoming passengers stood at 34566 while the number of the outgoing passengers stood at 10519. In 2007, this number has increased by 125% for the incoming passengers and 542% for the outgoing passengers. This increase however slightly decreased in the following year for both the incoming and outgoing passengers by 19% and 17% respectively. As for the freight, the incoming and outgoing cargo in 2006 rose by 4% and 46% respectively. While in general these figures show fluctuations (where they decrease in some years by small margins), the overall picture suggests that traffic in the airport increased significantly.

Table 4: Number of flights in Hargeisa Egal International Airport

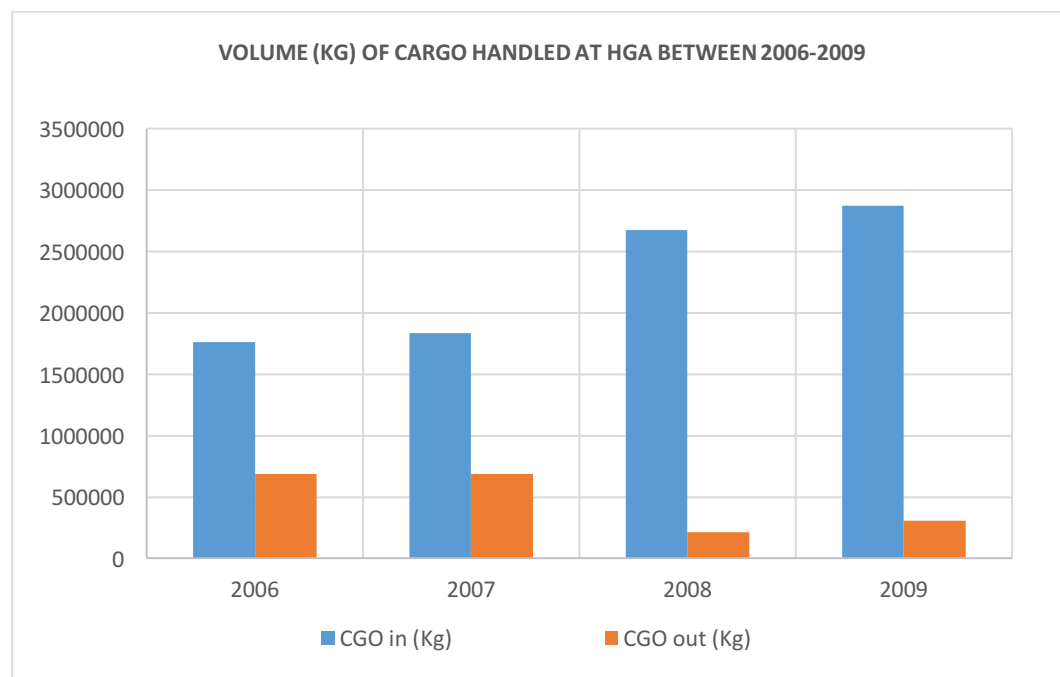
Year	Flights	Percentage Increase
2006	1422	0%
2007	2581	82%
2008	2783	8%
2009	2131	-23%

Source: (MNPD, 2012)

¹⁹² Graphs are reconstructed from a table in the National Development Plan (see MNPD, 2012).

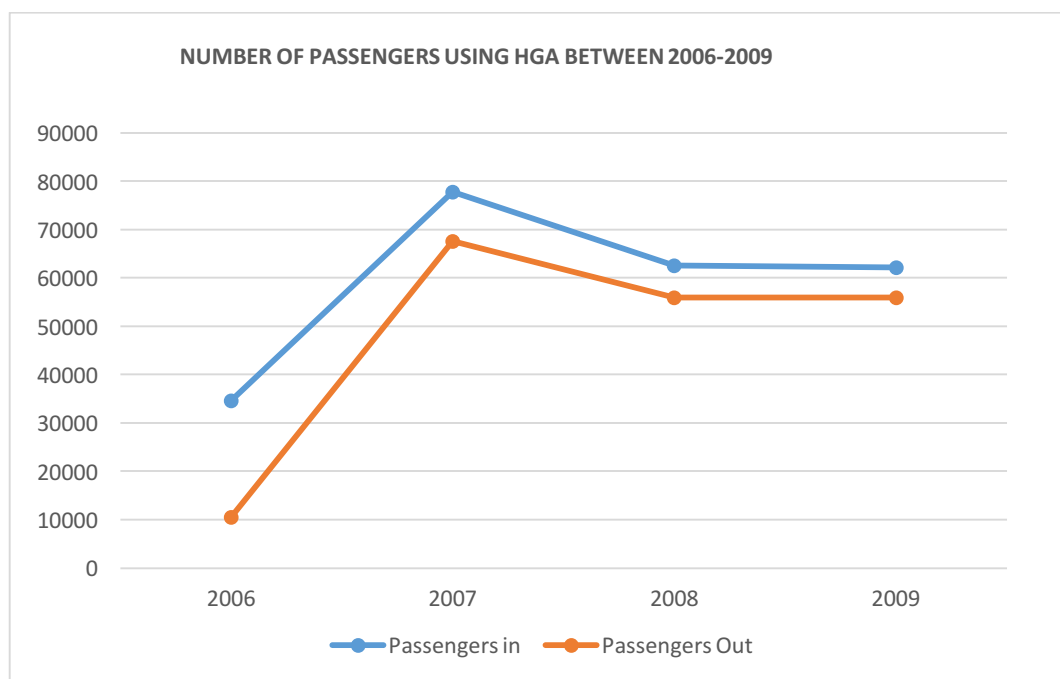
¹⁹³ This increase continued in the following year but at a much smaller margin of 8%. In 2008, the number of flights have decreased by 23% possibly due to the global financial crisis.

Table 5: The Volume (Kg) of cargo Handled at Hargeisa Airport



Source:(MNPD, 2012)

Table 6: The Number of Passengers Handled at Hargeisa Airport



Source: (MNPD, 2012)

Authorities in Somaliland envisage that the increased demand for airport services will have to be accompanied by a corresponding increase in investment in the range of 9-11 percent per year (Hassan, 2012). The Minister of Aviation observes that if the airport's role as a key economic driver in the region was to be enhanced, such investment needs to be in the region of 25 million dollars,¹⁹⁴ which can be mobilised through a combination of local resources and international aid (MCAAT, 2016). Nonetheless, Akwei et al. (2012) argues that the enhancement of airports performance as key aspects of national infrastructures should not be focused on financial gains alone, but attention has to be also directed at quality of services where airports take environmental aspects of development¹⁹⁵ and performance into account. Equally, community relations with the airport is also vital. In other words, while conforming to international standards and passenger rating are crucial for appraisal of airport performance and image, what is equally important is how communities see and feel about airports within their vicinities. This is because community life is affected and shaped by airport operations. In addition to the economic dimensions of the airport (MCAAT, 2012) cited in (Gandrup, 2014), the current focus of airport development in Somaliland is primarily targeted at the legitimisation of de facto statehood in an environment where de jure status is denied. Similarly, the airport, as a key revenue generating facility, also serves as a site of interaction for state viability, visibility and legitimacy.

According to Goodstein and Velamuri (2009), states may legitimise their power by attaining exclusive property rights so as to incorporate such rights in the state bureaucracy. They may also legitimise their power through collaboration with "other centres of power" such as corporations and customary institutions. Similarly, they also "engage in various strategies of institutional work to disrupt or maintain existing structures and practices of institutional control" (ibid p. 506). For instance, post-conflict leaders use land as a way of legitimising their rule by promising to implement comprehensive reforms aimed at redressing past injustice. This is particularly the case in situations where the institutions of the ousted regime suffered from a crisis of legitimacy brought about by administrative malpractices such as corruption, nepotism and unequal exploitation of resources resulting in a widespread poverty and rampant economic inequality.

¹⁹⁴ Saying that he is hoping to secure funding through government initiatives and international aid.

¹⁹⁵ Attempts aimed at responding to the need for focusing the environmental aspects of improving airport services quality have been largely driven by donors. Through funds provided by USAID, the airport has for short period operated on power provided through renewable energy project but the facilities were paralyzed by lack of maintenance (Somalilandgov, 2013).

In such cases, post-conflict administrations seek to improve their political legitimacy through narratives of greater transparency and accountability.

Political legitimacy in Somaliland was weak in the immediate aftermath of Barre's ouster, mainly because of the inter-factional skirmishes between militias loyal to various clans in the country. The state's inability to deal effectively with these problems, for almost six years following Somaliland's unilateral declaration of independence from the rest of Somalia in 1991, led to loss of trust in the new order. The termination of the war in 1997 however enabled the state to initiate efforts aimed at improving its image and control over state territories. This exercise began with installation of the first post-conflict basic fence around the airport, along the lines inherited from the military regime. This was followed by several renovations aimed at enhancing the airport's capacity for handling increased numbers of travellers at a time when diaspora communities from the region were significantly increasing connections with their homeland due to sustained peace and stability. Most of the airlines using the airport were Somali owned companies who made regular flights to the Middle East where travellers could transit mostly to international connections to North America and Western Europe. More recently, the commercial viability of these movements has attracted the attention of giant international carriers such as Ethiopian Airlines.

7.4 Airport as a Site for State Legitimation

The increased commercial viability of the airport served the quest for state legitimacy on three fronts. Firstly, it boosted the image of Somaliland as a trustworthy economic partner with which international companies could deal. Secondly, it enabled the administration, which was, and still is struggling with the burden of non-recognition, to have access to international connections without having to go through Dubai when travelling for diplomatic, commercial or personal reasons. And thirdly, it provided the state with the tools necessary for arguing that it is doing a good job in taking the country's development forward. The increased commercial viability of the airport, however, came with greater responsibilities for authorities in Somaliland. In order to ensure that carriers operate in a safe and acceptable operational environment, aviation authorities have to comply with international regulations scattered over more than 19 annexes

(ICAO, 1974), various manuals (ICAO, 2013b, ICAO, 2013c, ICAO, 2003, ICAO, 2014) and treaties¹⁹⁶ (ICAO, 1944).

These treaties, annexes and manuals provide recommendations ranging from runway specific guidelines (ICAO, 2005) to principles and policy-making strategies for general airport safety standards (ACI, 2009). The aim is to standardise rules and regulations governing airport safety. Standardisation here refers to the “uniform and consistent implementation of [Standards and Recommended Practices] SARPs” (ICAO, 2013a, p. 6). For instance, in the Global Aviation Safety Plan of 2014–2016, states are required to achieve “implementation of an effective safety oversight system” by 2017; full implementation of the ICAO State Safety Program framework by 2022; and advanced safety oversight system including predictive risk management” by 2027 (ICAO, 2013a, p. 4). These targets are set and informed by a narrowly defined concept of safety as a “state in which the possibility of harm to persons or of property damage is reduced to, and maintained at or below, an acceptable level through a continuing process of hazard identification and safety risk management” (ICAO, 2013c, pp. 2-1).

In order to implement this narrowly defined view of safety, states are required to develop processes and train skilled personnel for their implementation. At the heart of this are the development of country specific safety guidelines,¹⁹⁷ which include the formulation and maintenance of State Safety Programs (SSP) (ICAO, 2013c). This entails the preparation and enactment of rules and regulations aimed at ensuring efficient and effective delivery of aviation services which include the development of Visual and Instrument of Flight Procedures (VIFP) for the navigation of aircraft as well as the provision of other equipment deemed essential for aircraft operations (ICAO, 2006). Additionally, states are required to provide aeronautical information service to aircrafts using their airports or airspace (ICAO, 2003) and also conform to certain charging standards (ICAO, 2013b). The pressure emanating from the need to conform to such standards is experienced variedly by the member states. Countries emerging from post-conflict contexts go through a great deal of pressure not only because of their lack of the necessary resources to implement these standards but also resistance from their mainly poor

¹⁹⁶ The state of Somaliland was not a signatory to these treaties due to the fact that it is not recognised by the united nations of which ICAO is a specialised agency.

¹⁹⁷ informed by the treaties and annexes enacted successively since the first Chicago convention in 1944.

populations affected by the conformance related exercises.¹⁹⁸ In the case of Somaliland, a significant proportion of this conformance is managed by the ICAO office in Nairobi, Civil Aviation Caretaker Authority for Somalia (CACAS), partly because of the lack of capacity and partly because of disagreement between Somaliland and Somalia regarding the control of airspace (ICAO, 2013b).

