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Forging Jubaland

Community perspectives on federalism, governance
and reconciliation



April 2016

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Abbreviations

AMISOM	African Union Mission in Somalia
ASWJ	Ahlu Sunna Wal Jama
BFC	Boundaries and Federation Commission
DDR	disarmament, demobilisation and reintegration
EU	European Union
FCO	Foreign and Commonwealth Office
FGD	focus group discussions
FMS	federal member states
IDP	internally displaced person
IGAD	Intergovernmental Authority on Development
IJA	Interim Jubaland Administration
ISWA	Interim South West Administration
JPLG	Joint Programme for Local Governance
KII	key informant interviews
NGO	non-governmental organisation
PFM	public financial management
SFG	Somali Federal Government
SOSCENSA	Somalia, the South Central Non-State Actors
SOYDEN	Somali Youth Development Network
SSF	Somalia Stability Fund
SSR	security sector reform
TFG	Transitional Federal Government
UK	United Kingdom of Great Britain and Northern Ireland
UN	United Nations
UNCLOS	UN Convention on the Law of the Sea

Executive summary

SINCE 2012, Somalia has undergone a turbulent process of forming federal states. The introduction of any new system of governance will not *per se* bring about transformational change in governance or reconciliation outcomes. Such a change depends less on which system is adopted¹ and more on how this is implemented. The central research question that this paper seeks to answer, focusing on Jubaland as a case study, is: *To what extent has the introduction of federalism met the reconciliation and governance needs of the Jubaland population?*

Many political processes and peacebuilding efforts in Somalia have been heavily criticised as elite-driven and focused on political accommodation at the expense of the population's needs.² This research attempts to refocus priorities upon those of Somali citizens. As federalisation gains traction in Somalia beyond Jubaland, it is hoped that lessons learnt can benefit Jubaland as well as other federal member states (FMS) and the Federal Government to ensure that whatever form of government is forthcoming, the needs of the Somali population will remain central.

Key findings

Federalisation

- There was overwhelming support (90 per cent) among survey participants for federalisation and governance through the Jubaland Administration. Although the Jubaland Administration is still growing in status as a key regional decision maker, the Somali Federal Government (SFG), while recognised as a national-level decision maker, was only cited by 5 per cent of survey participants as a primary decision maker at the local level.
- Elders continue to be seen as primary decision makers; however the research indicates that much of the population want formal governance structures. They want district administrations and the Jubaland Administration to lead on service provision, dispute resolution and local management of resources such as land.
- Federalisation and the creation of a new FMS in Jubaland have forced the issues of political and social reconciliation onto the table. While the process has not been perfect, the opportunity to pursue the creation of an FMS has served as a vehicle for bringing the many clans and political groups in Jubaland together to begin conversations around good governance, inclusivity and political reconciliation.

¹ Saferworld, as an independent peacebuilding organisation, does not hold a particular perspective on what form of governance Somalia should adopt beyond stating that such a model should be for Somalis alone to decide.

² Menkhaus K (2010), *Diplomacy in a Failed State* in "Whose Peace is it Anyway?" Accord, eds. Bradbury M, Healy, S, Conciliation Resources; Saalax W, Ibrahim A (2010), *Somali Peace Agreements, Fueling Factionalism* in "Whose Peace is it Anyway?"; Saferworld and World Vision (2014), *Strengthening the New Deal from the Bottom Up*.

- The process of creating new FMS can and has served as a means to build afresh institutions that can instil good governance and transparency. This was demonstrated in Jubaland with the initial focus on instituting good public financial management systems supported by the Somalia Stability Fund and the World Bank.

Governance

- There is overwhelming support for democratisation and popular elections, with 90 per cent of survey respondents stating a preference for popular elections as the means to appoint the Jubaland Administration in future.
- The shift from the 4.5 formula for political appointments to district-based selection has given politicians a clear constituency to whom they must be accountable. Despite this, perceptions of financial manipulation of political processes, financial manipulation of elders, patronage and nepotism were rife, with elders directly acknowledging that they are beholden to financial interests when making decisions. The widespread lack of faith that political representatives genuinely represented the interests of their constituencies reinforces the need for trust-building exercises and consultations.
- The Jubaland Administration has made concerted attempts at public consultation for political appointments, and while the inclusion of minority groups has been welcomed, women and youth continue to be politically marginalised. Unless voices and preferences from across society are taken into consideration, such efforts at public consultation may be cynically viewed as creating a veneer of inclusivity, while the final decisions are determined by a narrow demographic of elders.
- The creation of the Jubaland Administration has coincided with an improvement in services across Jubaland, with every item surveyed – access to education, health provision, water and sanitation and local infrastructure – showing positive improvements, with only 4 per cent of respondents indicating that service provision in these areas had worsened over the 2013–2015 period. Responsibility for these improvements was widely attributed to the Jubaland Administration.
- 66 per cent of survey participants stated that security had improved since 2013 and 68 per cent attributed this directly to the Jubaland Administration. Security was the one area that even those critical of the Jubaland Administration identified as a positive contribution that the new FMS had brought about.
- The communities surveyed want neutral governance, state security and judicial apparatuses that transcend conventional clan prejudices and ensure fairness and equality. This places the impetus on Jubaland to build trust towards the creation of a non-clan-based political authority. Instituting fairness and equality in policing, ensuring political inclusion and equal access to public goods and services and fairly addressing land rights can overcome experiences of marginalisation and build greater inter-group trust, especially in the absence of comprehensive social reconciliation efforts.
- Statebuilding efforts have almost exclusively focused on Kismayo, including the reconstruction of ministries and investments into street lighting and a new football stadium. The concentration of development and stabilisation funding in Kismayo may risk reinforcing centre-periphery dynamics of state capture of resources and contribute to tensions between the new Administration and communities across Jubaland should the benefits of international aid not be felt across the FMS.
- Clannism was identified as a key driver of political problems in Jubaland and beyond. Interviewees regularly spoke of the manipulation of the clan for political purposes, in ways that did not necessarily meet the needs of the population. Interviewees recognised clannism as an obstacle to good governance yet at the same time frequently argued for political power sharing on the basis of clan. The desire to shift away from clan-based politics however will only come about through increased knowledge and trust in what a non-clan-based system could look like and how it could function. Without such popular awareness, politicians, communities and elders will continue to use the clan as the primary political unit through which resources and power are distributed.

- Political reconciliation**
- Political accommodation has been central to state formation. Although challenging and at times highly contentious, the ongoing negotiations between the Jubaland Administration and political opponents demonstrate a commitment and willingness to reach political agreements. Progress has been made, especially in incorporating political stakeholders into the new Administration, and while obstacles remain, political reconciliation is as much about the process of dialogue and negotiation as it is about the final result.
 - The onus of political accommodation, compromise and joint work towards a shared governance platform in Jubaland lies not only with the Jubaland Administration but in the political will of all stakeholders. The door to negotiations has been opened by the Jubaland Administration for nearly nine months,³ resulting in delays to the formalisation of government and the essential business of governing. This opportunity for engagement and accommodation in the new FMS must either be taken up by political stakeholders or the door of negotiations will close. Political stakeholders in disagreement should assume the role of a political opposition serving to hold government accountable.
 - There are reports of threats and limits on civil and political rights with some participants citing arrest and detention for voicing political opposition to the Jubaland Administration. Such a dynamic risks undermining the credibility of the new Administration and threatens the further progress of democratisation and good governance.

- Social reconciliation**
- Participants universally indicated that social reconciliation is deeply needed across Jubaland and beyond. The traditional dispute resolution system, though well understood by local communities, may not be sufficient to tackle the sheer scale of harms and violence perpetrated over the course of more than twenty years of conflict. There is a need to resolve historical injustices; however, without effective security and enforcement mechanisms, initiating community conversations and truth telling of the most egregious historical crimes – inclusive of rape, murder and property theft – risks instigating retributive vigilante and inter-clan violence. There are attendant political risks whereby elites may feel that addressing yesterday’s historical crimes will affect their political standing today. Nevertheless, this should not serve as grounds for dismissing or ignoring the popular need for historical redress; rather, it should be a consideration in what approaches to use in future. Current social reconciliation approaches address less complex crimes and focus on demobilised al Shabaab combatants. While a start, a more comprehensive approach will be required.
 - Even if traditional dispute resolution mechanisms are unable to resolve historical grievances, their fairness and equality with regard to resolving contemporary disputes need to be strengthened. Given the propensity for elders to be financially manipulated, the difficulty of fully enforcing decisions, and the collective as opposed to individual nature of accountability in Somalia, there continue to be barriers within the traditional *xeer* system to ensuring fairness and equality in decisions.

Conclusion

Despite the many challenges of political accommodation of stakeholders and their competing political interests, both within Jubaland and outside, including the SFG, the Intergovernmental Authority on Development (IGAD) and other donor states, there have been many successes in the creation of Jubaland as an FMS. Security and services provision have improved, alongside an increased dialogue between state and society on political representation. Instances of fair dispute resolution may not be able to overcome the scale and complexity of historical violent conflict, but they can serve to build inter-communal trust. At the same time, there will be a need to transition to popular

³ At the time of writing in February 2016.

elections and to support public understanding of non-clan-based systems of power distribution. Surveyed populations were clear that clan-based selection should be consigned to history, but this will be reliant upon international community support. More broadly, the creation of Jubaland as an FMS sits within the context of the machinations of the larger Somali nation-state and the competing political objectives of multiple state, international and non-state actors. It is essential to build coherence and synergies among these many actors' interests to achieve successful statebuilding in Jubaland and Somalia overall. Though imperfect, the beginnings of Jubaland have been positive. Optimism can be built upon, but the primary ingredient for success is ultimately the political will of the stakeholders involved.

Moving forward and recommendations

Strengthen political, public and policy support for the federalisation processes:

The Federal Government and the FMSs should seek to capitalise on the positive disposition of a large percentage of the population towards federalism, and the fact that federalism is seen by many as a broader vehicle for national unity rather than a source of continued fragmentation. At the same time there is deep uncertainty for many people about what federalism means in Somalia, impacting expectations and knowledge of how best to engage. While the broader political vision for federalism is yet to be defined, so too is the policy detail, resulting in the lack of an overarching plan upon which line ministries at the federal and federal state level can centre their efforts. Closer cooperation is needed between the Federal Government and emerging FMSs to achieve a coherent outcome and will require political will on the part of all state parties as well as mechanisms to resolve disputes effectively as and when they arise.

Recommendations:

- The Federal Government should recognise the broad public support for federalisation and build this into their policy and approach to governance and statebuilding.
- As part of the Constitutional Review Process, large-scale consultations are needed to ensure that a broader number of Somalis can input into the finalisation of the constitution and shape the federalism discourse within it.
- Create a technical masterplan for the successful establishment of federal institutions and develop related legislation informed by public consultations with FMSs, civil society and the public.
- The SFG and FMS should develop more constructive bilateral relationships between ministries at the national level and their counterparts at the FMS level. At a political level, this could include a continuation of the National Leadership Forum and National Consultative Forum.
- In the long term the SFG and FMSs should commit to constituting an independent constitutional court, so as to effectively resolve disputes between FMSs and the Federal Government.

Streamline political structures and mechanisms of appointment: The number of authorities and associated political appointees and civil servants is growing at an exponential rate. This has been accompanied by numerous different forms of political appointment and lack of clarity of roles and responsibilities.

Recommendations:

- The Jubaland Administration should revise the governance structures and streamline the number of political appointments, ensuring clarity of roles and responsibilities between departments and jobs.
- The SFG and FMS should work to clarify roles, responsibilities and lines of authority, as per the federalisation workplan and policy framework for implementation.

Deepen the governance relationship between the Jubaland Administration and the population: While participants are supportive of federalism and seek formal authorities for the provision of services and governance, they were also highly dubious that politicians were willing and able to genuinely represent the interests of the community.

Recommendations:

- New MPs should actively build relationships with their constituents. This could include district-level consultations to give communities the opportunity to influence parliamentary discussions, or regular local dialogues in which constituents can meet their MPs and discuss specific issues.
- The international community should invest into building the capacities of new parliamentarians in order to build public confidence in the new Jubaland Parliamentary Assembly.

Need for a Jubaland development plan: Jubaland should expand its scope of governance, presence and distribution of goods and services outside of urban centres, including Kismayo. A development plan can serve as a nexus through which state and society can engage in dialogue and be a means of holding the authorities accountable, mitigating duplication of activities and avoiding replication of centre-periphery dynamics that have plagued Somali politics in previous governments.

Recommendations:

- An overarching Jubaland development plan should be created by the Jubaland Administration in conjunction with regional stakeholders, based on large-scale public consultations.
- The international community should provide technical and financial assistance to support such a development plan.
- Jubaland should identify means of local revenue generation to support the implementation of a development plan.

Scale up framework for fiscal federalism: If fiscal federalism is not prioritised, then Somalia risks developing an incoherent taxation framework in which citizens are taxed multiple times across different jurisdictions, punitive trade tariffs prevent the development of the national economy, and disputes emerge between the Federal Government and FMSs as to how resources are to be shared and redistributed.

Recommendations:

- The international community and the Federal Government should quickly build upon the progress of the FMSs in ensuring that the same levels of scrutiny in the management of public finances are observed in Mogadishu and that a broader policy framework for fiscal federalism is agreed upon.
- The SFG should coordinate the development of a framework for fiscal federalism in conjunction with the FMS such that it can be harmonised with those being developed in Jubaland, the Interim South West Administration (ISWA) and Galmudug.
- The Jubaland Administration and donors should commit to extending public financial management systems across Jubaland.

Build popular awareness on models of non-clan-based governance:

Clannism continues to be an obstacle to statebuilding. While stakeholders recognise it to be prohibitive to good governance, many lack the understanding or trust to pursue non-clan-based governance systems.

Recommendations:

- The Jubaland Administration must work to demonstrate equality and fairness in judicial and governance decisions, ensuring that clan considerations do not influence outcomes.
- Civic engagement and education will be essential to building awareness of non-clan-based governance structures and facilitating ownership and engagement with governance structures by both political stakeholders and society.

Transition towards elections and democratic norms: The vast majority of respondents indicated that people wanted one person, one vote elections for the Executive, members of parliament and district commissioners.

Recommendations:

- The Jubaland Administration should commit to popular elections for the 2019 appointment of the Jubaland Parliament.
- A strategic plan for elections in Jubaland in 2019 needs to be developed as soon as possible. This should include the development of an electoral management body, legislation which outlines the electoral and administrative framework for elections in Jubaland and agreement on the voter registration process.
- A common voter registration system for the whole of Somalia needs to be quickly agreed upon to be used as the basis for both federal state and national elections.
- The SFG should support the development of democratic processes and structures within all FMSs and provide political support to popular elections in Jubaland in 2019.
- The international community should provide financial and technical support to the institution of popular elections in 2019 and the concurrent voter education, voter registration and determination of electoral mechanisms required.
- Where popular elections are not currently deployed for the appointment of political posts, all actors should refrain from using the language of elections and instead be clear in the technical description of the process to be used.

Transition to political parties: Political parties and associations can serve as vehicles for political party engagement and can mitigate the challenges of clannism. The determination of political party criteria in Somalia will be highly important in channelling politics through issue-based and non-clan-based parties and creating political opposition with clear mechanisms for engagement.

Recommendations:

- The Federal Government alongside FMSs should identify and finalise political party legislation and formalise political party criteria with technical support from the international community.
- Political party criteria should encourage the transgression of clan-based politics to cross-clan issues-based politics.
- The international community should invest in assisting the development and professionalisation of political parties.

Clarify citizenship and associated rights and representation: Given the high levels of migration and displacement over the course of the Somali conflict, the issue of who is a citizen and within which FMS they have political representation remains contentious. Clear legislation around this will protect voting rights but must be done nationally in conjunction with all FMS and the SFG.

Recommendation:

- FMSs and the Federal Government need to agree upon the basis for voter registration and implement voter registration.

Determine district boundaries and establish related dispute mechanisms:

Nationally, districts are anticipated to become increasingly important as political sub-units and are expected to develop political structures with the support of United Nations (UN) Joint Programme for Local Governance (JPLG) and the Ministry of Interior in a plan aligned to the Wadajir Framework. In order to do this, the mandate, workplan and capacities of the Boundaries and Federation Commission (BFC) should be clarified given that they are a constitutional requirement to the federalisation process.

Recommendations:

- The Jubaland Administration should work closely with the BFC to determine district boundaries for constituencies.
- Technical support from the international community should be provided to facilitate the determination of district boundaries and voter registration and citizenship criteria.
- The SFG should urgently review and agree upon the mandate of the BFC and ensure that it is adequately financed to undertake its work.

Conclude negotiations for political inclusion and finalise the government:

While it is essential that negotiations form the basis for political inclusion of all stakeholders, the protracted nature is having a detrimental impact upon the formalisation of the Jubaland State Government.

Recommendations:

- The Jubaland Administration should persist in their endeavours for negotiations for political accommodation of remaining stakeholders outside the authority. However, timeframes should be set to mitigate the detrimental impact upon governance in Jubaland.
- Political stakeholders who are in continued negotiations with the Jubaland Administration should demonstrate political will to compromise and find a way for political accommodation of their interests while recognising the value of a joint government to the whole of Jubaland.
- There should be public information as to why the government of Jubaland is yet to be formalised, to ensure clarity of timeframes, and to communicate that negotiations are taking place between representatives of various groups and the Jubaland Administration.

Continue the integration of militias into the formal security apparatus:

Integrating clan militias into formal state security structures and a singular national army is central to creating a single unified state and mitigating the threat of multiple competing clan militias.

Recommendations:

- The Jubaland Administration should continue to work closely with the Federal Government and international agencies to achieve greater integration of militias into the Somali National Army.
- The Jubaland Administration should facilitate increased uptake of local militias into the Jubaland Security Forces so as to ensure a cross-clan representation within the Jubaland Security Force.
- The international community should continue its support for the integration of militias into the Jubaland Security Force, the Somali National Army and the police.
- Independent oversight mechanisms should be instituted to monitor Jubaland's state security apparatus, oversee its execution of its mandate and serve as an independent watchdog to identify, address and mitigate transgressions of duty and inappropriate use of force whether for political or apolitical reasons.

Transitional justice should be explored as a means for social reconciliation:

Although serving as a positive starting point, existing efforts at social reconciliation are currently inadequate. Social reconciliation must entail the recognition of harms perpetrated by all parties to the conflict both clan-based as well as al Shabaab and other foreign state actors such as Kenya, Ethiopia, African Union Mission in Somalia (AMISOM) and others.

Recommendation:

- Research should be conducted into potential mechanisms for transitional justice that can be implemented in the Somali context. This should be done in conjunction with all parties to the conflict. New FMS and the SFG and should identify risks, benefits, opportunities and what necessary structures will enable this.

Strengthen dispute resolution and enforcement mechanisms that are predicated on individual accountability, justice, fairness and equality:

Equality, fairness and justice need to be instituted into existing dispute resolution mechanisms as a means of building some form of inter-communal trust. Dispute resolution mechanisms should be strengthened and applied in conjunction with state apparatus to ensure enforcement of decisions.

Recommendations:

- The Jubaland Administration should work to link local dispute resolution mechanisms to the state security, justice and policing apparatus such that decisions can be enforced.
- Technical training and support should be provided to traditional elders to facilitate their ability to conduct fair, equal and just decision making within traditional dispute mechanisms.
- Traditional dispute resolution mechanisms should see the use of documentation of decisions to facilitate enforcement.
- The statutory system should be strengthened through training to judges and lawyers and the use of paralegal teams. Civic education should be conducted to support understanding of the role and mechanisms of how the system is utilised.

Ensure the protection of civil and political rights: Civil and political rights such as freedom of speech, a free media and freedom of political association are foundational principles of any democratic polity. A vibrant civil society can also serve as a mechanism of critique and constructive contribution to an authority to offer direction and feed upwards perspectives of society enabling an authority to be more responsive.

Recommendations:

- The Jubaland Administration should institute legislation protecting civil and political rights in Jubaland and should ensure their application.
- The Jubaland Administration should institute legislation around the rights and responsibilities of media institutions.
- The international community and Jubaland Administration should support the development of a vibrant civil society and ensure their participation in key policy dialogues whether on development initiatives and service delivery or statebuilding endeavours.

1

Research background

THE PAPER IS THE PRODUCT OF A TWO-YEAR ACTION RESEARCH PROJECT, funded by the European Union (EU) and Oxfam Novib. The project engaged Saferworld's partner agency in Somalia, the South Central Non-State Actors (SOSCENSA), to conduct large-scale data collection, research and analysis into the extent to which federalisation and reconciliation processes are meeting the governance and reconciliation needs of the population of Jubaland, and to conduct subsequent advocacy on these findings.

When the project began in mid-2013, Jubaland was in its infancy as a state, in the wake of the joint Kenya-Raskamboni offensive to secure Kismayo, the announcement of the creation of Jubaland, and the controversial selection of Ahmed Madobe as president, with support from the Intergovernmental Authority on Development (IGAD) and Ethiopia. All of these events occurred largely independent of federal government control.

Although federalisation had been a central tenet of the 2012 objectives set out by the newly appointed Somali Federal Government (SFG) and the international community, vague and contradictory guidance within the SFG's provisional constitution led to multiple interpretations and conflicting approaches to federalisation and the creation of federal member states (FMS).⁴

This research sought to gain a deeper understanding of Somalis' hopes and desires for their country's political future, and to identify recommendations for relevant Somali and international actors. As the first declared interim FMS after 2012, Jubaland was taken as a case study whose experiences could inform statebuilding processes in other parts of Somalia.

Federalism – an analytical framework

Defining federalism

At its simplest, a federal state is one in which “subsidiary units possess rights against the central government.”⁵ Such rights, often constitutionally guaranteed, distinguish federalism from other power-sharing arrangements. For example, devolution, which is often confused with federalism, is merely the delegation of rights and responsibilities by the central government to local governance structures. This is usually driven by the need to improve the efficiency of services by allowing a degree of local ownership. However, while under devolution the central government can always rescind or extend this delegation of duties at will, under federalism this can only be done through amendments to the constitution.

⁴ Bryden M (2013) *Somalia redux: Assessing the new Somali federal government* (CSIS/Rowman and Littlefield)

⁵ Feeley M M, *Political Identity and Tragic Compromise*, (University of Michigan Press), p 14.

Federalism is often pursued as a means to reconcile competing national and regional identities. University of California-Berkeley law professor, Malcolm Feeley, argues that the lure of federalism results from its ability to “expand the range of psychopolitical resources available for the creation of a political regime. Without federalism the citizen or subject confronts the dichotomous choices between the identification with the central regime and rebellion against it in the realm of action.”⁶

This definition dispels some myths about federalism. First, federalism is often associated with more democratic governance. However, while subsidiary states have rights against the centre, such units are not necessarily democratic, and if they are, it is due to separate democratisation processes. Similarly, arguments that federal states are inherently more liberal, accountable or participatory simply do not hold as these are not automatic results of federalism. In post-conflict countries, without separate programmes and investments, federalism may bring about the emergence of highly authoritarian, unaccountable sub-units that are free to marginalise and persecute minority groups. This risks replicating within subsidiary units the same centre-periphery dynamics that may have driven violence at the national level.

‘Classical’ versus ‘post-conflict’ federalism

Contemporary federalism can be broadly divided into two models. First, there is ‘classical federalism,’ which usually refers to long-standing federal systems in northern, democratic and stable states such as the United States. Second, there is ‘post-conflict federalism,’ in which federalism is used as a statebuilding tool following violent conflict, such as in Iraq or Sri Lanka.

Classical federalism often refers to states such as Switzerland as having particular beneficial characteristics such as limited executive powers, a written constitution delineating the roles and responsibilities of the federal government and federal states, a constitutional court to independently adjudicate disputes, and popular representation at central and local levels. This architecture will also be familiar, if often far from functional, to many who are trying to institute federalism in post-conflict states. A distinction can be made between classical and post-conflict federal states regarding the manner in which they were formed. In classical federalism, sovereign states typically *come together* as a result of shared interests, for example security or economic development. In post-conflict federalism, the driving force is often the reverse as a unitary state *pulls apart* and “internal boundaries are drawn to ensure that territorially concentrated national minorities constitute regional majorities.”⁷ University of California-Berkeley Law School Dean Sujit Choudry observes that “the very mission of [post-conflict] federalism is different; its principal goals are not to combat tyranny or to provide incentives to states that match their citizens’ preferences but rather to avoid civil war or secession.”⁸ However, the literature is starkly divided as to whether post-conflict federalism is likely to quell or fuel further conflict.

Those advocating for such interventions see post-conflict federalism as a means of ensuring that significant minorities are better represented in national and local structures and more likely to achieve improved resource allocation as a result. With a place at the table, such groups are also less likely to mobilise violently, which will result in improved peace and security outcomes and a reduction in the emergence of armed secessionist movements. Those opposed to federalist interventions, however, are concerned that federalism puts nations at risk of fragmenting into politically and economically unviable sub-units that in effect become ethnic enclaves, thus further pitting ethnic groups against each other, while at the same time providing no guarantees that the rights of ethnic minorities within such subsidiaries will be respected.

⁶ *Ibid.*, p 15.

⁷ Choudry S, Hume N (2010), *Federalism, Secession & Devolution: From Classical to Post-Conflict Federalism*, Faculty of Law & Development of Political Science, University of Toronto, p 2.

⁸ *Ibid.*

Central research question

This polarisation of academic perspectives regarding federalism, as either a cause of or a solution to violent conflict, leads to the central research question of this study: To what extent has the introduction of federalism met the reconciliation and governance needs of the Jubaland population?

As articulated above, the introduction of any new system of governance will not *per se* bring about transformational change in governance or reconciliation outcomes. Such a change depends less upon which system is adopted⁹ and more on how this has been implemented. This project has sought to understand the current reconciliation and governance needs of the Jubaland population, and the extent to which they have been addressed since the introduction of federal governance in 2013. It outlines recommendations for how governance and reconciliation efforts can be further strengthened.

History of Jubaland state formation

The formation of Jubaland as a semi-autonomous region began prior to the formalisation of a federalisation agenda in Somalia. In 2004, the charter of Somalia's Transitional Federal Government (TFG) allowed for the creation of new federal states, and an attempt was made to form 'Azania' under the auspices of Mohamed Abdi Mohamed "Ghandi", the former defence minister of Somalia in 2011. Azania was meant to be a state encompassing Middle Juba and Lower Juba. Despite initial support from the TFG, civil society¹⁰ and Kenya,¹¹ the attempt to take office failed due to a lack of grassroots support, Azania's lack of military capacity, and indications by groups such as Ethiopia and Ahlu Sunna Wal Jama (ASWJ) that they would neither support nor recognise an Azania authority.¹²

In 2012, representatives of the failing Azania state reached out to IGAD to instigate talks for the creation of a new federal state. In June 2012, the first Karen conference took place, initially including Azania and two known opponents to Azania; Raskamboni and ASWJ. In the course of this meeting, two groups were further identified as being opposed to Azania – the Haarti group and the TFG, and representatives of each were swiftly brought into the discussions. During this meeting a Memorandum of Understanding was signed committing these actors to three core principles: first, a unified position against al Shabaab; second, a commitment to form a new state inclusive of Middle Juba, Lower Juba and Gedo under the name of Jubaland that would have a constructive relationship with the Federal Government; and thirdly, that any selection of representatives would be based upon district representation as opposed to the 4.5 system that had been deployed at the federal level. The Memorandum was signed by leaders of Azania, Raskamboni, ASWJ, the Haarti faction, the Marehan, and the TFG.

September 2012 saw two representatives from each of the five groups convene in Kenya once more, under the auspices of IGAD, to form a technical committee for the creation of Jubaland. Due to early concerns that the Technical Committee was heavily dominated by the Darood, the Committee was expanded to thirty members including representatives from non-Darood clans. According to one individual involved in the process, the Technical Committee, consisting of a number of working groups, set out to conduct consultations and build local support for the creation of Jubaland as well as to oversee and create a provisional charter that would articulate the structures, laws and processes through which Jubaland would be formed and governed.

⁹ Saferworld, as an independent peacebuilding organisation, does not hold a particular perspective on what form of governance Somalia should adopt beyond stating that such a model should be for Somalis alone to decide.

¹⁰ http://www.somaliareport.com/index.php/post/421/Delegates_Vote_To_Form_New_Somali_Region_Azania.

