

STRENGTHENING CLIMATE JUSTICE IN SOMALILAND: THE ROLE OF ADR CENTRES

ISSUE BRIEF



This issue brief was developed as part of the project “*Strengthening the Social Contract through Access to Justice in Somaliland*”, which aims to foster the social contract by increasing the legitimacy of justice institutions. The issue brief provides an overview of key justice challenges linked to the effects of climate change in Somaliland and outlines opportunities to address some of these challenges through the Alternative Dispute Resolution Centres established with the support of the project.

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INTRODUCTION

Somaliland has been adversely affected by climate change, with significant shifts in precipitation patterns and a reduction in total rainfall.¹ This situation, combined with the lack of basic water infrastructure, especially in rural areas, has a negative impact on both farmers and herders.² As agriculture is the primary source of livelihood for the population of Somaliland, the economy is highly susceptible to the shocks caused by climate change, especially recurrent droughts.³ These phenomena are increasing the scarcity of natural resources, primarily arable land for farming and grazing cattle, and accessible water.⁴ As a result, climate change is one of the main drivers of food and water insecurity, and a contributing factor to mounting competition over land and natural resources.⁵

Growing farmer-herder competition over arable land and water threatens peace and stability.⁶ Conflicts between farmers and pastoralists are intensifying and becoming increasingly intractable. Land use and tenure rights are primary triggers of these conflicts, particularly in rural areas. In this context, the programme *Strengthening the Social Contract through Access to Justice in Somaliland*, funded by the Government of The Netherlands and implemented by the International Development Law Organization (IDLO), aims to provide a space for peaceful resolution of these conflicts by improving access to justice, including through the establishment of six Alternative Dispute Resolution (ADR) Centres in the eastern regions of Somaliland. ADR Centres offer free redress for basic criminal and civil law disputes, including many disputes generated or exacerbated by climate change, while strengthening safeguards for the rights of marginalized groups like children and vulnerable women.

This issue brief provides an overview of key justice challenges caused or aggravated by the effects of climate change in Somaliland, and outlines opportunities for addressing these challenges through the ADR Centres.⁷ In doing so, it aims to showcase how working at the intersection of Sustainable Development Goal (SDG) 13 (climate action) and SDG 16 (peaceful, just, and inclusive societies) is key to achieving climate justice. *Climate justice* emphasizes a people-centred approach to climate action by ensuring that the rights of the most vulnerable and disproportionately affected are protected; that people are legally empowered, and access to justice is guaranteed; and that institutions are effective, accessible, and accountable, with inclusive climate laws and decision-making.⁸ With its emphasis on strengthening the rule of law and achieving justice for all, SDG 16 can enable more inclusive, equitable, and effective climate action while ensuring that the costs and benefits of climate mitigation and adaptation measures are distributed fairly, and that the most climate-vulnerable people are not left behind.⁹

IN FOCUS: CLIMATE CHANGE, CONFLICT AND JUSTICE

Somaliland is highly susceptible to the effects of climate change, which manifest in extreme weather conditions such as periods of extended drought, flash floods, erratic rainfall, disruption to the monsoon seasons, cyclones, sandstorms, and dust storms.¹⁰ Many extreme weather events over the past 25 years had a negative impact on the agricultural sector of Somaliland, the most important for the regional economy.¹¹

About 40 per cent of Somaliland's gross domestic product is based on agriculture, with livestock production traditionally centred around a nomadic, pastoralist way of life.¹² Recently, Somalilanders have shifted away from traditional sources of livelihood, often in response to climate change. This change has created or exacerbated justice challenges, especially in the eastern regions.

Climate change fuels rural-urban migration and triggers conflicts between IDPs and permanent inhabitants

The Somaliland National Development Plan (2017-2022) highlights an ongoing shift away from nomadic, pastoralist livelihoods, driven by increasing urbanization, mainly due to rural-urban migration.¹³ Half of the total population of Somaliland now lives in urban and peri-urban environments.¹⁴ Recurrent droughts and flooding, caused or intensified by climate change, have resulted in increased internal displacement, often translating into flows of migrants to urban centres from the countryside. These migration patterns have triggered disputes between

internally displaced people (IDPs) and permanent inhabitants, including disputes related to land ownership, inheritance, valid consent for marriage, and family maintenance.

Climate change threatens traditional livelihoods

Climate change threatens traditional ways of life. Livestock production in Somaliland, a significant segment of the agricultural sector, is anchored to a pastoral system that relies on fragile natural resources. Traditionally, pastoralists have effectively governed water access and grazing in their lands through clan power structures. However, competing claims are multiplying over both land and natural resources made scarcer or less productive as a result of climate stress, population growth and urbanization.¹⁵ Climate change has also impacted farmers by increasing soil degradation and erosion.

Competition over access to water is at the centre of conflicting claims. Water access points and the surrounding areas are increasingly settled and often enclosed by pastoralists. At the same time, farmers have established enclosures for the production of crops, which effectively block herders' access to water, hindering livestock production and negatively impacting herders' adaptive capacity.¹⁶ Due to this competition over water, the likelihood of conflict between farmers and pastoralists has grown exponentially.