Informed by the aforementioned requirements, most international airlines tend to evaluate airports before they start operations. Various teams are dispatched to assess the situation on the ground. Some of the key aspects they look at include the level of demand, nature of the airport operations, security of the terminals, existence of exterior fences and boundaries, and capacity for responding to emergencies i.e. the availability of firefighting machines, existence of sufficient water tanks as well as skilled emergency personnel.¹⁹⁹ Since its establishment in the late 1950s, Egal International Airport enjoys a relatively good safety record. The only incident reported in which the airport name was mentioned is an accident which occurred in 1989 when a Somali Airlines flight which flew from Hargeisa crashed 10 minutes after taking off from the airport, killing all aboard (Ranter, 2016).

While the airport already met some of these specifications i.e. the availability of terminals and provision of adequate emergency equipment ICAO (2014), compliance with other aspects of the recommended standards such as the creation of a secure fence and boundaries are still underway. Of particular safety concern for authorities are “freely roaming animals”, which pose a danger to the operation of aircrafts in the airport. According to the Ministry of National Planning and Development, lack of “navigational aids and proper airfield lighting facilities” hamper the ability of the airport to handle airlines during low visibility conditions such as rainy and non-daylight times (MNPd, 2012, pp. 123-4). In addition to these infrastructural deficits, the priorities identified by the Ministry of Aviation in the National Development Plan include “introduction and implementation of flight safety rules and standards, review of all existing rules and regulations to meet FAA and ICAO standards, formulation and implementation of a national air transport policy, and improvement of the overall regulatory framework” of aviation (MNPd, 2012, pp. 124-5).

¹⁹⁸ Given the fragile security situation in the region, the most pressing conformance in this regard which Somaliland seeks to implement in that which relates to safety.

¹⁹⁹ Interviewee 70 September 05, 2014. Senior Official - Ministry of Public Works.

As can be seen here, these priorities are designed to enable the state to conform to the international standards for air navigation. As such, they can be understood as an attempt in which the state is trying to legitimise its presence in international arenas. The airport authorities argue that they would be regionally competitive if they take the level of compliance to grade 9 within four months.²⁰⁰

7.5 Expropriation Rationale and Resistance

In the light of the above, the authorities are pursuing to implement two forms of boundaries, the first of which is the immediate airport security fence at a distance of approximately 400m away from the runway. The second is the airport boundary requiring an additional 1200m. While unoccupied land for meeting these requirements is not available on the Northern side of the airport due to the heavily built up nature of the area, vacant land for possible expansion is available in all the other three directions but this is mostly privately owned land, except for few areas – such as the Eidagale clan settlement area - in which the government contests legitimacy of ownership.²⁰¹ The claims to the land were both formal legal entitlements as well as traditional customary rights. Claimants/owners can be categorised into 1) people who bought the land and hold papers from both the government and the sellers, 2) people who inherited the land from their parents and claim that they have been staying in the land as far back as during the colonial time but who do not hold papers to ascertain their claims, and 3) people who hold legal papers from the previous governments but the grounds on which the land was given remains dubious.²⁰² As stated above, most of these people were unemployed members of the Eidagale clan (plus some prominent Eidagale figures and a few non-Eidagale).

In 2012, the government ordered the demarcation of the airport boundary and construction of a security fence. Seven senior government officials were appointed as a select committee for this task (Somaliland Post, 2015). These included the Ministers of Aviation, Defence, Public Works, Interior, Presidency, and Health as well as the Director General of the Ministry of Aviation's and the Mayor. Soon after its formation, the committee called for a meeting with landowners around the airport. They put forward two points for discussion: 1) the rerouting of

²⁰⁰ Ibid.

²⁰¹ Ibid.

²⁰² Papers obtained due to corruption or other administrative malpractices such nepotism.

the white road, which is a gravelled rough road connecting Somaliland with the Ethiopian Somali region and 2) the demarcation of the airport boundaries. Initially, the landowners' representatives were adamant to engage in the discussion about the expansion of the airport, as they sensed that they were losing land gradually to the ever-shifting boundary of the airport. According to one of the land-owners who attended the meeting, they told the officials that:

*decisions regarding the white road involve much more than the communities in and around the airport as the route goes as far as Ethiopia. On the other issue of demarcation, we told them that the airport boundary has been demarcated three times before by various administrations including the colonial, post-colonial Somali administration and post-conflict government under the leadership of Egal. We cannot continue losing our land all the time because of policies introduced by every new regime in the name of development.*²⁰³

According to Munene (2012), development projects serve as a means through which state image is improved and deficit in political legitimacy is mitigated. For instance, the central state tolerance for political elites' mobilisation of local resources for universities in Kenya via ethnic communities was seen as a means of trying to fill the legitimacy gap in the state.²⁰⁴ The airport development project can be viewed through a similar lens as it was advanced on the basis of national interest while the real motive may have been to achieve a greater political legitimacy. Evidence for this can be found in the manner in which the state sought to convince land-owners to accept the need for expansion. The land-owners demand was to retain their land rights or get full compensation in line with urban land market values. In a bid to loosen the community representatives' stand on the issue, the state overemphasised the greater development good that can result from the airport expansion in a meeting [whose exact date interviewees did not recall but approximated at Feb 2012] between government officials and land owners. However, as land-owners' representatives were increasingly unconvinced about the generic discussion on the greater good and economic growth advanced in the meeting, government representatives

²⁰³ Interviewee 53 March 30, 2014. Farmer.

²⁰⁴ The state suffered from lack of political legitimacy since its establishment in 1963. See (Munene, 2012).

felt compelled to divulge some of the specifics of such benefits. According to one of the attendees in the meeting, the state officials pointed out that some of the land in question:

*would be used for the construction of major hotels and other executive housing schemes which will boost the image of the city and provide dignitaries and other important guests a secure environment within which they could undertake their dealings in Somaliland.*²⁰⁵

Nonetheless, most of those in the meeting remained unconvinced about the government's claims. The government attempted from the beginning to involve traditional leaders. According to Bennett et al. (2010), in circumstances where the state is emerging from a post-conflict context, traditional authorities' power and legitimacy is reduced, resulting in defiance of their orders.²⁰⁶ This does not, however, mean that legitimacy shifts to elected bodies, partly because traditional authorities' power emanates primarily from their lineage and therefore cannot be replaced by elected representation. While on the one hand some strands of the literature point to increasing concern about the reduced public image of traditional institutions in post-conflict contexts (Gundel, 2006), their vitality is on the other hand emphasised significantly (Jeng, 2014). It is also important to acknowledge that this largely depends on the context, as in some cases traditional authorities emerge with increased legitimacy. Regardless of whether legitimacy of customary institutions is reduced or not, non-state actors' cooperation with the state is vital for voluntary compliance with rules and regulations in a context of fragility. In the case of the airport expansion, such cooperation is however unlikely to produce voluntary compliance as the relationship between land-owners and the state is characterised by mutual mistrust. This is because of the history of expansion, in each three phases of which, land-owners in the area were negatively affected.

One of the land-owners who spoke in a press conference, on the 16th of December 2013, pointed out that they are fed up with the expansions as they keep on loosing land to the state, all in the name of development. Another old man, Tahir Ali Barre added that the colonial government asked for a land in which it could build an airport and they provided space. The post-independence Somali government also asked for further space to store military hardware and

²⁰⁵ Interviewee 44 April 18, 2014. Land Owner.

²⁰⁶ For example, some people may remove fences or refuse to honour orders banning them for entry in a particular piece of public land.

they also granted their request. And because of this they cannot accept any further loss of land and will defend against anybody who tries to force them out (Hussein, 2013). Much of the land-owners' resistance is informed by growing suspicions about the legitimacy of state claims - not only the nature of the expansion itself, but the extent to which the government's rationale for land expropriation is genuine. In other words, this suspicion provides land-owners grounds on which they can resist the government's intention to expropriate their land. They allege that prominent politicians want to take advantage of the situation and expropriate land greater than what is needed, so as to misappropriate them later.²⁰⁷ Another interviewee who is also a land-owner added:

*they're telling us the government may need this land in the future so it has to remain vacant but we don't know how long that future is going to be... is it 100 years, 10 years, or eternal. This is unacceptable. It doesn't make sense. Worst of all, consideration for foreign guests is not something that can be justified for the expropriation of land from the public.*²⁰⁸

Poor strategies and coordination coupled with inconsistent land administrative practices provided the land-owners with the necessary justification for entrenching their doubt over the legitimacy of state actions. This is because planning permission for urban residency was granted for some of the land in question (particularly that which was previously classified as agricultural land). It involved designating 30 percent of the planned land for public purposes, in line with urban development guidelines. Despite conforming to these rules and obtaining the necessary papers for turning this land into residential settlements, some of the land-owners are furious with the prospect of facing eviction. Moreover, multiple institutions are involved in the proposed land expropriation, confusing the mainly illiterate land owners. On the one hand the military is putting pressure on the land owners by extending their bases beyond the main security fence while on the other the Ministry of Aviation in tandem with the Ministry of Public Works are pushing the airport boundaries. Dealing with these institutions separately puts the residents in the area under a great deal of pressure, as each one of them requires the fulfilment of certain regulations and bureaucracy. One of the land-owners pointed out that:

²⁰⁷ Interviewee 44 April 18, 2014. Land Owner.

²⁰⁸ Interviewee 53 March 30, 2014. Farmer.

to register land, legalise rightful ownership and then threaten to evict people are things that cannot logically go together. There are 20 different laws and institutions from which we had to seek legalisation, bearing in mind that whenever we need something from them, they all required revenues for the services provided, yet compliance with these rules do not give any protection. How are we then expected to trust the state? .²⁰⁹

As the mistrust between the state and land owners grew, public officials adopted a dual strategy in which on the one hand they engaged in a dialogue with land owners, acknowledged local people's land ownership and sought a negotiated settlement. On the other hand, they also threatened land owners with forceful eviction and threw doubt on the legitimacy of local people's land ownership by saying that the government has the right to use public land for public use, insinuating that the land is not owned.²¹⁰ Furthermore, they also made inflammatory remarks through the media, increasing the rift between the two sides. For instance, the Minister for Civil Aviation was allegedly quoted in an article published in a local newspaper, as saying that the local people want to loot the airport land. Such remarks had allegedly dire consequences on the relationship between the state and the local people whose cooperation is deemed vital for airport safety at a time when the state security apparatus are ill equipped to deal with the recent threats in the region, due to lack of necessary training and equipment resulting from the country's lack of international recognition.²¹¹ From 1997 to 2012 before the conflict erupted, the people in the area had a cooperative relationship with authorities as they often informed them about any security problems in the area. Another land-owner asserts that:

people [land owners] have always been a protection for the airport from 1997. They guaranteed the security of the airport and therefore security cannot be used as a justification for the removal of the very people who protected the airport.²¹²

²⁰⁹ Ibid.

²¹⁰ Ibid.

²¹¹ Interviewee 70 September 05, 2014. Senior Official - Ministry of Public Works.

²¹² Interviewee 51 March 30, 2014. Land Owner.

While land-owners complain about the government's lack of sensitivity to the role the local communities play in the security of the airport, the government on its part insists that it is making compromises precisely in order to safeguard trust and cooperation with the locals. For instance, the government officials claim that there is a significant delay to the implementation of the airport expansion project partly as a result of avoiding actions that could jeopardise their relationship with the local people. One of the officials said:

*compromises are made on the grounds that we need the people for security purposes. We also give jobs to the local people...all the people doing the menial jobs come from the local area. Nobody competes with them as far as the menial jobs are concerned. That's basically to create a relationship based on trust between the ministry and the people.*²¹³

Contrary to the government's claim of caution and care, the construction of the airport has cut off people in the area from accessing not only job opportunities, but also essential services such as zaribas (local grocery markets), schools and health facilities. This is because the routes they used to use for accessing the city are now closed and alternative routes have not been provided.²¹⁴ Speaking to the media, residents in the area claim that they have raised their concerns with the authorities but nothing was thus far done. One of the residents pleaded with authorities to grant "passage for their children, sick people, and those who want to go to the city for basic services which are not available in the area"(Togaherer News, 2016). Civil aviation officials however claim that they are working on these issues and they have already written to relevant authorities to make essential services available in the area. For instance, they claim that they requested the local government, Ministry of Health and an Islamic NGO²¹⁵ to, respectively, construct a zariba, Mother and Child Health Centers (MCH) and mosque for the people in the area. Discussions were also underway, according to airport officials at the time of data collection, for hiring a bus that takes children in the area to their respective schools while awaiting provision of these amenities.²¹⁶

²¹³ Interviewee 70 September 05, 2014. Senior Official - Ministry of Public Works.