¹¹ *Ibid.*

¹² <http://reliefweb.int/report/kenya/kenyas-political-gamble-somali-border-regions>.

With Kismayo now secured by Raskamboni and Kenyan forces, the majority of the Technical Committee embarked upon consultations and initial reconciliation and state formation processes. Consultations took place in Jubaland itself as well as in Kenyan refugee camps and Ethiopia. A small delegation went to Mogadishu to engage with the newly appointed SFG, but they reportedly found the SFG unresponsive and difficult to engage with on the prospects for Jubaland's formation. In the process of state formation, Ahmed Mohamed Islam (also known as Ahmed Madobe), the leader of the Raskamboni militia, took the lead with tacit support from Kenya and Ethiopia. According to some informants, the decision to back Madobe was a pragmatic one, based on a realistic assessment of who was most likely to succeed in leading and creating a Jubaland state.

In February 2013, a conference of between 500 to 1000 participants from across Jubaland convened, and by 2 April 2013, an interim charter had been formulated and approved through a majority vote.

By 15 May 2013, Madobe was elected President of Jubaland in a multi-candidate contest. Nonetheless, five of the other candidates went on to declare themselves President of Jubaland, including Barre Hirale, the previous leader of the Jubba Valley Alliance that had ruled Kismayo between 1998 and 2006. Hirale was backed by factions within the SFG, who were vehemently opposed to the federalisation of Somalia, despite its inclusion in the provisional constitution. Such was the level of opposition within the Federal Government to Jubaland and Madobe that the Federal Government entered into an alliance with both Barre Hirale's militias and al Shabaab in a bid to oust Madobe from his position.^{13 14} Though the extent of this alliance remains unknown, this allowed the SFG and Hirale to move troops, ammunition and supplies through al Shabaab-held strongholds.

On 17 May 2013, Madobe appointed General Sheikh Ismail Fartaag Vice President of Jubaland, thus reinforcing the growing split within the Marehan clan that had formed, which can be simplistically framed as between 'Guri' Marehan from Gedo and 'Galti'¹⁵ Marehan that had previously migrated from Central Regions, headed up by Barre Hirale.

Pressure arose to end the violence and find a resolution to conflicts around Jubaland's state formation. A conference was convened in Addis Ababa with delegates from the SFG, Jubaland and the international community, including the United Kingdom (UK), EU and United Nations (UN). Hirale stayed in Mogadishu at the behest of the SFG which, according to one informant, had told him that the SFG would continue to back Hirale.¹⁶ By 28 August, an agreement was signed in Addis Ababa that formalised the creation of an Interim Jubaland Administration (IJA) for a maximum of two years before transitioning to a formal FMS. The agreement was endorsed by SFG State Minister for the Presidency, Farah Abdulkadir on behalf of President Hassan Sheikh Mohamud. Although formally brokered by Ethiopia, multiple actors including the UK were party to the process. A representative of one international donor admitted that this was in essence a realpolitik decision to back Madobe as a means of building stability and supporting the federalisation process that was to be pursued more broadly in Somalia.¹⁷

The brokering of the Addis Agreement was widely hailed as a successful solution to a highly contentious issue that posed a threat not just to Jubaland but to federalisation in Somalia as a whole.¹⁸ The terms of the Addis Agreement included the formation of an interim administration headed by Madobe, as well as key items such as the transfer

13 Interview, senior SFG official, Mogadishu, December 2015.

14 *Op cit* Bryden (2013) *Somalia Redux*, p 28.

15 The term Guri refers to communities which are indigenous to a particular area whereas Galti refers to those that have migrated. In Somali culture, communities may have migrated several generations ago but still be referred to as Galti.

16 KII with a representative of the Gedo opposition.

17 KII senior official in international community, December 2015.

18 *Op cit* Bryden, *Somalia Redux*.

of control of the Kismayo sea and air ports to Mogadishu, the integration of Jubaland's militias into the Somali National Army, and that over the course of a two-year period the interim administration would prepare the groundwork for a transition to a formal federal member state. The SFG's acknowledgement of the IJA gave licence for other international actors mandated to support the Federal Government to engage more deeply and directly with the IJA in state formation processes in Jubaland.¹⁹

Subsequently, the IJA worked with international actors including the UN, IGAD and the UK to formally institutionalise and conduct preparatory work for the creation and selection of a Jubaland parliament.

On 16 September 2014, President Madobe opened a reconciliation conference in Kismayo with delegates from across Jubaland, though notably without Barre Hirale, although it is understood that he had delegates present.²⁰ The conference convened a broad range of stakeholders including minority clans, women and youth to discuss the Jubaland constitution and the mechanism of appointing politicians.

In February 2015, IGAD supported the appointment of politicians to the Jubaland Parliament that would eventually elect the new president at the end of the two-year interim period. Key activities in this process included a participatory clan mapping on a district basis to assess which groups were present across Jubaland. An arbitration committee and a selection committee were also set up, comprising elders and intellectuals assigned to support the IGAD-facilitated identification of parliamentary candidates based on districts. For each district there would be four parliamentarians, though for Kismayo there would be seven, and an additional eight parliamentarians were added to accommodate further political actors. The intention was to obtain three candidates for every position. The Arbitration Committee supported district-level negotiations among clans to encourage and facilitate cross-clan representation and to overcome political disputes during the selection of candidates. The candidates would then be submitted to the Selection Committee, which would identify the best-suited candidates according to agreed criteria. This method was deployed with a view to reducing al Shabaab infiltration and ensuring the quality of candidates. According to informants either involved in the process or who were international actors supporting the process, a secondary benefit was to enable a stronger connection to the population through the creation of constituencies based on districts. This resulted in a cross-clan geographical relationship between representatives and their constituencies. It also reduced the likelihood of corruption in the appointment of parliamentarians given that for each parliamentary seat three candidates would need to be submitted. Within the criteria there were provisions for the disqualification of anyone determined to have participated in corruption.

On 15 April 2015, the new 75-member parliament was announced. Originally, 65 parliamentarians were due to be appointed, 4 per district except Kismayo, which would receive 9. Following negotiations and pressure from a number of clans who felt that they were disadvantaged by the district approach as they were spread out numerically, an additional 10 parliamentary seats were appointed thus comprising the full 75 allocated in May 2015. On 7 May 2015, an inauguration ceremony was held in Kismayo for the Parliament, which was attended by the President of Somalia, the Vice President of Puntland, the Foreign Ministers of Kenya and Ethiopia, the IGAD Executive Secretary and Envoy to Somalia and other international representatives.²¹ Following this, the newly appointed parliamentarians voted to re-elect the incumbent president, Ahmed Madobe. Since then, the creation of an additional 10 parliamentary seats has been approved to accommodate any final political stakeholders, to make the Parliament 85. These however have yet been finalised.

19 KII senior official from an international donor, December 2015.

20 KII senior officials in Jubaland Administration, February 2016, Kismayo.

21 www.garoweonline.com/page/show/post/2533/somalia-jubaland-parliament-inaugurated-in-kismayo-port-city.

Despite Federal Government presence at the inauguration, the Parliament in Mogadishu attempted to pass a motion of ‘no confidence’ in the formation of the new Jubaland Parliament, which failed to pass as a result of a lack of quorum,²² and the President was inaugurated on 12 September 2015. Since then, President Madobe has requested Parliament to approve delays to the formation of a government, to provide time for resolution of the intra-Marehan dispute and negotiations between the Jubaland Administration and other clan groups such as the Digil Mirifle, with whom contentions over the composition of the Jubaland Administration still persist. At the time of writing these discussions are still ongoing and President Madobe has submitted his third request to Parliament to permit delays to the appointment of a government.

Traditional dancers celebrating the launch of the Interim Jubba Administration (IJA) in Somalia. The interim administration governs the autonomous area in southern Somalia consisting of the Gedo, Lower Juba and Middle Juba regions from its main city of Kismayo.

© DAVID MUTUA/UN PHOTO



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 22 KII senior Federal Government official.

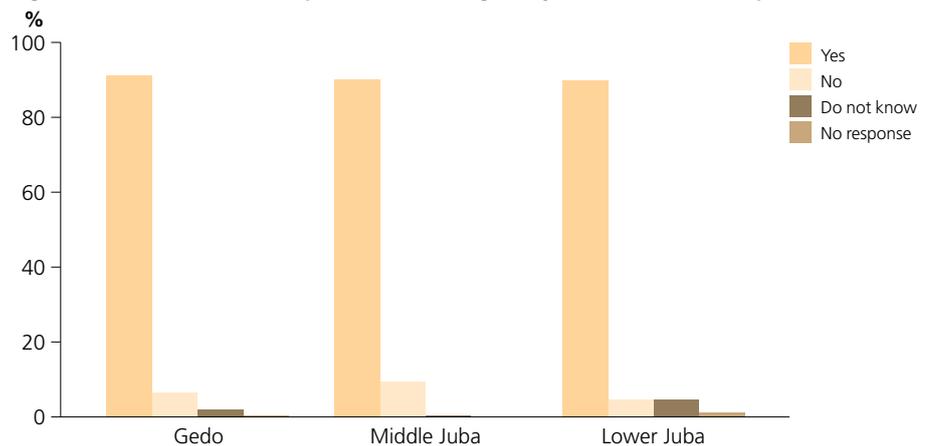
2

Governance in Jubaland

Popular support for federalisation

THE SURVEY REGISTERED OVERWHELMING SUPPORT FOR FEDERALISATION, with 90 per cent of respondents stating that they wanted it to take place. The response was similar when disaggregated by gender and residence in rural or urban areas.²³

Figure 1: Is the federalisation process something that you want to see take place?



Those who supported the federalisation process associated it with a number of characteristics. First and foremost, it was seen as a mechanism to reduce conflict. Second, it was seen as a mechanism to improve power sharing. Though there was a high level of expectation that federalisation could bring decision making closer to communities (58 per cent), this did not emerge as the leading reason for supporting federalisation. Similarly, while there was a belief that federalisation could improve reconciliation (49 per cent), this was not listed as frequently as other reasons.

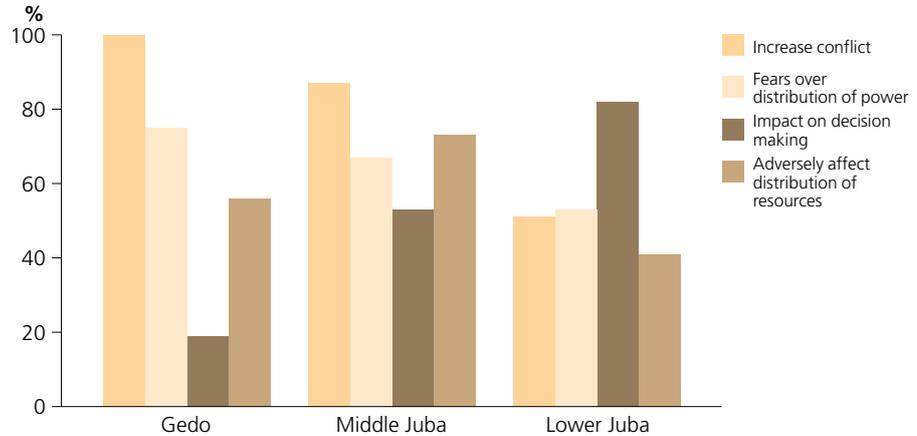
Proponents of federalism also frequently stated that this form of governance was suitable for Somalia given the negative legacy of a strong unitary state under Siad Barre. A representative of a youth civil society group noted:

“We are welcoming the adoption of federalism. Previously there was one centre of power. That government was an interim government and people had difficulties to access it as it was based in Mogadishu. The country has a long history of conflict and there are high levels of distrust and everyone is armed and it is not easy for the government to reach every corner, so federalism is the way to enable people to put their house in order and a way out of the chaos.”

²³ Quantitative data was collected during the period May–July 2015 and the data therefore represent perspectives at that point in time.

Interviewees who did not support federalisation were asked to articulate why not. For survey respondents in Gedo and Middle Juba, the main concern was that federalism may increase conflict. In Lower Juba, however, saw lower concerns about escalation of conflict and instead saw concerns over how federalism would affect decision making.

Figure 2: Is the federalisation process something that you want to see take place? If no, why?



One frequent concern of those opposing federalism is that it could lead to the fragmentation of the country, with some respondents noting that this could be accelerated by a weak central government. A youth civil society respondent in Dollow commented:

“The negative of federalism for me is if there are strong federal states and a weak centre then we can expect conflict and chaos. Unless there is a strong central government that can deal with them we can expect chaos amongst them.”

Although there was widespread popular support for federalism, there existed question marks over the comprehension of what federalism entails. One representative of the Azania movement commented:

“Unity is my preferred option. Federalism is my second option but it is not very clear what type of federalism we are using. Nobody has identified what type of federalism we are using. Some of them are good and some are bad. Somali people don’t know federalist systems and awareness is missing. I’m sure if you have interviewed hundreds of people the number of people who understand is very limited.”

Woman walking through market streets. Daily life in Kismayo now that security has improved.

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The population's limited understanding of federalism was reiterated by a senior minister within the Federal Government, who commented that "people believe this is a foreign idea, something that comes from the outside, something that divides the people rather than a strong government." This lack of clarity of understanding, which is reinforced through a lack of clear policy coherence around federalism as demonstrated by an incomplete constitution, will affect the expectations of the population towards this new political system.

Where there is support for both federalism and the creation of a regional administration, the question going forward will be whether the process of federalisation will be responsive to the population's governance and reconciliation needs.

Jubaland state formation and popular engagement

Engagement of communities in the creation of Jubaland

Despite the Jubaland Administration being a recent political creation, awareness of it was almost universal among respondents, with little variation when disaggregated by gender or whether respondents lived in rural or urban areas.

The results from the quantitative survey and the key informant interviews (KIIs) suggest that most people felt that they were sufficiently informed about the formation process of the IJA. Interestingly, however, responses were less definitive in Lower Juba, which is surprising given that this includes respondents in Kismayo, who had the greatest proximity to the process.

Figure 3: Do you feel informed about the process of establishing the IJA?

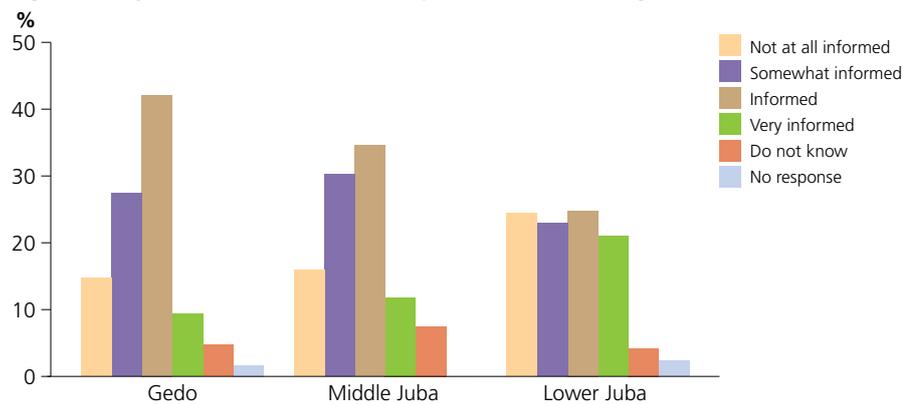
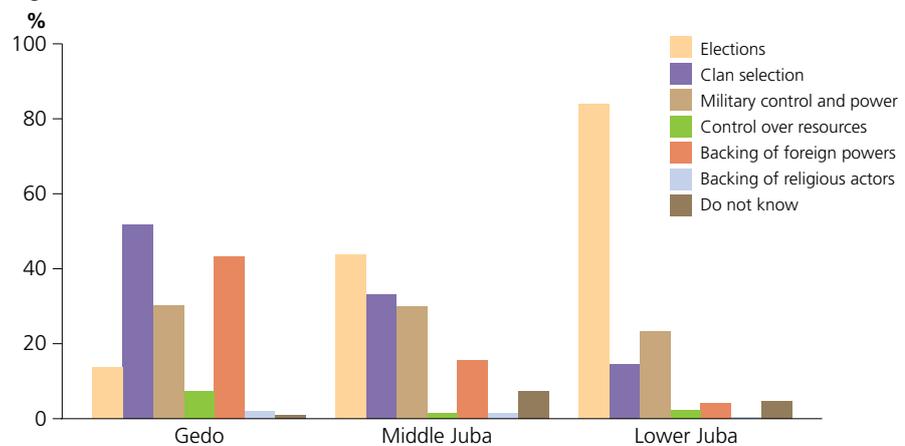


Figure 4: How was the Administration (IJA) established?



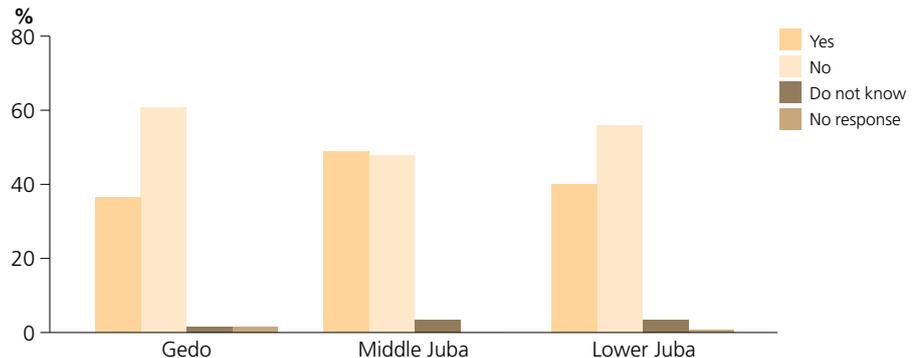
While respondents articulated a high level of confidence in the process leading to the formation of the IJA, the quantitative survey data suggest that many respondents were not actually very well informed. In Middle Juba and, in particular, Lower Juba, majorities stated incorrectly that the IJA's establishment was achieved via elections rather than a

selection process. This reinforces the need for international actors and authorities at all levels to refer to processes correctly, as clan selections are often labelled as elections, which could contribute to further misinforming of local populations who already have very low levels of understanding of electoral processes.

Inclusivity of the population in the process

While the quantitative survey indicated that most individuals were not consulted directly during the federalisation process, many people reported during interviews that they were able to engage through their representatives, if not directly, in consultations.

Figure 5: Do you feel consulted by the federalisation process?



Given the absence of resources, both human and financial, to hold a referendum on the formation of the IJA, many people spoke of how a pragmatic and culturally relevant approach was taken. A representative of one of the minority clans concluded:

“We are very happy with the district administration when it comes to consultation. It’s not possible to involve everybody so it is those representatives that are consulted and we have our representatives in those consultations.”

Though the October 2014 event in which 300–800 delegates from across Jubaland participated was framed as a ‘reconciliation conference’, it was effectively a large consultation and decision-making forum to identify a mechanism for appointing members of parliament and building confidence in the creation of an FMS. Many respondents noted the inclusivity of this conference and that their representatives had participated. Even youth who felt that their role in the process was limited spoke highly of the experience of seeing “over 300 people in a room talking orderly about really difficult issues; it was great to see, to know that it can be done”. Some Gedo respondents further spoke of how they would like to replicate such models in their region. The Reconciliation Commission in Mogadishu similarly confirmed the constructive nature of the conference and that difficult issues were discussed with maturity.

There were however critical voices who raised concerns regarding the level of consultations. Youth outside of Kismayo stated dissatisfaction with their role in the review of the Jubaland constitution. One respondent argued, “Currently the Jubaland headquarters are in Kismayo and the youth are not the priority. Our role in the consultation process was very marginal.”

Two other focus groups with representatives of the Digil Mirifle and the Marehan similarly criticised how inclusive the conference was, stating that they felt many of the participants were hand-picked to facilitate a particular end result and that it was impossible to know if other people in the room were legitimate representatives of their clans. According to these focus group discussions (FGDs), no list of participants has been published and there has been no transparency in the process.

Minorities

Throughout the qualitative interviews, all minority representatives and participants spoke of their inclusion in political processes. The inclusion of minorities within the newly formed administration and the political processes has been a significant characteristic of the first two years of the IJA.²⁴ According to one representative of the minority Shambara clan, “we recently ran for the vice president position for the first time – we never had the feeling that we could run for such a high position.”

Among minority interviewees there was general satisfaction, bordering on gratefulness, for having obtained political representation in the Jubaland Administration. While this is positive, such appreciation reflects the depth of marginalisation and exclusion that was experienced before.

Youth

Not all historically marginalised groups have seen themselves integrated into the new Jubaland Administration. Youth frequently articulated their experience of political marginalisation and inability to gain representation in either the Jubaland Parliament or local administrations. Those in Gedo argued that the manner in which politicians were appointed “through the backdoor” was a significant contributor to their dissatisfaction and that they do not have the capacity to compete in such an environment.

Similarly, although some youth from Lower Juba were able to participate in political processes in Kismayo, those outside Lower Juba expressed frustration at their distance from the process and that it was their counterparts who were able to participate and not them.

Overall there was a strong sense that youth are yet to be seriously included in political appointments. They have tried to engage in political processes and have undertaken lobbying to support their own candidates, but they have consistently met with defeat. On the one hand, while this demonstrates that the process, at least in some areas, attempted to have open debate and competition between candidates, unless voices and preferences from across society are taken into consideration, such a process of debate may be cynically viewed as a veneer of inclusivity, while the final decisions are determined by a narrow demographic of elders. One youth representative commented, “At the public level, [the youth] can make lots of noise – but in the final decision making we are not there and nobody is really listening to us.”

Women

Women continue to be a minority in terms of political representation either during consultations or in formal political structures. Only three women have been appointed to the Jubaland Parliament, one of whom inevitably serves as the Jubaland Women’s Representative. Political engagement in state formation processes is primarily through older men, thus reinforcing the narrow set of perspectives that have historically influenced Somali politics. The few women civil society actors whom researchers were able to interview stated dissatisfaction with their level of representation.

Ultimately, ensuring genuine political inclusion and suitable levels of representation of all social groups in both consultations and political posts will be essential to enabling the Jubaland Administration to reflect and meet the needs of the range of stakeholders in Jubaland. Currently the prioritisation of conventional older male elites marginalises large swathes of the Jubaland population, youth and women, whose needs are both legitimate and should be prioritised. While inclusion of minorities is a commendable change and should be sustained, there is more to be done. Furthermore, despite clear efforts to conduct consultations within the means available, ensuring these are not superficially inclusive will assist in building trust in the Jubaland Administration that it is reaching out to all sectors of society, including those who may have different political opinions. Given the low levels of trust in the creation of a new governance

²⁴ Saferworld (forthcoming) *Conflict analysis on the Somalia 2016 appointment process*.

system within a context in which the clan has historically been manipulated for political gain, transparency and consultation will assist in building faith in the efforts of Jubaland to create a non-clan biased political structure.



Somali woman in Kismayo market.
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Perspectives on how the IJA/JA was established

While there were high levels of support for the inclusivity and level of consultations in the formation of Jubaland during the qualitative interviews, the quantitative survey indicates that a large number of people did not find the manner in which Jubaland was created acceptable. Respondents were sharply divided along regional lines, with Lower Juba demonstrating a higher level of belief that the process was acceptable, echoed to a somewhat lesser degree in Middle Juba.

Figure 6: To what extent do you feel the process of establishment of the IJA was acceptable? All regions

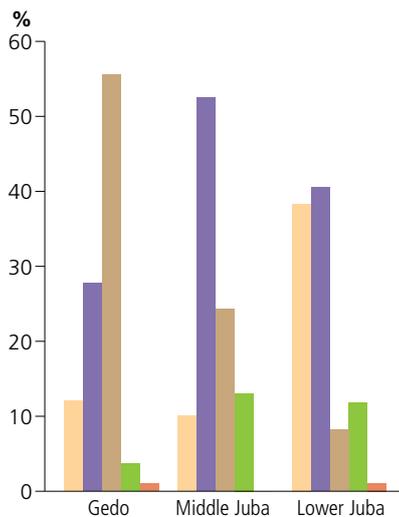
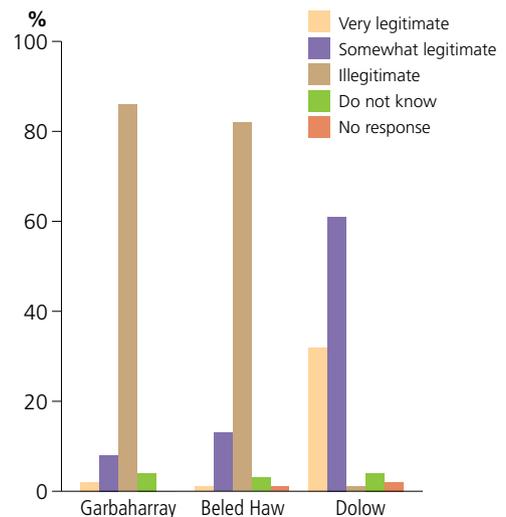


Figure 7: To what extent do you feel the process of establishment of the IJA was acceptable? Gedo



At first glance, while the indication is of a strong perception of illegitimacy in Gedo, this is not uniform as Dollow respondents were more inclined to see the process of establishing the IJA as acceptable, compared to the strong disagreement with the process seen in Garbaharray and Belet Hawo.

Responses in Gedo show a perception that the IJA came into power either through the backing of foreign powers or military control [see figure 4]. Similarly, the distribution

of responses reflects broad political divisions within the Marehan and between the Marehan and Ogaden. It may also reflect differences between the Digil Mirifle and the Ogaden, given that the survey was carried out in the immediate aftermath of the formalisation of Jubaland in May 2014, as well as discomfort among Gedo respondents over being integrated into a regional administration, having previously existed as an autonomous region.

While positive perspectives emerged on how the Jubaland Administration was appointed, at the same time there were caveats. Some participants explained that although they accepted the process, it was with resignation, stating that there was little they could do about how political appointments are made, so they accepted that they had a leader and hoped that this leader would represent them.²⁵ Other individuals close to the political formation of Jubaland emphasised that while imperfect, the mode of creating and appointing the Jubaland Administration was an improvement on past processes: “Anything is better than clan selection and the 4.5 system.”²⁶

Appointing politicians

Political representatives were perceived by participants to be appointed through clan elders, with elders themselves confirming their role in making political appointments.²⁷

Regarding appointments to the Jubaland Parliament, while one-person-one-vote has not been used, some interviewees, especially those who had been close to the formation process, saw the approach as adequately inclusive given the means available.²⁸ Similarly, youth interviewees spoke of having the opportunity to lobby and campaign for their candidate to elders, and despite being unsuccessful, the indication was that there was open dialogue about who should be appointed. A Jubaland parliamentarian stated:

“The way we came to power was very close to one-man-one-vote. For example, I myself beat eight others from my sub-clan to take this position. There was a lot of competition and a public contribution. So it was not one-man-one-vote, but in four years’ time we are hopeful that it will be.”²⁹

The perspective that the process for selecting Jubaland parliamentarians was as inclusive and participatory as feasible given the time available and financial and security considerations was not echoed by all interviewees. Participants in focus groups that included Digil Mirifle and Guri Marehan³⁰ clan members voiced deep frustration with the process, which they viewed as entirely illegitimate. One participant alleged that the selection process used elders who were not genuine, and engaged sub-sub-clans from within a given larger clan, such as the Marehan or Digil Mirifle, who were not representative of the larger clan’s interests. According to their perspectives, the final composition of the Parliament was not genuinely representative of the Digil Mirifle or Marehan communities in Jubaland.

Overall, despite the issues raised above, perspectives from the international community on the 2015 selection process were generally positive, albeit with a number of caveats. An adviser to an international donor described the process as “somewhere approaching reasonably good in a difficult situation”. A UN representative noted that the process was controversial given the resulting Marehan and Ogadeni domination, but praised the level of political will to see the process through.³¹

25 FGDs – minorities youth.

26 KII political observer.

27 Elders and minorities and through focus point discussions, FGD civil society, Kismayo.

28 FGD Minorities and elders.

29 FGD Jubaland parliamentarians, September 2015.

30 The phrase “Guri” refers to indigenous communities, and ones that had been settled and present for generations. In contrast, the term “Galti” refers to migrant communities.

