

CASE STUDIES ON LAND AND CONFLICT IN THE ARAB REGION

LIBYA

Conflicts over land rights escalate amid fractured state governance and competing allegiances after the 2011 revolution



Figure 1. Zintan. Source: Mohammed Abobakr/Flickr

NATURE OF THE CONFLICT

The Zintan and Mashashya tribes reside in Libya's western region, south of Tripoli. Their story showcases the typical tension in the aftermath of the 2011 revolution between tribes that supported and those that opposed the government of Muammar Gaddafi.

Post-revolution tension, power shifts and violent clashes between tribes and other groups have created a large number of IDPs across Libya (Salameh, 2021). Within a year of the revolution, more than 70,000 persons, labelled as alleged Gaddafi supporters, were forced under threat of violence to leave their houses, which were subsequently looted or destroyed (UNHCR, 2012).¹

The Mashashya was the second-largest forcibly displaced population in the immediate aftermath of the revolution. In total, 17,000 residents were displaced from their

homes in Al Awiniya in the Western Nafusa Mountains and settled in Tripoli. Those who remained suffered repeated attacks from neighbouring communities, mainly the Zintan tribe. Along with the political strife, conflict over land posed an additional barrier to their return (Salameh, 2021; UNHCR, 2012).

CONFLICT MANIFESTATIONS

In the last century, the Mashashya tribe slowly transformed its nomadic lifestyle into sedentary agriculture, settling at both ends of their transhumance route stretching from the Nafusa Mountains in the north to the Fezzan region in the south (Figure 3). Some tribe members purchased cultivable land from other tribes in the Nafusa Mountains, to facilitate their shift into agriculture (UNHCR, 2021). However, when conflicts erupted between the Mashashya and the Magarha tribe

¹ In 2021, IDPs in Libya numbered between 200,000 and 300,000 persons. There was a significant spike during the second civil war (2014-2020).

in Fezzan in the early 1970s, the Libyan government, resettled 2,000 Mashashya families at Al Awiniya, in the Nafusa Mountains (ICG, 2012).

This resettlement was contested by adjacent tribes, such as the Khaleifa, which considered this land was part of its territory. It also triggered resentment from a neighbouring powerful and semi-nomadic tribe, the Zintan, who felt that the Mashashya were given preferential access to fertile land while they had to rely on mountain pastures and rain-fed agriculture (Salameh, 2021; UNHCR, 2012). State investment in modern infrastructure to encourage agricultural production in reclaimed lands enabled faster economic development in Al Awiniya than in surrounding areas, including Zintan, further aggravating the simmering resentment.

During the 2011 war, the Zintan joined the revolutionary forces, while many Mashashya sided politically and

militarily with the Gaddafi's government. After the collapse of Gaddafi in 2011, the cycles of revenge attacks and abductions between the Zintan and Mashashya tribes continued. The rebels' newfound power led to heightened violence and vandalism against the Mashashya, including the burning of orchards and houses and the shelling of water tanks and infrastructure. These attacks have prevented many Mashashya from returning to their homes and lands in Al Awiniya (Amnesty International, 2013; IDMC, 2015).

The Zintan tribe accused the Mashashya tribe of supporting Gaddafi during the siege of its city between March and June 2011. Mashashya members believe that their persecution was due to the historic and localized conflict over land and water (Amnesty International, 2013). According to the International Crisis Group (2012), the Zintan had actively worked to make peace with other pro-Gaddafi tribes, but remained in persistent "hot-