In addition, internal migratory flows are likely to continue, leading to increased tensions between displaced populations and urban inhabitants, and additional pressures on already strained infrastructure and government institutions, such as the police and the judiciary.¹⁷ Nomadic pastoralists forced to abandon their traditional ways of life and migrate to urban centres due to droughts and flooding¹⁸ often do not have access to education or skills to provide for themselves in the city, thus increasing their risk of falling into poverty.

Conflicts between herders and farmers

Irregular precipitation and variations in temperature have severe effects on agriculture in East Africa, leading to an increase in conflicts between herders and farmers. Herders have adapted their behaviour to the impacts of climate change, as traditional grazing routes have become unusable and nomadic mobility patterns more erratic due to shifts in seasonal weather trends. The change of herder routes and schedules has caused increased conflict with farmers over land and natural resources.

Climate change drives inter-clan disputes, which threaten peace and stability

Climate change increases societal pressures that fuel grievances. Grievances linked to affiliation with groups such as clans are particularly serious risk factors, because they are likely to inhibit resolution of and prolong conflicts.

The clan system is the most important constitutive social factor for the population of Somaliland, especially among nomadic pastoralists.¹⁹ The Somali clan system is patrilineal and hierarchically structured with leaders and elders at the top. It has several levels including clan family, clan, and sub-clan (in some cases also sub-sub-clan). As for elders, they regulate access to shared resources and are involved in conflict resolution. Historically, as neighbouring clans competed over access to valuable resources (e.g., land and water) a customary system for resolving these disputes was created. Known as *Xeer* (“agreement”), this system of dispute resolution governs inter-clan dynamics, filling the vacuum left by the dissolution of government justice institutions during and after the period of armed conflict.

In spite of this inter-clan dispute resolution mechanism, clan competition over natural resources still sparks disputes in rural and remote regions of Somaliland, which sometimes ignite into armed conflict.²⁰ A recent example occurred in Odwayne in 2020,²¹ when pastoralists, seeing their livestock in danger due to drought, started to siphon water from the irrigation systems of nearby farms. This led to a dispute between farmers and pastoralists, and, since the parties involved belonged to different clans, the dispute escalated into inter-clan violence.

Inter-clan conflict over natural resources

Climate change is a contributing factor to scarcities of water, food, and natural resources in general. Resource scarcity, especially the lack of water, has led to an increase in disputes related to land and other resources in Somaliland. Escalation of conflicts over grazing land for cattle has been a primary source of this increase. For example, recently, inter-clan armed clashes have taken place in Dhabardalool village in the Hudun district over the rights to water from a borehole created to increase water flow because of persistent drought in the area.

In the future, as climate change impacts deepen, frequent inter-clan conflicts over grazing land, water, and other natural resources can be anticipated.²² These conflicts are most likely to occur in rural areas where access to water and grazing land is most contested, and particularly in the Sanaag, Sool, and Togdheer regions.²³

Climate change shapes the social contract in Somaliland

Disputes around land, access to water, and other natural resources are the most frequent source of violent conflict in contemporary Somaliland, especially in pastoral and agro-pastoral communities.²⁴ When competition and disputes translate into violence, the government's perceived inability to keep the peace threatens to erode the social contract.²⁵

Compounding this lack of confidence is the fact that customary and informal justice mechanisms, especially *Xeer*, are often relied upon when government courts are unavailable or unable to respond to everyday justice needs. Yet, this customary system is ill-suited to the task of adjudicating disputes concerning individual land ownership and possession rights because it is designed to resolve communal conflicts.

Due to the absence of state institutions in rural areas, state-owned lands intended to be held in trust for the public are often illegally or de facto privatized.²⁶ The sale and transfer of public lands, without suitable procedures in place to ensure fairness and transparency, further undermines public trust in the government.

Climate change disproportionately impacts women and marginalized groups

Women in Somaliland are disproportionately affected by climate change. Recurrent droughts have displaced women from pastoralist communities and remote villages, forcing them to migrate to IDP camps in urban centres. These women are more vulnerable to gender-based violence and more likely to be forced into illicit livelihoods. Water scarcity creates an increased burden on women, who often have to travel greater distances on foot to fetch water for the household. Climate change can aggravate rates of malnutrition, particularly for pregnant and breastfeeding mothers, due to food scarcity caused by loss of livestock. Climate change also causes deterioration or stagnation of small businesses owned by women, often decimating rural economies. In cases where women-owned businesses have cash reserves, these are often depleted to pay for water during times of drought.

In these ways, the adverse impacts of climate change affect women, including vulnerable women, and other marginalized groups (such as children, smaller clans, and people with disabilities) more severely. When climate shocks happen, the poor and marginalized are the first to be displaced or otherwise affected because they do not have the resources and capabilities to respond and adapt to the crisis. When a drought, flood, or crop-destroying pest infestation occurs, poor people often cannot afford the necessary means to survive, including the costs of relocation to a safe place, importation of water

or chemicals, or labour needed to control pests. Moreover, when the crisis subsides and displaced poor people attempt to return to their homes, they are often unable to access their former lands due to insecure tenure. Finally, poor people are unable to afford the costs of recommencing cultivation as they lack farm inputs, including seeds, tillage hours, and other resources, which forces them into low-paid wage labour, if they can find it.