31 KII with representative of a multilateral institution, 30 November 2015.

Political and decision-making structures in Jubaland

Having begun as an interim administration in April 2013, Jubaland was formalised as an FMS in April 2015 with the inauguration of the new parliament. Geographically it comprises the three regions of Gedo, Lower Juba and Middle Juba. The regions are sub-divided further into 15 districts that administrate local issues for villages. In terms of political structure, there is a president, vice president, parliament, speaker of parliament, and a cabinet consisting of ministers, vice ministers and heads of department. Parliamentarians, according to one interviewee from the Jubaland Administration, “both make and protect the law and they must represent their constituency in the creation and application of the law”.³²

In addition to the Jubaland Government and Parliament, there exist further political sub-units in the form of regional administrations and district administrations. The result is that there are multiple sources of authority and types of decision makers and multiple different mechanisms for the appointment of decision makers of different types. At each of these levels decision making authorities are either formally part of the Jubaland Administration, or part of existing localised structures of governance such as elders or village committees.

Regional governors and district commissioners are both appointed by the President of Jubaland, who oversees regional affairs. However, it is unclear what the relationship is between district and regional administrations. Indications from officials within the Jubaland Administration are that in future there will be locally elected mayors who will govern at the local level within districts.

According to the Dollow district commissioner, districts in Gedo currently have an interim administration, but a permanent structure and appointments are anticipated soon after the President has finalised the Jubaland Administration structures.

One anomaly in Jubaland is the political affiliation of the Gedo Regional Authority, which has aligned itself with the SFG and reports to it. As part of the formalisation of the Jubaland Administration as an FMS, a new regional governor for Gedo, based in Garbaharray, was appointed in mid-2015 and started to report to the Jubaland Administration from late 2015. Until this development, confusion surrounded the remit and authority of groups in Jubaland, with Gedo simultaneously falling under the authority of the Jubaland Administration and the SFG while tensions between Garbaharray and Kismayo persisted. The situation is seemingly now resolved, however while political competitions were played out through the institution of parallel governance structures for the same region, active institutionalisation of governance systems seemed to have been on hold.

While there exist such an array of decision-making structures, with one interviewee commenting that the lack of job descriptions and clarity of roles and responsibilities had created tensions between ministries and civil servants, enabling the population to understand how best to relate to and engage with government will be challenging. This will inevitably lead to obstacles in holding authorities accountable for their responsibilities given that people let alone civil servants and publically appointed officials will not know who should be responsible for tasks.

Confidence in the IJA to represent the needs of the population

Respondents’ support for and confidence in the IJA/JA varied sharply among regions. The survey shows strong support in Lower Juba where the Jubaland Administration are based, a moderate level of support in Middle Juba, and a deeper division of perspectives in Gedo. This was further reflected in the district breakdown for Gedo, which once again reflected higher levels of support for the Jubaland Administration in Dollow, but a more oppositional relationship in Garbaharray and Belet Hawo. Echoing concerns over how representative the Jubaland Administration is, one political

³² KII official within the Jubaland Administration, November 2015.

representative from Garbaharray felt that it was not genuine and that this weakened their access to resources, stating that:

“One, there has never been a real discussion of how we get a piece of the pie. Two, there has never been a genuine discussion within those groups that select that representative in terms of who represents who.”

Participants in another FGD composed of Marehan argued their belief that representatives in the Jubaland Administration were not legitimate and that their preferred political representative, Barre Hirale, had been excluded from the process. Another FGD with participants from the Digil Mirifle similarly voiced concerns at the genuineness of representation, stating that even though to external actors it may appear inclusive, as there is a variety of clans and sub-clans on paper, the reality of representation is different.

Looking forward, while this reflects differing political allegiances to different authorities in different parts of Gedo, overcoming this to build stronger “buy-in” for the current political set up in Jubaland will require the authorities in Kismayo to proactively deepen their engagement in both Belet Hawo and Garbaharray. The Jubaland Administration needs to demonstrate that they are working for and on behalf of these communities through the distribution of goods and services and ensure a level of political representation for these areas.

Figure 8: To what extent does the IJA represent your interests? (by region)

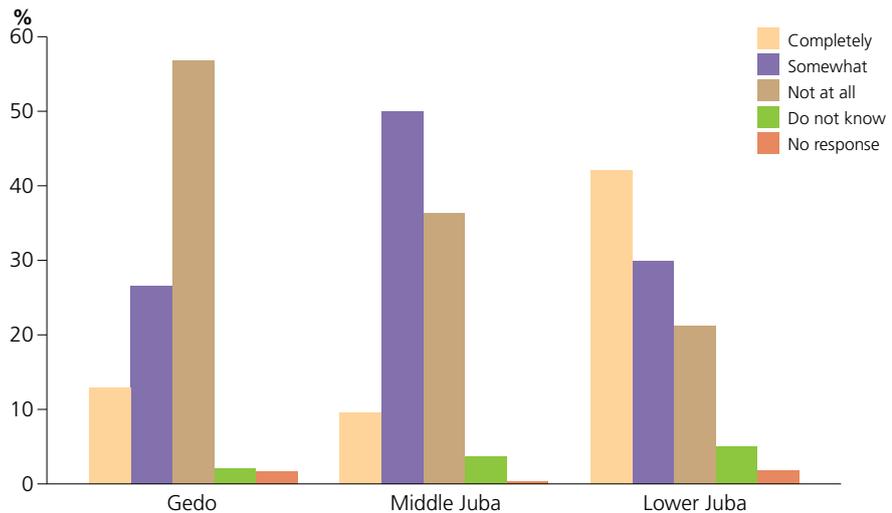


Figure 9: To what extent does the IJA represent your interests? (Gedo Districts)

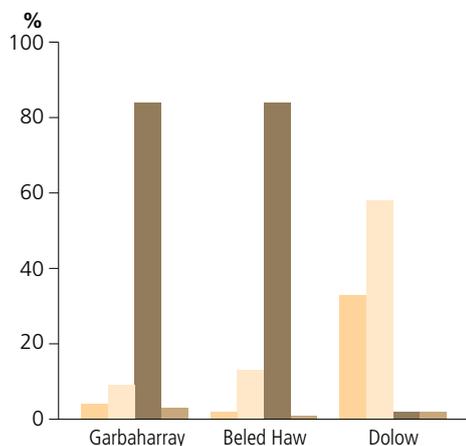
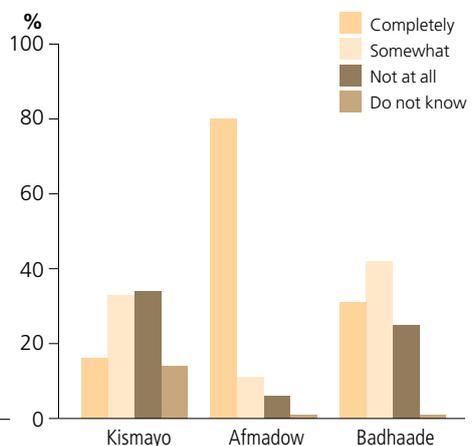
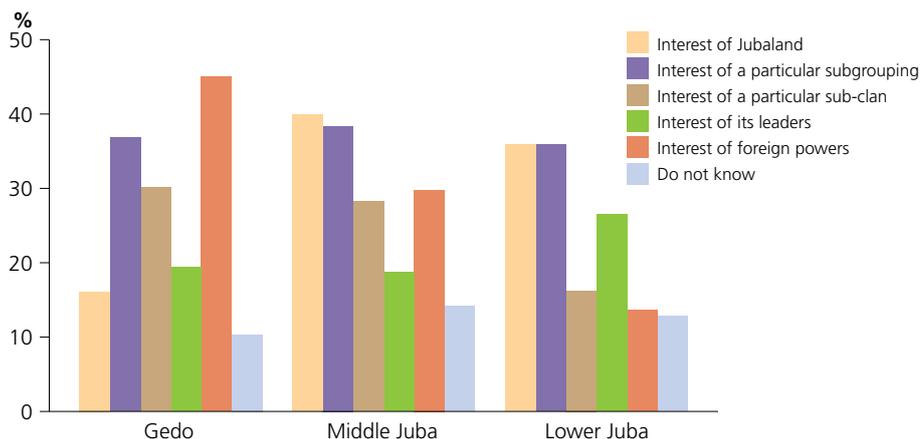


Figure 10: To what extent does the IJA represent your interests? (Lower Juba districts)



Perspectives also varied in Lower Juba on how representative the IJA is of the population’s interests, with a very strong sense among Afmadow respondents that the IJA is representing their interests, while more tempered opinions were given in Kismayo and Badhaade. Interviewees indicated that the high confidence in Afmadow was due to the high concentration of communities from the same sub-klan as the President. At the same time, one informant explained that there is growing discontent by some members of the President’s own clan. This may be related to the efforts by President Madobe to deviate from the historical convention of prioritising one’s own clan in distributing political posts and resources in favour of distributing them to a more inclusive range of clans and sub-clans.

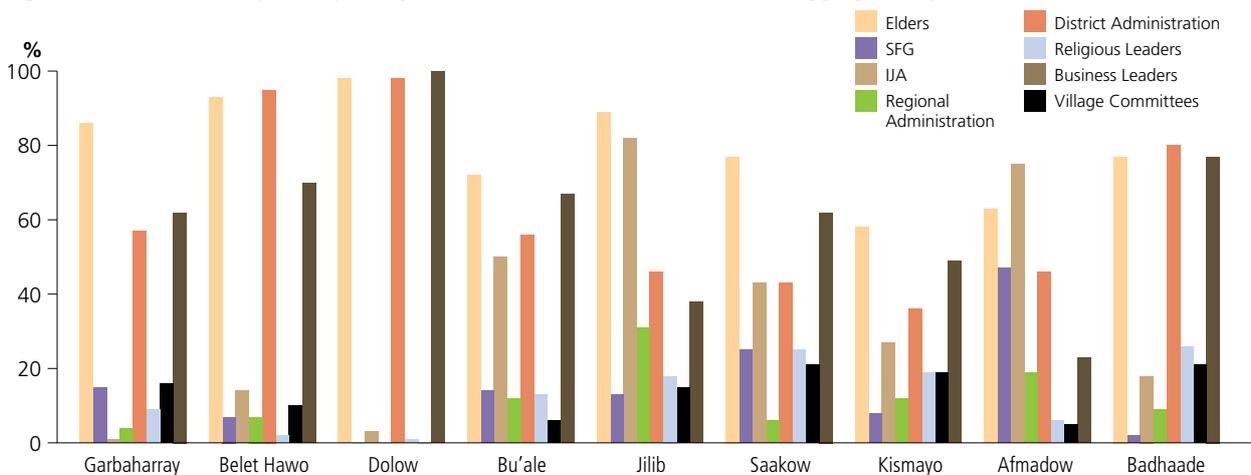
Figure 11: If not completely, whose interests do you think the IJA represents?



Those who lacked confidence that the IJA represented their interests, given a selection of options, indicated that the IJA represented a range of other interests, including those of foreign powers and those of a particular sub-klan or political group.

Furthermore, during the survey, the IJA was only considered a primary decision maker in Afmadow, where there is a strong concentration of people from the President’s sub-klan, and in Middle Juba. Elders, district authorities and village committees were widely seen to be the primary decision makers at the local level across Jubaland, carrying out the day-to-day management of dispute resolution and distribution of goods and services.

Figure 12: Who are the top three primary decision makers at the local level? (disaggregated by district)



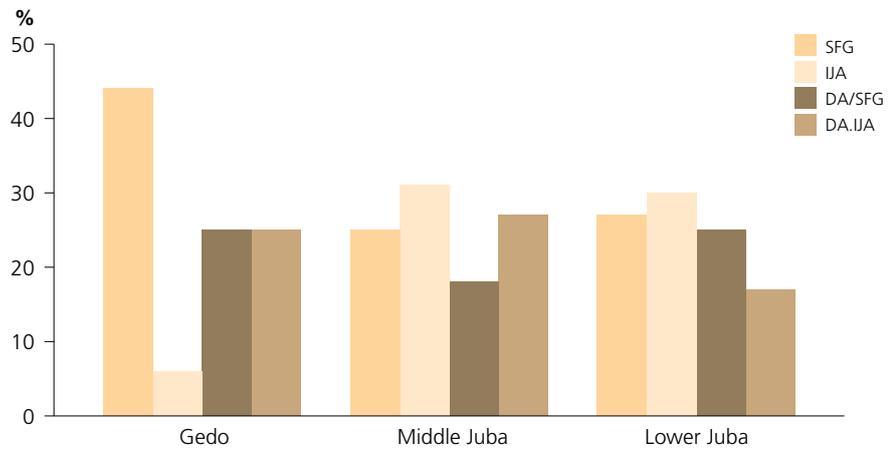
At the local level, there was a strong sense that the key decisions affecting peoples’ day-to-day lives came from decision makers who were physically closest to them. Traditional elders were seen as more important than formalised state decision-making structures such as district administrations and the new federal state administration. The SFG’s role in decision making at the local level was widely perceived to be small. Such a result

may indicate that people see the SFG as distant from local governance needs. This reinforces the sense that communities are eager for localised, responsive decision-making structures, and hence support is generally high for federalised governance.

Regional level

At the regional level, although in Middle and Lower Juba a slightly higher number of respondents believed that the IJA was the primary decision maker compared to the SFG, in Dollow there was a strong perception that the SFG was the primary decision maker (44 per cent), with the District Administration following at 25 per cent. However, few in Gedo saw the IJA as a primary decision maker. The IJA was only marginally more frequently seen as a primary decision maker in Middle Juba and Lower Juba. Ultimately, the Jubaland Administration will need to deepen its relationship with the population in these areas to exercise governance.

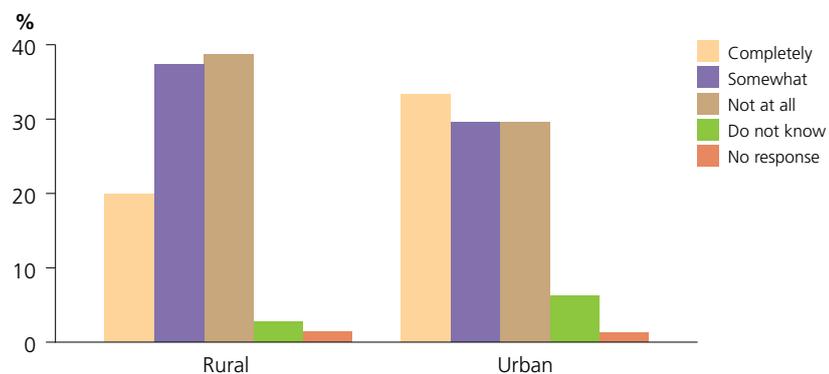
Figure 13: Who is the primary decision maker at the regional level?



Centre-periphery dynamics

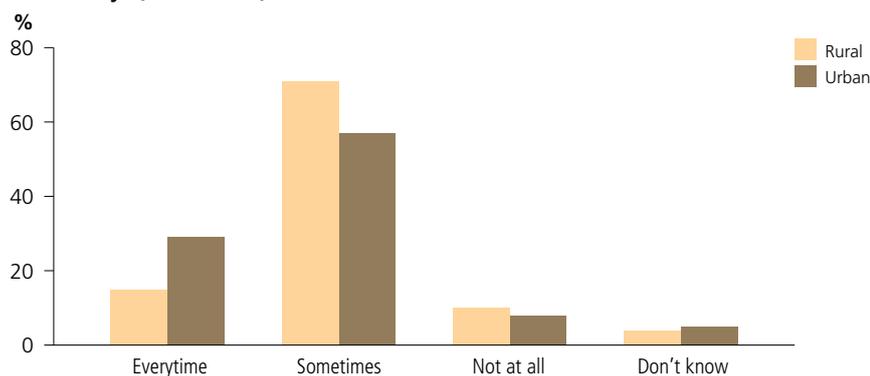
Disparities in perspectives on how representative the IJA is of communities were also seen along the rural-urban divide. Rural communities were more likely to be dissatisfied with the IJA than urban populations. This may reflect the lack of presence by the Jubaland Administration in these regions and their inability to deliver goods or services.

Figure 14: To what extent does the IJA represent your interests? (rural/urban)



Perceptions of whether the IJA's establishment has brought decision making closer to the people also mirror centre-periphery dynamics within Jubaland, with significantly greater support for the IJA from Lower Juba respondents and, to a lesser degree, Middle Juba respondents. A majority of Gedo respondents indicated that they did not see an improvement in the proximity of decision making.

Figure 15: How often do decision makers in your village respond to grievances from the community? (rural/urban)



Similarly, opinions on the responsiveness of decision makers differed between urban and rural communities. Respondents in urban communities viewed decision makers’ response to community grievances significantly more positively than respondents in rural communities. Only 15 per cent of rural respondents reported that decision makers responded to their grievances “every time” versus 29 per cent of urban residents.

Factors affecting the legitimacy of the Jubaland Administration

While there is no conclusive evidence that the 2015 selection process for the Regional Assembly was marred by corruption, given the extent to which the Federal Government has been plagued by these issues, it is necessary for the Jubaland Administration to proactively prevent and mitigate corruption and malpractice in political appointments and broader procurement and contracting processes if it is to build public confidence. Although many interviewees within the Jubaland Administration argued that there is no corruption in political appointments, other informants disagreed. If these challenges continue unchecked, they could result in a political culture where corruption and clannism are the norm, undermining the legitimacy of the Jubaland Administration in the eyes of the community.

Money and political incentives

In 2015, parliamentary candidates were selected by elders and submitted to an IGAD-facilitated selection committee. This committee reviewed candidates’ educational backgrounds and verified that they had no linkages to al Shabaab before awarding seats. An arbitration committee reviewed disputes emerging from decisions made by the Selection Committee. Currently there are 75 parliamentarians, although it is understood that another 10 seats are being allocated for the purposes of accommodating additional actors into the Jubaland Administration.

Interviewed elders said that they had selection criteria in mind for appointing political representatives. Ideally, characteristics such as candidates’ beliefs, approaches to managing issues, leadership skills and standing in society would be considered and the appointment process would be collective. However, many of these elders were clear that money was the ultimate determining factor among potential candidates. A representative from a minority clan in Dollow commented, “According to my estimation anyone who is to be an MP needs to raise \$15–20,000.”³³ According to some youth respondents, money paid to elders by prospective MPs tended to stay with these elders and was not disbursed to the broader community.

When asked whether it was possible for elders to maintain their integrity in appointing political representatives, one set of informants indicated that a majority within a council of elders may be able to select a politician who has limited financial support;

33 FGD with minorities and elders.

however, if the candidate who was not selected was financially powerful, he could hire people to sow confusion, violence or grievances.³⁴ One elder explained that even if elders did not support a politician, the politician would still gain appointment because, “These [politicians] often have economic power. They use their power. People live in hunger and they need money. The politician buys their clothes and buys their appointments.”³⁵

Other respondents were more willing to hold elders responsible for this situation. A youth representative stated, “Politicians are paying off elders. Whoever offers the most money, elders will appoint that person. Money doesn’t come back to the community – [the elder] will use it for his own interests.”

While the fear that corruption is driving political appointments persists, others within the Jubaland Administration argued that it had not been influential in the appointment of politicians. Instead they argued that there is a lot to learn from the struggles of the SFG and the corruption that has become endemic within it. For one respondent, the lack of direct aid coming to Jubaland has reduced the incentives for corruption; “Yes there is assistance, but it is coming in the form of goods such as street lights and building a stadium, not in the form of cash to the government, which helps to avoid corruption.”³⁶ A senior minister noted the following with regard to corruption:

“Three candidates were presented for each position. I can use my money but the probability of winning is much less. We declared that anyone trying to use corruption would be totally excluded from the process. We were told that in the election of the federal government the price has gone up to \$50,000.”

There were also indications that rather than money changing hands, political support to Madobe was a primary determining factor in finalising political appointments. According to one interviewee, the composition and clan balance in Parliament was carefully considered at the local level, but the final determination of who would be appointed was ultimately made by Madobe, who selected the individual he felt best suited his needs. One informant commented that the President selected a particular sub-clan representative, despite another candidate having greater popular support, as he had a better working relationship with this individual. Another interviewee, a senior official within the SFG in Mogadishu, claimed,

“In Kismayo – there’s a lot to do with promises and political incentives, as opposed to substantial amounts of money being paid. We know the people there didn’t have sufficient cash – but I would assume there were other things organised.”

Another interviewee close to the selection process argued that it was not legitimate; he accepted that no corruption had taken place, but was a case of the incumbent administration hand-picking loyalists. Some elders even admitted openly that they had accepted gifts of vehicles from Jubaland’s president.³⁷

The Madobe government appears to be building networks of patronage and incentivising support for the emerging Jubaland Administration to create stability. If true, this perverts the validity of political appointments and risks undermining the positive achievements made by the authority to date. In the long term, Madobe risks undermining his own ability to retain power unless he is able to sustain the distribution of gifts, incentives and perks to ‘loyalists’. This also creates an environment in which political representation is a means to pursue individual interests as opposed to fulfilling a public duty. Ensuring public confidence in future processes, not least the upcoming selection process for the Federal Government in 2016, is particularly critical to ensuring that electoral disputes or irregularities can be objectively investigated.

34 FGD with minorities.

35 FGD with elders.

36 Jubaland Administration representative.

37 FGD with elders

Somali men holding discussions in Kismayo market.
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The proliferation and devaluation of clan elders

Although elders are seen as the source of political appointments, interviewed elders were clear that they were not entirely free to choose whom they preferred. They spoke of the constraints that restricted elders during the Mbagathi and Arta processes, which they claimed were dominated by warlords and international actors. Similarly, they pointed to the 2012 process to select MPs to the Federal Government, which saw new elders created in a bid to secure certain political nominations, delegitimising the whole process.

While interviewed elders acknowledged that money influences who is finally appointed, there was also a sense of disempowerment. They felt undermined by those who have money and military power, and acknowledged that financial support for would-be politicians is flowing in from outside Somalia.³⁸

In addition, ‘copy chiefs’ were identified as a phenomenon that enables determined politicians to secure appointments when faced with legitimate elders who are unwilling to endorse them. When a political candidate cannot secure endorsement by his respective elder, he can pay off the Ministry of Interior to replace the original elder by appointing a brother, cousin or other ‘copy chief.’³⁹ Once the fake elder has been appointed and has performed his task of getting the candidate into power, he is then discarded.⁴⁰ A Lower Juba civil society representative illustrated the situation as follows:

“When I came back to Jubaland, the well-known elders used to be few in number, but now we are nearly 130! There are no agreed criteria and these are not being respected. I think the Somali media has contributed to the inflation of the number of elders. Because every two people, they meet, give money and then they go to the media and announce a new traditional elder.”

The process of selecting politically convenient elders was echoed in FGDs with some Digil Mirifle individuals and some Marehan individuals who both claimed that after their own elders refused to continue engaging in the Jubaland constitution and reconciliation conferences because they disagreed with allocations of parliamentary seats, they found that other elders from their respective clans were identified and brought into the conferences in their place.

³⁸ FGD with elders.

³⁹ Analysis workshop focal points.

⁴⁰ FGD with elders.

While not all elders wish to be bought off, they lack the means to prevent aspirant politicians from manipulating the system to secure the positions they want. Where one can either acquiesce or be sidelined politically by ‘copy chiefs’, it appears that the pragmatic choice of taking the money is preferred. The fact that elders’ sense of integrity, where it exists, can be so readily overruled renders elders beholden to financially well-endowed individuals or groups, whose political interests may or may not align with those of the clan constituency they purportedly represent. The resultant lack of confidence in elders underlines the importance of transitioning to elections by popular vote as soon as possible, which in itself is strongly supported by a large number of respondents.

Inability to speak out against the clan

While money and coercion were identified as influential in determining political appointments, the inability of communities to speak out against political representatives that are not serving their interests also contributes to an environment where politicians can act with impunity.

According to some interviewees, although a community or clan may not be happy about a political representative, there are social norms of conduct preventing members of that community or clan from publicly criticising them. This reduces the accountability of political representatives and renders their decisions unchallenged.

One informant provided a clear example. During the attempted presidential impeachment in early 2015, the lawyer recruited to execute impeachment legislation came from the same clan as the President. The result was a public denouncement from the Abgaal sub-clan of the lawyer in question for attacking one of his own clan members.⁴¹ Such an environment comes about as a result of the clan being the social safety net for the vast majority of individuals. The clan conducts negotiations, imparts justice, ensures access to resources and provides security. As part of the ‘social contract’ within the clan, obedience and protection of clan interests is given in return. While this social norm may have its historical purposes, it is prohibitive of constructive public debate.

Within the current environment, where clan affiliation and its norms are still strong, criticism levelled at politicians by those of other clan backgrounds is often dismissed as spurious. Ideally, the most powerful critiques of politicians and their actions must therefore come from their own constituencies, but the norm of silence is inevitably prohibitive of this. Breaking through such norms and encouraging public critiques of politicians will be essential in enabling public accountability of decision makers and mitigating against a politics of self-interest. It could also mitigate against inter-clan grievances, as communities recognise that the grievance is between politicians rather than communities.

Trust in politicians

While a high level of trust was placed in elders to represent the interests of their communities, interviewees’ perception of politicians was much more negative. Many participants in FGDs questioned the benefit of politicians to communities and for some, the idea that politicians represented community interests was met with outright disdain.⁴² Interviewees felt that they represent their own interests and when necessary those of their sub-clans. According to one interviewee and echoed by many others, politicians were motivated to spend money on becoming politicians because of the additional money it would generate for them, above and beyond their salary, in addition to power and the ability to influence how public affairs were conducted.⁴³

41 Civil society representative.

42 Stakeholder analysis workshop, FGDs with elders in Kismayo and with Dollow youth.

43 Minorities FGD.

Another interviewee spoke of how politicians use the name of the clan but do not represent the clan. They manipulate the name of the clan, even if it created conflict with other clans, for political purposes in order to gain a veneer of legitimacy and pursue their own political objectives.

This begs the question as to why elders, who were widely seen to be representing the interests of their community, appoint political representatives that act against these interests. Furthermore, why can elders not remove or influence politicians when they act contrary to their constituencies' interests? Participants who were not directly involved in the selection process felt that they were marginalised and that although elders were present from their clan, they were too junior and could be easily manipulated to support the Madobe leadership.

For minorities, there were fears that despite securing political positions, politicians do not necessarily represent minority clans or the community from which they come. Some minority interviewees sensed that politicians do not necessarily distribute the benefits of political office down to their communities.⁴⁴

At least one interviewee displayed a pragmatic acceptance of the situation: "You have to be positive; it doesn't mean you are always happy but we accept they are our leaders."⁴⁵ Scepticism pervades even communities that are pleased with the recent results. Another interviewee argued, "Previously we did not have a leader; it's not easy for us to conduct consultations because we are fishermen. At least our leader represents us and brought back two MPs, the manager of the airport and a Deputy Minister."

The widespread lack of faith that political representatives genuinely represent the interests of their constituencies reinforces the need for trust-building exercises and consultations between parliamentarians and the constituencies they represent. In addition, publishing and finalising the names of parliamentarians could help dispel concerns and fears of marginalisation. Such activities could help to build support for the Jubaland Administration and mitigate against political conflict.

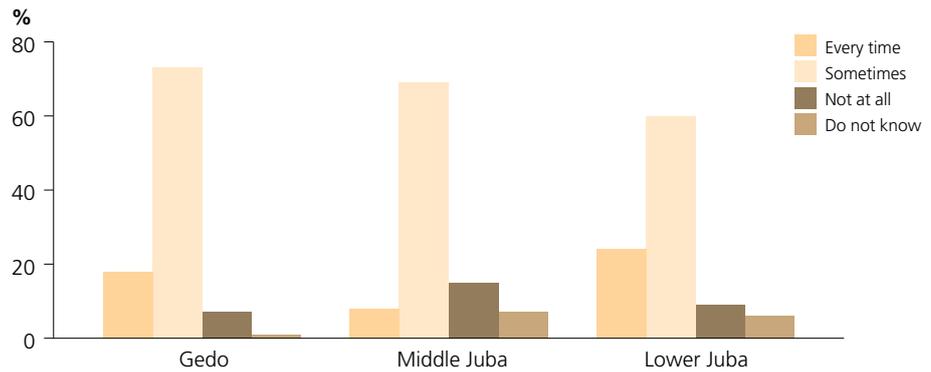
The international community should consider a significant investment into the capacities of new parliamentarians in order to build public confidence in the new Jubaland Assembly. This should include improving parliamentarians' understanding of the legislative process and how, in the absence of political parties, the Executive can be effectively held to account. In addition, capacitating new parliamentarians to proactively engage with constituents will build upon the advantages of a selection process based on district rather than clan, as this implies a greater geographical proximity to the populations they represent. Finally, enabling local consultations with constituents, including all interest groups, could contribute to shifting norms and new expectations for politicians and the communities they represent.