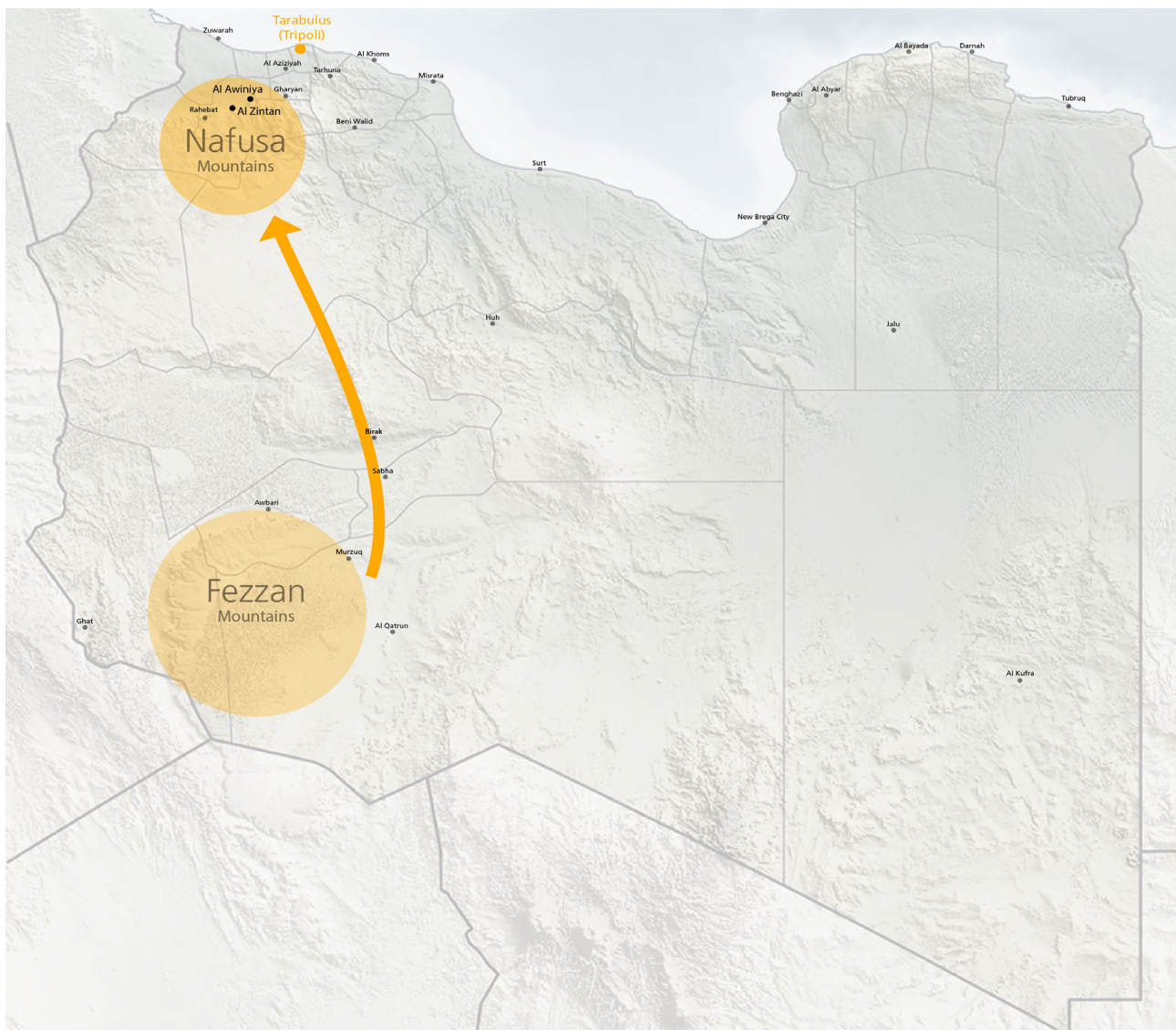


Figure 2. Main migration route.
Source: Base map from Wikimedia. Adapted from the consideration of the authors.

or-cold conflicts” with the Mashashya, indicating that the tensions transcend the wartime political divisions. The land redistribution that sparked the conflict was part of broader measures by the Gaddafi government to fight an overdependence on oil revenue and foster socio-economic equity. The discovery of oil in the 1950s had transformed the Libyan economy, pulling the nation from the depths of poverty. However, as oil replaced agriculture as the main contributor to national GDP, the economy became overly reliant on non-productive sectors (Mousa, 2014; Salameh, 2021). The marginalization of agriculture heavily impacted the roughly one-third of Libyans dependent on this income, instigated out-migration from rural areas and increased dependency on food imports, which had to be bought using revenues from the finite oil reserves (Mousa, 2014; FAO, 1969).