²¹⁴ Interviewee 51 March 30, 2014. Land Owner.

²¹⁵ Led by Sh Mohamed Ali Geddi, a prominent local figure in the non-profit sector.

²¹⁶ Interviewee 70 September 05, 2014. Senior Official - Ministry of Public Works.

These promises are mostly disregarded by the predominantly Eidagale residents in Uubaale, who see the state as uncaring and unsympathetic, which only takes from the citizens but doesn't give back. This view is partly created by the government's traditional poor service delivery in the area but was more recently activated by the anticipated land expropriation process that fell short of people's expectation from the post-Barre administrations. According to Nora and Réginas (2014, p. 23), perception of "state legitimacy depends on the degree to which specific societal expectations are perceived as being met by a specific state institution in the eyes of a specific group of people in the context of a specific process in comparison with specific alternatives". Such particularities of experiences and how these shape people's perception of the state resonate well with the situation in Somaliland where experiences with past administrations are used as key signifiers for how governments should or should not behave. This is because some of the land-owners point out that this is the first time they faced a large-scale eviction over a period of three different governments. One of the farmers was quick to point out that the current situation compares unfavourably with the colonial era as:

*the colonial government never used to bother us....and they never pressured us to register land.*²¹⁷

Another aged resident in the area reinforced this claim, saying that a white man visited them during the colonial time and asked them:

*who owns the camel in there? and we replied that it belongs to a disabled man. Then he asked further how is it possible that a disabled man herds camel, to which we replied he is assisted by his wife and brothers-in-law. He then went to the disabled man and requested him to move out of the airport vicinity because of the fact that his camels wonder about the runways. But the disabled man told him that he cannot move out of the area because of the fact that this is his land and all his ancestors are buried in the area. Then the white man left him alone and said to him, please keep your animals out of the runway.*²¹⁸

²¹⁷ Interviewee 45 April 22, 2014. Land Owner.

²¹⁸ Interviewee 43 April 22, 2014. Land Owner.

Struggles against the military regime and associated memories which resonate with many people in the city are also used as a way of legitimising people's right for opposing expropriation and retaining land ownership. The state in this regard is painted as being guilty of committing the same governance malpractices that undermined the previous regime. One of the farmers pointed out that:

*The reason why we fought against Barre was injustice.... we finally managed to liberate our land and properties from those who occupied or expropriated them illegally. We were not expecting the same from this government. Let them know that we cannot give up our land which our brothers, cousins, and uncles have died for liberating. Each meter of this land costs us blood.*²¹⁹

Similar sentiments are echoed by the famous playwright Ahmed Suleiman Bidde who told the media that many of the forefathers of the current residents died "trying to liberate this land from the military regime. He asserts that he cannot fathom how could anybody dare to tell them to move away from their land". He concluded that if the President was made to sign a decree ordering the removal of people from their land by some Ministers with ulterior motives, "we have God on their side who signed the land for us" (Hussein, 2013). Moreover, the role the local clans played in the construction of the airport is also evoked as reminder that the airport is rooted in the history of the community.²²⁰ One of the land-owners said that:

*people from here contributed to the construction of the airport as the colonial government enlisted workers from this clan. The whole airport you see today was only consisting of the tower and un-tarmacked runway. It is surprising that this government wants to remove the settlement that contributed to the airport development and wants to evict us without compensation.*²²¹

²¹⁹ Interviewee 45 April 22, 2014. Land Owner.

²²⁰ Ibid.

²²¹ Interviewee 39 June 05, 2014. Playright.

7.6 Mediation, Valuation and Compensation

As the conflicts between the state and local Eidagale landowners deteriorated, the government embarked on an effort aimed at defusing the tension through intermediary institutions. This divergence from its previous course indicates that the government realised the low level of trust it enjoys among the people (mainly Garhajis clans in general and Eidgale in particular) in the area and decided to legitimise the process by bringing in other actors who might help in this regard. Johnson and Hutchison (2012) argue that hybrid political orders where statutory institutions work in tandem with non-state actors such as the customary institutions can result in greater legitimacy as they increase people's trust in the state. In the same move, the state in Somaliland also enlisted the help of various community-based committees to improve the legitimacy of the process. These included Neighbourhood Development Committees, Clan Elders' Committee and Akils' and Sultans' Committee. Among the Akils and the Sultan involved included, Rashid Jambir, Abdirizaq Mohamed Askar, Akil Abdi Weli, and Akil Hersi. The Director General of the Ministry of Aviation pointed out that:

*the reason we involved all these committees was to ensure that if the land owners are wrong they should be contained and if we are wrong we should be told that we are wrong. So in many cases, these third party mediators were able to confront the land owners and tell the truth. They were also able to reach us with complaints from the land owners.*²²²

The legitimacy of the third-party mediation was however undermined by suspicions that the state was using them instrumentally (or indeed of setting them up as tools) with the aim of smoothening the stance taken by land-owners. For instance, the government was accused of financing the Committee for the Resolution of the Airport Conflict whose existence land-owners became aware of, after members of another neighbourhood development committee they contacted to mediate informed them that the government was unwilling to meet them as it endorsed another committee for the mediation process.²²³ At one point, members of this government-endorsed Committee for the Resolution of the Airport Conflict approached the local communities but failed to make any meaningful breakthrough partly because land-owners

²²² Interviewee 71 September 05, 2014. Ministry of Aviation - Official.

²²³ Interviewee 42 April 15, 2014. Lawyer - Farmer's Son.

saw them as a proxy through which the government wants to take their land. One of the land-owners asserted that:

*there was a substantial disagreement between us and this committee. Charging from the way they were speaking, we thought that these people were representing the government rather than being mediators. We do not recognise their impartiality to mediate between us and the government. They have not been fair from the beginning. They were on the side of the government. Usually Akils should be on the side of the people not the government and we cannot accept their mediation.*²²⁴

The mediation, compensation and valuation process for the land and property expropriation around the airport was characterised by a struggle for legitimacy. At the heart of this struggle lay the state's attempt to take over land in the most efficient and effective manner amid stiff opposition from dedicated group of vocal land-owners who are avowed to retain their land or get the highest market value in the shortest time possible, and who also spoke for broader community of local poor. In the beginning the government seemed to have favoured a process in which it deals with land-owners on an individual basis. But the state soon changed its mind when it realised that it would be administratively easier to deal with representatives not only for negotiating with the land-owners in the mediation process but also registering the number of land owners in the area. Additionally, the government may have feared that people will take the law into their hands and wanted to have a channel through which communication could be maintained to calm the situation down. Nevertheless, this change in mind coupled with growing realisation among the land-owners about the danger apparent in lack of unity paved the way for the formation of the Land Owners Committee. As the government did not have an easily searchable record of land ownership in the areas, the land owners' committee helped it enlist the list of claimants/owners.

As the current formal judicial landscape in the country is ill equipped to deal with disputes between the government and the public, the newly formed Land Owners Committee realised that very limited formal options exist if any for the land-owners to complain about or legally resist the state's intention to expropriate their land. As a result, they considered various

²²⁴ Interviewee 51 March 30, 2014. Land Owner.

mechanisms to mitigate the expropriation threats including both customary and statutory adjudication systems. But one of the key obstacles to accessing state institutions was that they were unable to afford the lawyers' fees. According to one of the committee members, they:

*were unable to access state institutions...only those who have influence among the society are welcomed in government offices. It is difficult for us to meet government officials. State courts are corrupt and we do not believe that they will bring about any resolution to this conflict. If we have had effective statutory justice system, we would have not needed committees or elders for mediation.*²²⁵

Given the landowners' scepticism about the ability of the formal judicial system to address their problem, they have on several occasions made attempts aimed at exploring the possibility of bringing about political intervention, but they often had difficulties in getting audience with key decision makers. At one point in early 2013, they managed to register their complaint with the then powerful Minister of the Presidency, Hersi Haji Ali. This was followed by meetings held approximately in May 2013 (facilitated by influential clan elders, politicians and religious figures from Garhajis), in which the government accepted that there were some malpractices in the way the case was handled by both the Ministry of Aviation and the Ministry of Defence. But those negotiations stalled due to the departure of some key Ministers – who were instrumental in the mediation – from the government. The failure of these attempts seems to have convinced land-owners that they do not stand a good chance of resolving their case through the formal government institutions. Moreover, they also seemed sceptical of the statutory judicial system due to the existence of legal loopholes that the government can use against them. For instance, the Agricultural Land Law stipulates that anybody who did not pay taxes for his/her land cannot claim compensation for such land from the government.

As land-owners' manoeuvres for intervention from both the state and non-state actors failed to bring about any meaningful resolution to the problem and the prospect of violent encounter loomed, the Minister of Aviation, Mohamoud Hashi, called for a meeting with those affected by the airport expansion on the 22nd of February, 2013. He informed them about the government's intention to buy the land at current market values. The Minister made such remarks in the

²²⁵ Interviewee 42 April 15, 2014. Lawyer - Farmer's Son.

presence of Sultan Mohammed and other notable figures from the Eidagale clan. He also said that they will process payment for the land-owners who are affected by the initial 400m expansion while those affected by the 1200m expansion will have their claims recorded and negotiations about possible solution will commence soon.²²⁶ For the land-owners this was welcome but while awaiting further details on the specifics of this proposal, the Minister made provocative remarks in the media, accusing Eidagale clan members of undermining the government's effort to expand the airport, a charge that infuriated the Uubaale residents and prompted doubts over the seriousness of the state about the resolution of the issues amicably. Many felt this was a U-turn in the government's position in the land conflict, which greatly undermined their trust in the government.

Lack of financial resources for adequate legal representation is also one of the other major obstacles that inhibit land-owners from using the formal judicial system. This makes customary institutions the most crucial avenue of mediation available to land owners. It is however important to point out that the manner in which traditional authorities resolve issues is not always just or convenient for poor people. In other words, traditional institutions at times reach decisions without consulting the stakeholders. For instance, in May 2013, the Sultan of Eidagale clan, Mohamed, stated that his people (landowners) are willing to give up some of their land (i.e. that which is located within 400m) subject to the government's acceptance to compensate land within the 1200m radius. Land-owners point out that the Sultan made a huge mistake by issuing this statement and they do not share his views. One of the reasons why this is not practical, they say, is the fact that there are people who will not have any land remaining for them when the 400m is given to the government free of charge. For instance, there is a guy who sold his land to 48 different people holding notary signed agreements. His only remaining land is located within the 400m. If the government expropriates this land without compensation, people like him will go empty handed.

This latest meeting followed by an increased presence of security forces in the area.²²⁷ Several warnings, stating that land-owners will face dire consequences should they try to stop or tamper with the construction of the new airport fence, were issued. These threats were apparently not only aimed at softening the land-owners' stand in the mediation process but also designed to

²²⁶ Interviewee 39 June 05, 2014. Playright.

²²⁷ In a bid to show how serious the government is about expanding the airport boundary.

change their perception of the state as weak. While there is evidence in the literature about the relationship between states' capability and people's perception thereof (Hutchison and Johnson, 2011), it is important to point out that threats of this nature contributed to adverse perceptions of the state as they are associated with the former socialist dictatorial regime which often used force to implement policies and decisions. As such, they form the basis on which the legitimacy of state governance practices are questioned. The stalemate between land-owners and the state was further exasperated by the issuance of a presidential decree in June 2014 prohibiting sale, inheritance, subdivision, and transfer of land within 1200m of the airport. Land-owners in Uubaale saw this as infringing on their right and life in the city, bearing in mind the fact that land is the only source of income for some of the residents in the area. But the fact that land is increasingly becoming an important way of negotiating economic space in the city provided the government with a line of argument to discredit land ownership claims. One of the Ministry of Public Works officials said:

*These people are not legitimate land-owners. They are just people who do not have other sources of income and who just live off selling public land. In the past, there used to be a powerful government and people used fear the state but this is no longer the case.*²²⁸

Taking the fact that land is inevitably one of the means through which improvement of life is sought in a city ravaged by poverty, many people regard the government's attempt to expropriate land without tangible compensation as "moral bankruptcy on the part of the state" according to both Somali cultural values and the Islamic faith. One such critic of the state pointed out that these people:

*don't own livestock or property and they don't have someone supporting them from outside. It is not right for a Minister to say that he will close off their land. All they have is pieces of land from which they get their livelihoods. It is a moral obligation for the state to give reasonable compensation, instead of stretching its muscle on these poor people.*²²⁹

²²⁸ Interviewee 10 May 29, 2013. Official - Ministry of Public Works.