Limited mechanisms of accountability

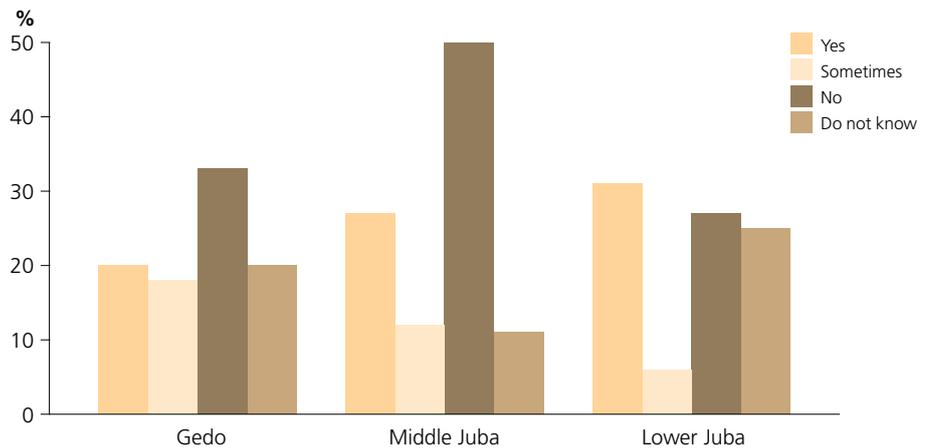
One issue affecting the level of trust and the relationship between the public and decision makers – whether the IJA or others such as district administrations, elders or village committees – is the feasibility of removing or addressing decision makers that are not seen to represent the interests of the community. Without such mechanisms, those who wield political power, whether at the local or regional level, effectively act with impunity. The need to ensure mechanisms of accountability was made explicit by survey participants, who responded with scepticism as to the extent to which decision makers responded to community needs. A relatively small percentage of respondents felt that decision makers listened and responded to grievances raised. Nonetheless, for the vast majority, the sense was that the level of responsiveness by decision makers was sporadic, and for some, there was a belief that decision makers were never responsive to local needs.

⁴⁴ Minorities FGD.

⁴⁵ Minorities FGD.

Figure 16: Are community grievances heard and addressed by decision makers?

Furthermore, according to the quantitative survey, in every region between a third and half of the community felt that nothing could be done to address poorly performing decision makers. In Lower Juba, a third of the population felt that they could take action against decision makers, while in Gedo this appeared to be tempered by a view that the feasibility was dependent upon the situation.

Figure 17: In cases where decision makers are seen to make decision that do not serve the interest of the community as a whole, is there any way/mechanism of taking action against them?

For those who felt that they could take action to hold decision makers accountable, this was not necessarily seen as simple. Other than Dollow and Afmadow, in which action against decision makers was seen to be either very or somewhat simple, in all other districts, the process was widely seen to be complex. For many districts, the presence of al Shabaab may provide some explanation.

Many participants in qualitative interviews expressed pessimism about challenging decision makers who do not act in their interests. One participant argued that although one can hold and express an opinion, the likelihood of being acknowledged is limited and clan elders will not listen.⁴⁶

Despite Dollow being one of the few districts where respondents felt that there was some level of feasibility to remove decision makers, one participant there raised concerns that although one can technically raise a complaint, there are security risks and fears that the District Authorities and the Ethiopians would frown heavily on dissent. The same interviewee reported that people acting against the interests of the Dollow authorities have been taken across the border to Ethiopia and not returned.⁴⁷ While this claim is unverifiable, it indicates a level of fear around raising complaints, such that people are dissuaded from doing so and thus ensuring that the authority goes unchallenged.

⁴⁶ Minorities FGD.

⁴⁷ Interviewee in Dollow.

The difficulties of instituting accountability were also articulated in Lower Juba, with one civil society respondent stating:

“How can society keep these people accountable? They were appointed by a few individuals. Society never elected them so we can’t hold them accountable. Nobody has ever given their vote. It is only the traditional elders that can hold people accountable.”

In recognition of this obstacle, for some participants the focus was less on accountability and more on building an environment in which those appointed work for the common good, not for any particular clan or sub-clan.

Interviewed members of the Jubaland Administration recognised the importance of accountability. One Jubaland official stated that accountability comes from two directions: firstly from the appointing authority, and secondly from the community. The appointing authority can retain or dismiss a political appointee depending on their assessment of performance. Communities can present concerns to the appointing authority that is responsible for acting on them. Throughout the interviews with Jubaland officials and parliamentarians, there was an ambition to apply the rule of law as per the constitution. According to one Jubaland parliamentarian, “We are young, but we have some laws and a constitution and we have to defend it and anyone who fails must be punished. No one must be above the law.”

While this is the ideal, according to one Jubaland official, this is not necessarily happening the way in which it was envisioned. He pointed to the need to stabilise Jubaland before instituting accountability.

The presence of al Shabaab was regularly cited as an obstacle to the success of Jubaland. As much as this may be the case, care should be taken that this presence does not become an excuse for not implementing accountability mechanisms, given that in both Afmadow and Dollow, the perception is that some form of holding decision makers to account is feasible.

Another obstacle to instituting accountability relates to the emerging structure of governance in Jubaland. Clarity over roles, responsibilities and lines of representation among the government, parliamentarians, regional administrations and district administrations will be essential to their functionality as well as to ensuring accountability and having clear lines of authority in decision making. There are already multiple levels of administration, with locally elected mayors soon to be added to district commissioners, regional governors, parliamentarians, cabinet ministers and civil servants, all led by a president. These multiple administrative regions and layers of administration, whose appointment is determined by different mechanisms, may create a system that is too complex to determine responsibility and accountability for any failure of governance. Clarity of roles, appointment mechanisms, reporting and responsibility will be essential to ensuring that the public and the Administration itself know how to hold individuals accountable and advocate for policy and practice changes that are for the benefit of the community. In a context in which the authorities are not subjected to a popular vote, a perspective is common that authorities may not be always acting in the interests of communities.

Whether accountability will be forthcoming is dependent upon whether the Jubaland Administration has the political will to institute it and in doing so avoid the pitfalls of corruption, patronage and clan politics that have plagued Somali politics.

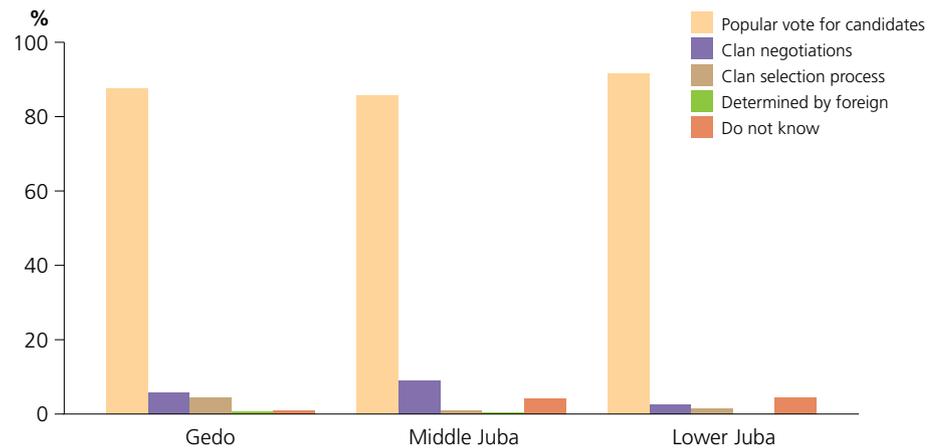
Within the current environment, where clan affiliation and its norms are still strong, criticism levelled at politicians by those of other clan backgrounds is often dismissed as spurious. The most powerful critiques of politicians and their actions must therefore come from their own constituencies, but the norm of silence is inevitably prohibitive of this. Breaking through such norms and encouraging public critiques of politicians will be essential in enabling public accountability of decision makers and mitigating against a politics of self-interest. It could also mitigate against inter-clan grievances, as communities recognise that the grievance is between politicians rather than communities.

Aspirations regarding future appointment processes

90 per cent of respondents and most interviewees expressed support for one-person-one-vote elections to select the Jubaland Administration. However, participants were reluctant to speak of popular elections as a silver bullet for solving all problems, and identified risks and limitations.

Youth in Dollow viewed elections as a means of overcoming their marginalisation in elder-dominated decision making. At the same time, they asserted that elders should retain an important role, and pointed to Eastern Kenya where elders still exist, are appointed as civil servants and have influence. As one young interviewee put it, “Elders should be there, but ultimately the vote is mine.”⁴⁸

Figure 18: When the IJA becomes a formal FMS, how should it be selected?



Another participant emphasised the need for caution in endorsing elections as a panacea for solving political representation challenges, citing fears of manipulation.⁴⁹ “We have seen corruption of elections during the time of Siad Barre. We saw polling station observers in a village telling people not to put their ballots in the official box, but another one.”⁵⁰ He continued to say that there is value in the current system, people understand it, and they know who has been appointed and why.⁵¹ The indication was that where corruption is understood to be a norm in the appointment of politicians, it feels less hidden and obfuscated than before. Youth in Dollow echoed fears of manipulation of political processes and re-emphasised that any electoral process needs to be free from corruption for it to work.

Although there was near-universal support for popular elections there were varying perspectives in relation to the speed of change. One political informant was cautious about a rapid transition to democracy, raising fears that elections could create instability in an area which is only just regaining security.

Another prominent member of the Jubaland Administration asserted a commitment to democratisation, but indicated that this would only be feasible after two presidential terms:

“I think that one-man-one-vote, in less than a decade, by the end of the President’s second term, I think this is realistic. The President wants to make a positive legacy here. His milestones and thinking are good for Somalia.”

Other interviewees, including senior officials within the SFG and the JA, spoke of the need for ten years of strong government to create stability, and argued that Somalia was not and would not be ready for elections before then. Consequently, while elections continue to be an ideal in high demand, reluctance by politicians to institute them in the short to medium term may see the population’s aspirations stunted.

⁴⁸ Dollow youth.

⁴⁹ Minorities FGD Dollow.

⁵⁰ Minorities FGD.

⁵¹ Minorities FGD Dollow.

The international community will need to move quickly to respond to the high public demand for elections. Building legitimacy into the political system and enabling an election by popular vote in Jubaland in 2019 would require significant investment to ensure that the necessary administrative and legislative frameworks exist for elections to adhere to minimal international standards. If successful, this could not only strengthen public confidence in the Jubaland Administration but also catalyse similar processes in other FMSs. On the other hand, if this opportunity is not taken, Jubaland risks developing political norms that reinforce patronage networks and the emergence of an executive and parliament that are not held to account by the population. This could be detrimental to the positive start Jubaland has made in cultivating inclusivity across the parliament and strengthening vertical representation with parliamentarians directly representing designated constituencies.

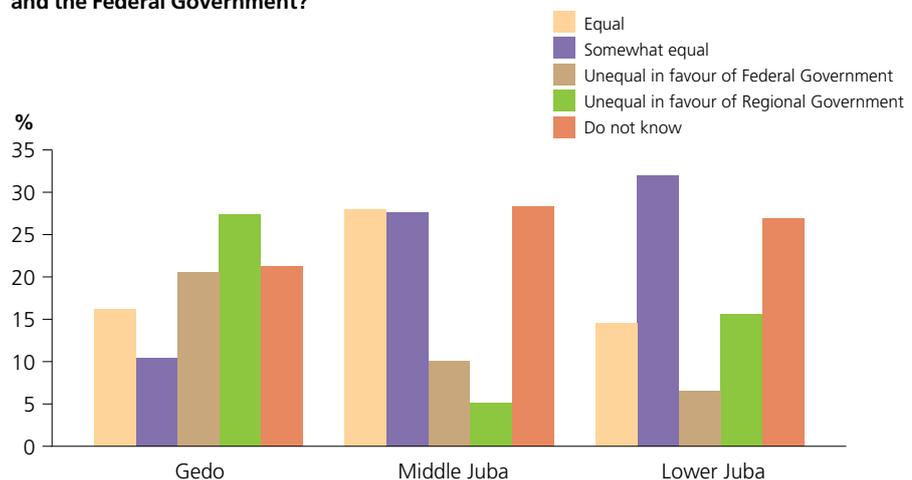
Relationship between the Federal Government in Somalia and Jubaland

Historically the role of the Federal Government in Jubaland's state formation process has been highly divisive and the relationship has often been fractured between Jubaland and the SFG. From the outset the SFG was actively obstructive as it sought, despite constitutional guarantees, to resist militarily the formation of the Jubaland state, in an attempt to realise an alternative two-state federal system between Somalia and Somaliland. A senior minister within the Federal Government lamented:

"The key problem was that people [in the SFG] were not happy with the federal system. If Jubaland could have been prevented from becoming a state then federalism could be stopped and the hidden agenda was two federal states, north and south. Those ministers were removed from those positions but it took a long time to recover. For the next Prime Minister it was very difficult to make amends. The current Prime Minister had a little breathing space but time was pressured. We have had good relations with the federal states in the last year."

Although relations have improved in the intervening period, the quantitative data demonstrate a complex relationship between the Federal Government and the three regions of Jubaland and indicate that more needs to be done to create a balance of power that meets popular needs and expectations. Many respondents in Middle Juba and Lower Juba report an equal or somewhat equal relationship between Jubaland and the Federal Government; however, a significant number of respondents in Gedo perceive the relationship to be tilted in favour of the regional government and a significant minority perceive an unequal relationship with the Federal Government. Many in Gedo stated a preference for this relationship to change.

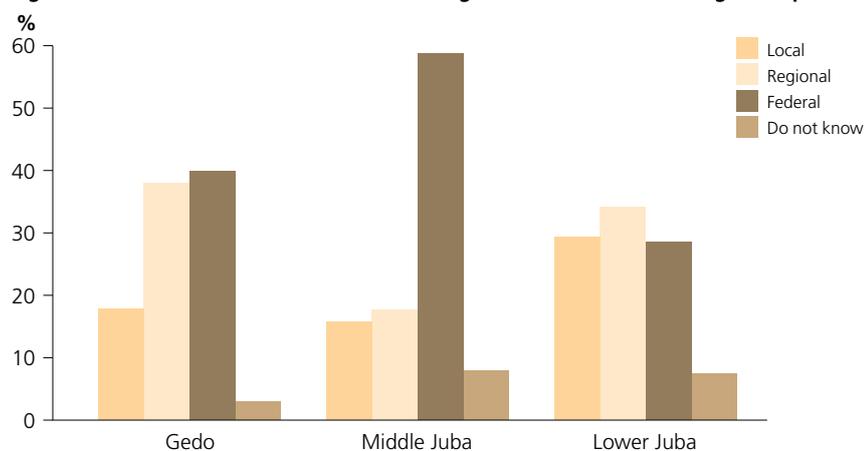
Figure 19: What is the current distribution of power between the Regional Government and the Federal Government?



When respondents were asked who should ideally have the most power, the results did not follow the same trend across regions. The strongest support for the Federal Government was seen in Middle Juba, while Gedo evenly supported federal and regional power, and Lower Juba balanced its support among federal, regional, and local government.

Throughout the quantitative questionnaire the Federal Government was rarely identified as a primary decision maker, though it was on occasion identified as engaged in service delivery. Support for greater power for the SFG was limited to internally displaced persons (IDPs) from Middle Juba, a third of whom were based in Mogadishu, and participants from Garbaharray, a district that was at the time of the quantitative survey under the control of a district administration aligned to the Federal Government.

Figure 20: In an ideal situation which level of government should have greater power?



These findings reiterate the importance of the SFG engaging in trust building with the FMSs and being cognisant that its support varies widely among the regions. One particular source of tension between Jubaland and the SFG in Gedo has been the Federal Government's direct appointment of regional governors and district commissioners, a practice that has recently changed. As a general point, attempts by the Federal Government to continue making such appointments in Jubaland or elsewhere, not only delegitimise the FMSs but also, in the long run, will not assist the Federal Government in creating constructive relationships with the regions.

At the policy level, there is an absence of clear guidance within the provisional constitution, regarding the distribution of power and resources between the Federal Government and FMS. One initiative which aims to provide greater policy adherence to the broader statebuilding agenda is the development of the Wadajir Framework, led by the Ministry of Interior which entails five policy pillars centred around social healing, peace dividends, civic dialogues, local governance and strategic communications. Work remains to be done if Wadajir is to unite key actors around a common agenda. A representative of one international donor noted:

“Wadajir has had limited consultation and its linkage with UN JPLG [Joint Programme on Local Governance] is not very clear. JPLG is leading the process of creating district councils and has the ability to make grants with conditions to the District Council directly. JPLG's focus is to work with FMS rather than the federal Ministry of Interior. This mirrors the process in Somaliland and Puntland where they take the lead. However, Wadajir can be the overarching chapeau.”

The legislative timetable for facilitating the emergence of federalism appears to be somewhat under-ambitious. The only legislation the Federal Government has identified as a priority is an upcoming bill by the Ministry of Finance on taxation. A senior minister commented:

“That is the only one. There are a lot of ministries that are supposed to have a federalization act such as security, justice, how courts work together, taxation, etc. But as the Ministry of Interior and Federal Government we don’t have anything new that needs to be passed. But we have broader items such as citizenship and political parties.”

Ultimately, the balance of power needs to be clarified and it needs to be determined who holds final authority for various governance operations. The Jubaland population has made clear that they want federalisation and have articulated the benefits they would like federalisation to bring forward – improved security, improved reconciliation and better resource distribution. Jubaland will need to be empowered to govern and sustain its steady improvement in this arena. By no means does this eliminate or negate the importance of a federal government in Mogadishu; ultimately, the Federal Government will need to act to coordinate, manage and support the overarching federalisation process and distribution of powers and responsibilities. Nonetheless, this will take dialogue between FMS and SFG along with political will.

The international community and federalisation

Jubaland’s formation has been heavily influenced by the interests of both neighbouring countries and Western states. The involvement of regional powers in Jubaland politics was taken as a given by many respondents. Participants from Gedo pointed to Ethiopia as one of the key actors in Gedo politics, both as a force for good in terms of instituting a strict security environment in places such as Dollow but also with scepticism over the broader motivations of its involvement in Jubaland. Other interviewees, primarily individuals from the Jubaland Administration, were sympathetic to Ethiopia and Kenya’s involvement, noting that as Somalia is their neighbour, Somalia’s peace and security is also their own concern.

Individual interviewees suggested that economic interests are central to the involvement of both neighbouring countries. Two senior members of the Federal Government, alongside another individual close to the Jubaland formation process, confirmed that off-shore oil exploration blocks are of particular interest to Kenya, with one specifically mentioning a dispute over the UN Convention on the Law of the Sea (UNCLOS), which governs sea borders. This is unsurprising given that Kenya’s incursion into Somalia in late 2011 came twelve days after the Federal Government voted to determine the sea border as following the trajectory of the land border with Kenya, which cut Kenya off from lucrative oil exploration blocks for which they had already signed contracts with numerous multinational hydrocarbon firms including the Italian firm, ENI.^{52 53} It has been suggested by one political observer that Ethiopia’s interests relate to trade routes through Jubaland from Dollow to Kismayo. Other reports have suggested that Kenya is profiteering from the military presence in Somalia through illegal trade in sugar and charcoal.⁵⁴ One senior official within the Federal Government in Mogadishu suggested that a number of international actors with interests in Somalia’s oil reserves have concerns over Kenya and Ethiopia’s involvement in Jubaland and Somalia.

However, aside from the political, economic and security interests of neighbouring states, according to one interviewee close to the federalisation process, Somalis have generally failed to agree upon political solutions due to the “hidden hand” of Ethiopia and Kenya. He went on to state that the relationship between Somalia and its neighbours is one of mutual dependency: “We can’t do without them and they can’t do without us.” However, at the same time, he called on neighbouring states to avoid manipulating the reconciliation process, which should be managed primarily through the Federal Government. Ostensibly, the role of international actors can either help or hinder

⁵² <http://afkinsider.com/88551/oil-gas-africa-disputes-simmer-exploration-rights-eastern-africa/>.

⁵³ Kenya’s unilateral military incursion into Somalia was subsequently re-hatted under AMISOM.

⁵⁴ www.jfjustice.net/userfiles/file/Research/Black%20and%20White%20Kenya's%20Criminal%20Racket%20in%20Somalia.pdf.

African Union Mission in Somalia (AMISOM) soldiers are seen silhouetted against the sky while standing atop a tank in an area outside the Somali port city of Kismayo.

Security provision in Jubaland is widely seen to have improved since the creation of Jubaland in 2013.

© STUART PRICE/UN PHOTO



effective state formation, and it will be up to the Jubaland Administration to work with the SFG to better define the role and engagement of international actors.

Participants noted that Somalia needs a national approach towards engagement with neighbouring countries as opposed to ad-hoc relationships built by individual FMSs. For instance, IGAD was seen to be deeply involved in the Jubaland state formation process. A senior minister from the Jubaland Administration commented:

“IGADs role was a facilitator. IGAD is a regional organisation and brings together all the states in the region. We are very grateful for the role of IGAD; if it was not for their role things would be very different. Economically they were helping us to attend those meetings. For example, the access of different regions was difficult because of al Shabaab, so IGAD provided flights so that people could reach each other.”

Senior officials in the SFG have spoken of the disjuncture between IGAD’s role in Jubaland’s state formation process and its liaison with the Federal Government. Some expressed frustration over the lack of communication, leaving the Federal Government uninformed about IGAD’s intentions or policies with regard to Jubaland. One Federal Government official commented, “I feel they are a hindrance as opposed to a bridge.” At the same time, senior Jubaland officials spoke of the value that IGAD has brought from the inception of the Karen Conferences to the present day.

IGAD has also influenced and technically assisted the process of political appointments, though the extent of this is unverifiable. IGAD’s oversight of the “Selection Committee” was discussed by participants. Some respondents stressed that IGAD’s role was strictly limited to that of a facilitator, while others believed it was more politically driven, particularly with regard to the vague criteria applied to candidate selection. For one participant, “The motivation that IGAD wanted qualified people may be valid; however, the application of this hasn’t been transparent.”⁵⁵

For one international donor closely supporting the state formation process, support to the IJA presented something of a dilemma. In their view, the Federal Government, in its violent opposition to the formation of the Jubaland state, was acting as a spoiler and in contravention of the overarching federalism principles set out in the provisional constitution. However, as regional powers increasingly backed Raskamboni, the decision “became easier for the West to side with this – going against IGAD would have been very difficult.” For the UK, this led to their direct provision of support to IGAD, through seconding a UK Technical Adviser to IGAD to support the state formation process in Jubaland. This was in direct contrast with other international

55 Civil society Kismayo.

actors such as the UN, which have taken a much more cautious and indirect role, albeit one that became more substantive after the Addis Ababa Agreement was signed in May 2013. A UN staff member reflected:

“UN involvement in Jubaland’s state formation began post Addis Ababa. [There was a] sense that Jubaland was created without the consent of the SFG. So only after the Addis Ababa Agreement was the UN comfortable with engaging, as that agreement included the SFG.”

Other respondents were critical of the broader role of the international community in leading the Jubaland state formation process without the broad participation of Somalis representing all clans and sub-clans. A representative of Barre Hirale’s faction commented:

“There’s a joke – according to the power sharing of Somalia, we have 4.5, but now we are five.⁵⁶ There is another ‘clan’ so we are now six. Five Somalis and Halane – the airport! We don’t know what is going on there. The international community are the 6th clan.”

There exists an array of foreign actors with interests in Somalia. Some of these interests are explicit, such as improving security and supporting the return of refugees, while others are more tied to economic benefits such as oil exploration and extraction. What will be of greatest import is whether outside interventions are able to avoid instituting autocracy and to ensure that the people have ownership of a governance system that meets their needs, independent of foreign interests.

Foreign aid is viewed in Somalia with a high level of distrust and scepticism regarding the interests of foreign actors, along with concerns that they are manipulating governance and power in a way that is detrimental to Somalis. Transparency and accountability on the part of foreign actors conducting actions and interventions in Somalia (and Jubaland specifically) could help to alleviate these fears.

There is already some cooperation among international actors engaged in Somalia. Notably, major donors and multilateral institutions were all present in Addis Ababa for the negotiation and signing of the Addis Ababa Agreement, including IGAD, the SFG, the IJA, the UK, the EU, and the UN. However, it is essential for the Somali people to gain a greater understanding of these relationships and for foreign actors to ensure that they are meeting the needs of Somalis as much as their own.

Service delivery and financial accountability

One tangible manner in which state-society relations can be assessed is through the nexus of service provision. According to the quantitative survey, respondents in all three regions identified basic services such as health and education as pressing needs.

Economic issues such as job creation were highly prioritised in many areas, with 61 per cent of respondents across all regions identifying this concern.⁵⁷ However, there were significant variations: In Dollow, only 2 per cent of respondents prioritised economic issues as a pressing need, as opposed to 99 per cent in Afmadow.

Dollow showed particularly unusual results in that respondents articulated the least number of needs, with jobs, justice, corruption, land, housing and government capacity all scoring very low. In areas such as Badhaade, Saakow, Jilib and Buale, 50 per cent or more of respondents cited land and housing as issues of concern. Justice was seen as a concern in Belet Hawo, Garbaharray, Jilib Saakow and Badhaade.

One of the most common reasons given for support of a federal model of governance is that it will enable closer service provision. The quantitative survey indicated that

⁵⁶ This was intended as an acknowledgement of minorities being a whole clan as opposed to a .5.

⁵⁷ This option in the survey questionnaire was phrased as “Economic (joblessness, poverty, debt, high prices)”.

58 per cent of respondents believe federalism could enable better service provision. A representative of Lower Juba civil society commented:

“We Jubalanders are very happy with federalism. Services are being decentralised; if anyone wants a passport or birth certificate we used to have to go to Mogadishu but we can get them from Kismayo too.”

The breadth of demand was inevitably high, with emphasis placed on youth employment, developing courts and addressing official corruption alongside the basics of health and education.

Who provides and who should provide services

Basic services such as health and education were widely seen to be provided by non-governmental organisations (NGOs) in all areas. However, for some locations such as Dollow, local decision makers such as the IJA and district authorities were seen to be providing these services as well. Security was seen to be provided by the IJA, the district administration and, in Lower Juba, by the district, the IJA and local decision makers. Water and sanitation were widely seen to be provided by a range of actors from businesses to district authorities and local decision makers; only in Middle Juba did respondents see these services as being provided by NGOs.

Most respondents would prefer services to be provided by formal authorities, namely the SFG, the Jubaland Administration or in the case of Gedo, the district authorities. Only in Middle Juba was there a significant level of support for NGOs to continue providing health services here (17 per cent). The same was the case with regard to the provision of security, water and sanitation and other public services. In Gedo, district administrations were widely seen to be the most prominent authority whereas in Middle and Lower Juba it tended to be the IJA, with a small minority suggesting that the SFG was the most suitable provider of services.

Despite the overarching aspiration for Jubaland to improve service provision and distribution of resources, there were mixed feelings as to whether the Jubaland Administration was in a position to do this successfully. Once again, there was a notable divide between respondents in Gedo and the Jubas regarding confidence in the ability of the Jubaland Administration to equitably distribute resources. Moreover, respondents in all three regions were unanimous in their lack of confidence in the Federal Government’s management of resources.

Figure 21: Do you think the IJA is currently able to distribute and manage resources for all of Jubaland?

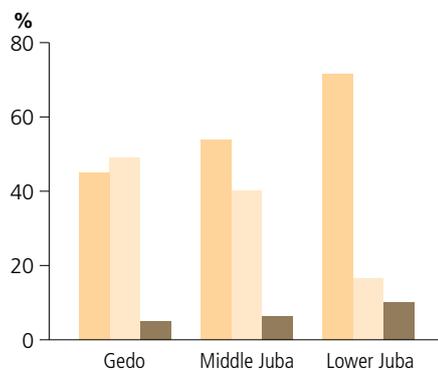
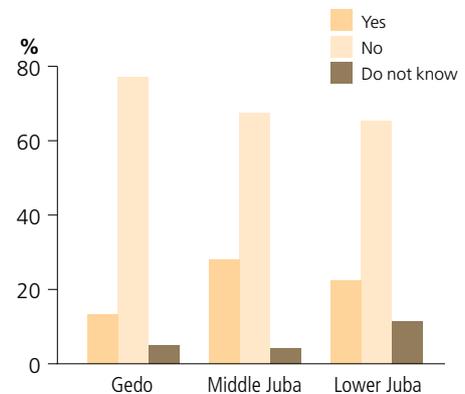


Figure 22: Do you think the Government in Mogadishu is currently able to manage and distribute resources for all of Jubaland?



