



# Development Factors Influencing the Kenya- Somalia Maritime Dispute

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## Executive Summary

The paper analyses the development factors that impact on the Kenya-Somalia maritime dispute. The primary discourse includes: the exploitation of Somalia's population dynamics for political expediency; vested interests of local and geopolitical actors; role of development partners; and the influence of diaspora Somalis. The key findings and recommendations are informed by expert opinions and secondary data on Somalia's political economy and development. The discussion concludes that while the economic interests of geopolitical actors and development partners appear to exert more influence in the dispute, the personal interests of local actors remain prominent. This paper recommends development of policy guidelines for engagement of Somalia on youth-centric development programs and, engaging geo-political actors and influential Somali clans, among others.

## Introduction

The Kenya-Somalia maritime dispute is centered on the control of maritime resources deemed critical to development of both Kenya and Somalia. Both countries claim over 100,000 km<sup>2</sup> contested maritime area which covers the Exclusive Economic Zone (EEZ). The huge hydrocarbons and fish resources in the area have attracted geo-political actors whose interests and power contestation complicate amicable resolution of the dispute.

## Background

The vast blue economy potential in the contested maritime area remains integral to development ambitions of both Kenya and Somalia. The Somalia's National Development Plan (SNDP) of 2020-2024 and the Petroleum Act of 2020 links the hydro-carbon resources to the achievement of the Sustainable Development Goals (SDGs). These include: tackling the indignity of widespread poverty and hunger; improving health and wellbeing; pursuit of decent work; economic growth and; education for her youthful population. The strategic interests projected in the development factors not only hamper Somalia's development, but also stick out as the major impediments to maritime dispute resolution.



Photo credit: UNDP Somalia

## Methodology

Data for this paper was collected from key informants with knowledge and understanding on Somalia's political economy and development. The anecdotal evidence was supplemented with secondary literature. They shaped the key findings and recommendations.

## Key Findings

The findings on key development factors is contextualized on the maritime dispute, Somalia's development priorities and achievement of the SDGs as documented in the SNDP of 2020-2024. The following issues are prominent.

## ■ ■ ■ Exploitation of Somalia's Population Dynamics for Political Expediency

Somalia has a population of about 15 million people. The country remains underdeveloped with high levels of poverty, illiteracy and dependency on aid and diaspora remittances. Its population is relatively young with a median age of 16.7 years.

The population dynamics among local Somalis make them vulnerable to manipulation by politicians and the Al-Shabaab. President Mohammed Abdullahi Mohamed's aka "Farmaajo" re-election strategy is centered on nationalization of the maritime dispute through

targeted appeals to Somalia youth, while accusing Kenya of interfering with her maritime territory and internal affairs. This philosophy is shared with the Al-Shabaab that views Kenya as a foreign occupying force, annexing the maritime territory of “Muslim” lands (Pape & Karamba, 2019; World Bank 2019; Hiraal Institute, 2019). This spirit of Pan-Somaliaism propagated for political expediency, coupled with high poverty levels makes Somali youth vulnerable to manipulation. They continue to be targeted for recruitment into terror activities by Al-Shabaab and for militancy by the Somali government. The current situation has seen the youthful population being radicalized for a lingering protracted national conflict with Kenya over the maritime dispute. The situation is further compounded by the wanton corruption and clientelism which are rampant in government, business environment and the general Somalia society (MoPIED, 2020; World Bank 2019; Warah, 2019).

### **Vested Interests of Local Actors in the Dispute**

Personal interests of political and business elites; Federal Member States (FMS) and clan leaders continue to influence Somalia's development agenda and orientation on the maritime dispute. These interests are often disguised as national interests.

### **Interests of Political Elites**

Somalia's top political leadership has deep-seated interests, particularly in Somalia petroleum sector and maritime resources (Maluki, 2019; Warah, 2019). These personal interests fueled the hurried passage of the Petroleum Law of 2020 resulting into expedited filling of key positions in the Somalia Petroleum Authority with persons close to those in political leadership (Gundel, 2020; Roelf, 2020). Consequently, Jubaland and Puntland have rejected the law.