²²⁹ Interviewee 36 August 20, 2014. Director of Civil Unit - Legal Aid Clinic.

Compensation and property valuation remained thorny issues in the airport expansion row. While the state sought to be as economical as possible in minimising the amount of money spent on the compensation, land-owners sought to maximise the value for which they can get their land and property, often insisting that any compensation should be on the basis of market value. In order to achieve this, the process remained not only controversial in the sense that each side wanted to legitimate its desires but also fluid in the sense that the dynamics of the issue changed over time. For instance, the government was, in the beginning, adamant it would provide compensation for land within 400m radius. According to residents who participated in some of the earlier meetings discussing the airport expansion, the Minister of Aviation insisted that the government will consider compensation for built structures within the 400m radius, albeit only on the basis of investment size.²³⁰ The government's position was reinforced in a statement made by a Sultan speaking on behalf of land-owners who tried to bargain with it, saying they will give away land within the 400m radius if the government comes up with reasonable compensation plan for the 1200m radius. Land-owners however rejected this proposition, lambasting the Sultan for making decisions without consulting those who would be negatively affected and demanding that they should be given a full compensation, the absence of which will result in a major conflict with the government. Equally the land-owners rejected partial compensation proposed in the earlier discussions, saying that:

*what the government is proposing is that they will compensate any structure within the 400m but they will not compensate for the land on which the property stands. This does not make sense. How can you separate property and the land on which it is built? We acquired the land before building the property on it.*²³¹

For its part, the government contests that the properties were built on public land illegally and hence they do not qualify for full compensation. While resistance to this position remained strong, land owners have also shown willingness to accept what they called a multi-level compensation strategy in which the government firstly compensates or swaps land with similar value for original landowners; secondly, addresses possible tension between original land-

²³⁰ Subject to variations in what people have built within this land. Some built one or two rooms and other built three rooms. Some also built small birkas while others built big birkas.

²³¹ Interviewee 44 April 18, 2014. Land Owner.

owners and those who bought land from them by compensating the latter for both land value and investment made since then; and thirdly deal delicately with those whose land will entirely be swallowed by the airport extension as such people²³² cannot be subjected to the same rules as those who may have greater pieces of land from which the government can obtain some through negotiations.²³³ This was however rejected by the government on grounds that it does not have the financial resources for making such a comprehensive compensation for the 400m radius. It instead proposed that it will only provide compensation for the 1200m of land when it manages to get the money needed for the purchase (It is worth pointing out that the land in the 1200m radius is cheaper than the land within the immediate surrounding of the airport, due to being further from the city). Even though the government went on record to say that it lacks the financial resources necessary for immediate compensation, land-owners claim that they were informally told that directives for compensation will be issued within four to six months. This promise was mainly interpreted as a delaying tactic for eventual expropriation without compensation. As a result, land-owners insist if the government is unable to provide them with compensation within reasonable timeframe (i.e. 1-12 months), they should let the people retain ownership. Notwithstanding the fact that concrete plans are yet to be shared publicly, sources close to government officials involved in the process pointed out that compensation will be provided in a 50/50 ratio of monetary and land exchange.²³⁴ In 2014, the government announced that it will go ahead with the expropriation of land within the 400m radius and compensate for any structures built in there for values determined through a government-led land valuation process. Being one of the most challenging aspects of the compensation process, the valuation exercise was heavily contested by the land-owners who termed it an exclusivist process designed and led by government institutions without the involvement of the land-owners. The key ministries involved in the process were the Public Works, Aviation and

²³² Additionally, these propositions are also made due to the fact that some people are unwilling to sell their land for inheritance. For instance, some of the interviewees said that *"we inherited this land from our forefathers and our identity is ingrained in this land. We also want to leave the same piece of land to our children and then their children"* it. Interviewee 53 March 30, 2014. Farmer.

²³³ Interviewee 46 March 30, 2014. Land Owner - Taxi driver.

²³⁴ In other words, 50% will be compensated for money while another 50% would be compensated for land of similar value.

Agriculture.²³⁵ Evaluators listed the land and shared copies with the local government and the Ministry of Public Works. While land-owners reject the legitimacy of the evaluation process, officials involved in the process claim that they have overrated the properties for political and personal reasons. The Director General in the Aviation Ministry stated that:

*the evaluators have included in their report that I have given the people some surplus in addition to what was theirs. If they had one traditional mat, we valued it as two. If they had two we made them three. For instance, we have evaluated a house belonging to an old lady whose name is Raha for US\$30,000. If today she goes to a private evaluator, they may give her a lot lesser value. I was doing this because I also had a personal responsibility to the local people from whom I hail*²³⁶

In spite of assurances that land-owners have the choice of consulting private evaluators, the government put in place strict guidelines. These guidelines require that any follow up evaluations must be conducted by people with a track record of appraisal exercises. One of the officials in the Ministry of Public Works pointed out that:

*If you just call someone from your clan who then just argues I spent a lot of money in the cement of your house therefore it is more valuable than was given to you, that is not going to be acceptable means of evaluation for us. So they have the right of calling in an independent evaluator. The elders will also be present in the process.*²³⁷

However, many people interpret these requirements as a strategy aimed at limiting people's ability in finding land surveyors who might have the skills necessary for property evaluation but who do not meet the government benchmark for expertise. Moreover, many people cannot afford this expertise. So far, the authorities announced that they compensated for about 90% of the buildings, birkas (cemented water reservoirs), bali (non-cemented water reservoirs) and

²³⁵ These institutions have undertaken the evaluations process and determined compensation for various properties including farms, birkas, baliyo, and buildings.

²³⁶ Interviewee 70 September 05, 2014. Senior Official - Ministry of Public Works.

²³⁷ Interviewee 10 May 29, 2013. Official - Ministry of Public Works.

farms within the immediate vicinity of the airport. They point out that 11 families were given a total of \$300,000 while another 30 families await land swaps. The remaining land amounting to 800,000 m², was documented and copies were sent to the relevant ministries and the local council respectively (Somaliland Post, 2015). The source of the money for this compensation is contested. While the government officials claim that the treasury provided the funds, land-owners charge that the Ministry of Aviation was provided with funds by the government of Kuwait for not only the construction but also for the compensation of the land to be expropriated for the expansion. The Director General of the Ministry of Aviation, Omar Sayid Abdullahi Adam, categorically denied this, saying that Kuwait donated \$10m for Hargeisa and Bebera airports but this was only for the construction of the fences and runways (Togaherer News, 2015).

Those who fail to agree to the government compensation or refuse to sell their land are faced with the harsh reality of being evicted forcefully. The government is by large unsympathetic about the use of force to implement its decisions. Widespread feelings among the public officials indicate that too much democracy is to blame for the slow motion of the expropriation process. One of their major points of contention in legitimating such feeling is that previous regimes had no difficulties in expanding the airport. The last of these was Siyad Barre who moved people away from their land in order to pave way for the addition of a second runway. Land-owners are quick to point out that there is no reasonable comparison to be drawn here because of the fact that the military government at the time was intent on jailing people for political resistance on the slightest pretext and did not dispute land claims closely. People remembered they did not care about whether the government expropriated land from them as it was increasingly becoming apparent that the regime's time was over. They claim that they always knew that the regime will be toppled and people will get their land back.²³⁸

As evident above, the attempt to resort to force by a supposedly democratic administration forms the basis on which post-conflict urban governance practices are delegitimised. For instance, forceful eviction is believed to be tantamount to authoritarianism akin to that experienced during the military regime, a formidable period through which government administrative practices are both legitimised and delegitimised. On the one hand, this period is associated with state effectiveness and bureaucratic development as the state was presumably

²³⁸ Interviewee 46 March 30, 2014. Land Owner - Taxi driver.

able to implement its policies and practices to the book, amid divided perception of the legitimacy of such actions among the populace. On the other hand, this period is associated with suppression and absence of dialogue between citizens and the government as the state often employed repressive means to subdue any resistance to its policies or politics. The current state's determination to show its capacity for implementing decisions and the people's determination to resist such moves, makes violent confrontation almost imminent. In one instance, eleven people accused of breaking a deal which the aviation authorities have apparently reached with land-owners were arrested. Four other suspects charged with the same offense were also wanted by the security agencies, and sought refuge in the house of a Sultan who requested the security agencies to pardon the suspects. This crime was in relation to the prohibition against tampering with the airport fence, breach of which will allow officials from the Ministry to 'seek their rights from the state'. Land-owners deny the existence of this agreement.²³⁹ In another instance, serious violence almost erupted between land-owners and security forces as the government tried to stop the digging of birka in a land adjacent to the Southern side of the airport.²⁴⁰

The residents in the area and military units almost clashed in late 2012 when the government officials side-stepped ongoing discussions and deployed surveyors and construction workers in contradiction to earlier understanding that the government will not take unilateral action. According to a local resident, government officials came with construction technicians who started surveying the area without the consent of the local land-owners. When residents asked about what is going on, they were told that the officials will come back for discussion. In a few days' time, military units moved in the area and set up a fence, saying that they will not allow any body to trespass. Some of the residents defied this order and went to see the military officials to enquire about their presence but were detained for breaching the government order. One of the people who was detained in the skirmish said:

I was arrested in the barrack and threatened because of my opposition to the military presence. The problem started when I was told to move away but I resisted and I told them that I am not going to be a balloon that goes with the wind. I was born here and I have had children here and the rest of the

²³⁹ Interviewee 70 September 05, 2014. Senior Official - Ministry of Public Works.

²⁴⁰ Interviewee 45 April 22, 2014. Land Owner.

*people are like me. As the issue dragged, reinforcement was called in and our children and women were beaten. The military was removed briefly from the area only to be replaced with a commando's unit.*²⁴¹

The reinvigorated military presence in the area has further fuelled suspicions and fears about imminent use of force. Airport authorities are aware of these suspicions but insist on the role of the military in the airport security.²⁴² Local people however contend that the Ministry of Aviation is pushing the military from behind using them as a proxy to further its interest. They claim that the Aviation Minister once told them that they will have no problems with the military if they agree with him.²⁴³ These accusations gained momentum when reports emerged about disagreement between the military and the Civil Aviation Ministry (Somaliland Post, 2015). Even though the main points of their contention remain unrevealed officially, the Ministry of Aviation's intention to register its complaint against the military was reported in the press. This complaint apparently emanates mainly from aviation authorities' concern about the limited space available at the airport for not only meeting international standards but also developing additional facilities which are necessary for the continued growth of the airport.

To this end, aviation authorities were apparently advocating for the relocation of the military barracks to other parts of the city so as to make the land exclusively airport property. The differences between the Ministry of Aviation and the military forces was made all the more difficult by the President's reluctance to appear to be siding with one institution over another, particularly in a case involving powerful individuals whose clans are important for his political survival. This is so due to the fact that the Minister comes from the President's clan while the chief of the armed forces comes from equally important clan for the ruling political party, making it difficult for the President to take a decision which may have negative political consequences for his future. The division in government institutions has not borne any meaningful impact on how the government relates to the land owners in Uubaale and their risk of forceful eviction. The danger apparent here is that the lack of political power and the financial resources necessary

²⁴¹ Interviewee 53 March 30, 2014. Farmer.

²⁴² They charge that the airport does not face a threat from outside the country and hence military presence in this civilian installation is not necessary.

²⁴³ Interviewee 46 March 30, 2014. Land Owner - Taxi driver.

for land-owners' defence of their case in court may lead to greater desperation and therefore violent resistance. One of the land-owners in the area said:

*We will defend our land from those people even if it is going to lead to major conflict. The ant is a very small insect and you may know how painful it is when it stings, I can assure you that our fight is not going to be less stingier.*²⁴⁴

The soldiers should be told that they should stay away from our land and contain themselves within their bases which does not go beyond the airport fence. This is not a war time. The General Chief of Staff of the Armed Forces does not have the right to extend the base into our farms. We are going to organise ourselves and we will do something about this. The result of these might be very catastrophic. He should keep his soldiers off our land. No more bulldozers and no more foot soldiers running around our farms.