Ostensibly, the people are eager to see formal governance structures take the lead in service provision, shifting this duty away from informal or NGO provision and bringing it back into the state arena.

While confidence differed with respect to the Jubaland Administration's ability to manage and provide services to Jubaland, there was recognition that the level of service provision had changed since 2013 when the IJA was formed. While many felt that there had been no change at all, with 44 per cent seeing no change in health provision and 40 per cent seeing no change in education provision, as many as 37 per cent indicated that things had improved in both these areas. Significant numbers of respondents perceived improvement in health services in Lower (57 per cent) and Middle Juba (44 per cent). In Lower Juba, as many as 50 per cent of respondents indicated that there had been improvement in education services since 2013.

The only region whose respondents were uncertain of any change was Gedo, where respondents were most likely to indicate no change at all or that the question was not applicable to them. Nonetheless, overall only a very small percentage (4 per cent) indicated that health, education and water and sanitation services were not improving. Across all sectors the perception that services had worsened was by far the minority view.

Figure 23: Has provision of health services changed since 2013?

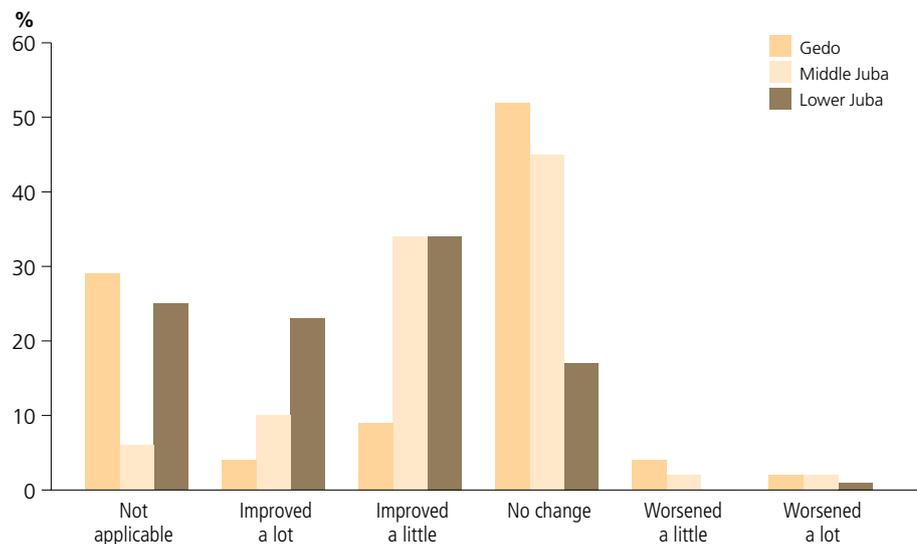
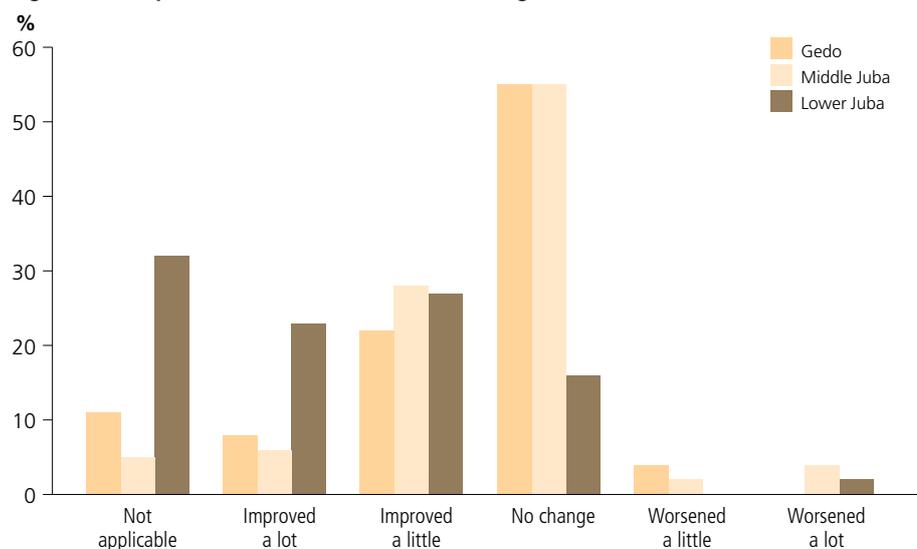


Figure 24: Has provision of education services changed since 2013?

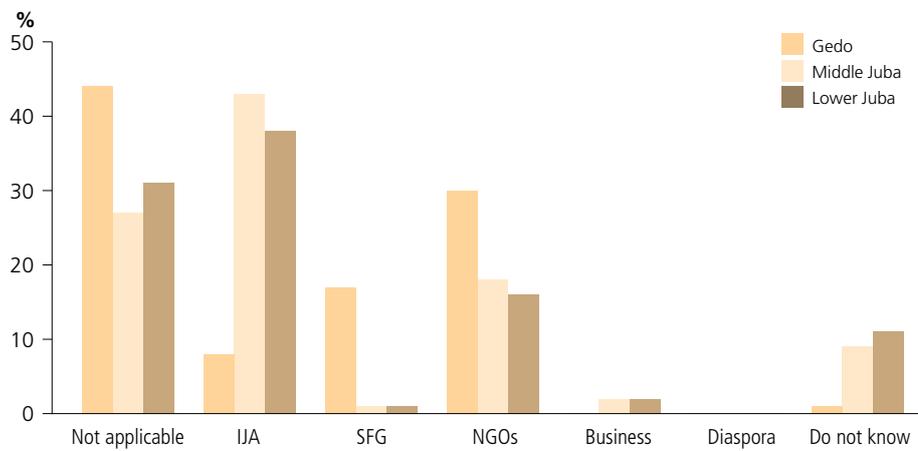


It should be recognised that there were many other changes in the Jubaland environment during this period, such as increased military efforts to combat al Shabaab, high levels of international investment into Somalia and Jubaland and the presence of Kenyan and Ethiopian troops. However, from the perspective of respondents, changes in the quality of health, education, water and sanitation and other public services were widely

attributed to the Jubaland Administration and, closely behind, NGOs. These perceptions can help to build trust in the new administration to provide governance for the population. Nonetheless, more needs to be done to meet the people’s needs, and mechanisms are needed to shift implementation from NGOs alone to NGOs in conjunction with the Jubaland Administration in the interim, and wholly to state control and application in the longer term.

As for whether minorities felt discriminated against in terms of service provision, the response was stark – services were seen as poor across the board, with one respondent commenting, “We are equal to others in access to inadequate services.”⁵⁸ Despite this, minorities remained appreciative of changes being made and that processes had included them, with their representatives invited to consultations in Kismayo and at the district level. They also expressed that security had improved, which protected them and also their property and goods.⁵⁹

Figure 25: To whom do you attribute the change in health services?



Security provision

The area in which respondents perceived the highest level of positive change was security provision. 66 per cent of respondents indicated improvements in security, with as many as 62 per cent in Middle Juba and 53 per cent in Lower Juba stating that security had “improved a lot”. Significantly, participants attributed this directly to the IJA. While determining the actual cause of these changes and whether they have been echoed outside Jubaland is beyond the scope of this paper, such attribution will build much-needed confidence in the Jubaland Administration.

Figure 26: Has the provision of security changed since 2013?

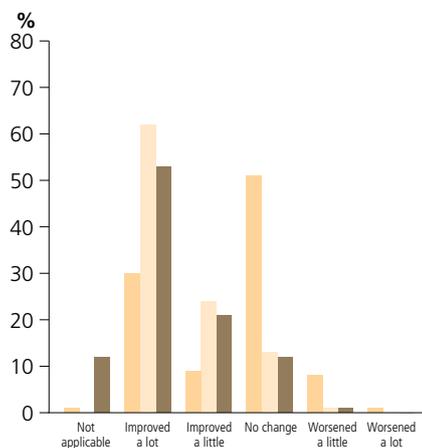
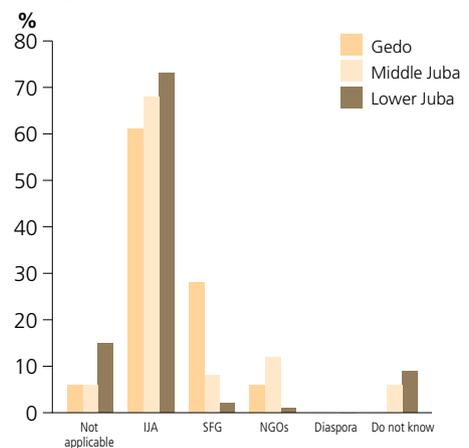


Figure 27: Who do you attribute this change to?



⁵⁸ Minorities in Dollow.

⁵⁹ Minorities in Dollow.

Citizens and politicians alike viewed improvements in security as one of the primary achievements of the IJA/JA. Even interviewees who were sceptical of the value of the creation of Jubaland recognised and praised the improvements in security. A minority respondent commented, “The best we have is security, they have given us this, but we have got nothing else from the administration so far.”⁶⁰

Similarly, one elder, who spoke negatively of the parliamentary selection process and the domination of the Administration by particular clan groups, was open in recognising security improvements that the Jubaland Administration had brought. Furthermore, those who attributed improvements in service provision to NGOs noted that this was only feasible due to improved security. One challenge will be to distribute the benefits of improved security as evenly as possible and for Jubaland to take independent ownership of service provision as international aid and stabilisation funding inevitably decrease as time passes and stability improves.

International aid as a means of supporting service delivery and governance

International aid has been a key means of support for service delivery and governance in Somalia in the absence of a functioning state apparatus. While conventional humanitarian and development aid projects involving health, education, water and sanitation and agriculture are primarily implemented by NGOs supported by international donor funds, internationally funded stabilisation programmes are often implemented by foreign contractors, though they are publicised as achievements of either the Federal Government or FMSs.

The Somalia Stability Fund is a multi-donor fund inclusive of Sweden, the UK, Norway, the Netherlands, DANIDA and the EU. The Transition Initiatives for Stability (TIS) and the subsequent Transition Initiatives for Stability Plus (TIS+) initiatives funded by the United States seek to build links between communities and the government through service delivery and state participation in the distribution of goods for communal benefit.

One member of an agency involved in stabilisation programming spoke of the importance of bringing communities together with local authorities to identify local needs and appropriate solutions. According to one senior adviser to a donor conducting stabilisation programming in Jubaland, one of the objectives is to support joint planning between local government, NGOs and communities as a means to bridge the separation between state and society on key issues of direct service provision. As beneficial as this may be to strengthening state-society relations, stabilisation planning is not without some concerns, namely that to date there has been an overly narrow focus on stabilising Kismayo, despite this potentially exacerbating tensions between the centre and the periphery. A contractor involved in stabilisation programmes commented:

“There has been no push on us. We would be quite keen to go out, however there has been no push from donors. We’re getting money for Kismayo right now and this is money for the rehabilitation of ministry buildings. In all fairness some projects we have to strategically conduct, while others are more hearts and minds. For us, we started in Kismayo as our entry point into Jubaland. Two years ago we were barely in a position to work in Kismayo – even one year ago. There is no pressure from regional authorities or from donors to distribute across regions.”

From a conflict sensitivity perspective, it is critical that donors move quickly to consider the broader regional needs of FMSs, particularly given that regional leaderships are likely to remain highly contested despite recent selection processes. While there is evidence that donors are prioritising other interventions through other humanitarian or developmental funding mechanisms (such as nutrition, health and education in Gedo), much of this is oriented towards direct service delivery via international or local NGOs. Where stabilisation funds are being deployed for the objective of

60 Minorities in Dollow.

strengthening the capacity of emerging state institutions, there appears to have been only limited attempts to broaden participation in identifying and prioritising these interventions. This approach risks reinforcing norms of political power at the regional level that effectively result in ‘winner-takes-all’.

The Somalia Stability Fund, a mechanism designed to fast-track financial support, took a very direct approach in engaging only with the new leadership of the then-IJA. It was agreed that priorities would include the rehabilitation of government ministries and the development of public financial management systems. These decisions were made in isolation from other political actors and without broader public consultation.

Such an approach has been necessary in an environment in which donor coordination in determining and overseeing development priorities in Jubaland has been limited and somewhat constrained by the current mechanisms for aid coordination, most notably the New Deal. Currently the New Deal, via the five Peacebuilding and State-building Working Groups, is coordinated thematically rather than geographically. A representative of one international donor commented:

“The New Deal is a very centralised approach – there is a sub-working group on federalism but no structures around FMSs with security often a factor. Coordination is needed, there are many players and it is missing FMS representation. It requires a lot of bureaucracy, the politicians who attend are often very junior and it’s not the format for difficult political decisions – it is essentially for information sharing. These are the reasons that the SSF is not conducted through the New Deal.”

At the same time, additional layers of coordination mechanisms can be a hindrance as opposed to a benefit to statebuilding as it can take time away from implementation. Nonetheless, identifying a mechanism for collective work at the regional level would benefit both donors and emerging FMS.

Respondents urged that donors and FMSs should invest time and resources into developing meaningful regional development plans, which include the participation of all actors, even if they are outside of the political fold. A minister with the Jubaland Administration commented, “We cannot even demonstrate the Kismayo town plan, let alone one for Jubaland, unless we have experts and technical support from others.” In addition, a representative from the Jubaland Ministry of Finance reflected on the importance of greater participation across Jubaland with regard to extending public financial management systems across the state:

“We do not want to force anything on anybody; we are trying to sell this system to the other districts. We do not want to expand without getting people on board. That aspect of reconciliation, security and resource sharing is sensitive and we do not want to jump in until we have the questions answered.”

Women wait with their children to be seen by the doctor in Kismayo. Health services are viewed by the public to be improving due to improved security and aid contributions.

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As demonstrated in the previous section on service delivery, the perception that things have improved has not been consistent across Jubaland. Gedo respondents, in particular, felt that although there may have been some small improvements in the quality of key services such as health and education, things had generally stayed the same. For youth in Dollow, the sense was that Jubaland may be providing services, but these are yet to be seen outside of Kismayo.⁶¹

Ensuring that service provision is linked to development plans can reassure communities that there are commitments to invest in them. This can serve as a means to hold authorities accountable, strengthen democratic ties to communities and allay fears that the new FMS is controlled by a single group. Should this situation persist, the likelihood is that grievances within Jubaland will grow and threaten its long-term stability. With trust in politicians already low, tangible results will serve as a mechanism to change this.

Public financial management systems in Jubaland

Despite a lack of confidence in the equitable distribution of resources, public financial management (PFM) has been the focus of considerable efforts by the Jubaland Administration. Supported by the Somalia Stability Fund (SSF), the IJA has achieved considerable progress in setting up an online PFM system in conjunction with relevant legislative reforms that have enabled Jubaland to quickly generate revenues, engage in detailed budgeting and successfully monitor expenditures. This has led to Jubaland increasing its annual operating budget year-on-year and even running a small surplus of \$300,000 in 2013–2014. While this progress should be acknowledged, it remains critically important that this is quickly extended to other districts within Jubaland to counter the distrust revealed by the quantitative survey outside Lower Juba and to ensure that both resources are more equitably distributed and that norms regarding taxation and revenue generation are established region-wide.

While PFM systems are an important function for Jubaland to develop internally, their establishment is also a key component in developing a model of federalism that is fiscally viable for the whole country. A representative of the Jubaland Finance Ministry explained that:

“We are trying to develop institutions so that when the time comes for resource sharing, they will have the systems in place. SSF is supporting a PFM system – South West State will have the same. Galmudug will use a similar model. These systems will be put in place.”

The extent of progress has also attracted other actors, notably the World Bank, to support Jubaland in this arena. However, part of this success has been attributed to the fact that the governance system for the first two years of the IJA was considerably slimmer than at present, given the absence of a regional assembly, which had enabled fast and streamlined decision making, albeit with limited oversight. A representative of the Jubaland Finance Ministry commented:

“There was no system in place previously. There was political will from the leadership. On a technical aspect, we started from scratch. Puntland is different – you are trying to reform a system which didn’t work but benefited some. Another thing that gave us space was that there was no parliament. The Council of Ministers could sign and pass things swiftly. For us it is very easy, if we want to create legislation and policies, we create it.”

However, efforts were made to engage with broader stakeholders, such as the Jubaland Chamber of Commerce, in the development of the taxation framework. This in turn helped to build support for the process, as a representative from the Ministry of Finance in Jubaland explained:

61 Dollow FGD youth.

“When developing a taxation framework we included stakeholders, the Jubaland Chamber of Commerce, and other Ministries. We did an assessment of shops and categorised them. We included the business community as part of the assessment of the shops. After the assessment they all signed the form, so that once implemented there are no more complaints – they feel ownership of the system.”

Strengthening accountability and PFM goes beyond technical systems, and suggestions for an anti-corruption commission were put forward by Jubaland parliamentarians. Those within the JA speak of the ambition to mitigate corruption and institute accountability. This will be dependent on donor funding, technical capacity building and sustaining political will to ensure corruption and malpractice are avoided and those who are identified as deploying such methods are held accountable.

A Jubaland parliamentarian stated, “We are starting from ground zero... we need a parliament with the capacity to legislate and have oversight and a parliament that can produce legislation and that can lead the country.”⁶² Indeed, such systemic reform is not merely a technical endeavour but one that seeks to strengthen public and political confidence that public goods will be managed and distributed effectively. A representative from the Ministry of Finance reflected:

“It is not easy to implement a single treasury account – to tell everyone to put their money in a single place and tell them to have all their documents. One advantage over other places is that we are starting from scratch – everything is new. There was no system in place previously. There is political will from the leadership.”

Federalisation and governance in Jubaland

The very act of federalisation in Somalia has created a space in which new FMS have been able to emerge. With this, there has been an opportunity for state structures, at least at the FMS level, to be built anew, thus facilitating a space in which good governance, democratic decision making and political inclusivity can be created. While the formation process for Jubaland and the mechanism of appointing politicians and political representatives has at times been highly contentious, it has precipitated dialogues and some form of local-level participation in the appointment of parliament. There are still serious issues that threaten the legitimacy of the Jubaland Government, notably concerns around clannism, patronage, corruption and copy chiefs. Combatting these concerns can help substantially to improve the legitimacy of the new administration. Mechanisms for accountability and popular elections for appointing decision makers are tools that can serve this end.

The vast majority of participants recognised federalisation’s contributions to joint action leading to improvements in security. More importantly, this was attributed to the role of the Jubaland Administration, further shoring up the legitimacy of the authority and contributing to a level of trust building. NGOs now enjoy the requisite level of security to support their implementation of public services, further benefiting local populations. Communities, mainly in Middle Juba, still see a strong need for addressing issues of justice, land rights and the fair distribution of goods and services. A Jubaland development plan could serve as a means to address these challenges while also supporting accountability of the Jubaland Administration and avoidance of centre-periphery dynamics.

Ultimately, the people want federalisation and they want formal governance structures to deliver services and resolve problems at the regional and local level. The Federal Government, while recognised as a national political actor, is seen as distant from local needs; consequently, devolved power and state provided services will benefit communities to have their needs met in the long term.

⁶² Jubaland parliamentarians.

3

Reconciliation

RECONCILIATION HAS BECOME A WIDELY USED CONCEPT IN PEACEBUILDING.

Scholars and practitioners have come up with diverse definitions of ‘reconciliation’, but a consensus among key actors on its implications remains elusive. This is because “the literature diverges... on whether reconciliation is an end in itself or a process; whether it is politically neutral or unavoidably ideological, and the extent to which it is conservative or transformative in orientation”.⁶³ In addition, there are two predominant types of reconciliation: political and social. This divergence of definitions and understandings has profoundly impacted the types of interventions that have been designed to advance reconciliation.

Social reconciliation tends to focus on community relations, building trust and overcoming grievances and harms inflicted among communities. In violent conflict, many harms are inflicted upon individuals, dividing communities along lines of clan, gender, geography, ethnicity or religion. Transcending such divisions is central to social reconciliation and an array of approaches has been deployed, including truth telling, forgiveness and social healing as well as inter-community trust-building exercises. Many of these approaches employ transitional justice as a post-conflict approach to reconciling harms, but social reconciliation often goes beyond the provision of justice and towards rebuilding social bonds that enable formerly conflicting communities to live and work together. Social reconciliation is aimed not just at creating a negative peace in which further harms are prevented, but also at building a positive peace in which solid relationships are constructed.

Political reconciliation has a strong emphasis on enabling political elites to engage with each other in a meaningful way to advance a shared political vision. Similar to social reconciliation, there is a strong element of trust building and shared ownership of governance. One key component of political reconciliation is the creation of joint governance mechanisms in which all political actors feel that they are working for the same purpose, that they are included in decision making and that they will collectively benefit. Another key component is political accommodation, or the accommodation of political actors from diverse backgrounds to provide all with a stake in governing authorities. This serves as a means of recognising the validity of claims to political leadership or political representation for multiple competing actors. How this is conducted can be beneficial or detrimental to the end result.

During this research, it became clear that the term ‘reconciliation’ was understood in some instances to refer to political reconciliation and in others to social reconciliation. Creating a reconciliation process that meets the expectations of all Somali stakeholders will require all actors to clearly articulate what they are looking to achieve, and to

⁶³ Lerche C (2000), “Peace Building through Reconciliation”, *International Journal of Peace Studies*, Autumn/Winter, Vol. 5, No. 2, available from www.gmu.edu/program/ica/ijps/vol5_2/lerche.htm, accessed 23 November 2015.

reduce the use of the term ‘reconciliation’ in favour of more explicit terms, such as ‘social healing’ or ‘political accommodation’. The failure to clarify the meaning and purpose of ‘reconciliation’ activities creates differing expectations, leading to disappointment with outcomes. Ensuring clarity of meaning is essential for both policy and programming, and to ensure that in discussions and negotiations with stakeholders, everyone shares an understanding of what they are trying to achieve.

Political reconciliation

In relation to Jubaland, political reconciliation has centred around the need to ensure that all actors are suitably included in the new Jubaland FMS. The endeavour is to achieve collective buy-in into a governing body that can create stability and prevent renewed conflict.

Political reconciliation needs in Jubaland

Political reconciliation needs in Jubaland derive from the state’s social and political history and composition. Jubaland comprises numerous clans, though it is numerically dominated by the Darood, whose major branches include the Absame, Marehan and the Haarti. There are multiple sub-clans, including the Ogadenis from the Absame branch. Most Darood members in Jubaland belong to the Marehan and Ogaden groups. Although some communities from the Haarti branch exist in Jubaland, these are comparatively small as most Haarti reside in Puntland. Further to the Darood groups, Jubaland is also home to members of the Digil Mirifle clan, some Hawiye sub-clans and a number of minority groups. During the stakeholder analysis workshop, participants identified as many as 43 clans and sub-clans.⁶⁴ In addition, religious/political actors include ASWJ, Al Shabaab and Takfir. There are competing political authorities and historical divisions. For example, the Gedo Region was conceived as a distinct political unit separate from the Jubas, and political affiliations with the TFG shifted with the change in 2012 to the SFG.

Jubaland has long been subject to conflicts among clans and sub-clans. Competing warlords and militias have dominated Kismayo at different times, including Barre Hirale, al Shabaab, and Raskamboni. In Gedo, ASWJ have also harboured political objectives. The fertile region of the Juba Valley has attracted migrants from other parts of Somalia, which has created tensions with the populations who have historically resided there. Although the determination of who is Guri or Galti is hotly contested, as land has been bought, sold and stolen, famines and conflict have displaced people and tensions have flared over access to land and water, marginalised clans have found themselves unable to assert their rights and have been excluded politically and socially. Jubaland also contains al Shabaab strongholds, and Middle Juba continues to have a strong AS presence, creating instability and limiting governance access for emerging authorities. In addition to the multiple political, military and religious groups in Jubaland, women, youth and minorities also aspire to realise their long-denied political rights and representation.

The need for these complex competing political factions and interests to be reconciled was brought sharply into relief when, following the announcement of Ahmed Madobe as interim President, five other individuals defiantly declared themselves President.

Key political disputes that need to be overcome

Despite efforts to achieve political reconciliation within processes of state formation, constitutional drafting and reconciliation, disputes have arisen that threaten the existence and governance of Jubaland. Disputes over leadership and political inclusion have led to instances of violent conflict and political challenges, including a push for

⁶⁴ Saferworld (2014), Jubaland Stakeholder Mapping Workshop Report, December.

the creation of an alternative FMS based on the ‘South West 6’ regions – Lower Shabelle, Bay, Bakool, Gedo, Lower Juba and Middle Juba – encompassing Jubaland within its boundaries.

These disputes relate to a number of issues, including the leadership of Jubaland, the inclusion of the Digil Mirifle, and the intra-Darood dispute between the Ogadenis and the Marehan. There are also disputes within the Marehan that have been simplistically framed as between the Guri who predominantly reside in Dollow, Belet Hawo and Luuq and the Galti who predominantly reside in Garbaharray and are led by Barre Hirale.

State formation – The perception of the Digil Mirifle

The Digil Mirifle constitute the second-largest clan in Jubaland after the Darood, and while they have a large total population, they are dispersed throughout Jubaland’s three regions. Although they were part of the Technical Committee and consultations in Kismayo on state formation, disputes over the distribution of parliamentary seats saw the original clan delegation leave in protest. At the behest of the coordinators of the conference, a separate delegation of Digil Mirifle representatives were called in to participate. It appears that this delegation accepted the parliamentary seat distribution that was eventually agreed.

A political dispute has emerged over whether those Digil Mirifle representatives had the legitimacy to approve the parliamentary seat allocation on behalf of the wider clan. Grievances have centred around ensuring suitable levels of representation and countering historical disputes between the Digil Mirifle and parts of the Darood in both Gedo and Middle Juba.⁶⁵ Other grievances appear to stem from the idea of a district-based allocation of parliamentary seats. Nine parliamentary seats were initially allocated to the Digil Mirifle, who believed that eleven were warranted according to their size and number of sub-clans. The result was a push by Digil Mirifle elders for the formation of a new ‘Southwest 6’ FMS, thus unifying the Digil Mirifle in the region and counterbalancing the dominance of the Darood in Jubaland. One fear around the district-based allocation of parliamentary seats was that despite their high numbers across Jubaland, the Digil Mirifle lacked dominance in most if not all of Jubaland’s fifteen districts.

While the South West 3 vs South West 6⁶⁶ issue was brought to a close through the interventions of international actors such as IGAD and Ethiopia, the perception remains among some Digil Mirifle that their representatives in Parliament are not legitimately representative of the clan, and this has allowed tensions to persist. Some Digil Mirifle interviewees were outspoken in their frustration and their lack of confidence that the Jubaland Administration would accommodate them. Their demands for inclusion have been framed around clan hierarchies and the lack of trust among clans. However, senior officials in the Jubaland Administration and representatives of the Digil Mirifle confirmed that negotiations are taking place to ensure these issues are redressed.

Intra-Marehan dispute

One of the main political dynamics within Jubaland’s state formation has been contentions within the Marehan. The disputants have largely coalesced around Barre Hirale in one camp and General Fartaag in the other. While the dispute is often framed as between the Guri and Galti communities, it is actually more complex. The nature of the dispute differs according to the individual being interviewed; various interviewees made the following claims:

⁶⁵ A greater elaboration of conflicts in Jubaland can be found in the CEWERU report, “From the Bottom Up. Southern Regions – Perspective through conflict analysis and key political actors’ mapping of Gedo, Middle Juba, Lower Juba and Lower Shabelle”, re-released April 2014.

⁶⁶ In late 2013 there were initial attempts to create an Interim South West FMS with two competing political groups, one known as ‘South West 3’ which comprised Lower Shabelle, Bay and Bakool regions, and the ‘South West 6’ which comprised Middle Juba, Lower Juba and Gedo in addition to Lower Shabelle, Bay and Bakool.