The political leadership is keen on retaining exclusive control of the petroleum sector as it keeps FMS at bay. (Haroldson, 2020;

Warah, 2019). For example, they control the oil exploration fees, which is largely unaccounted for. The money has been used to buy political patronage in the run up to 2021 presidential election and thus further their interests in the contested maritime territory. Detrimental to Somalia's development agenda is the fact that petroleum production agreement is being drafted to obligate Somalia government to pay the UK-based Soma Oil and Gas 90% of the country's anticipated oil revenue (Gridneff, 2015).

### **Interests of Clan Leadership**

Clan leadership roles compliment and influence formal state institutions and selection of political elites. They are powerful informal gatekeepers who approve political competition and development agenda in Somalia (ITPCM, 2013; McCullough & Saed, 2017). These include the maritime dispute.

Clan leaderships are mostly influential in the relatively stable northern Somalia and less in fragmented southern Somalia. The most influential Somali leaders are drawn from the major clans of Isaq, Darod, Dir, Hawiye and Rahanweyn (Home Office, 2019; Metz, 1992; Menkhaus, 2018). Both President Farmaajo and former PM Hassan Khaire are from the politically dominant Hawiye clan. Moreover, the Federal Government's inability to administer large areas of Somalia strengthens clan leadership. This informs the government's reliance on the local clan militia. The militia control checkpoints and regions where they undertake illegal rent extraction and approve development projects (Hiraal Institute, 2019; McCullough & Saed, 2017).

The maritime dispute is therefore an opportunity for clan warlords to heighten recruitment of militias to further territorial control and extortion. This exacerbates poverty, inequalities and illiteracy for locals contrary to Somalia's pursuit of the SDGs. Nevertheless, clan elders remain largely respected in dispute resolution and customary justice, especially outside Mogadishu where state justice institutions reach is limited (McCullough & Saed, 2017).

## ■ Interests of the Federal Member States (FMS)

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The interests of FMS are driven by the need for more clout to control, negotiate and approve exploration of hydrocarbon resources within their territories. This motivation for more revenue and control by FMS informs the rejection of the Petroleum Law of 2020 by Somaliland, Puntland and Jubaland (Bloomberg, 2020). Although the Somali constitution considers Somaliland as one of the FMS, she declared herself an independent country in 1991 upon the fall of Siad Barre regime. She has no regard to Mogadishu's legislations. Puntland also declared herself autonomous in 1998 but she remains politically connected to the Somali federal government. In 2015, Puntland independently awarded an exploration contract to ION Geophysical while Somaliland issued licenses to Genel Energy and RAK Gas. Moreover, Puntland's Petroleum and Mineral Agency (PPMA) warned the Mogadishu-licensed Spectrum and China's BGP that undertaking seismic surveys in the state's offshore territory was illegal and unconstitutional (Reed, 2020).

Jubaland, which borders the contested area, has never claimed ownership of the contested maritime territory. Their hydrocarbon interests are mainly inland. Her strategic position and ability to directly engage with geo-political actors on development issues, remains of great importance to Kenya. First, Jubaland acts as a buffer zone from Al-Shabaab. Secondly, contestation over the Petroleum Law inhibits Somalia's exploration plans in Jubaland's territory and in the contested maritime zone.

## ■ Vested Interests of Geo-Political Actors

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Somalia's hydro-carbon sector remains attractive and is dominated by geopolitical actors and multi-national companies (MNCs). Soma Oil and Gas (UK), Spectrum Geo of US (acquired by TGS), Genel Energy (UK), Ras al Khaimah Gas (RAK gas of the UAE) and

Norway's TGS- (NOPEC Geophysical Company SG), dominate hydro-carbon seismic surveys in the region (TRTWorld, 2019; Khalfaoui & Yiallourides, 2019; Warah, 2019). The activities of these actors predate Somalia's independence. The US exploration activities started in 1952 through four American oil giants: Conoco, Amoco, Chevron and Phillips. They secured vast prospecting contracts prior to the coup on the pro-American president of Somalia, Siad Barre (Fineman, 1993).