*The people who will be affected by our violence are poor people who are used by the government such as the soldiers or junior officials. Those who are violating our rights and wanting to expropriate land are never affected by the actions we take and the induced violence.*²⁴⁵ *Now land is in the place of camel that people used to fight over. There is no land that does not belong to someone. A wrong doing must not be done to anyone. It is best that they (government) come with a good heart, not evictions and illegal expropriation threats.*²⁴⁶

The land expropriation around the airport can thus be understood as a way in which the state is trying to increase legitimacy. At the heart of this exercise is the state's determination to show its strength and ability to control land and implement development plans and policies without any form of impediment. But the danger apparent in such an approach to state legitimacy is the fact that it can facilitate further loss of public support and trust in the state. Huntington (2006) rejects the notion that the strength of the state is a major indicator of legitimacy and rather

²⁴⁴ Interviewee 44 April 18, 2014. Land Owner.

²⁴⁵ Interviewee 46 March 30, 2014. Land Owner - Taxi driver.

²⁴⁶ Interviewee 53 March 30, 2014. Farmer.

places the emphasis on the relationship between the institutions and those who elected them. Some of the key pointers through which the health of such relationship can be measured are found in the way the state seeks to bring about consensus on regulatory conformance as well as the means through which it overcomes social, economic and legal obstacles to its policy or development proposals. In the case of the airport expansion, the residents in the area seem to have lost trust in the state. This is because people in Uubaale are poor and marginalised by the system through its costly and frustrating red tape bureaucracy. As their marginality is reinforced by the government's efforts aimed at improving political legitimacy, the poor are forced to turn to other avenues for justice and governance. The consequence is that state institutions are weakened and people are obliged to make "further investment in non-state institutions as potential channels of" service delivery (Berry, 2007) and protection against state aggression. The geographical manifestation of this marginalisation of the poor emanating partly from the struggle for legitimacy can partly explain the perpetuation of the clan based spatial segregation evident in the city.

Similarly, the mediation and compensation processes were characterised by a legitimisation struggle and mutual mistrust. At the heart of this struggle was the land-owners' reluctance to accept expropriation in government terms and the state's inability to meet the land owners' demands. Nonetheless, due to the unequal power relations between the two sides, the state often had the upper hand in the process. For instance, it either controlled or manipulated the instruments of mediation such as the committees and elders. Equally the evaluation process was controlled and led entirely by the state. Taking these factors into account, it is fair to argue that the limited mediation space for land conflicts involving the state and the inability of non-state actors such as the traditional leaders to adjudicate these conflicts in a manner independent from state manipulations marginalises the poor. It leads to further concentration of clans in discrete geographical locations, which is itself one of the single most serious obstacles to the implementation of policies and plans, as group identity is used to mobilise people and resources to resist the state.

7.7 Conclusion

In this chapter, I have shown that the control of state property is used as a means to legitimise new political orders. But equally, these are also the sites in which resistance to such orders is mostly demonstrated, often denying fragile states the legitimacy they so desperately need to show that they are not only in power but also a better alternative to those they deposed.

Hutchison and Johnson (2011) observe that institutional performance in governance, security and justice play a significant role in how people ascribe legitimacy to the state. The manner in which the institutions behave often underpins the trust that people may have in the state. As shown in this chapter, land and property owners in Hargeisa, particularly those involved in conflicts, seldom trust the state. Evidence for this can be found in the fact that a significant proportion of the land conflicts in the city are solved through personal negotiations or customary mediations. It is important to point out that whereas people may have resort to customary institutions as one of many possibilities when dealing with one another, the same cannot be said when the state is one of the disputants due to the fact that customary institutions are often susceptible to state manipulation. These manipulations shrink the mediation space available for urban land conflict in which the state is a part. As a result, clan is often seen as an arena in which people can seek shelter not only from the hostility of other clans but also from injustice and aggression by the state.

The legitimacy struggle profiled in this chapter heightens endearment towards collective clan identity and reinforces the manner in which people make decisions about their choices of abode. In other words, individuals who are concerned about state violence are likely to maintain properties in areas predominantly populated by their clan so as to mobilise the public support and resources necessary for resisting against the state. This is not however to say that concentration of clans in certain geographic locations is a complete deterrent against state aggression. In many instances, the state attempts to enforce decisions in area where resisting clans made a strong foothold. Such attempts are however bloody, resulting in serious security repercussions. In the case of the airport expansion, attempts aimed at implementing government decisions may on the one hand result in people putting up violent resistance, which can cause death and destruction of properties, while on the other, airport security might be compromised. This is because airport security was dependent for a long time on the local people's collaboration with authorities as they used to inform the authorities of any problems posed to the security of the airport. If this issue is not resolved amicably, people in the area will see no reason why they should cooperate with a state that marginalises them.

In the next chapter, I discuss the breakdown of security that can result from the limited mediation space for urban land conflicts in which the state is one of the disputants.

CHAPTER 8 SECURITY IMPACT OF VIOLENT URBAN LAND CONFLICTS

8.1 Introduction

Stability in Somaliland fairs better than most parts of what used to be called the Somali Democratic Republic which disintegrated in 1991 (Ali, 2014, Bradbury et al., 2003). This is partly attributable to the fact that security was often and still remains to be prioritised over the other functions of the state,²⁴⁷ under an assumption that if Somaliland is to be considered a legitimate polity in the region, it has to monopolise security provisions in its territory, at times even at the expense of civil liberty (Stremlau, 2013). In urban contexts, this relative stability is however faced with a threat emanating from state involved land conflicts, which induce a significant level of violence, pitting authorities against local land-owners or claimers. In this chapter, I argue that limited or lack of credible means of adjudication for these conflicts leads to desperation among local and often poor disputants who as a result take the law into their hands, jeopardising the relative security in the country at large and Hargeisa in particular and cementing clan-based self-segregation. The chapter is organised into three sections. In the first section, I look at the urban security dynamics in a Somali setting while in the second, I demonstrate how violence emanating from urban land conflicts in which the state is a party can threaten urban security. In the final section, I show how state law enforcement is mitigated by other social actors and briefly discuss the implication of this for urban security. These complex urban security dynamics are obscured than illuminated by simply invoking 'hybridity' and the idea of a fusion of institutions at all level of governance. Indeed, in this instance, clan elders appear not as manipulated or used by the state (as in the previous chapter), but rather provided recourse from outside the state to mediate in the wake of violent conflict to which the state was party.

8.2 Urban Security in a Somali Setting: The Status Quo

Security in Somaliland operates in a context of plural institutions – i.e. clan, Islamic and state – as I have detailed in earlier chapters. Prior to the arrival of the colonial powers on the Somali shores, individual and communal security was provided through contractual agreements and clan membership (Lewis, 1958). Being a member of a clan, provided one with a sense of safety. In other words, his/her rights could not be violated without a repercussion from the clan he/she

²⁴⁷ Some commentators have criticised this secure-centric approach to governance and termed it as a nation hostage for peace. See (Stremlau, 2013).

belongs. This is to say that if someone was harmed, revenge often used to follow quickly unless a peaceful resolution was reached before the incident deteriorates into more violence. The arrival of the colonial powers added a new dimension to this tradition of security provision as they introduced centralised and hierarchical state security institutions. Salaried standing armies and police with which people were not familiar were established mainly in the urban centres in the coast at the beginning but these were later expanded to the interior parts of the country. As I elaborated in chapters 2 and 4, the new security agencies did not however replace the existing traditional mechanism not only because the colonial administration opted to use them as an indirect rule, but also due the fact that the new institutions lacked the legitimacy required for people to trust them.²⁴⁸ In chapter 4, I showed how successive postcolonial attempts to remove the clan from the arena of communal and personal security provisions in the country left no noticeable behavioural, cultural and social change among the Somali people, not least because of the utility of Akils as state agents. Even at the height of the dictatorship where clannism was denounced and acts of disobedience to state policies were met with a swift and severe response, traditional institutions remained a key provider for security, justice and governance.

In this context of the 2012 violent conflict between clan militia and the state I analyse here, it is worth invoking the various explanations for the persistence of clan loyalty for reasons of security. Lewis (2008b)'s contention that both violence and its resolution mechanism are inherent in Somali culture and therefore the state had to accept the clan as a reality through which people's social and security needs are managed, is one pertinent view. Yet it is contested by Samatar and Samatar (1988, 1997) who blame a dishonest elite for preventing the advancement of civic governance where the security agencies can earn the trust of the people and promote citizenship as opposed to clanship. His proposition that poor governance practices are to a significant degree an explanatory factor for endearment to clan ideals and identity appears relevant in the case discussed here where landowners resorted to arms to try to prevent their land being appropriated by the military and granted to another individual.

To understand the dynamics of the military base conflict, it is important to understand the key actors and dynamics of urban security in the post-conflict context. Scholars have invoked a trajectory from the heightened era of clan protection in the immediate aftermath of Barre's

²⁴⁸ For instance, it could not make sense to trust a multi clan police force where in some cases the perpetrator could belong to the same clan as a member of a police investigating a case involving a victim from another clan.

removal from power through the time when the SNM administration's lack of organisational cohesion and capacity to maintain public order, necessitated the use of clan elders as the ultimate security providers in the country (APD, 2010). As I detailed in chapter 2, they cast this as marking the beginning of a 'hybrid' process in which the state formalised by relying heavily on, and incorporating existing traditional institutions in order to legitimise itself and bring about law and order. There is a debate as to whether this has defused clan conflict or given clan identity has gained a renewed momentum in the post-conflict context. My argument in this thesis, is that what I see as the renewed role of clan has undermined the prospects of cosmopolitanism in urban places as people in multi clan neighbourhoods have self-segregated and move to areas predominantly populated by their clans (APD, 2010). The primary motivation for this self-segregation was security grounds, as people surrounded by their own clan members perceive themselves to be less vulnerable to criminal hooligans than those in less clanned spaces.

While the co-existence of plural security providers in Somaliland may have played a crucial role in the post-conflict state building processes, their role is ambiguous, and they may equally become an obstacle to progress partly due to the lack of clarity on their respective roles and responsibilities. So far, very few attempts have been made to consolidate the various security providers in the country and these attempts have so far failed to provide a framework within which these institutions could be enhanced to complement each other. The existing administrative practices fail to delineate the necessary boundaries and convergences between the state and other actors such as traditional and religious leaders. While emphasis is placed on the decentralisation of the state security services through the Regional Governors and the use of the traditional leaders who are on government payrolls, it sets no guidelines around which their working relationship could be shaped. Such lack of clarity on the relationship between the various actors involved in security provision is dangerous in a country where gun ownership is high (Hammond, 2013),²⁴⁹ making violent confrontation between clans and the state and within clan more imminent.

According to a report by the Danish Demining Group (2009, p. 35), some of the [key] "characteristics of the internal safety and security environment....in Somaliland...are the overlapping responsibilities and competencies of different security providers that have

²⁴⁹ According to Hammond (2013), 41 percent of the respondents surveyed in Burao claim that they own firearms. These weapons are mainly automatic rifles which have the potential of forming a formidable militia should some of the clans choose to resist the state violently. In addition to this high rate of gun ownership in the cities.

developed as a response to the initial – and to some extent remaining – capacity gaps” in state security provisions. In addition to the traditional and religious leaders, this capacity gap was more recently filled by youth groups who have emerged as new actors in the post-conflict urban security landscape. These youth groups patrol the neighbourhoods for a small fee and claim to protect residents from petty criminals who often snatch mobile phones and burglarise homes. They charge the customers a fee ranging from \$5 to \$30, depending on the size of the property and the wealth of customer. Moreover, various other – more serious - challenges face the provision of urban security in Somaliland. These include the security threats posed by extremist organisations based in the South, which have received the most international attention. In 2001, an Italian aid worker was killed in Borama while a year later two English teachers were slain in Sheikh. The biggest threat came in 2008 when a major attack, claiming the lives of more than 20 people was carried out against the Ethiopian consulate, UNDP compound and the Presidential House in Hargeisa (APD, 2010). These incidents have led to a rapid increase in the emergence of gated communities in the city as a response to the threats. Almost all the major governmental offices, aid agencies and the major hotels in the city have fortified gates surrounding their immediate vicinities. Nonetheless, according to local security officials, violence and insecurity emanating from urban land conflicts presents authorities with more immediate urban security challenges than the occasional terrorist related threats.²⁵⁰

8.3 Upsetting the Status quo: The Early Morning War Call

A case in point, which can illustrate the precarious dynamics of urban security in Somaliland and ready recourse to clan occurred in Hargeisa in 2012, where clashes between security forces and armed militia sent shock waves through the city. The problem was rooted in the confiscation of a piece of land, located in Malka Durduro near the Somaliland Army headquarters, from a prominent Ethiopian Somali politician, Abdikarim Aw Rali.²⁵¹ The move was said to have been necessitated by the fact that the army needed extra space for storing its military hardware. Upon finding out that his land was confiscated by the government, the Ethiopian Somali politician who was at the time based in Addis Ababa, came to Hargeisa to get explanation for the confiscation of his land. He held high profile meetings with senior politicians and government officials

²⁵⁰ Interviewee 66 August 10, 2014. Police Station Commander.