- That Barre Hirale, as a migrant to Jubaland, is not legitimately entitled to a political position. This has been contested by representatives of the Marehan, who are indigenous to Jubaland and argue that Hirale is widely supported across the clan in Gedo. Such a perspective appears to be corroborated by a deep lack of trust in Jubaland among people residing in Garbaharray and Belet Hawo. These districts appear to have a stronger relationship with the Federal Government in Mogadishu than with the Jubaland Administration, as does Hirale.
- That when Hirale was the leader of the Jubaland Valley Alliance, he manipulated the Guri Marehan to support his bid to take over Kismayo, and then once in charge he concentrated key political positions in the hands of the Galti Marehan.
- That General Fartaag, who was the original Marehan delegate to the Karen Conference in June 2012 and similarly represented the TFG, derives from a sub-sub-clan of the Marehan and therefore does not have sufficient legitimacy to represent the clan.
- That Fartaag does not hold sufficient leverage within the Jubaland Administration to influence decisions, despite the fact that General Fartaag held sufficient status to represent the Marehan during the Karen meetings and held senior posts within the TFG.
- That while Hirale may warrant political inclusion into the Jubaland Administration, he will only be satisfied with the role of President and he is holding the political formation of Jubaland hostage to this aim.
- That the 19 parliamentarians representing the Marehan come solely from the Guri and do not represent the Galti community, alongside claims that the Marehan parliamentarians are hand-picked supporters of President Madobe and do not genuinely represent the community.
- That migrants to Jubaland should not have political representation. This is related to the sentiment that if Hirale wants political leadership, he should go back to the Central Regions and argue legitimately for a political post. This conveniently ignores the fact that the Central Regions, with their attendant political leadership disputes, will not accommodate the return of another actor.

Negotiations have taken place between delegations from Barre Hirale's faction of the Marehan and the Jubaland Administration. According to interviews with senior politicians within the Jubaland Administration, President Madobe has been keen to see the Marehan resolve the issue by themselves. President Madobe visited Barre Hirale in Mogadishu personally in December 2015. General Fartaag spent over a month in Garbaharray in late 2015 with a view to conducting negotiations with the Marehan. In early 2016 further clan negotiations and dialogue took place in Kismayo to resolve the issue. Nonetheless, as yet a solution is still forthcoming.

The impact of this political dispute is not confined to individual positions of power, but rather affects governance and security across Jubaland. Some of these issues are outlined below and reinforce the importance of achieving political reconciliation.

Hirale and persistent insecurity

The threat of violence hangs over this particular negotiation. According to a wide range of interviewees, although Hirale does not have the military capacity to take Kismayo, he does have the ability to create instability. The same interviewees indicated a willingness by Hirale to conduct military offensives against Ogadeni troops⁶⁷ to instigate a retaliation that could widen the Marehan-Ogadeni divide, thus threatening the development of an inclusive authority. One interviewee from the international community stated his belief that Hirale had already conducted such offensives but the incident was publicly portrayed to be al Shabaab-related so as to avoid escalating inter-clan tensions in the midst of critical state formation processes. Hirale is also believed to have cooperated with al Shabaab during the conflicts following the announcement in mid-2013 of Madobe's presidency. According to one interviewee, "The risk is that he

67 President Madobe is of Ogadeni origin.

can set off a chain of consequences. He's a wild card waiting outside Kismayo." While this description is refuted by Hirale's representatives, there is still a perception that he could be politically and militarily disruptive.

Many interviewees stated that Hirale should be included in a political settlement of sorts, that he warrants a role in the Jubaland Administration and that providing him with one could ameliorate the conflict. While he continues to use the threat of violence or political destabilisation as a tool to gain leverage, there is a risk that despite grassroots support for him as a political leader, he may come to be seen as a spoiler to peace and political accommodation. Senior officials within the Jubaland Administration claim they are seeking to understand what the Guri Marehan, not just Hirale, want in terms of political representation. Should that entail a role for Hirale or any of his close political associates such as Abdi Shire, they will try to accommodate him. But according to one of the six political representatives who joined Hirale in walking away from the May 2013 Kismayo conference, there is no position other than the presidency that will satisfy him.

Jubaland state formation and political reconciliation

Jubaland state formation as a means to build political inclusivity

As outlined previously, the state formation process in Jubaland has made clear efforts at inclusivity, especially as the process has gained traction. In 2012, the Azania group sought support from IGAD to convene key political and military actors from Jubaland's three regions with a view to re-instigating the creation of a state called Azania.⁶⁸ From the outset, there was a clear attempt to build political reconciliation within and among clans who have had both conflicting and unified positions. While the development and institutionalisation of Jubaland underwent a series of negotiations, consultations and processes, according to one interviewee⁶⁹ the initial idea and its subsequent development gained traction and political and financial support because it was seen as a vehicle that could accommodate a number of competing political objectives from a wide array of stakeholders.

Despite early endeavours to achieve political reconciliation, the process of forming Jubaland has not been as simple as implementing the original Karen Memorandum of Understanding. There have been multiple efforts to bring representatives from across Jubaland together. Interviewees from multiple clan backgrounds, even those with grievances towards the Jubaland Administration, confirm that they or their representatives were invited to participate in dialogues and conferences. Key opportunities for the inclusion of clans and other groups in Jubaland's state formation have included local dialogues conducted by the Technical Committee in late 2012, political dialogues at Kismayo University in early 2013, the Kismayo reconciliation conference in October 2014, a clan mapping exercise conducted in all regions of Jubaland and the parliamentary candidate selection process.

Many interviewees asserted that generally these consultations were as wide and inclusive as was feasible given the financial, time and security constraints. For those who were involved in the parliamentary appointment process and the reconciliation conference, there was an overarching sense of satisfaction. Despite these positive remarks, mixed perspectives came through on the quality of the consultations, the approach taken and the legitimacy of those who were consulted.

Some interviewees, particularly those representing youth, minorities, women and civil society, recognised the consultative process as valid but felt that there should have been more participants from their communities. Despite having some representation in key conferences in Kismayo, they felt that their voices were not sufficiently

⁶⁸ Azania is a name of Arabic origin referring to black people and it is believed that people name for the regions of Lower and Middle Juba, which later adopted the name Jubaland.

⁶⁹ KII with Somali political observer.

represented. Other interviewees confirmed that consultations did take place, but the participants were only representative of sub-sub-clans with limited influence or authority to make decisions on behalf of their wider clan.

According to FGDs with clan representatives from the Digil Mirifle and the Marehan, illegitimate representation came about as a result of the original elders and other clan delegates walking out of the October 2014 Kismayo consultations; they were then replaced, according to some interviewees with clan representatives more favourable to Ahmed Madobe.

One criticism from some interviewees was that only politically amenable participants were invited to consultations rather than individuals with greater clan authority but opposing opinions. Such practices are facilitated by the close identification of the parliamentary Selection Committee with the IJA and the President, as well as the lack of transparency in criteria for assessing candidates.

Another criticism was that those who publicly disagreed with the political processes were arrested. During one FGD, a participant stated that he was arrested and jailed for six months following his outspoken criticism of the process and its use of illegitimate clan representatives. Following his release he attempted to raise the issue with Madobe but was unable to see him. Instead he went to the Kismayo Reconciliation Commission. Apparently no follow-up has been conducted. Such fears were echoed by another interviewee who was eager to avoid being quoted due to fears that something could happen to him in the future.

While only a few people cited fears of imprisonment or other sanction for speaking out against the Jubaland Administration, the existence of this fear is a concern that should be proactively addressed by the Administration. The Jubaland Administration should ensure the correct use of the security and justice apparatus for public order and investigate and act upon such claims of abuse of power. Freedom of speech, a pillar of any democratic government of a well-governed state, should be protected and coercion prevented. The use of sanctions or coercion for maintaining order and political control serve only to build resentment which could affect stability and the feasibility of democracy.

Inclusivity of state formation processes as a means for building political reconciliation

State formation in Jubaland has served as a mechanism to improve the political inclusion of minorities, which has contributed to political reconciliation; however, women and youth continue to lack meaningful levels of representation and political participation, rendering them still politically excluded.

Minority interviewees expressed gratitude that they had a representative in Parliament and representatives in reconciliation and governance meetings. This representation reinforced to them a new-found sense of political inclusion as a group. A prominent member of the Jubaland Administration from the Bantu community noted that this inclusion contributed to addressing the inequalities that had marred previous systems:

“Historically the Bantu have been marginalized, but gradually now, we are ready as a community. There were no representatives; we paid taxes, but had no representatives. Since the Barre government there were so many grievances.”

While political accommodation has resulted in meaningful inclusion of minority groups, who may be as many as a third of the population in Jubaland,⁷⁰ such inclusion may be politically astute for dominant clans to build a popular base outside their singular clan or sub-clan should a move towards political parties and popular elections transpire. Minorities themselves acknowledged that historically they have at times been treated fairly or given prominence by political leaders for the purposes of political gain. Similarly, minorities still felt a strong sense of disempowerment in political

⁷⁰ There are no formal figures for this; the approximation of a third was provided by Jubaland individuals interviewed.

processes. According to one interviewee, “Always we follow the trend where people are moving – we have no real choice. Like it or not, we run with it.”

On the other hand, major social groups such as women and youth have not been incorporated into the political arena. Researchers were only able to identify one woman in a political position, the Jubaland Women’s Representative. Similarly, youth representatives were included in discussions but have not managed to gain representation in Parliament, despite their large share of the population (the 2012 UNDP report indicates that as many as 70 per cent of the population of Somalia are under the age of 35).⁷¹ The sense is that while youth have distinct interests, they are still expected to align themselves politically according to their clan and to be represented by their elders. Such a situation continues to disenfranchise youth, which is of particular concern given that political exclusion and lack of employment serve as drivers of uptake into militant groups.⁷²

While the federalisation process has created an opportunity for inclusive bottom-up state formation, this has not translated into wholesale shifts in political inclusion and representation that depart from the prioritisation of older males. Part of this may depend upon the need to create political inclusion across clans, which has deprioritised women and youth in the interim. Regardless, there are still serious gaps that need to be addressed for Jubaland to ensure inclusivity of largely marginalised social groups.

Political concessions as a key mechanism enabling political reconciliation through statebuilding

According to many interviewees, political concessions have been central to federal state formation and building political reconciliation. One participant in an FGD for youth noted that “Most appointments to the Jubaland parliament were made on the basis of concessions. What is happening now politically is concessions to move the process forward.”

This statement was echoed by a number of senior figures in the Jubaland Administration. Such an approach has supported the stabilisation of Jubaland and enabled the political incorporation of a wide array of stakeholders. Appointments of parliamentarians or other key roles within the Administration serve to allocate power and status among groups who could otherwise be disruptive, thus building their commitment to participate and support the emerging FMS. This is also a means of building trust among groups who have previously worked against each other.

According to a senior figure in the Jubaland Administration, the authority is currently attempting to divide political appointments among groups who continue to feel disgruntled by the political process to date.⁷³ According to this figure, the reason why the final list of parliamentarians has not been published, nor the cabinet and other key political posts finalised, is to ensure that negotiations with multiple groups are completed and posts allocated fairly and appropriately. Ten parliamentary seats have yet to be allocated and, the interviewee indicated, there are around 100 political posts in total to fill including regional, district and cabinet posts, which will hopefully be sufficient to ensure suitable representation for all groups. The research team encountered delegates on multiple occasions from different groups in Kismayo who were engaging in political dialogue with the Jubaland Administration as a means to negotiate political inclusion.

Further evidence of efforts to reconcile political disputes through Jubaland state formation has been the incorporation into the Jubaland Administration of two of the five individuals who declared themselves President of Jubaland in the immediate aftermath of President Madobe’s appointment in May 2013. Interviewees from both the international community and the Jubaland Administration pointed to this as a

71 UNDP “Somalia human development report 2012: Empowering youth for peace and development.” 2012.

72 Botha, A & M. Abdile (2014) “Radicalisation and al-Shabaab recruitment in Somalia” Institute for Security Studies, ISS Paper 266

73 Interview, February 2016.

clear indication that these individuals and the groups they represent are now on board with the Jubaland project.

Political accommodation is an important aspect of political reconciliation, in that it entails a willingness to cooperate, share power and build trust. However, despite these benefits to political reconciliation, accommodation still comes with attendant challenges and risks.

Compromises in quality

Many interviewees, including members of the Jubaland Administration, elders, youth and minorities, spoke of the impact that appointments made on the basis of concessions have on the quality of government. The Governor of Lower Juba stated:

“The IJA was selected on the basis of compromise. It wasn’t based on merit, but on concessions. It is not unusual to see someone in a ministry who isn’t the right person with the right qualifications. However we are expecting that in this government [the JA] we will select on the basis of qualifications.”

There is a clear trade-off between the need for quality in governance versus the need for political stability and shared commitment to a singular authority. While initially political accommodation may be essential to create stability, appointing people who are inadequately prepared for the tasks of statebuilding, service delivery and security may lead to poor performance in the future, potentially undermining popular support for the Jubaland Administration.

Instituting entitlements

Another risk of political concessions to accommodate competing interests is that if these concessions are not sustained, it may lead to future discord. Those who secure positions on the basis of clan accommodation may expect this to continue and could become aggrieved if it is discontinued. One irony identified in the research is that it is often the same interviewees who criticise clannism as being detrimental to state formation and peacebuilding who also argue on the basis of clan for their own political inclusion. In negotiations, the clan has been deployed to delegitimise clan representatives, diminish the importance of individuals from sub-sub-clans and argue for a greater political share. Without a shift to a more meritocratic means of appointment, the institutionalisation of entitlements according to clan integrates precariousness into the political set up. Political reconciliation is more than political accommodation and the granting of political concessions. It entails trust building as well as deepening state-society relationships and the political representation of geographical constituencies through dialogue and service delivery. Too great a focus on immediate political incorporation of once competing actors may undermine stability at a later point.



Women together in Kismayo collecting and sharing water.

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Hijacking of political reconciliation for individual gain and the potential creation of spoilers

Interviewed elders often noted that although reconciliation is a key component of the Jubaland constitution, it is important to prevent it from being misappropriated by political elites as a means of securing power for their own personal gain. These elders distinguished between reconciliation at the social level and reconciliation between elites, with one arguing:

“Always people are supportive of Jubaland in principle, but it is the manner of power sharing that may be seen as problematic. Maybe those people are pushing the need for reconciliation at the expense of the majority.”

The insinuation is that the only reconciliation taking place is political, and that what is negotiated under the umbrella of reconciliation is actually the pursuit of power by individuals, to the detriment of the community at large. Individuals and clans have walked out of conferences and negotiations because they did not get what they felt was appropriate, and the Marehan faction led by Barre Hirale has explicitly deployed violence in the wake of not securing the presidency of Jubaland. Individuals know that the Jubaland Administration, along with the international community, are eager to create an FMS that is politically inclusive and thus stable. While pursuit of fairness, consensus, and inclusivity in new state and governance structures is valid, there is a risk that political accommodation may create spoilers emboldened by the knowledge that they could destabilise the emerging FMS, whether violently or politically, at a critical time.

Further negotiations over the distribution of political positions are expected in 2016. According to senior government officials, until such negotiations are concluded, no government will be formalised. The intention is to secure an outcome that appeases as many actors as possible to avoid future destabilising confrontations. The greater the buy-in and commitment to the new state, the greater the likelihood of a genuine movement away from conflict and towards democratic governance.

Interviewees raised concerns as to why no government had been announced, and a perspective is growing that the current leadership of Jubaland is not performing. This perception could further fuel the belief that leadership by other groups such as Barre Hirale may be more legitimate and beneficial.

Extending the timeframe for negotiation in this instance empowers individuals or groups to leverage dissent for the purpose of securing political positions. Due recognition is needed by the Jubaland Administration of all groups’ claims for political incorporation. Negotiations and discussions are taking place, and high-level delegations have met in Kismayo, Garbaharray and Mogadishu. That such high-level meetings continue to be scheduled demonstrates a commitment to the process by the Jubaland Administration.

Tight timeframes can place undue pressure on political and peacebuilding negotiations. However, without a conclusion to these negotiations, the broader population suffers and the important task of governing is left in limbo. The door for political negotiation has been opened by the Jubaland Administration, but a timeframe needs to be set, public offers of political inclusion into the Administration must be made to key individuals and groups, and public awareness must be raised that negotiations are taking place. If particular groups or individuals choose not to take up the opportunity to engage with the Jubaland Administration, they should look towards formalising themselves as part of a political opposition that acts to hold government accountable.

Manipulation of the clan for political purposes

The issue of hijacking political accommodation is linked to the practice of manipulating the clan for political ends. According to one interviewee, “There are groups that have a political leader but they are using the name of the clan [for the] pursuit of political power.”⁷⁴

74 Dollow elders FGD.

Interviewees noted that politicians use money to mobilise their clans to take political or military positions against other groups and clans.⁷⁵ This contributes to grievances among communities who are mobilised against each other for political purposes. In the words of one participant, “This is how political warlords are created.”⁷⁶ Participants argued that the problem was not clans that had issues and grievances with each other, but politicians who encouraged and inflamed grievances. One participant stated that:

“Everyone who has political intentions must have people behind them. They have supporters who they are leading. He can lead them to enmity to achieve their political intentions. There is a need to reconcile among societies to prevent this.”

In the absence of non-clan-based political appointment processes, such as popular elections, the clan continues to be the primary vehicle through which politics in Jubaland state formation has been conducted. This has created an environment in which individuals can pursue political objectives that benefit either themselves or select elites at the expense of the clan, let alone the broader social interest.

Citizenship and residency as an obstacle to political reconciliation in Jubaland

One key challenge, not just to Jubaland but to all emerging FMSs, is who constitutes a citizen with the right to political representation and influence. As groups and individuals from various parts of the country have migrated to Jubaland over the years, identifying who is a legitimate resident of Jubaland and therefore holds voting rights will greatly determine the political makeup of future parliaments.

Jubaland politicians advised that “a Jubalander is anyone who resides here for five years or more even if he is Somali or non-Somali. There will be laws and annexes that will clarify this, but we have yet to write them.” This question over who is a Jubalander may become a serious point of contention given the current tensions related to Guri vs Galti populations that are contributing to the protracted dispute within the Marehan that is centred around the political inclusion of Barre Hirale’s faction. One senior Jubaland official from the Gedo Region stated:

“They [Hirale] inhabit the Jubaland and Central regions, and many Marehan politicians have got confused about where their share is – it seems that they have got confused about where their due is. Every Marehan individual has to know where he has his rights. If he is from Gedo, he has rights in Gedo. If he came from Central Regions, he has a right there. We share our clan name, but anyone from Central Regions cannot claim his due here.”

Furthermore, given the anticipated return of large numbers of people from refugee camps in Kenya and IDP camps in Mogadishu, and the expectation that returnees will demand political representation and entitlement to land, goods and services, clarifying citizenship both in Jubaland as in Somalia as a whole, and subsequently conducting voter registration, will be essential to ensuring representation and mitigation of disputes.

Such considerations relate as much to intra-Marehan politics as to the potential high number of Ogaden returnees from the Northern Kenya border who have been refugees for a number of years and who may return as security improves in Jubaland. One senior official in the SFG noted, “The Ogaden from the Kenya border – the Marehan feel under threat – the influx of Ogaden, they are imported from Region 5.”⁷⁷

Limits placed on political reconciliation by logistical and institutional needs

Political reconciliation and the creation of Jubaland have required a heavy financial investment and institutional support. According to one interviewee close to the state formation process:

⁷⁵ FGD with elders.

⁷⁶ FGD with elders.

⁷⁷ Region 5 is a reference to the Northern Frontier District in the North of Kenya which was historically seen as one of the five Somali regions: Djibouti, Ogaden in Ethiopia, Northern Frontier District (Kenya), Somaliland and Somalia.

“Reconciliation needs some kind of rule of law, some human rights protection and institutions. The problem of the Addis Agreement is that it requires reconciliation while building institutions. There has been no ability to sequence. There is a need to reconcile prior to institution building.”

For Jubaland to meet the political reconciliation needs of the population, it will also need the ongoing technical and financial support of the international community.

External actors as obstacles to realising political reconciliation

One interviewee close to the SFG advised that there is a need for political solutions to political problems but that Somalis themselves have at times been architects of their own failure, stating that the “SFG failed in its responsibilities to unite the country and do its job”.

Others pointed to the sheer scale of the problem and the number of international actors involved. An interviewee from the Jubaland Ministry of Finance pointed out:

“The overall problem is the external factors perpetuating the problem. You mend the problem on one side and it is untied on the other. You solve the problem locally but there are other stakeholders providing weapons and money.”

This was echoed by other participants, who stated that “There are no outsiders that can make this reconciliation”.

Al Shabaab as a party sitting outside political reconciliation efforts

While many interviewees acknowledged al Shabaab to be one of the greatest threats to statebuilding, peacebuilding and good governance, the only solution currently presented appears to be a military defeat in conjunction with stabilisation and development initiatives. Saferworld has argued for the need to redefine the use of the term ‘terrorist’ and its implications for interventions in conflict affected states. It could be valuable to recognise that, however unpalatable, al Shabaab is a political actor for which political solutions need to be found. The assumption that a military solution will be successful or sustainable ignores the drivers of this particular group. There are clear contradictions in views of how different actors deploy violence for political purposes. While al Shabaab’s violence is defined as terrorism, the actions of Barre Hirale in 2013, backed by sections of the SFG, which led to 72 deaths, were seen as ‘political violence’. Hirale continues to be seen as a legitimate member of the political elite who has been afforded visits by President Madobe and other senior figures in the Jubaland Administration. This is not to diminish the importance of engaging with Hirale, but to make explicit the substantive difference in approach by two actors who both deploy violence for political purposes.

While al Shabaab’s mode of violence can be mitigated through high levels of security and deployment of military offensives, these mechanisms are insufficient to neutralise the threat it poses to Jubaland’s state and society. Engaging al Shabaab in political dialogue needs to be a feasible option to transform its pursuit of political objectives from violent to non-violent.

While there is no doubt that the presence of al Shabaab continues to prevent access to large swathes of Jubaland and presents an obstacle to governance and provision of security, there must also be caution over the use of al Shabaab as an excuse for a slow transition to democracy.

Federalism's role in political reconciliation

According to one representative of a multilateral institution involved in the Jubaland state formation process, political reconciliation was a key theme within the Addis Ababa Agreement. From his perspective, given the necessary division of resources, reconciliation is essential and is something the IJA has worked hard to achieve: "Reconciliation is more than a conference and the IJA has done a lot of work, quite successful."

In the creation of a Jubaland state, political reconciliation has been driven forward as a necessary basis for governance. It has pushed stakeholders to talk to each other and share power. There have been some successes, notably the inclusion in government of two of the five previous presidential challengers, but political reconciliation is as much a process as an outcome and efforts to negotiate and engage have come about as a result of federalisation. Issues of inclusivity and power sharing are on the table and while the process takes time, it is hoped that lasting trust can be forged as a result.

Some interviewees viewed federalism as a means of reconciliation. According to a member of the Reconciliation Commission, "Somalis are fed up with the unitary system and they see the only way out as being through federalisation. Nonetheless with time they will unify again." While this indicates that federalism is seen as a transitory step towards the goal of a unified political system, that it is beginning to overcome aspects of what has been protracted and deep political conflict must be commended.

Social reconciliation

*"Society is the basis for political decisions. Politics that doesn't include the society will not succeed."*⁷⁸

Elder in Dollow, Gedo Region.

Across all interviews and questionnaires, there was a strong affirmation of the need for social reconciliation among communities from the local level to the regional, FMS and national levels. Although all of this is related to social healing, forgiveness, trust building and constructive engagement among communities and redress of past grievances, among participants there was a lack of clarity about what social reconciliation specifically entails. When participants were pushed to articulate what reconciliation meant to them, what exactly needed to be reconciled, and the particularities of why grievances persisted among communities despite traditional dispute resolution, many participants were unable to say. However, combining data from the quantitative survey with information drawn from interviews helps to shed some light on these questions.

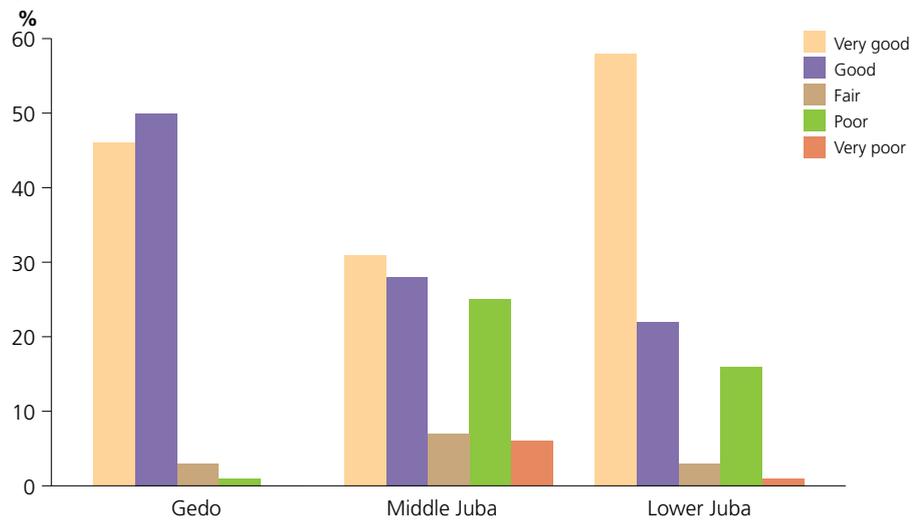
Community relations

Interviewees regularly spoke of the need for reconciliation to be bottom-up, from the village level to the national level. At times they referred to injustices that have taken place since the fall of Siad Barre, and expressed a need for historical injustices to be addressed, but the focus was primarily on local communities. The quantitative survey shows a wide array of perspectives on community relations, with the vast majority in Gedo speaking of positive relations, while respondents in Lower and Middle Juba articulated a higher number of grievances. Saakow was the only location where relations were described as poor by a majority of respondents (16 per cent "very poor" and 43 per cent "poor"). Badhaade and Dollow had particularly high levels of positivity regarding community relations, with 74 per cent and 78 per cent of respondents respectively stating that they were "very good". Areas such as Afmadow saw distinct divisions, with 58 per cent stating that relations were "very good" and 30 per cent stating that they were "poor." This may indicate that a large section of the population feels

78 FGD Elders.

marginalised. Although this region has a large number of people from the same sub-clan as the President, it is also the site of localised intra-Ogadeni grievances. The region also contains a large number of minority clan members who may feel powerless to raise concerns about community relations publicly but may be more willing to express them in an anonymous questionnaire. No significant differentiation on this question was seen between rural and urban communities.

Figure 28: How would you describe the overall relationship between the different clans/groups within your village?



Conflicts were most frequently identified as persisting for 10–20 years as opposed to being contemporary; however there was some differentiation according to what the dispute entailed. For example, conflicts over ownership and use of resources were mostly said to have come about in the past five years and were more frequent in Middle Juba than Lower Juba. Economic issues such as disputes over jobs were seen to be more protracted, having existed on average for 5–10 years. And while there was an overall low frequency of disputes identified related to land, in Middle Juba, the vast majority of instances of this type of conflict had persisted for 10–20 years, indicating a strong historical dimension to the conflict. Similarly, disputes over control of power at the local level were seen to be historically entrenched, with many indicating that they had persisted for 5–20 years. One area of conflict that seemed to be more contemporary was that of youth violence; in Middle Juba, this was articulated as primarily a phenomenon of the past five years. Such a statistic reinforces the need to understand youth violence, but also to find ways in which youth can engage politically without resorting to violence. This will require youth to be meaningfully included in political processes and political decision making arenas to ensure their needs are met.