The interests of United Kingdom were represented through the British Petroleum (BP) and Shell companies which preceded colonial times (Purcell, 2014). Since 2010, Britain has been involved in the secret rush for a stake in Somalia's petroleum sector, especially in Puntland. Her humanitarian aid and security assistance to Somalia is tied to the advancement of these interests. These include the interests of influential political and business elites (Townsend & Abdinasir, 2012). Soma Oil's chairman is the former leader of the UK Conservative Party, Lord Michael Howard, a close political ally of former UK Prime Minister David Cameron. The former Prime Minister is credited with organizing the 2012 London Somalia Conference which was aimed at strengthening relations with Mogadishu (Gundel, 2020; Africa Confidential, 2015). The London auction was financed by Spectrum Geo (Warah, 2019; Maluki, 2019). Other Multi-National Corporations (MNCs) that variedly operated in Somalia's petroleum sector included ExxonMobil (US), Texaco (now Chevron-US), and Statoil (Norway) (Padmore, 2014).

The preservation and extension of these interests informs the alignment of these actors and complicates the resolution of the dispute (Gundel, 2020; Maluki, 2019; World Oil, 2019). UK and Norway support Somalia while USA and France support Kenya. Norway's off-shore interests are via Statoil Company (now Equinor ASA) where it has a 67% stake (Equinor, 2021; Manson, 2013). Norway, through her former Ambassador on Special Mission, Mr. Hans Wilhelm Longva drafted the contested Kenya-Somalia Memorandum of Understanding

(MoU) on the maritime territory. Moreover, they leverage on influential Somali's with Norwegian citizenship to advance these interests.

The dominance of geopolitical actors in the petroleum industry and contribution to Somalia's debt and development explains the payment of modest exploration fees to Somalia's Ministry of Finance (Clanwilliam, 2015; UNSC, 2015). Between 2015 and 2017, Spectrum paid USD 1.35 million to the Ministry of Finance for seismic studies, while Shell-ExxonMobil made a retrospective rent of USD 1.7 million for five blocks awarded under Siad Barre's regime. These actors are believed to be instrumental in Somalia's litigation at the International Court of Justice (ICJ).

Somalia's development space provides a battleground for Middle East rivalry which pits Saudi Arabia and the United Arab Emirates (UAE) against Turkey and Qatar (Baird, 2015). The rivalry exposes Somalia to various punitive political and economic measures when it chooses one faction over another. Turkey is a key contributor to Somalia's infrastructural development, debt relief, military training and oil exploration. UAE's interests are related to seismic exploration, military, trading and infrastructural programs including road, sea and airport development. The infrastructural developments are geared towards facilitating Somalia's petroleum sector. Turkey's acceptance to explore Somalia's petroleum resources remains of particular interest to the maritime dispute. Qatar Petroleum has three offshore oil blocks off the Lamu Basin-off the disputed zone (Mwago, 2019).

## Role of Development Partners

Somalia's classification as a least developed and heavily indebted country demonstrates her dependence on development partners. Development partners' role in Somalia's development is captured in the SNPDP of 2020-2024. They support development projects spanning health, livelihood, budgetary and

financial reforms, agriculture, transport, and energy.

The major development partners in Somalia's stabilization and growth are the Africa Development Bank (AfDB), World Bank Group (WBG) and the International Monetary Fund (IMF), and European Union (EU). The combined development portfolio of WBG and IMF in Somalia stands at USD 1.66 billion, compared to AfDB's portfolio of USD 298 million (World Bank, 2020; The Exchange, 2020). The IMF and WBG approved Somalia's irrevocable reduction of external debt from USD 5.2 billion at end of 2018 to USD 557 million in about three years' time. Moreover, they have influenced the development of Somalia's Petroleum Act of 2020 which they leveraged on the debt relief program. They were instrumental in the development of petroleum revenue sharing agreement between federal government, FMS and local communities. They also proposed the oil block auctioning strategy before exploration licensing was implemented (Gundel, 2020).

The EU together with other EU member states account for over 35% of all humanitarian aid to Somalia. In 2018, the EU pledged a EUR 100 million of budgetary support to Somalia's government for a period of over two and a half years. In 2020, the EU provided EUR 51.2 million for humanitarian projects in Somalia (EC, 2020). Their support is integral in the stabilization of Somalia, training of Somalia police and payment of salaries of African Union Mission to Somalia (AMISOM) peacekeeping personnel and funding Somalia's election process. Like the WBG and IMF, they leveraged their support to secure compliance by Somalia's government. In December 2020, they suspended budgetary support due to the 2021 presidential election rigging attempts, poor treatment of journalists and human rights violation. Although the EU is not directly interested in Somalia's petroleum sector, its member states (France, Italy and Netherlands) are involved through various petroleum MNCs. Total (France) and Eni (Italy) have stakes in Kenya's offshore oil blocks in the Lamu basin, bordering the disputed zone (Mwago, 2019).