ADR CENTRES: ADDRESSING CLIMATE-RELATED DISPUTES, STRENGTHENING CLIMATE JUSTICE

Despite clear linkages between climate-related conflicts and the socioeconomic and political dynamics on the ground, there is a general lack of awareness of how to address environmental problems that fuel grievances and are directly linked to livelihood and indirectly linked to migration and displacement.

More effective dispute resolution mechanisms are needed to prevent and resolve tensions over natural resources that have the potential to escalate into violent conflict. Both formal and informal dispute resolution mechanisms can play a role, but informal mechanisms based on *Xeer* or sharia (Islamic law) enjoy the most legitimacy in Somaliland and have the most potential for efficiently addressing these disputes.

In Somaliland, the formal system of conflict resolution (formal law and the courts) is not the first choice of conflicting parties. This has led to a hybrid system, where traditional and religious courts or committees play central roles in the *ad hoc* resolution of climate-related conflicts. However, there are limitations to these mechanisms, namely that women and youth are usually not involved, and that resolutions do not produce long-term solutions leading to long-term solutions leading to legal certainty.

The IDLO-supported ADR Centres help fill this justice gap by centralizing and improving the provision of justice through informal mechanisms. The Centres act as hybrid justice structures combining the strengths of each element of Somaliland's plural justice system. The Centres support the provision of free

mediation and adjudication services, which apply customary and sharia law to address climate and resource-related disputes in communities, while ensuring the referral of serious criminal and complex civil cases to the statutory justice system for investigation and possible adjudication. In Somaliland, IDLO is following the same model adopted in Somalia since 2018, where 15 ADR Centres established in the various Federal Member States²⁷ have resolved several disputes that may partly be attributed to or exacerbated by climate change. Indeed, about 15 per cent of 5000 cases brought to the ADR Centres relate to disputes over land property or land use rights.

A recent example from Southern and Central Somalia is illustrative. In Hirshabelle, Jubaland, and Southwest, families fleeing from droughts settled in IDP camps and were allocated land. The occupants of these camps, however, did not find the land parcels sufficient to satisfy the needs of their families, which caused conflicts both among the people living in the IDP camps and between them and permanent inhabitants. Similarly, justice challenges arose amongst drought-hit farmers over the ownership of fertile lands. The IDLO ADR Centres managed to resolve these disputes through mediation or conciliation grounded in customary law. Efforts in this regard also included the formation of mobile ADR panels in locations where recurring disputes involve IDPs, such as in Abudwak and Boohodle, and the inclusion of IDP representatives among the adjudicators of some ADR Centres.

Unlike customary and informal justice mechanisms, the ADR Centres have their own physical court buildings, offices, case management systems, and administrative and legal staff to support the adjudication and resolution of conflicts and disputes over access to land and water. Yet, by applying customary law to these disputes, ADR Centres enjoy the legitimacy of traditional Somali culture and are thus able, in most cases, to effectively resolve disputes in a lasting manner and to the satisfaction of all involved parties and the community at large.

The causes, effects, and solutions to climate change impacts are closely linked to issues of justice and equity.²⁸ The people most vulnerable to the effects of climate change are those who already experience systematic exclusion and marginalization.²⁹ People living in least-developed, fragile and conflict-affected contexts are the most exposed, due to a combination of geographic factors, economic systems reliant on climate-threatened sectors such as agriculture and pastoralism, and limited institutional capacity to address climate risks.³⁰

As the effects of climate change undermine the realization of human rights, rule of law approaches should be at the centre of any intervention aimed at mitigating the deleterious effects of climate change. The IDLO-supported ADR Centres present an effective, scalable, and potentially replicable way to address mounting justice challenges created by a changing climate through a people-centred approach.

Key insights: How can ADR Centres provide opportunities to address climate-related disputes?

- **Use of environmental information to forecast and plan justice requirements.** Centre Coordinators receive climate and security forecasts from the National Environmental Research and Natural Disaster Preparedness Authority, setting out potential types and geographic hotspots of insecurity caused by climatic conditions and migration. This allows the ADR Centres to plan seasonally for their caseloads, advisory and referral work, and direct the location of mobile ADR Centres that will serve the targeted pastoralist communities.
- **Enhanced awareness and resolution of inter-clan conflicts.** Representation of clans and sub-clans in ADR panels is ensured so that ADR Centres can provide resolution of inter-clan conflicts with enhanced legitimacy while protecting the rights of less powerful clans.
- **Increased involvement of community members in the development of local justice solutions.** ADR Centres are ready-made platforms for community engagement which foster opportunities for community consultation around local justice problems and solutions.

ENDNOTES

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