Figure 29: If poor/very poor, what are some of the reasons for such relations and how long have they persisted? Differences over access to power at the local level (frequency of responses)

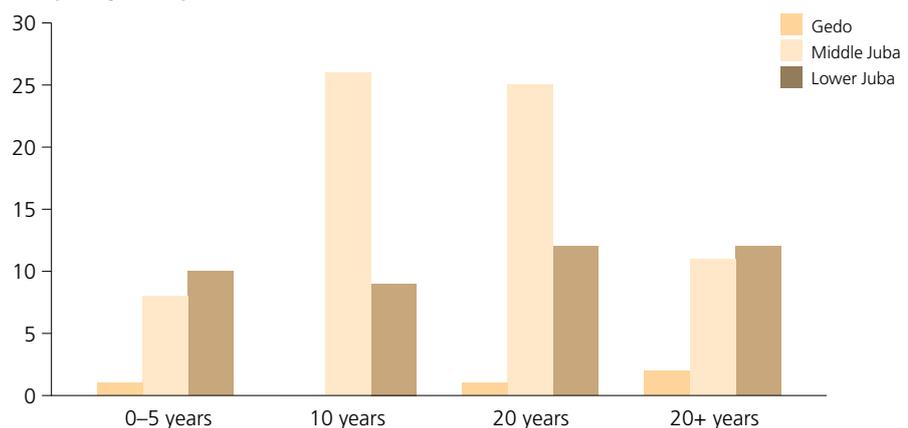
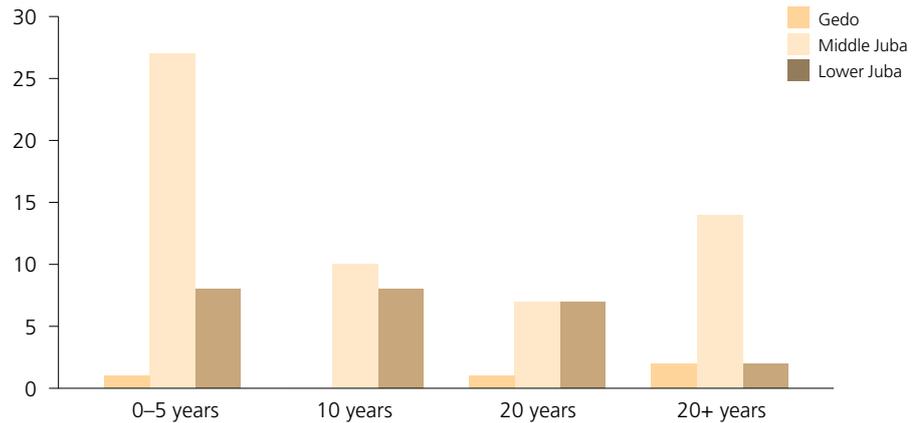


Figure 30: If poor/very poor, what are some of the reasons for such relations and how long have they persisted? Youth violence (frequency of responses)

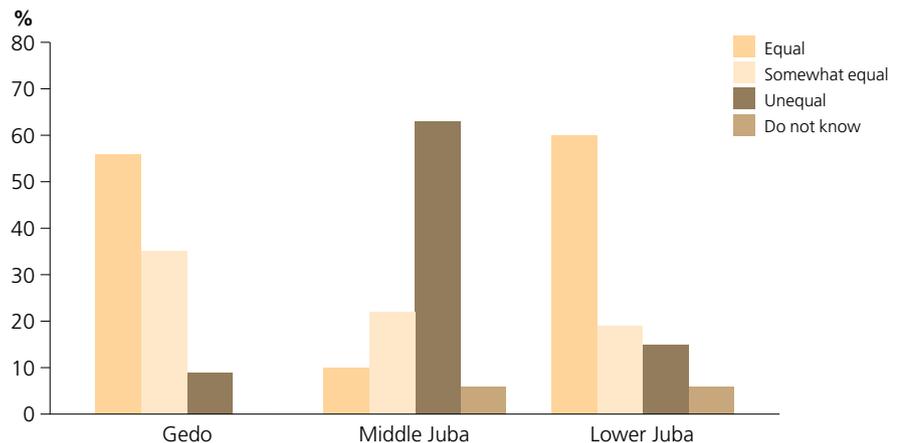


Four key reasons accounted for the persistence of many problems with community relations: a lack of attempts to resolve the conflict; inadequate institutions to resolve the conflict; lack of effective leadership; and a lack of trust among communities.

Access to services as a driver of grievance

Access to different types of services was also seen as a driver of community grievances. It is clear from the survey that equitability of access to services has not been attained for everyone. Areas in Middle Juba particularly emphasised unequal or somewhat equal access to services. Gedo respondents overwhelmingly perceived services to be accessed equally, with 98 per cent stating equal or somewhat equal access.⁷⁹ In Lower Juba there was general perception of equitable access to services, though a small percentage indicated unequal access. Middle Juba saw higher percentages of individuals citing unequal access to services. Distribution of land was seen as unequal by most respondents (63 per cent) in Middle Juba. There was also a strong perception that access to water for grazing, ports and markets were accessed unequally.

Figure 31: How is land accessed by all groups/clans?



These figures correlate with a perception of poor community relations among many Middle Juba respondents. At the same time, Gedo respondents consistently perceived access to services as equal or somewhat equal, with minimal perceptions of unequal access. Lower Juba was more mixed, with 20–30 per cent of respondents indicating that individual services were accessed unequally.

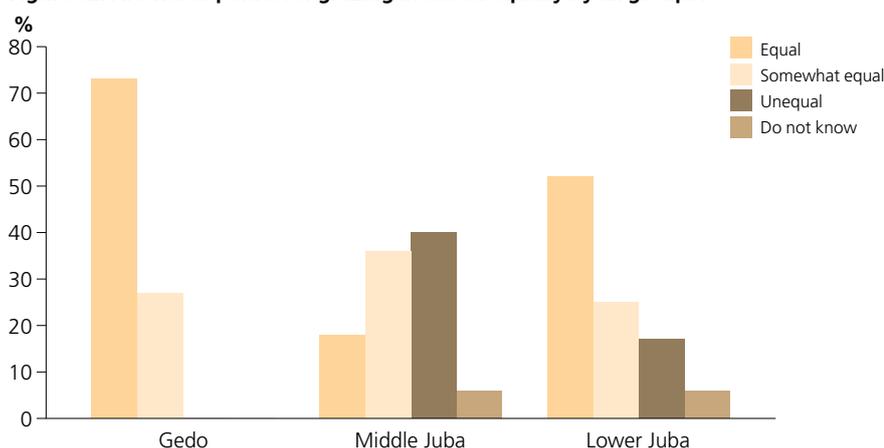
When asked to explain what reconciliation is intended to achieve, many interviewees pointed to the fair distribution of resources. One political representative in Lower Juba

⁷⁹ It is of note that the sample size in this instance was 80, due to not all 313 Gedo participants answering this question.

described the conflict in Somalia as essentially a resource-based conflict over land, water, and even the oil in the sea that has evolved into a political conflict over power: “People want power to serve their sub-clan and their specific clan’s interests to access resources.”

One area in which social reconciliation could be supported is through the institutionalisation of a fair distribution of goods, services and land. Good governance predicated not upon clan or identity but upon need is a potential mechanism for reducing grievances.

Figure 32: Are water points for grazing accessed equally by all groups?



Dispute resolution and the Jubaland Administration

Survey participants most commonly saw elders, village committees and district administrations as the primary decision makers. The IJA was identified as a fourth primary decision maker in the Jubas, but barely recognised at all in Gedo. Despite the low level of recognition of the IJA as a primary decision maker, 43 per cent of respondents perceived that grievances were resolved primarily through the IJA. In second place (29 per cent) was local means of dispute resolution.

There were some nuances in the data. For example, the IJA was identified as the actor that resolved most inter-clan conflicts (48 per cent), while traditional mechanisms were in second place with 34 per cent. Most respondents (58 per cent) identified the IJA as the actor that overcame most issues related to economics and job opportunities, while both elders and the IJA were seen as having a strong role in resolving land disputes. However, the SFG was most widely seen as the actor that resolved conflicts related to local or national power or conflicts related to foreign actors.

There is a contradiction in that while respondents recognised the IJA as the actor who most frequently resolved disputes, people were most keen to see disputes resolved locally. For inter-clan conflict, 42 per cent of respondents wanted to see disputes resolved at the village level, with district administrations close behind at 35 per cent. Gedo respondents narrowly preferred district administrations.

35 per cent of respondents stated that they would prefer district-level authorities to resolve conflicts over natural resources and land, while 28 per cent indicated the regional authorities, 21 per cent the SFG, and much fewer favoured village-level decision makers. Issues of access to basic services were seen to be best handled by regional and district administrations, followed closely by the Federal Government.

The Federal Government was seen by most respondents (63 per cent) as best suited to resolve issues of governance and law and order, with regional authorities in second place (25 per cent).

These data point to a population that is keen to see dispute resolution conducted outside of traditional mechanisms in formalised institutions such as district, regional or national governments. Respondents also recognised that the Jubaland Administra-

tion can perform this role. This does not take away from the popular support for elders as decision makers or community leaders, but it does point to a popular need for formalised systems of governance that transcends clan or local community dynamics.

Limitations of traditional dispute resolution in meeting social reconciliation needs

Survey respondents expressed a desire to move away from *xeer*⁸⁰ and strengthen formalised systems of governance as a means of resolving disputes. Interviewees identified key limitations to *xeer*. One of these was logistical; interviewed elders were forthcoming in saying their access to certain areas was limited, in particular small villages in al Shabaab-controlled areas.

Others pointed out that elders are no longer a neutral body and have become dependent upon “hungry politicians” and other financially powerful people. As a result, it is hard for them to make neutral decisions. There was talk as well of corruption adversely influencing decisions, and personal interests leading to deals among elders at the expense of their communities. Elders themselves acknowledged that money was a major influencing factor in their decisions, pervading not only political appointments but also local-level dispute resolution.

The need for fairness in dispute resolution

According to one FGD participant:

“Conflicts are usually resolved by elders who try to reach just decisions; otherwise the problem will become protracted. If people reject the decision then the problem continues and people may be killed as a result. It is therefore important for decisions to be fair, as people will not accept unfair decisions.”

Despite the importance of fairness in elders’ judgements, if a party to the dispute does not accept the decision, elders will work to accommodate this. One minority interviewee in Dollow explains that: “If the majority of the people think a decision is fair, but you as a party to the conflict reject it, then elders of your own clan will work to reach a consensus with you.”

One hypothetical given by interviewed elders was if an armed man took another person’s house, and was willing to use violence to keep that house. Elders would in the first instance ask the armed man to return the house to its rightful proprietor. If the armed man refused and threatened to use violence to retain the house, elders would likely ask the owner to let the house go to avoid further violence. The explanation for this comes down to the Somali phrase “It’s not justice, but a solution”. Hence, the prevention of violence is prioritised over justice and fairness, if and where a decision cannot be enforced. While the prevention of further violence is commendable as an endeavour, the result is that those with greater military or financial power are able to obtain decisions that benefit them at the expense of weaker members of society who can do little about the situation. Ostensibly, whoever has the greatest capacity to mobilise the threat of violence ‘wins’.

Consequently, traditional dispute resolution mechanisms were seen by respondents as instituting injustice. According to minority respondents, it is a system of rule by force under the guise of elder negotiation. In reality, minority elders negotiate the least bad outcome, not the fairest. One minority interviewee stated that on occasion there are equal verdicts, but mostly they are seen as unfair. Even when fair decisions are made, it was felt by respondents that there is always an ulterior motive: “Even the majority groups need support from minorities from time to time.”⁸¹

⁸⁰ *Xeer* is the Somali form of traditional dispute resolution. It serves as a set of governing norms that define the relationship between communities and govern dispute resolution. It can differ among communities and is determined by the elders who conduct the negotiations.

⁸¹ FGD minorities.

An AMISOM soldier upholds security in Kismayo.

© STUART PRICE/UN PHOTO



The growth of such a mindset of “it’s not justice but a solution” may have come about as a result of the inability to institute fairness and enforce fair decisions, and may also reflect the highly violent and precarious situation that Somalia has endured. As a result, careful analysis as to whether the existing mechanisms of justice are fit for their purpose will be essential, and if not, what modifications, changes or evolutions need to take place to make them more relevant in contemporary times.

Where justice is a central component of social reconciliation, instituting fairness within dispute resolution mechanisms will be necessary in rebuilding community relations. According to one interviewee, “having a fair justice system is the beginning of reconciliation.”⁸²

Need for state enforcement mechanisms

Another limitation of *xeer* is the lack of enforcement mechanisms. Even when elders identify a suitable conclusion, apportioning blame or responsibility thoughtfully and fairly, if there is no means to enforce the decision, the conflict fails to be resolved.

According to one participant in an FGD with Dollow youth, “Everyone has a gun. Elders know that people have guns and are willing to use them, so what can the elder do? Elders are weak.” Lack of enforcement perpetuates grievances and leaves aggrieved parties dissatisfied with the result. The strongest party (financially, physically, or militarily) is thus able to overrule or ignore just and fair decisions, undermining social norms and ultimately social relations.

For another interviewee, “The proprietor of the problem is the hero of the clan, meaning that if I kill someone to protect my clan, I am a hero. This is not the right way; there is no justice.” Because clan status is a valuable commodity socially and politically, the assertion of strength, even at the expense of justice, is rewarded.

For many interviewees, until effective mechanisms of enforcement are found, *xeer* and elders will always be limited in instituting fair and just decisions. One interviewee pointed to the fact that traditional elders can only do their work when there is a functional state and they have the support of the Administration or the police.

In Dollow, enforcement was seen as less of a challenge, due to the unrivalled financial and military strength of the district administration, and its ability to enforce elders’ decisions. This was corroborated by the quantitative survey, which indicated strong

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community relations and low levels of long-standing grievances in Dollow. The District Commissioner for Dollow asserted that a strong administration, tantamount to an enforcement body, was essential to prevent problems.

Many interviewees pointed to the recent death sentence for twelve soldiers who were found guilty of murdering two men as a change in the institution of justice. Since the soldiers hailed from the same sub-clan as the President, it was expected that they would be given minor punishments. That they were given punishments in line with their crime and leniency was not exercised as a result of their clan heritage was widely hailed as a shift from clannism to fairness. The multiple interviewees who raised this example argued that fairness in dispute resolution and decision making needs to go beyond consideration of the clan and prioritise equality before the law. It was seen as the principal change that could enable people to build trust across clans and communities in the authority and move beyond the past. While one example cannot be extrapolated to infer a wholesale change in the deployment of fair and just dispute resolution, interviewees viewed it as a welcome starting point to be built upon.⁸³

Keer's ability to address historical grievances

Some interviewees argued that the sheer scale of politically driven harm done over the years, which must be addressed to achieve political reconciliation, is too great for *xeer* to handle. The Jubaland Minister of Finance asserted that:

"The issue is not just pasture, conflict or land; now there are other issues. Traditional culture does not deal with political issues. Previously we had sticks and now we have modern weapons; now there are other stakeholders that are adding to the conflict."

Another interviewee echoed this, stating that the nature of the civil war is far greater and more complex than two clans fighting, which is what traditional dispute mechanisms were designed to resolve. They were designed to resolve straightforward issues of grazing land, access to water, murder or localised clan conflict, not to overcome decades of political conflict with multiple dimensions and multiple actors, both Somali and beyond.

Furthermore, there was cynicism as to the role that elders can play in resolving grievances or building reconciliation. Some FGD participants felt that elders were leading communities into conflict and in particular leading youth to conflict. Youth are on the one hand prevented from participating in discussions around conflicts, but on the other hand are expected to fight on behalf of their clan. That elders have become embroiled with politics also limits the feasibility of elders deploying traditional dispute resolution mechanisms to address conflict-related injustices.

Prejudice, assumptions, and suspicions affecting social relations

The quality of relations, mutual perceptions, and discussions between groups can contribute to a deep-seated lack of trust and the need for social reconciliation. Negative stereotypes and prejudices of other clans and sub-clans are common and serve as a means of diminishing others. Clan politics, violence and social structures in Somalia have as much to do with identity politics and group identity as economic drivers of conflict. One's clan identity influences his or her social status and consequently determines rights and entitlements. Status within the clan influences the authority to represent and take decisions, as well as the likelihood of receiving a fair judicial decision.

Clan identity also influences how one is perceived. Rather than lay blame with individuals for problematic behaviour or actions, blame is often cast towards groups. For example, one group may be seen as poor fighters, or while a certain clan may be seen as tight with its money. In conjunction with the communal administration of

⁸³ Saferworld does not condone the use of the death penalty.

xeer, compensation is not paid by the perpetrator but by the perpetrator's clan/*diya*-paying group.⁸⁴ The result is that individuals are not seen as problematic when they commit violence or theft; rather, the whole clan is perceived in that light. Casting aspersions upon groups contributes to an environment of mistrust and suspicion, even if the aspersions have little basis in truth. Minorities are particularly susceptible to the adverse impact of socially constructed identities, and are often subject to unfair decisions by traditional dispute resolution mechanisms. For example, they are often prevented from marrying into larger clans, which was seen by minority interviewees as a "savage form of segregation" that rendered them lesser and unworthy.

Transcending socially constructed identities is an essential part of social reconciliation, and this includes social integration among clans with long-standing disputes or an experience of social exclusion. Youth interviewees recognised the importance of this, and noted that clan identity does not affect who their friends are, but when it came to serious issues of politics or marriage, their parents would have a lot to say and would not be so supportive of marriage with members of minority clans.

Social healing and social reconciliation

For the Reconciliation Commission in Mogadishu, reconciliation needs to be grounded in a shared understanding of Somalis' commonality: "Somalis need to understand that they have to forgive each other, and from there, they need to agree to a new social contract."

Overcoming past traumas and letting go of the past is understood to be essential both by Somalis and by the academic literature on social reconciliation. According to one adviser to the SFG, "Unless we do some of the social healing and taping of the fabric of society back together you will only end up with local councils that are clan fiefdoms, and a Somalia constructed like that will not survive." Social reconciliation is tied to political reconciliation and to instituting governance that meets the needs of the whole society.

In separate interviews with a technical adviser to the Ministry of Interior and a senior official from the federal Ministry of Interior, references were made to the Wadajir Framework for local governance. The framework, developed through consultations with civil society and FMSs, sets out a structured approach to instituting local governance. This framework entails four interlinked pillars of work: social healing, peace dividends, civic dialogues and local governance. The idea is that while many peacebuilding and statebuilding activities are going on across Somalia, there is no singular approach that unifies them, resulting in a mix of tools and approaches without consistency or shared output.

The social healing pillar, conducted through a process of "trauma-informed community empowerment", includes aspects of traditional dispute resolution, forgiveness ceremonies and interventions that are cognisant of past traumas. The technical adviser spoke of individual agencies such as Somali Youth Development Network (SOYDEN) that are pioneering a model of reconciliation that entails small-group community discussions around trauma and cycles of violence and how to break them. One aspect of social healing involves individuals asking for forgiveness from communities against whose members they have perpetrated harms. The truth telling and forgiveness components of the Wadajir Framework articulate a reconciliation vision that aims to acknowledge past injustices while looking towards forgiveness and trust building between communities.

While the federal Ministry of Interior is engaged in thoughtful consideration of the need for social healing, some critical voices are questioning the feasibility of its

⁸⁴ The *diya*-paying group is the clan sub-unit that is collectively responsible for payment of compensation imposed when a member of that clan unit has committed a crime or offence.

approach. According to one interviewee working for an international agency on issues of justice in Somalia, the concern is that many of the issues that people are seeking forgiveness for at present are small-scale and could have been resolved by traditional mechanisms. The current approach, this interviewee stated, was not able to address more complex issues of violence, murder, rape, and property theft where deeper inter-communal grievances were involved. According to the adviser to the Ministry of Interior, the social healing component of the Wadajir Framework is not designed to address these complex historical grievances, but can be a starting point for rebuilding the social fabric. At present there is no mechanism for redressing historical violent crimes or property theft committed by the huge array of actors who have been party to the Somali conflict at various times.

Transitional justice

Transitional justice encompasses a variety of judicial and non-judicial tools that enable societies to transition from conflict to peace and stability. According to a Saferworld paper “From the Normative to the Transformative”⁸⁵ looking at the interlinkages between justice and peacebuilding, “Transitional justice looks as much at criminal redress as remedies for victims, guarantees of non-repetition in the name of accountability and ‘dealing with the past’ – an explicit agenda of utilising justice methods to contribute to peacebuilding and reconciliation.”⁸⁶

In Somalia, the need for reconciliation primarily relates to grievances formed during the long period of conflict and lawlessness that followed the fall of Siad Barre in 1991, including those involving occupation of land and homes, wrongful death or rape. While transitional justice entails building forgiveness in line with reconciliation, it also seeks to redress past injustices and enable those harmed to feel that their issues have been remedied. Some interviewees spoke explicitly of the need for transitional justice, pointing to South Africa’s Truth, Justice and Reconciliation Commission and Rwanda’s *Gacaca* approach as models that could be applied.⁸⁷ One interviewee stated that:

“Those that did wrong things need to declare them and those that were victims need to forgive. It needs to be a process, not a conference. There needs to be some form of compensation for those that have lost assets.”

In a number of FGDs with Somali elders, the idea of truth and reconciliation commissions or models such as those implemented in post-conflict Rwanda and post-Apartheid South Africa were mentioned as possible avenues to achieve reconciliation. While a more comprehensive assessment of the feasibility of transitional justice mechanisms in Somalia is beyond the scope of this paper, some reflections were elicited through interviews with various individuals.

One form of transitional justice is being applied to address harms conducted by ex-al Shabaab combatants as part of a disarmament, demobilisation and reintegration (DDR) strategy. As part of their reintegration, and in line with the social healing that the Ministry of Interior is endeavouring to implement, ex-combatants undergo a process of truth telling and asking for forgiveness before going back to live with their communities of origin.

While this is a valuable endeavour, there are some challenges. For example, the ex-combatants who are undergoing truth telling and seeking forgiveness are only from one armed actor that has perpetrated harms. A positive view would be that it is a starting point for the healing process, while a more cynical perspective may argue that it conveniently ignores the reality that violent murders, rape and property theft were

⁸⁵ Internal Saferworld paper (2014), “From the Normative to the Transformative, Defining and promoting justice and Human Rights as part of Conflict Prevention and Peacebuilding”. Please contact Saferworld if you would like to know more.

⁸⁶ *Ibid.*

⁸⁷ KII with Somali political observer and FGD with parliamentarians.

widely committed for more than 20 years of conflict before al Shabaab came into existence, and continued even after they emerged. Since al Shabaab is universally acknowledged to be a belligerent, placing the onus of responsibility on it for its crimes is uncontentious. However, if reconciliation and truth telling is to take place, it must acknowledge the harms done by all actors, Somali and non-Somali, including those with no link to al Shabaab.

The current approach also only deals with ex-al Shabaab combatants who committed low-level harms. Those who committed serious violent crimes such as rape and murder are not being addressed at present as there is no judicial mechanism for redressing these types of violence. The process of truth telling and forgiveness is a major challenge in a context like Somalia and may regurgitate and bring to the surface deep-seated grievances. One interviewee from an international justice-related organisation commented that it would be difficult to implement redress for these more violent crimes given the lack of state structure and enforcement mechanisms. Furthermore, there is no careful monitoring of what happens after forgiveness ceremonies. According to this interviewee, “Ceremonies could be conducted and even where communities agree and say they have forgiven those who asked for it, you may find that weeks later that person has been killed.”

The South African truth and justice model was applied in a context whereby the vast majority of the population supported the new post-apartheid government, which had strong institutions and justice mechanisms. Rwanda’s post-genocide *Gacaca* trials encountered many issues and challenges along the way, but were implemented with the support of the international community and the assertive leadership of President Kagame. In Somalia, the state has been absent in many areas, and instituting a fair system of redress for historical crimes may be beyond the scope of any truth and justice mechanism unless it is accompanied by a neutral state and security apparatus that can prevent retributive violence. According to one transitional justice expert, there are also many risks associated with driving forward transitional justice without the corresponding political will. These risks include revenge killings, human rights abuses, threats against researchers and past victims, other threats, disappearances or killings of potential witnesses, manipulation of the justice approach for political ends or subversion of the process by state security forces or non-state militias who are keen to protect against being implicated in historical crimes.⁸⁸

If genuine trust is to be built, there will need to be truth and restorative justice. Looking to models of transitional justice in other countries emerging from decades of violent conflict will be beneficial. The recent design of a transitional justice system in Colombia entails truth telling, forgiveness and differing tiers of restorative justice for those found to have committed violence during war. These include a spectrum of punishments from community work to incarceration for the worst crimes. Greater research and analysis as to the feasibility of transitional justice, the necessary structures for this to take place, and the most appropriate sequencing and determination of punishments, restorations and reparations will be essential for Somalia. This will need to be conducted alongside political institutions and civil society to ensure holistic support, political will and mitigation of threats to any process that may be forthcoming.

Perspectives on why past efforts at reconciliation were unsuccessful

According to many interviewees, past efforts at reconciliation in Somalia never succeeded because they were implemented in a top-down manner. The Governor of Lower Juba pointed out that “It was not real reconciliation as it was not bottom-up. Let the clans sit together and agree solutions to those problems, whether it’s land or killings.” According to another group of participants close to the formal reconciliation processes, where Somalis have failed to agree, it has been due to the “hidden hand” of

⁸⁸ Correspondence with transitional justice legal expert.

Ethiopia and Kenya, who are perceived to have their own interests and to be influencing the way local Somali processes take place.

Another interviewee asserted:

“People come together for two or five days but this is not reconciliation. To my understanding, reconciliation is a feeling that you can trust one another. This is a key issue – it’s needed but no one wants to trust it. I could blame the donors – the donors know how to do it, but they fund conferences and hotels and this does not create trust among people.”

Although questions remain as to whether ‘reconciliation conferences’ genuinely meet the needs of the population, the conference conducted in October 2015 was endorsed by elders both in Dollow and Kismayo as being inclusive of a wide variety of elders. All the elders attested to their participation, with elders from minority backgrounds enthusiastically emphasising their involvement.

What appears to be the case is that past conferences and efforts have focused on the political accommodation of elites under the name of reconciliation, as opposed to instituting genuine social reconciliation. Political accommodation of elites may need to be prioritised with a view to creating state structures and reducing violence immediately prior to embarking on social reconciliation, but the purposes of these conferences need to be conveyed; otherwise expectations for any ‘reconciliation’ event will be unrealistic. Using correct terms for what is being conducted will mitigate against frustrations and help manage expectations. The public will have an improved understanding of what is going on and will be likely to criticise processes and their participants as having failed when the outcome is not what they expected.

Federalisation and social reconciliation

As yet, there is little evidence that the process of federalisation to date has supported social reconciliation directly through targeted programmes of work in this arena. To date, political reconciliation has been the reconciliation issue primarily addressed. Despite this, the implementation of fairer systems of governance and the institution of fairer and more equal judicial decisions by the Jubaland Administration that transcend clan have and will help to address some of the contemporary drivers of social division. It is therefore possible to argue that the manner in which governance, as a result of how federalisation is being implemented in Jubaland, is contributing to social reconciliation; however, this is an indirect result of the institutionalisation of good governance.

What is clear is that many respondents spoke highly of fairness in judicial decisions as a means of building trust in the emerging Jubaland state. At the same time, political inclusivity of minorities has helped to alleviate the past political marginalisation. While transitional justice and reparation for past crimes may not be feasible in the short term, instituting fairness, equality and good governance both in relation to service delivery as well as to justice for contemporary harms done can help with rebuilding the social fabric and social relations of trust among communities.

Such efforts could and should be complemented by actions that bring communities together to break down social barriers and look towards overcoming prejudicial stereotypes. One aspect of that will be to shift away from collective forms of justice, whereby clan units pay compensation for harms done by an individual clan member, to instituting individual forms of accountability. One participant in the stakeholder analysis workshop spoke of an effort to address inadequacies in the traditional justice sector through the institutionalisation of individual accountability of harms, and advised that this had improved social relations among communities.

Conclusion

THIS RESEARCH PAPER HAS SOUGHT TO EXPLORE ONE CENTRAL QUESTION:

to what extent is the current process of federalisation in Jubaland meeting the governance and reconciliation needs of the population? In summary, while serious political and social challenges still exist, there are signs of progress and opportunities for instituting a governance system that can meet the needs of the population. It is wholly feasible that the embryonic FMS structures can lay the foundation for a functional state that can begin to address the grievances of the past and the needs of citizens in the future. However, this will depend upon whether the Jubaland Administration take the necessary care to respect civil and political rights, are politically conscientious in building inclusivity of all actors and work to transition to democratic popular elections as per the will of the population.

There are clear indicators of success in governance, notably the improvement of security and the consequent improvement in service delivery and economic growth. There are in some parts of Jubaland, primarily those districts that are accessible, improvements in people's ability to engage and address decision makers that do not perform to expected standards. There are also emerging links between citizens and the people and institutions that represent them. These linkages should be deepened through increased state-society dialogue on national plans and governance systems. An FMS-level development plan could be a means to conduct such constituency-based dialogue on local development and governance needs. A subsequent development plan could give direction to stabilisation and aid disbursements, ensure that peace dividends are enjoyed by those outside Kismayo, and provide a means to measure performance and hold authorities accountable to their commitments.