²⁵¹ The land they confiscated from him was about 600 x 600 m whereas the land they gave him was 400 x 400m in where the dispute has arisen.

including the then President of Somaliland, Dahir Rayale Kahin. Following these meetings, the government decided to compensate him with alternative land located in a military barrack towards the East of the city.²⁵² The barracks were established in the area in the late 1970s when the socialist military regime expanded its security presence in the city and confiscated land for establishing military bases from the people in the area. According to local resident, the land used to be farms owned by semi nomadic families whose settlement in the area dates back to nearly 70 years.²⁵³ While the government constructed buildings and military facilities in some parts of the confiscated land (i.e. factory that fixes broken weapons, firearm testing facilities, and military training grounds), other parts remained vacant. The post-conflict administration followed suit, limiting themselves to the facilities established by their predecessors. According to a Sultan who hails from the area, this state of vacancy seems to have provided reason for the reoccupation of the land by the previous civilian owners:

*When people came back from the refugee camps, they resettled in the area which was confiscated from them. The land was vacant... they never constructed buildings, they never fenced it...in other words it was as vacant as when it was confiscated from them.*²⁵⁴

Claimants of this land contend that the transfer of the land confiscated from them for public purposes to another person is illegal and unacceptable. Attempts aimed at resolving the issue peacefully did not yield results. Some of the government officials who were sympathetic to the civilian claimants covertly advised them that the only mechanism through which they can pragmatically open a case against the military establishment was through their own courts. Heeding this advice, they tried to open a case in the military courts but the courts refused to accept their submission. As suing the army through its subsidiary organs did not bring about any change, they then made an attempt to bypass the court. According to close relatives,²⁵⁵ the claimants have visited all the major figures in the military establishment including the General Chief of Staff, the Deputy General Chief of Staff, and the Head of the Military Operations. Their

²⁵² Interviewee 52 June 15, 2014. Sultan.

²⁵³ Interviewee 40 April 25, 2014. District Officer.

²⁵⁴ Interviewee 52 June 15, 2014. Sultan.

²⁵⁵ Interviewee 83 June 21, 2013. Relatives of One of the Attackers.

pleas with the military officials did not however result in any intervention. Realising that they will get no help or solace from the military establishment, they tried to take their case to the Supreme Court, the highest court in the land, but their request for opening a case against the Armed Forces was again declined. Frustrated by the judicial system in the country, they tried to get a political intervention, writing a letter outlining their grievances to the Ministry of the Office of the Presidency. They also apparently sought audience with the President but six months after their request, they were still unable to see him.

In the early morning of Tuesday, 15th of May 2012, the land claimants staged a surprising but daring attack on the military barrack in question. Seven people lost their lives and nine others were injured in the attack (BBC Somali, 2012). The casualties included three military personnel, two militia men and two civilian bystanders who were apparently early risers preparing for their next day's activities. According to police and military chiefs who called for a press conference on the following day, the militia were armed with various types of small arms including automatic machine guns. This is hardly surprising in Somaliland where availability of small arms is among the highest in the region. The security chiefs reported in the meeting that 28 people were in custody, nine of whom were injured (Haatuf News, 2012b). One of the attackers, who identified himself as Saeed Mohamed Abdullah, spoke to the Voice of America's Somali Service following the attack and argued that they carried out the attack because the government occupied land they owned for generations. He said the land was forcibly confiscated from them by the previous military regime for public use only to be given to a businessman (Haatuf News, 2012b).

Competing narratives surround the manner in which the incident began. The government's version is that the civilians attacked the military base without provocation. On their part, the assailants contest that they did not go to attack the military but rather to reoccupy their land. When the military saw them camping in the contested land, they requested them to vacate but the armed civilians refused to abide by the military orders. Nevertheless, the incident took the city by surprise and politicians were cautious about their remarks due to the clan dynamics of the situation. It is important to remember here that the incident had two dimension. On the one hand, the conflict was between the state and the landowners. But beneath this layer of the conflict is the clan dynamics. Surprisingly, the soldiers who lost their lives all came from the Sa'ad Muse of the Awal clans. Equally, the attackers all came from the Habar Yonis sub-clan of the Grahajis clans. Both clans have major presence in the capital and inflammatory remarks could have sparked a clash. The Mayor of the city who spoke shortly after the attack on a national television encouraged people not to take the law into their hands. The Minister of Defence also

condemned the attack but spoke in a conciliatory manner making a mention to the fact that the people who are fighting over the land now are the same people who fought together against the previous military regime (Berbera News, 2012). Similarly, a former Minister in the government Ali Mohamed Waranadde²⁵⁶ who spoke to the media said that "I want to tell the people that we have come this far through dialogue and compromises and I am urging people not to abandon this.... I am aware of this problem and I am pretty sure that it has reached this far because of mismanagement but I do not believe that it should have reached to the point of violence".²⁵⁷ (Faarax, 2012a).

8.4 Court Martial and Post Violence Customary Mediation

The military and the rest of the state institutions were embarrassed and furious about the attack staged against a key military base in the heart of the country. Part of this anger was rooted in a concern about possible damage to the state's image. This shaped not only the manner in which the state responded heavy-handedly to the incident but also the swiftness with which it prosecuted suspects. For instance, disproportionate level of security personnel and machinery were used to bring the situation under control while prosecution was speedily put together and military court convened within unrealistic timeframe (in the Somaliland context) of 12 hours from the time when the incident took place. On the following day, the court passed a death sentence to 17 people while 5 others, who were underage, were sentenced to life imprisonment. Three more people who were treated for injuries sustained during the attack awaited trial. Speaking to the media, the chairman of the first level military court in Hargeisa Col. Yusuf Farah Sharmarke said that the court's sitting began in the early morning of 16 May 2012 and came to an end at about 4 o'clock in the same day (Haatuf News, 2012a). He added that the trial was fast-tracked due to assailants' confessions for their crimes.

Concerns have been raised about the manner and swiftness within which the sentences were handed down (BBC World, 2012). Critics argued that it is surprising for a death sentence to be issued within 24 hours without proper investigation to the root causes of the problem. Moreover, the legality of trying the case in a military court was also questioned. According to a criminal lawyer in Hargeisa, civilians cannot be tried in a military court under the existing

²⁵⁶ He is now the current Minister of Interior

²⁵⁷ The Minister also denied allegations levelled against a prominent businessman called the DAHASHIL to have bought the place.

Somaliland criminal laws.²⁵⁸ The military however contested if a military action is committed, military rule must be applied.²⁵⁹ One of the ways in which the security personnel sought to justify their position was the fact that they displayed the military weapons used by the suspects in a press conferences held soon after the attackers were detained (See figure 1 and 2).

Figure 6: Weapons used in the attack, as claimed by security officials



Source: (Faarax, 2012b)

²⁵⁸ Interviewee 88 June 14, 2014. Criminal Lawyer.

²⁵⁹ Interviewee 86 June 1, 2014. Military Official.

Figure 7: Government officials speaking to the media in the aftermath of the incident



From right to left: Defence Minister, Ahmed Haji Ali Adani, Interior Minister, Mohamed Nur Arale (Du)r, Army Chief, Ismail Shaqale, and Police Commissioner, Abdullah Fadal Iman. Source: (Faarax, 2012b)

The sentences caused widespread fear about possible deterioration of the situation. According to Qaran News (2012), tension was running high in the city as people were shocked about both the attack on the barracks, but also the passing of such a harsh sentence against civilians in a military court. This website, which is run by a blogger who hails from the Eastern neighbourhoods of the city, reported that a demonstration was organised in New Hargeisa neighbourhood in response to the sentences. According to one of the government critics, the same military court which refused to accept their submissions and hear what they have to say about the land in question sentenced them to death.²⁶⁰

The military court was accused of human rights violations as it denied the suspects their constitutional rights for fair trial and legal representation. This is because none of those sentenced was defended or legally represented in the court. Some of the other problems with the trial were investigative flaws relating to the prosecutor's preparation of the case. This is apparent in the manner in which the sentence was collectively rendered without addressing key

²⁶⁰ Interviewee 87 June 4, 2014. Opposition Member of Parliament.

investigative questions such as whether all the accused people committed the crime or whether they were all armed or fired their guns at the soldiers. Moreover, some of the people who were sentenced to death were underage boys whose age ranged from 15 to 17. The irregularities apparent in the way the case was handled attracted criticism from not only within the country but also outside the country. For instance, the United Nations envoy in Somalia, Augustine Mahiga, expressed his organisation's concern over the violence between civilians and military in Hargeisa as well as the subsequent mishandling of the case by the Somaliland authorities. The envoy in a statement expressed:

concern about the [manner in which the] trial of these civilians was conducted by a military [court] in contradiction of both applicable local statutes and... [international laws and norms] He urges[d] the immediate transfer of the case to a criminal court and encourage[d] the authorities to ensure that fair trial rights are respected.... [finally] calling for a full, impartial, independent and transparent investigation into the incident and its aftermath (UN News Centre, 2012).

Relatives of those sentenced to death²⁶¹ suspect that the reason why the capital punishment was issued within a very short period of time is attributable to the fact that all the key figures, including the head of the army, the chairman of the court, and the two prosecutors handling the trial, were from the same clan as those soldiers killed in the attack.²⁶² It is also important to note that all the attackers were from the same sub clan, Habar Yonis of the Garhajis, in addition to the local tensions, the case also attracted the attention of the Somaliland diaspora who used it for critiquing the state building process in Somaliland. But their opinion was divided. While some supported the government resolve to quick action against those who staged the attack against the military, others were disappointed in the manner in which the government handled the case. For instance, Yare (2012) argued in an article carried in a diaspora owned website that:

one would see no reason why the government maintains a military base in the middle of densely populated and residential area. The military is the defence forces of the nation that are designed to protect the country from

²⁶¹ Interviewee 84 June 15, 2013. Relatives of One of the Attackers.

²⁶² Interviewee 52 June 15, 2014. Sultan.

external and foreign enemy. Logically the bases should have been relocated in the border area of the country and in arm's length of civilian population. Only dictatorial regimes keep a heavily fortified military base within the vicinity [of a civilian residential area].

Some of the messages carried in the diaspora websites were mainly aimed at raising awareness about the issue and bringing about not only local resistance to the sentences but also international pressure on the government to rethink its decisions. Such messages amplified the security threats that can emanate from the violence and the implications this could have on the relative stability and democratisation process in the country which are both heavily aided by Western donors.²⁶³ In a blog posted on the internet in the immediate aftermath of the attack, Yare (2012) argued that:

what distinguishes our nation and the thing we are proud of is our tolerance and respect for human dignity. We would not be any different from our brothers and sisters in Somalia if we militarise every civil issue. Civilians who have been frustrated by the web of oppressions and systematic alienation would have no option than using all means necessary to defend their right. It is from the government we have to expect patience, tolerance and fair treatment. There is no doubt that the military and the police have used excessive forces. [This] would be an insult to [the] European donors that finance the recurrent training and salary of the special police unit.