## Diaspora Somalis

Diaspora Somalis are increasingly becoming influential in Somalia's development landscape, political and business leadership, and the maritime dispute. Most of the top political leaders such as the President and Prime minister have dual citizenship. This illustrates conflicting allegiances manifested in geo-political alignments on the maritime dispute.

With regards to leadership, about 80% of Somalia's government positions are occupied by Somalis that have diaspora experience. These include the President, Prime Minister, cabinet members and members of parliament. This strategic positioning allows them to influence Somalia's development agenda and orientation on the maritime dispute. Diaspora Somalis provide skills and knowledge around the ICJ case, though with support from foreign

actors. Initially, their lead advocate at the ICJ was Dr. Mona Al-Sharmani, a Somali national in the US.

Diaspora Somalis are sympathetic to their home country. Their vast financial and technical contribution allows them to exercise great power in Somalia's politics and development. They remit approximately \$1.4-2 billion dollars to friends and relatives in Somalia yearly (World Bank 2019). This amount exceeds development assistance and represents 25 to 70% of Somalia's economy. Their significance to development informed the establishment of the Office of Diaspora Assistance (ODA) in the Ministry of Foreign Affairs and International Cooperation (MoFA&IT). The office coordinates diaspora activities on development including the maritime dispute.

Kenya has the highest Somali global diaspora estimated at 490,000. This is followed by Ethiopia at 440,000 and Yemen at 250,000 (Dahir, 2016).



*Photo credit: UNDP Somalia*

A significant number are Somali refugees. Kenya therefore bears the heavy development burden of hosting Somali refugees.

While diaspora Somalis remain key actors in Somalia's development and the maritime dispute, they are prominent actors in Kenya's business and investment circles such as in Eastleigh, Nairobi (Carrier & Lochery, 2013; The Standard, 2018). Strangely, these political and business elites are at the forefront in antagonizing Kenya and her interests for a peaceful and stable neighbor in Somalia.

## Conclusion

The analysis of development factors on the Kenya-Somalia maritime dispute point to the overwhelming influence of development

actors. Geopolitical actors are identified as the most influential. In general, the actors are majorly motivated by the need to protect and expand their interests in the petroleum sector, mostly to the detriment of local population and development. The selfish personal interests of local political actors, business elites, clan leadership and diaspora Somalis are packaged as national interests. This only complicates the search for amicable resolution of the maritime dispute. The 2021 presidential election may change dynamics in Jubaland including revival of the Al-Shabaab. These changes in the near future necessitates accelerated action by development players. Success in resolving the maritime dispute is therefore heavily dependent on identifying and managing the actors' interests for mutual progress.

## RECOMMENDATIONS

The following recommendations are offered:

1. Kenya to develop policy guidelines for the engagement of Somalia and her youth on youth-centric development programs aimed at creating employment opportunities for youthful Somalis in line with Somalia's MGDS targets. This can be done in collaboration with development partners.
2. Kenya to engage with geo-political actors particularly United States, Britain and Norway on the dispute. Dealing with the vested interests of these geopolitical actors remain key to Kenya in the resolution of the dispute. This additional role in peacebuilding impacts on Somalia's development and can be exploited by Kenya to revive the stalled diplomacy.
3. Kenya to engage development partners such as World Bank and IMF for their influence on the dispute. These institutions can innately influence the dispute, with persuasions from the United States who have the largest voting rights in WBG and IMF. The US is a key partner in the war on terror in The Horn of Africa and also has interests in offshore oil exploration. This provides an avenue for Kenya to engage them on bringing back Somalia to the negotiation table.
4. Kenya to identify and engage influential Somali clans, business and religious leaders as well as politicians with interests in Kenya who can be persuaded to lobby Somalia back to the negotiation table.
5. Kenya to leverage on her position as an economic destination for the diaspora Somalia to persuade them on the dispute. Their proximity, investment and family interests provide Kenya with the opportunity to engage them.

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