While the final composition of the Parliament is yet to be confirmed, there are clear efforts to build inclusivity of all the clans in Jubaland, including minority clans, even if there are still intra-clan contestations as to the legitimacy of those representing them under the name of their clan. Certainly, the shift to district-based constituencies is a positive move that can assist in cultivating a shift from clan-based politics to genuine representation of cross-clan geographical constituencies. More work needs to be done to strengthen the vertical relationship between politicians and constituents, and the diversity of parliamentarians, such as gender, age, clan, such that all communities in a constituency believe that irrespective of clan background, their political representatives work for them. It will be important for the Jubaland Administration and all political stakeholders to ensure that solutions for joint governance are found, and that clan inclusion is not superficial but genuinely represents the array of actors in Jubaland.

One of the Jubaland Administration's greatest achievements is its recognition of the importance of political accommodation, and its persistence in negotiations to include all relevant political stakeholders and create a joint political foundation for moving forward. Its efforts at negotiation and accommodation show a willingness to address previous inadequacies in transparency and political inclusion. The onus for political reconciliation and accommodation does not, and should not, rest solely on the shoulders of the Jubaland Administration, but those of all political stakeholders. It is crucial for trust and political will to be built among stakeholders. They must accept that compromises should be made for the political and social benefit of all communities in Jubaland, including their own.

The process has not been perfect, nor has the end result. Nonetheless, efforts at inclusion of all groups should be publicised to ensure communities recognise the efforts the Jubaland Administration and other political leaders are making to work across clans, to engineer a shift in approach and inclusivity that filters down towards lower administrative and local-level dynamics. As much as bottom-up reconciliation is needed, setting examples and leading on issues of political reconciliation can serve to build an environment of trust and collective political representation.

Reports of patronage, manipulation of political processes and superficial political inclusion will only serve to undermine progress in state formation, good governance and peacebuilding, and may discourage popular support that is needed at this crucial time. The detention of political opponents, placing of constraints or limitations on freedom of speech and cultivation of a climate of fear among dissidents are all violations of civil and political rights. They will undermine any genuine progress that the Jubaland Administration has achieved. Preventing such practices and encouraging the voicing of dissent in constructive ways are hallmarks of a healthy democracy and can encourage an environment of non-violent democratic politics. At the same time, the people must not only have a voice, but also the ability to influence governance through non-violent means, such as civic consultations and eventually popular elections. Should the Jubaland Administration fail in any aspect of this, it will be self-defeating, as it will miss the opportunity to increase its public support by respecting the freedom of speech and encouraging rather than suppressing non-violent political opposition.

While huge long-term investments will be required to overcome past injustices, immediate steps can also be taken, including an equal distribution of public goods and services. It will also be necessary to institute dispute resolution mechanisms that are predicated upon fairness, equality and justice, and whose decisions are enforced through a neutral state security apparatus. This can serve to build trust between communities and the state as a starting point for social and political reconciliation. Joint social endeavours through culture, music and sport can also help to reconstruct the social fabric.

Ultimately, the high demand for social reconciliation will need to be tackled. The Jubaland Administration should explore the feasibility of transitional justice mechanisms as a means to achieve recognition and reparation for the most egregious crimes including rape, murder and property theft. Social healing of the type proposed by the Wadajir Framework is a good starting point, but recognition of harms done by all actors will be essential to avoid whitewashing the past by focusing solely on al Shabaab.

The creation of Jubaland as an FMS has happened within the context of competing political objectives among multiple state, international and non-state actors. The process of adopting federalism across Somalia has been nothing short of anarchic. The formation of the SFG in 2012, and the adoption of a provisional constitution that outlined a commitment to federal governance, offered hope that the needs and interests of the centre and periphery could be peacefully demarcated and agreed upon.

There is evidence that some within the current SFG are prepared to step above such dynamics, such as the architects and proponents of the Wadajir Framework. Principles

**Girl carrying her baby sibling
in a Kismayo hospital.**

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of cooperation and negotiation between the Federal Government and new and emerging FMS will need to be central to creating a shared vision for a unified state, in which FMSs work together rather than in competition. Finalisation of the constitution should enable a framework for the division of powers, responsibilities and mechanisms of accountability, as well as the development of a technical policy masterplan enabling the implementation of federalism.

With basic institutions emerging, including most notably a viable and legitimate finance system, a rapidly stabilising environment and an inclusive and maturing political structure, Jubaland has laid critical architecture enabling its permanent transformation.

Moving forward, citizens of Jubaland have spoken loudly of their desire to move to democratic elections. This is not an externally driven perspective. While the selection process in 2015 for the Jubaland Parliament was a positive step and probably the most pragmatic solution in the absence of any formal architecture, Somalis have made themselves clear: clan selections need to be consigned to history. Somalis, while fiercely proud of their history and culture, want and need a modern state. For this to emerge, political will among those in the Jubaland FMS and all political stakeholders is essential. Alongside this, donors will need to prioritise funding to create the architecture for democratic elections, just as they have done with some success in Somaliland. Failure to democratise in the coming years will risk instituting the repetitive failures of past governments, notably nepotism, patronage and politics that serve the narrow individual interests of the politicians themselves. The window for shifting from such narrow group-based politics to issue-based inclusive politics is short and closing. Elections are due in Jubaland by 2019, a mere three years away, and the longer the wait for popular elections, the greater the risk of instituting intractable norms of patronage and rent-seeking behaviour. The time for investment in this arena is now.

Overall, there are many positives to be seen in Jubaland and political will at the highest echelons of the Jubaland Administration could be the greatest currency in the successful creation of a new FMS. Optimism can be built upon, but it will require corresponding political will by all other stakeholders within Jubaland, in Somalia and from the international community.

Recommendations

THIS SECTION WILL OUTLINE THE MAIN RECOMMENDATIONS OF THE RESEARCH.

Strengthen political, public and policy support for the federalisation processes

The Federal Government and FMSs should seek to capitalise on the positive disposition of a large percentage of the population towards federalism as a vehicle for national unity rather than continued fragmentation. At the same time there is deep uncertainty for many people about what federalism means in Somalia, impacting expectations and knowledge of how best to engage. While the broader political vision for federalism is yet to be defined, so too is the policy detail, resulting in the lack of an overarching plan upon which line ministries at the federal and federal state level can centre their efforts. Closer cooperation is needed between the Federal Government and emerging FMSs to achieve a coherent outcome and will require political will on the part of all state parties as well as mechanisms to resolve disputes effectively as and when they arise.

Recommendations:

- The Federal Government should recognise the broad public support for federalisation and build this into their policy and approach to governance and statebuilding.
- As part of the formal Constitutional Review Process that will be completed after the 2016 political transition process, large-scale consultations are needed to ensure that a broader number of Somalis can input into the finalisation of the constitution and shape the federalism discourse within it. Prior to any public referendum, widespread civic engagement on the constitution is required to transform what for many Somali citizens is a fairly ethereal concept of federalism into something more meaningful, so that they are sufficiently informed to be able to participate in a referendum process. Should the constitution be passed, civic engagement needs to continue so that citizens understand more practically what federalism will mean to them in terms of their rights and access to services.
- Given that the federal agenda will continue to evolve independently of the Constitutional Review Process, a technical masterplan for the successful establishment of federal institutions and related legislation needs to be developed, informed by public consultations with FMSs, civil society and the public. This will be critical in delivering improved basic services for citizens across Somalia. This needs to be a 'whole-of-government' exercise, to ensure clearer demarcation of roles and responsibilities between ministries at the federal and federal state level.
- The SFG and FMS should develop more constructive bilateral relationships between ministries at the national level and their counterparts at the FMS level. At a political level, this could include a continuation of the National Leadership Forum and National Consultative Forum.

- The Boundaries and Federation Commission (BFC) should play a role in managing these relationships, although it will need to be better capacitated and given the mandate to do so.
- In the long term the SFG and FMSs should commit to constituting an independent constitutional court, so as to effectively resolve disputes between FMSs and the Federal Government.

Streamlining of political structures and mechanisms of appointment

The number of authorities and associated political appointees and civil servants seems to be ballooning. Federalisation invariably entails the creation of new FMS and their associated state apparatuses. Strengthening district authorities entails further layers of governance as does the possible creation of locally elected mayors. Add to this other forms of local, regional and national governance vis-à-vis elders, village committees, regional level authorities, federal government structures including a House of the People and an Upper House and the political apparatus risks becoming excessively complex. Three aspects of this are: financially sustaining such a breadth of state actors and civil servants; clarity and determination of roles, responsibilities and lines of authority to ensure functionality and accountability of civil servants and political appointees; and basic comprehension of the system and whether Somalis themselves will understand this complex series of authorities, electoral and appointment mechanisms, roles and purposes. If they are unable to understand the manner in which existing district administrations let alone their own President have been appointed, there needs to be serious discussion as to whether they will be able to comprehend a far more complex political system. Without public understanding, the ability of Somali people to exercise ownership of governance in their country is substantially diminished.

Recommendations:

- The Jubaland Administration should revise governance structures and streamline the number of civil servants, ensuring clarity of roles and responsibilities among departments and jobs.
- Civic education should be conducted to enable the public to understand how government functions and who is responsible for what items and how to best engage with government structures.
- The SFG and FMS should work to clarify roles, responsibilities and lines of authority, as per the federalisation workplan and policy framework for implementation.

Deepen the governance relationship between the Jubaland Administration and the population

While participants are supportive to federalism and seek formal authorities for the provision of services and governance, they were also highly dubious that politicians were willing and able to genuinely represent the interests of the community. This points to a need for trust and confidence-building measures. The Jubaland Administration is still in its infancy, and many people are aware that appointments are being made with the express purpose of ensuring inclusivity and political accommodation. This initial sense of cautious optimism needs to be built upon in the coming months and years.

Recommendations:

- Throughout the remainder of this parliamentary term, the new MPs should actively build relationships with their constituents. This could include district-level consultations to give communities the opportunity to influence parliamentary discussions, or regular local dialogues in which constituents can meet their MPs and discuss specific issues. Longer-term, a democratic means of appointing politicians rather than the traditional means of elder selection will be invaluable in enabling all members of society to feel genuinely included and that their voices are heard.

- The international community should invest into building the capacities of new parliamentarians in order to build public confidence in the new Jubaland Parliamentary Assembly. This should include improving parliamentarians' understanding of the legislative process and how, in the absence of political parties, the Executive can be effectively held to account.

Need for a Jubaland development plan

Current programming and investment into Jubaland has been done without an overarching development plan for the region. This risks duplication and poor coordination among development actors, as well as the replication of national centre-periphery dynamics at a regional level. Going forward, Jubaland needs to expand its scope of governance, and the distribution of goods and services outside urban centres such as Kismayo. Currently, the vast majority of stabilisation funds have been spent in Kismayo. While the initial investment into the 'hardware' of a new administration is understandable, if in the longer term funds are not shared more broadly, this risks the perception that such investment is not an impartial public good but a source of political support for one actor or community. In the longer term this risks exacerbating tensions between authorities and opposition groups and furthering a perception that securing power is a 'winner-takes-all' game.

Recommendation:

- An overarching Jubaland development plan should be created by the Jubaland Administration in conjunction with regional stakeholders, to prioritise regional expenditure and resource distribution across the three Jubaland regions based on large-scale public consultations. Particular efforts should be undertaken to include actors from Gedo, to address the high levels of perceived marginalisation in the region.

Slow progress in the development of a broader framework for fiscal federalism

Technical progress in setting up a PFM system in Jubaland sharply contrasts with difficulties reaching a broader political consensus on how fiscal federalism will function at the national level. Although there has recently been a series of constructive initial meetings between the respective FMS finance ministers and the Federal Government, the details of any agreements have yet to be outlined. If fiscal federalism is not prioritised, then Somalia risks developing an incoherent taxation framework in which citizens are taxed multiple times across different jurisdictions, punitive trade tariffs prevent the development of the national economy, and disputes emerge between the Federal Government and FMSs as to how resources are to be shared and redistributed.

Recommendations:

- The international community and the Federal Government should quickly build upon the progress of FMSs in ensuring that the same levels of scrutiny in the management of public finances are observed in Mogadishu and that a broader policy framework for fiscal federalism is agreed upon.
- As a component of the above masterplan, the SFG should coordinate the development of a framework for fiscal federalism in conjunction with the FMS such that it can be harmonised with those being developed in Jubaland, ISWA and Galmudug.
- The Jubaland Administration and donors should commit to extending PFM systems across Jubaland.

Clannism as an obstacle to statebuilding

According to one interviewee, clannism is still highly prevalent and people do not fully understand the meaning of government:

"When a person doesn't understand the role of government, you can't expect them to understand or obey police orders or the role of the police. How can someone [from another clan] take me to jail – they say why can't I fight? Why can't I take my gun?"

When an order comes from any position from the administration they translate this into clannism. A person who gives an order must be from the same clan, and if they give an order, a person may challenge it if they are not from the same clan.”

The entrenched influence of clannism over state-society relations is an obstacle to instituting good governance based on principles of equality and fairness before the law, rather than clan or individual interests. Trust building between groups to commit to non-clan-based governance needs to be backed up by guarantees or mechanisms of redress and protection against authoritarianism and political or economic marginalisation.

Recommendations:

- The Jubaland Administration must work to demonstrate equality and fairness in judicial and governance decisions, ensuring that clan considerations do not influence outcomes.
- Given the forthcoming elections for district commissioners and the selection of Federal Government MPs from each region, civic engagement within FMSs focusing on improving understanding of how new government structures function in Jubaland is important. Clan elders should work closely with the Jubaland Administration to educate the public on the need for non-clan-based governance.

Transition towards elections and democratic norms

The vast majority of respondents indicated that they wanted one-person-one-vote elections for the Executive, members of parliament and district commissioners. Although elections should not be viewed as a silver bullet that can solve the challenges of governance and reconciliation, given the high levels of concern over the legitimacy of political representation such a move can build state-society relations, improve accountability and contribute to a departure from clannism thus enabling stronger governance in Jubaland.

The Jubaland Administration and international community should move quickly to respond to this demand, given high levels of public and political support. An election by popular vote in Jubaland in 2019 would require significant investment to ensure that the necessary administrative and legislative frameworks exist for elections to adhere to minimum international standards. If successful, this could both strengthen public confidence in the Jubaland Administration and catalyse similar processes in other FMS. If this opportunity is not taken, Jubaland risks developing political norms that reinforce patronage networks and the emergence of an executive and parliament that are not held to account by the population.

Recommendations:

- The Jubaland Administration should commit to popular elections for the 2019 appointment of the Jubaland Parliament and institute suitable election mechanisms and electoral management bodies.
- A strategic plan needs to be developed for elections in Jubaland in 2019. This should include the development of an electoral management body, legislation which outlines the electoral and administrative framework for elections in Jubaland and agreement on the voter registration process.
- A common voter registration system for the whole of Somalia needs to be quickly agreed upon and used as the basis for both federal and national elections.
- The SFG should support the development of democratic processes and structures within all FMSs and provide political support to popular elections in Jubaland in 2019.
- The international community should provide financial and technical support to the institution of popular elections in 2019, which requires concurrent voter education, voter registration and determination of electoral mechanisms.

- Where popular elections are not currently deployed for the appointment of political posts, all actors should refrain from using the language of elections and instead be clear in their technical descriptions of the process to be used.

Transition to political parties

Structurally and culturally, the clan is the primary vehicle for political engagement. Political parties could serve as a means to create a viable political opposition in Jubaland and in Somalia while serving as a means to depart from clannism as a vehicle for popular political engagement. The determination of political party criteria in Somalia will be highly influential in channelling politics into issue-based parties. This would enable political elites to act in the broader interests of society, and allow parties to compete over issues that affect broad society rather than serving particular social groups and perpetuating 'us vs them' dynamics. Political parties should impel politicians to represent a wider range of interests than their own clan and subject them to criticism while not forcing a transformation in social norms around clan representation.

Recommendations:

- The SFG alongside FMSs should identify and formalise political party criteria with technical support from the international community.
- Political party criteria should encourage a transition from clan-based politics to cross-clan issues-based politics.
- Investment is required by the international community to assist in the development and professionalisation of political parties.

Citizenship – rights and representation

Given the high levels of migration and displacement over the course of the Somali conflict, the issue of who is a citizen and in which FMS they have political rights remains contentious.

Clear legislation around this is necessary to avoid marginalisation of groups on the basis that they may pose a threat to the existing political leadership of the Jubaland Administration, which could instigate future grievance and conflict and should serve to protect civil and political rights both within Jubaland and across Somalia.

Recommendation:

- The Jubaland Administration, in conjunction with similar efforts in other FMSs and by the national government, need to agree upon a basis for citizenship, including how political rights for individuals are determined, and in which FMS they can vote. National voter registration will be essential to ensuring political rights nationally and at the FMS level.

Determine district boundaries and establish related dispute mechanisms

Districts are anticipated to become increasingly important as political sub-units nationally and to develop political structures with the support of JPLG and the Ministry of Interior in a plan aligned to the Wadajir Framework. While this is a valuable endeavour and may enable parliamentary representation to be more explicitly aligned to designated communities, the determination of borders will be influential in the composition of districts and which communities will ultimately be majorities and minorities in any given district. There is a risk of gerrymandering and it is hoped that the BFC can take a proactive role against this. Concurrently, there will need for clarity as to who qualifies as a resident with voting rights for any given district.

A key constitutional requirement of the federalisation process was the establishment of the BFC, supposedly within the first 90 days of the Federal Government's current term. Formed three years late, in mid-2015, the Commission still appears to lack a clear mandate, workplan, capacities and financing. One of the Commissioners admitted

that political events have somewhat overtaken the Commission's role, stating, "the process has put the cart before the horse and the challenge is that the federal states have already been formed." Confidence in the Commission remains weak, even within the Ministry of Interior, with a senior minister commenting, "They need training themselves, they need technocrats. What they can do right now is very limited." Furthermore, central to ensuring that the Commission can play a more meaningful role is to understand whether the Commission is primarily political or technical and how it fits among the myriad of other actors engaged in similar issues.

It is imperative that the role and mandate of the Commission are urgently reviewed as it currently does not appear to have a clearly defined role in forthcoming political and technical processes. The current government has the requirement to form no fewer than ten independent commissions, which raises questions as to whether such an inflated bureaucracy is either needed or effective, particularly given the pressing need to prioritise what are very limited funds.

Recommendations:

- The SFG should urgently review and agree upon the mandate of the BFC, and ensure that the Commission are adequately financed to undertake their work.
- The BFC, in addition to the FMS and the Federal Government, need to identify and determine a national voter registration system. Given the political risks of exclusion and domination that this may entail if done improperly, there needs to be widespread public consultation on how this would work.
- The Jubaland Administration should work closely with the BFC to determine district boundaries for constituencies.
- The Jubaland Administration and Federal Government should institute voter registration and determine citizenship criteria.
- Technical support from the international community should be provided to facilitate the determination of district boundaries and voter registration and citizenship criteria.

Conclude negotiations for political inclusion and finalise the government

While it is essential that negotiations form the basis for political inclusion of all stakeholders, the protracted nature is having a detrimental impact upon the formalisation of the Jubaland State Government and the important task of implementing governance for the population is being delayed. The onus should not be only upon the Jubaland Administration to resolve the issues and reach agreement, but rather on all political stakeholders to engage, be open to compromise and attempt to build trust, recognising that all involved will need to be cognisant of the need to compromise to create a government that can work on behalf of all communities in Jubaland.

Recommendations:

- The Jubaland Administration should continue negotiations with stakeholders and persist in seeking political accommodation of all parties.
- Political stakeholders in continued negotiations with the Jubaland Administration, including the Digil Mirifle, Marehan and others should demonstrate political will to compromise and find a way for political accommodation of their interests while recognising the value of a joint government to Jubaland.
- There should be public communication informing why the government of Jubaland is yet to be formalised and that negotiations are taking place between representatives of various groups and the Jubaland Administration.

Continue the integration of militias into the formal security apparatus

Security sector reform (SSR) and the creation of a national army has been a major component of the statebuilding endeavour currently underway in Somalia. Integrating clan militias into a single unified army is central to creating a unified state, mitigating against the threat of multiple competing clan militias, and minimising the threat of political dominance of any one group. Although widely seen as a positive step forward, SSR is a complex task that entails high levels of financial investment and training but also needs to be underpinned by trust between clans, emerging FMSs and the central government.

SSR is taking place in Jubaland, and 1,500 militia members have reportedly been integrated into the national army. A local Jubaland police force is also being developed and a Jubaland Security Force is being retained for local security. Much of this is supported by the UN and the UK. One concern has been that despite a parliamentary composition that reflects the breadth of clans in Jubaland, if the military is dominated and controlled by a particular sub-clan, in this case the Ogadenis, then the population of Jubaland will always be at the mercy of a biased security apparatus. How the military is deployed in Jubaland and mechanisms of oversight and accountability will be central to building trust in the new administration and to maintaining security.

Recommendations:

- The Jubaland Administration should continue to work closely with the SFG and international agencies to achieve greater integration of militias into the Somali National Army.
- The Jubaland Administration should facilitate increased uptake of local militias into the Jubaland Security Forces so as to ensure a cross-clan representation within the Jubaland Security Force.
- The international community should continue to support the integration of militias into the Jubaland Security Force, the Somali National Army and the police.
- Independent oversight mechanisms should be instituted to monitor the Jubaland state security apparatus, oversee its execution of its mandate and identify, address and mitigate transgressions of duty and inappropriate use of force.

Transitional justice should be explored as a means to identify a mechanism for social reconciliation

For social healing and reconciliation to take place, mechanisms to facilitate truth telling, forgiveness, reparation and restitution need to be found. The Wadajir Framework is a good starting point to rebuild the social fabric, but its scope is currently inadequate to address serious crimes and violence that have been perpetrated during the 20-plus years of conflict. There will similarly need to be recognition of the harms perpetrated by all actors, not just al Shabaab, if genuine social healing and reparation for past harms is to take place. This will take political will as well as the creation of neutral bodies to oversee such processes and neutral enforcement bodies that can quell retributive actions by community members where past grievances are regurgitated. Ostensibly, the combination of justice and recognition of past harms is a way to realise forgiveness, let go of the past and rebuild social relations.

Recommendation:

- Research should be conducted into appropriate mechanisms for transitional justice. This should be done in conjunction with all parties to the conflict. New FMSs and the SFG should identify how transitional justice mechanisms can be implemented. Understanding is needed of the conflict or governance risks, opportunities and limitations of any form of transitional justice.

Strengthen dispute resolution and enforcement mechanisms

Even where transitional justice cannot be implemented in the immediate future due to the need for greater research into its feasibility, equality, fairness and justice, it can be instituted into existing dispute resolution mechanisms. Such equality, fairness and justice can serve to build inter-communal trust, especially where the onus of accountability and reparations is placed upon individual perpetrators as opposed to communal groups. Dispute resolution mechanisms should be strengthened and applied in conjunction with state apparatuses to ensure enforcement of decisions. Clarity of judicial or dispute resolution mechanisms, rights of appeal and documentation of decisions will all help towards creating an environment in which justice, fairness and equality can be sustained.

Recommendations:

- The Jubaland Administration should work to link local dispute resolution mechanisms to state security, justice and policing apparatuses such that decisions can be enforced.
- Technical training and support should be provided to traditional elders to facilitate their ability to conduct fair, equal and just decision making within traditional dispute mechanisms.
- Traditional dispute resolution mechanisms should document decisions to facilitate enforcement.
- The statutory system should be strengthened through training of judges and lawyers and the use of paralegal teams. Civic education should be conducted to improve understanding of the role and mechanisms of how the system is utilised.



Kids playing after leaving school in Kismayo. Education and life returning to normal after years of conflict.

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ANNEX: Methodology, obstacles and limitations

This project capacitated SOSSENSA and other Somali non-state actors in analytical skills, in particular nine focal-point non-state actors in Jubaland. Saferworld conducted a workshop with non-state actors to map interests and relationships among Jubaland stakeholders, to guide the research methodology and objectives. A literature review was conducted by Altai Consulting with Saferworld guidance, and in-depth discussions with relevant academics by Saferworld were also conducted to explore issues of federalisation, power sharing and reconciliation. These activities produced specific research objectives, along with quantitative and qualitative data collection tools and questions.

Data were collected in three districts per region, each with seven research locations, including five village locations and two urban locations. Probability Proportional to Size methodology was utilised based on the 2006 UN population estimate survey. Selected locations were then verified as accessible by the focal points. Once on site, enumerators selected the fifth household to ensure randomisation of participant selection. In total, researchers completed 961 quantitative questionnaires, 21 FGDs and 28 KIIs.

Figure 33: Survey respondents disaggregated by gender and region⁸⁹

	Lower Juba	Middle Juba	Gedo	Total
Male	147	155	172	474
Female	132	199	143	474
Unknown				13
Total	279	354	315	961

The focal points and SOSSENSA analysed the resulting data and conducted a second round of KIIs and FGDs with Somali authorities, relevant international agencies, local and international NGOs, Somali political observers and stakeholders to refine this analysis. Saferworld drafted this report and distributed it for validation to the Jubaland Administration prior to publication. Throughout the research process, relevant authorities including the IJA and the SFG were informed about the nature and process of the research. Saferworld obtained letters of support from both the IJA⁹⁰ and the SFG to facilitate the work.

Obstacles and limitations

Obstacles the project encountered included security challenges and a rapidly changing political context, which posed limitations to the project's academically sound methodology and comprehensiveness. The greatest limitation was the lack of secure access to Middle Juba, which prevented on-site data collection. Saferworld sought to mitigate this by collecting data from Middle Juba IDPs in Mogadishu and Kismayo. Security restrictions also limited Saferworld's and SOSSENSA's ability to conduct high-level KIIs in many locations. Though interviews were conducted in Dollow, Kismayo and Mogadishu, the perceptions provided are from mostly urban conurbations as opposed to more rural locations.

Every effort was made to ensure data collected were free from the effects of influence or coercion. Informants in both KIIs and FGDs were encouraged to speak freely, and were informed that they would not be directly quoted, to encourage openness. Despite

⁸⁹ Of 961 survey respondents, 13 did not indicate gender or region.

⁹⁰ During much of the research, up until data collection, Saferworld engaged with the IJA as an interim FMS. It was in 2015 that the IJA was formalised as an FMS and is subsequently referred to as the Jubaland Administration.

this, there were concerns that some FGD participants were reluctant to provide information that may draw opposition from others. In other instances, participants were reluctant to be explicit but would refer to issues indirectly, which required an element of interpretation by researchers. In such instances, this is indicated in the paper. Similarly, in Dollow all participants in FGDs and KIIs during the both rounds of research had to be pre-approved by district authorities. Thus it is hard to assess the validity of information gathered there.

Additionally, during quantitative data collection with Middle Juba participants from IDP camps, it was sometimes unclear whether they were referring to their experiences in Middle Juba or as IDPs. FGDs and KIIs allowed for separation of these two experiences, but they are harder to disaggregate in the quantitative data.

Finally, obtaining local authorities' approval and consent to conduct politically sensitive research facilitated this work, but also created some delays. As a result, multiple changes in leadership within Jubaland and broader political events in Somalia between data collection and report drafting may have overtaken some of the perspectives recorded. This includes the creation of other interim FMSs and the transition from the Interim Jubaland Administration to the Jubaland Administration, along with changes to the control of regional authorities like Garbaharray.

Saferworld is an independent international organisation working to prevent violent conflict and build safer lives. We work with local people affected by conflict to improve their safety and sense of security, and conduct wider research and analysis. We use this evidence and learning to improve local, national and international policies and practices that can help build lasting peace. Our priority is people – we believe in a world where everyone can lead peaceful, fulfilling lives, free from fear and insecurity.

We are a not-for-profit organisation with programmes in nearly 20 countries and territories across Africa, the Middle East, Asia and Europe.

SOSCENSA is a non-governmental, non-political and non-profit seeking outfit that brings together Somali non-state actors into one platform. The platform aims to provide Somali non state actors with a platform for dialogue and consensus building to facilitate engagement in domestic and international policy decision making, to bring about a secure and peaceful future for the people of Somalia. Key issues that the platform advocates on include development, good governance, democracy, peacebuilding, human rights and state-building and security.

COVER PHOTO: Young men play football on the beach in Kismayo, Somalia. Life for young people is beginning to return to normal. © CULTURAL VIDEO PRODUCTION/SAFERWORLD



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