Values and principles of democracy enshrined in the constitution were also used as a point of departure for condemning the government's action against the assailants. Ibrahim Mead (2012) who is a political analyst based in Canada and critic of the ruling party, KULMIYE, points out that the constitutions of Somaliland upholds the right of civilian to fair trial in a civilian court. The commentator suspects that the government anticipated these kinds of problems and was intent to create security problems as that would enable it to distract the public attention from its institutional failures. He asks:

²⁶³ Whose rule of law values, according to these bloggers, were supposedly reflected in the relationship between the people and the state they aid.

why are the soldiers [who] were sent to the place of the incident were selectively from a particular clan to face a particular clan? Many people in Hargeisa believe that it was deliberately planned to create a wedge between the brotherly communities [in Hargeisa] so that Siilanyo could fish in the newly created mistrust and implanted hate between these brotherly communities as a benefactor of these evil activities!

The commentator further accused the government of polarising the country along clan lines, contributing significantly to the widening rifts between clans in Somaliland. An example of this is the fact that some elders and businessmen from Gabiley called for the government to speed up transportation of the bodies of their military men, also echoing out clan inclined inflammatory remarks in the aftermath of the attack. The author asks, ‘the question is who the soldiers died for, for a merchant or for the nation?’ Following both local and international pressure on the government, the Defence Minister revealed during a briefing to the parliament that the government was reviewing the death and life imprisonment sentences (Hasan, 2012). Subsequently, the appeal court of the military overruled the previous sentences, reducing death sentences to life imprisonment and the life imprisonment to 10 years.

The elders of the Habar Yonis clan from which the assailants hail were still unhappy about the jailing of their men and thus have embarked on efforts aimed at bypassing the state institutions and making the matter inter-clan issue. To this end, the elders used their network in the customary institutions to bring about a solution to this problem. They met representatives from the deceased men’s’ clan. The point of departure for these elders was the fact that the assailants’ clan, Habar Yonis, had no intention of engaging violently with the Sa’ad Muse of the Awal clans, of the deceased soldiers therefore cannot be subjected, according to customary laws, to punitive actions such as revenge (assailants). After a long discussion between the elders of the two clans, in the end the clan of the deceased soldiers agreed to take blood money for their deceased members. The Sultan who led the delegation from Eastern Hargeisa clans said:

we met their clan leaders such as the Sultan and the Akils and we requested them to take mag or dia (blood money)²⁶⁴ since the assailants did not know the clan background of the deceased. We also told them that they did not

²⁶⁴ Mag and dia are Somali or Somalised words with the same meaning interchangeably used for blood money.

*intend to kill them for clan related purposes. The host elders were convinced with our argument and we agreed on a blood money of 300 camels for each person killed. Each camel was estimated to cost \$500.*²⁶⁵

The assailant's clan brought the agreement papers to court demanding that their men should be released since the two clans have agreed within themselves. The court, however, imposed further conditions by instructing the elders to bring close relatives of the people who were killed in the attack to court so as to ensure that they are happy with the decisions made by their elders. The assailant's elders went back to the deceased's clan elders requesting them to facilitate the consent of the deceased's relatives in writing. A Sultan from the Habar Yonis said that:

*we brought the notary signed by the close family members in order to show that the close relatives agreed to this arrangement. We paid about \$600 for the process of bringing them from their home to the city.*²⁶⁶

The aforementioned efforts aimed at releasing the jailed assailants through clan-based negotiations were also accompanied by similar efforts aimed at convincing the state to release the assailants. For instance, six people including three Sultans, businessman, and other key figures representing the clans in the Eastern side of the city met with the President of Somaliland and a select committee of high ranking officials including the Government Spokesman and Ministers of Interior, Defence, Foreign Affairs, and Presidency to discuss possible solutions for the violence and death of soldiers as well as the outstanding land issues.²⁶⁷ The meeting with the President was particularly important because of the fact that the military court complicated the issue further by saying that the only way through which the assailants could be released is through a presidential pardon. Following successful lobbying the President finally agreed to issue a pardon on the occasion of 18 May when Somaliland unilaterally declared independence from the rest of Somalia.

²⁶⁵ Interviewee 49 June 15, 2014. Sultan.

²⁶⁶ Ibid.

²⁶⁷ The Sultan again said that they insisted: this time we are only dealing with the President since all other institutions are unable to do anything about the problem. We also told them that we still didn't give up our land and we need to talk about it in another setting and another time *ibid*.

Amid weak justice system, violence emanating from urban land conflict is the single biggest threat to security in Somaliland (OCVP, 2012, OCVP, 2013a, OCVP, 2013b). While the traditional system is criticised for inability to deal with land disputes in complex urban settings, they proved to be useful in resolving disputes in ways that are not necessarily justice-oriented but rather solution-oriented. The state's inability to deliver equitable statutory system not only empowers the customary institutions but also undermines state legitimacy. For Belaunde et al. (2010, p. 50), "competing legal regimes serve to undermine the legitimacy of the state in the eyes of its citizens due to the lack of citizen participation in land processes and to competing meanings and uses surrounding land between and within the local, national and international levels". While this assertion is relevant, dismissal of legal pluralism in post-conflict context, where the state is unwilling or unable to discharge public service in an equitable manner, is simplistic. The more pertinent question relates to how could their interaction be managed in a many in which they could function alongside each other with minimal negative impact on the population they serve.

8.5 Conclusion

The above case highlights the danger apparent in the unresolved urban land conflict involving the state. In other words, the lack of a credible mediation avenue for such conflicts may lead to a violent encounter and undermine the long-invested security in the city. This may in turn cement the spatial segregation in the city as people will see it beneficial to stay in areas where they could resist the state more easily or escape conflict (Bryden, 1994a).²⁶⁸ The authorities have in many cases expressed concerns about the challenges presented by the concentration of groups in specific geographical locations to law enforcement. The high rate of unemployment among the youth and the exploitation of clan identity can fuel insecurity in the city. Risk factors that could draw the youth into criminal activities of this nature are "social and economic marginalisation and vulnerability" (Widmer, 2013, p. 2). This coupled with state impunity about the way in which it manages conflicts can result in a major shock to the already fragile urban security in Hargeisa. Notwithstanding the fact that the state often enjoys²⁶⁹ the upper hand in violent encounters with resisters owing to greater availability of resources and quicker organisational capacity, it is important to bear in mind that such individuals or groups may often have the ability to exploit existing social and political cleavages to deny the state the legitimacy

²⁶⁸ Many people fled the city for areas populated by their clans during the civil between 1994 and 1997.

²⁶⁹ At least for the time being.

and voluntary compliance of rules and regulations it so desperately needs at a time when it is grappling with the burden of non-recognition.

In this example of a clan's recourse to violence in defence of clan members' lands against state appropriation, one sees the ambiguity of plural institutions of protection, and a dynamic conflict the contours of which cannot be explained by 'hybridity' in so far as this implies fused powers within institutions, rather it presented a case of opposition between clan defence of its members interests and state (the latter also perceived as acting in a clannist manner). The resolution – if it can be termed as such, which has met with widespread concern and dissatisfaction – involved attempts at clan-based mediation to reduce the severity of charges against civilians including marginalised youth, and has once again undermined trust in the state and raised concerns over the legitimacy of state actions. As argued in the literature review and shown in the empirical chapters, the current debates about hybrid governance within which pluralism sits, run short of explaining the spatial manifestation of the quality of interaction between the state and the public. This makes the use of alternative concepts, such as legitimacy and trust, necessary for capturing the dynamics of these imperative. This thesis aimed to contribute in this regard.

CHAPTER 9 CONCLUSION

This thesis is the first analysis of the shaping of city space in Somaliland. I highlighted how current debates on Somaliland examine mainly national level politics and governance. I have therefore, suggested a shift in focus to the neglected city space and authority, where urban subjects/citizens encounter the local state on a daily basis, and where the manifestation of lack of trust has repeatedly fostered a trend towards spatial segregation. The thesis shows that an understanding of urban segregation in Somaliland requires going beyond the debates over hybrid peace and state building. It thus extends in significant new ways the work of key theorists of hybridity in post-conflict state building such as (Walls, 2009, Walls and Kibble, 2010, Hagmann and Péclard, 2010, Hoehne, 2013) (reviewed in chapter two). The focus in existing debates on the intersection between peace and state building, I argued, can obscure rather than illuminate the urban governance dynamics that shape segregation of cities in Somaliland. There is a need to adopt concepts that are aimed at capturing the quality of interaction between the public and the state at city level so as to understand the making and unmaking of urban places in Somali/land. This focus on the city is especially important in the light of alarmist projections of exponential growth in Somaliland's city populations (UN, 2014, The World Factbook, 2015b) yet there is a significant dearth of understanding of urban dynamics and conflicts over land within cities.

In this study, I have used the concepts of legitimacy, trust and segregation to make sense of the configuration and reconfiguration of Hargeisa and to explore urban land conflicts. To capture how these theoretical arguments are rooted in empirical dynamics of urban configuration and reconfiguration, I examined urban governance in Hargeisa with the aim of explaining how segregation has developed over time. I approached this analysis historically and advocated an urban ethnographic approach (chapter three). The study's empirical discussion began with an examination of the history of municipal governance/politics (chapter 4). I then zoomed in on particular aspects of urban governance such as land administration and conflict adjudication mechanisms (chapters five and six). I finally examined specific land conflicts – around Hargeisa airport and military base - to show how the interaction between the state and the public undermines trust and fosters urban segregation (chapters seven and eight).

The overall thesis was guided by the question: what are the key historical processes and recent socio-political dynamics underpinning Hargeisa's spatial character as clan-based segregated urban space? I answered this question by arguing that urban governance was, and still remains,

a crucial factor in understanding the process and practices underpinning the emergence and perpetuation of segregation. Throughout the thesis I argued that the interaction between the state and the people can provide important clues in understanding Hargeisa's spatial character. I maintained that the political, economic and social utilities of clan relationships influence how people choose spaces in the city. For instance, the use of kinship as a means of negotiating access to services and support shows how governance practices intersect with social dynamics in shaping the configuration and reconfiguration of urban spaces in the city. My analysis of Hargeisa governance and social dynamics was guided by the following sub-questions:

In the first sub-question, I asked:

- How do the historically rooted hybrid municipal politics and the top down urban land administration explain the configuration and reconfiguration of Hargeisa's spatial character?

To answer this, I examined the history of urban governance and its link with the emergence and perpetuation of urban segregation. I discussed the introduction of local governance and the urban development trajectory in Hargeisa over time (chapter four). I argued that urban segregation in the city is the spatial outcome of the antagonistic interaction between ruler and ruled over time: an interaction whose foundation was laid during the colonial period and reinforced thereafter. In other words, regimes in Somalia continued the centralised authoritarian urban governance practices inherited from the colonial administrations. I therefore argued that segregation can be attributed initially to the colonial state's centralised top down and repressive urban governance, and thereafter to the postcolonial state's failure to break with the past. Postcolonial authorities have not instituted effective and accountable control over the arbitrary territories inherited from the imperial powers, and remain unable to deliver services in an equitable manner based on national citizenship. This inability reinforced the need for localised belonging based on clan as a means to negotiate space in the city. The consequence is that most people developed a tendency of locating themselves in areas where they could get access to services and support (ranging from socio-political to socio-economic) through their clan networks. In other words, segregation in Hargeisa can be understood as a response to political, economic and security problems in the city, persisting because of the state's incompetence in managing public services. In the few instances where the state made concerted efforts in improving access to services on a national basis, cosmopolitan spaces have

emerged where individuals' choice of residence were rather based on factors other than an association with a clan. I argued that these brief historical episodes in which the state made an attempt to change the factors underpinning the clan-based character of cities were undone by the fact that the state reverted to the clannish governance practices from which it claimed to have departed.

To further ground the above argument, I focussed on urban land management (chapter five). I argued that land management practices in Somaliland were often underpinned by top-down processes in both colonial and postcolonial periods. For instance, the colonial administrators had rarely consulted the people nor the intermediary customary institutions about urban land management. The underlying justifications for ignoring local opinion hinged on low-level urbanisation and the perception of Somalis as being too ignorant to contribute to matters of town planning. This top-down approach continued along the same lines during the postcolonial period as many of the urban land management practices and policies remained unchanged. The few attempts aimed at bringing about land reforms failed. The policy making processes and practices remain largely imposed from above. For instance, both the National Urban Planning Board and the National Urban Planning Institute operate above the local. The highly centralised nature of policy making instruments make local authorities junior partners. This top-down process and the inability of the state to consult people about their urban destiny shape the persistently negative attitudes towards the state. Thus, urban segregation is the spatial manifestation of the dwindling trust in the state. The continuation of the spatial segregation of Hargeisa resulted from a long history of top-down urban land management approach, which also marginalises the poor. Equally, I argued that the remaking of the urban land management regulatory framework post-conflict was characterised by weak institutions, which failed to make significant changes to the quality of interaction between the state and the public.

In the second sub-question, I asked:

- What are the drivers and dynamics of urban land accessibility, conflicts and adjudication and how do they relate to trust/ mistrust of the state and the city's pattern of segregation?

To answer this, I showed that the urban land conflicts in Somaliland are adjudicated through plural institutions - statutory, traditional and to a lesser extent Islamic institutions (chapter six). The multiplicity of actors involved in conflict resolution is however characterised by competition,

complementarity and coexistence. The relationships among them are not accurately captured by the idea of hybridity. One way in which the institutions complement each other is the fact that the traditional institutions are endorsed by the state to mediate cases that it is unable or unwilling to resolve through the statutory system for political or security reasons. In such cases, the traditional authorities fill the gap in the state's inability to deal with conflict. In other instances, however, the institutions contradict each other, as the traditional institutions interfere with cases in the statutory system in the interest of their particular clans. Customary institutions have successfully positioned themselves as a better alternative for resolving land conflicts for a number of reasons. Firstly, they are cheaper than the protracted and expensive court processes which require legal representation. Secondly, they are more time effective, as the judgments are reached within a reasonable time, ranging from one day to two or three weeks. Thirdly, their level of compliance is greater as the parties are represented by key figures from their family who oversee compliance. Hence my argument was that the clan-based spatial segregation of Hargeisa is partly also a geographical manifestation of the struggle between the statutory and customary institutions, as people have developed greater confidence in the latter and choose a location within the city where they are accessible.

The third sub question asked:

- How do people navigate the terrain of urban institutions and how does this shape the making and remaking of urban space in Hargeisa?

The investigation of this sub-question in many ways lay at the heart of the thesis and cross-cuts its chapters, as the answer hinges on the resort to clan and disaffection with state institutions both local and national. Popular responses to state urban governance have helped produced the clan based spatial form that I have sought to explain throughout. I showed how this popular disillusion with state municipal institutions' authoritarianism, lack of capacity or corrupt practice was reproduced at different junctures in the city's municipal history (chapter four), and in the disputes over land brought before the Land Commission, or which occurred over the airport and military base where the state was party. When investigating either municipal elections, the workings of the Land Commission or the violence that flared up over the state's expansionist endeavours at the airport and military base, my approach depended on investigating Hargeisa residents' views and practices in relation to state institutions and their impact on urban space. The city's inhabitants' resort to clan and greater confidence in customary institutions, the efficacy of the latter in some instances of conflict resolution, and the prominent role of Akils and

clan elders in mediating state practice at local level remain important in explaining the persistence of segregation over time.

In the final sub-question, I asked:

- What are the security implications of unresolved urban land conflicts in the city, how do they influence state legitimacy and affect the city's spatial character?

The thesis showed how the control of public properties and infrastructure plays an important role in the legitimization of new political orders. This was particularly transparent in the disputes over land at the airport and military base (chapter seven and eight). On the one hand, such properties are the sites in which state visibility and effectiveness is demonstrated, while on the other they are the sites in which state legitimacy is contested. This struggle can best be seen in conflicts where the state is at loggerheads with local land owners, as in the case of both the airport and military base. In such conflicts, intermediary non-state institutions such as the Akils and elders mediate between the actors in the conflict. While people may have leverage on customary institutions when dealing with one another (chapter 6), the same cannot be said when the state is one of the disputants. This results in a legitimacy struggle in which the state seeks powers inherited from prior regimes and the public regards this behaviour as comparable to the regimes they deposed, creating a condition in which legitimacy is seen through different lenses. Such legitimacy struggles shape attitudes of endearment towards clan identity and reinforce the manner in which people make decisions about their choices of abode. Individuals who are concerned about state violence are likely to maintain properties in areas predominantly populated by their clan so as to mobilise public support and resources necessary for resisting the state. In the case of the airport expansion, the result was violent resistance, death and destruction of property.

I have also shown that the state's manipulation of the statutory judicial system limits the space available for urban land conflict adjudications where the state is one of the actors in the conflict. (It is important to note that the urban land Commission in Hargeisa does not mediate conflicts in which the state is one of the parties in the conflict, as explored in chapter 5). This reinforces clan and identity politics as a means of mutual support against the state. Violent encounters between the state and the public reflect the limited space to engage with the state through the current highly corrupt judicial system. This creates dire security consequences for a town recovering from many years of poverty and civil war, which in turn cements the spatial

segregation in the city as people continue to see benefits in staying in areas where – thanks to a concentration of fellow clan members - they can resist the state more easily. While the authorities fear the escalation of conflicts with the public, seeing this as one of the major threats facing state stability in general and urban places, in particular, they fail to come up with policies that enable the amicable mediation and resolution of conflicts. The high rate of unemployment among the youth and the state's impunity about the way in which it manages conflicts can result in a major shock to the already fragile urban security in Hargeisa, and hence further entrench urban segregation.

To wrap up my argument, it is important to remember that the current focus of state building debates in Somali/land are concentrated at the national and subnational level (i.e., paying attention to regional rather than urban contexts). Key in these debates are the discussions on the intersection between peace and state- building. These have obscured rather than illuminated the urban governance dynamics that shape segregation of cities in Somaliland. The hybrid national order, on which much of the debate is focused, failed to shift the country away from past malpractices (such as corruption, cronyism and nepotism where one's economic, political and social belonging lies at the heart of access to services). This cemented the clan-based spatial characters of urban spaces in Somaliland. In other words, as hybrid governance failed to present the people with an alternative form of belonging based on aspirations beyond clan. Rather, social networks based on clan remain prevalent in segregated urban spaces, reinforcing the clan as a prime way in which people seek to negotiate relations and service delivery with the formal state institutions.

This thesis thus provides greater understandings of the plurality of urban governance institutions, land conflicts, lack of legitimacy and their historical roots, providing important information not only to fill gaps in the academic literature on Somali studies, but also for all those engaged with trying to build accountable urban institutions, or citizens trying to hold them to account. The study hoped to redress a dearth of attention to key urban issues. The scale of urban land conflicts necessitated academic enquiry, particularly to redress their neglected spatial aspect. Moreover, the rapidity of urbanisation demanded greater understanding of the events, policies, and historical episodes that have shaped current trends of urban form in the country, and are likely also to influence future dynamics. I hope to have begun to rectify the lacuna of understanding about controls over urban space and popular responses to city authorities, which begged for urban level academic enquiry to complement the existing state-building and governance debates in Somaliland. Finally, the study provides an important basis for further

research on the relationship between spatial and socio-economic trends in the configuration and reconfiguration of urban spaces in Somali/land. Little is known, for example about the link between urban and rural contexts and their interdependencies, migration and diaspora, or how the informal urban economy contributes to the making and remaking of urban spaces. The thesis thus ends in the hope that this initial investigation of urban governance, land conflicts and segregation in Hargeisa and the insights it has provided into urban spatial form past and present can lead onto new research that can deepen understanding of Somaliland's cities and access to land, justice and security within them.

As shown in the rest of the thesis, segregated urban spaces can have major implications for urban governance in Somaliland. At the heart of these implications are the issues of state legitimacy and trust. The two are interdependent: for state legitimacy cannot be achieved without laying the foundation for public trust in the state. The Somali state-building processes has so far failed to win the trust of the public, resulting in the emergence, development and perpetuation of survival mechanisms (at the front of which stand segregation) aimed at negotiating life in unfavourable spaces governed by untrusted state. On the one hand, segregation might enable new migrants to negotiate space (s) in the city through their clan networks and enable disadvantaged communities to mobilise people and resources to resist against government policies which do not reflect their interests. But on the other hand, segregated urban spaces might undermine security and political stability as they might be exploited by individuals (mainly elites) hiding behind clan identity for personal, economic and political gains.

Having argued throughout the thesis that urban governance contributed significantly to the segregation in Hargeisa, it is also important to note that urban governance has the potential of undoing such segregation in the city. This is so due to the fact that at the heart of the residents' tendency to locate themselves in an area populated by their own clan is the lack of trust for the state institutions. I therefore argue that the creation of a just, equitable, efficient, and effective service delivery system is likely to bring about a change in how urban spaces are organised in Somali cities. In other words, the state has to behave in a manner which can encourage people to attach greater importance to national citizenship over clan citizenship. Steps that could be taken include the provision of unmediated service delivery where citizens are able to get access to public services without being mediated by intermediary institutions or persons. This will reduce the significance and incentive of one locating him/herself in a neighbourhood populated by their kinsmen and hence cosmopolitan spaces are likely to emerge.

This research was mainly concerned with showing the hitherto un-researched urban geography of Hargeisa. The aim was not to compare the advantages and disadvantages of segregated forms of urban settlements. This could be the subject of a future research into the urban geography of Somali cities in general and Hargeisa in particular.

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TNA CO 535/149/4 Land Tenure.

TNA CO 535/152/3 The reorganisation of native administration: Somali representation and introduction of local government.

APPENDIXES**I. Consent Form for Project Participants****CONSENT FORM FOR PROJECT PARTICIPANTS**

PROJECT TITLE: Urban governance, land conflicts and segregation in Hargeisa, Somaliland: historical perspectives and post-conflict dynamics

Project Approval**Reference:**

I agree to take part in the above mentioned research project. I have had the project explained to me and I have accepted to participate in the study. I understand that agreeing to take part means that I am willing to:

- Be interviewed by the researcher
- Allow the interview to be video recorded / audio recorded
- Make myself available for a further interview should that be required

I understand that any information I provide is confidential, and that no information shall be revealed in a manner that will lead to the discovery of my identity less otherwise allowed.

I understand that my participation is voluntary, that I can choose not to participate in part or all of the study, and that I can withdraw at any stage.

Name:

Signature:

Date:

I believe that _____ (name) understands the above project and gives his/her consent voluntarily.

Name:

Signature:

Address:

Date:

II. Information Sheet for Project Participants



INFORMATION SHEET FOR PROJECT PARTICIPANTS

Dear Sir/Madam,

You are invited to take part in a study on *Post-conflict institutional dynamics and access to land, justice and security in Hargeisa, Somaliland*.

Participation in this study is voluntary and whether or not you take part in this study is your choice. Participants can withdraw from the interview at any point during the research process. This Participant Information Sheet will however help you decide if you'd like to take part. It sets out why we are doing the study and what your participation would involve. We will go through this information with you and answer any questions you may have.

If you agree to take part in this study, you will be asked for either a verbal or written consent. You will be given a copy of both the Participant Information Sheet and the Consent Form to keep.

Please make sure you have read and understood all the pages.

Yours faithfully

Abdifatah Tahir

WHAT IS THE PURPOSE OF THE STUDY?

The purpose of this study is to:

- understand the institutional dynamics in the post conflict Somaliland and the processes and condition under which they emerge.
- document the experience of local/urban communities with institutions governing resources and services.
- fill the gaps in knowledge about the nexus between institutional dynamics and access to resources and services.
- provide an input into the debates on institutional building and contribute to the enhancement of current processes and thinking.

WHAT WILL MY PARTICIPATION IN THE STUDY INVOLVE?

You might be asked to:

- *participate in a semi structured interview where you would be interviewed individually and could also be re-interviewed.*
- *participate in a key informant interviews and you would be interviewed individually and could also be re-interviewed*
- *participate in a focus group discussion where you will participate in a group discussion with other participants.*
- *share documents or information necessary for this study.*

WHAT HAPPENS TO MY INFORMATION AFTER IT HAS BEEN COLLECTED?

The information collected from you might be:

- *used for research purposes only*
- *shared through academic forums*
- *shared through academic publications*

WHO DO I CONTACT FOR MORE INFORMATION OR IF I HAVE CONCERNS?

If you have any questions, concerns or complaints about the study at any stage, you can contact the researcher or the *research and Enterprise Co-Ordinator at the School of Global Studies*:

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