From the early 1970s to the mid-1980s, the policies of the Libyan government largely adhered to Gaddafi’s Third International Theory, inspired by socialism, wealth and resource redistribution, self-sufficiency, and nationalism (The Green Book). Numerous policy reforms were issued to enhance agricultural production and self-sufficiency, the effective use of common resources, and the equitable distribution of residential and agricultural

properties. Oil revenues funded land reclamation, agricultural subsidies, and the creation of new farms and cooperatives with economies of scale.² It increased the GDP contribution of the agricultural sector, enhanced the socio-economic status of farmers, and achieved self-sufficiency in several crops (Mousa, 2014).

The nationalization of colonial and foreign-controlled farms and oil fields, at about the same time, and the redistribution of private and state-owned land³ profoundly altered property relations.

More families gained access to residential and agricultural lands, while families with multiple properties had their holdings restricted. Two of the most significant property redistribution laws were Law 123/1970 and Law 4/1978. Both laws sought to limit the scale of individual property ownership. Law 4 restricted residential ownership to a single dwelling or plot of land on which a residence could be built.⁴ Law 123 governed the distribution of state-owned agricultural land, mandating of the state to distribute lands it owned amongst poor and large families who lacked other means for a dignified life. Those renting or possessing land were able to retain their property, provided they met the conditions for distribution. The compensation provided

TABLE 1: ROOT CAUSE ANALYSIS OF LAND AND CONFLICT BETWEEN ZINTAN AND MASHASHYA TRIBES IN NORTH WEST LIBYA

ROOT CAUSES	PROXIMATE FACTORS	TRIGGERS
<ul style="list-style-type: none"> Weak land administration, including unclearly defined and registered tribal lands and the dismantling of tribal law, without putting an adequate formal structure in place Politics of exclusion: legacy of colonial settler farming, and lack of political participation Competition over resources Use of land allocation to gauge political support Inequality in the distribution of land and state investment and in the commercialization of properties 	<ul style="list-style-type: none"> Unaddressed historical grievances related to land Widespread militarization and foreign intervention Breakdown of decision-making bodies (e.g. two rivalry parliaments) 	<ul style="list-style-type: none"> Systemic political shift (the revolution) Introduction of abrupt policy reforms

2 Some of the relevant enacted laws are Law 2/1974 on cooperative farms and Law 46/1975 on smallholdings.

3 A number of laws were enacted to redistribute private property, including Law 135/1970, Law 78/1972, Law 34/1973, and Law 90/1976.

4 Law 4/1978 deemed housing as “sacred” for everyone, but it restricted residential ownership to a single dwelling or plot of land on which a residence can be built. Other property, with the exception of properties used for the owner’s job or industry, was transferred to tenants or other families in need of housing or to the state to serve the public interest. Those whose property was expropriated were entitled to compensation; however, the method of payment changed through time and across mandated committees.

to residents whose lands were expropriated was mainly based on the value of investments made in utilizing lands and wells and did not include the lost value of land use (Ibrahim and Otto, 2017).

■ ROOT CAUSES

Land reforms may have boosted equality, productivity, and overall socio-economic development but lacked a proper institutional, legal and administrative framework to forecast, prevent, minimize and solve competing property claims. With legal uncertainty and weak rule of law, disputes over properties dragged on for decades and were inherited by families. Frequent changes in governments and committees contribute to disjointed and incoherent policies. The absence of a functional registry system has also prolonged conflicts, creating a business space for forgery of documents (Salameh, 2021). Such delays to land and property reconciliation increase the risk of claimants resorting to violence to retrieve their presumed rights (Ibrahim, 2016).

Law 123 applied mostly to vaguely divided lands, where rights of possession were disputed among the tribes themselves and between tribes and the state. To overcome this issue, the state annulled tribal land ownership through Law 142/1970 on tribal land and wells, except in the cases where land and wells were formally registered. This provision held little practical effect given the tiny portion of registered tribal land. Under the monarchic system (1951–1969), tribes could register their land in official property registries and form committees to resolve property disputes, but this was not widely applied (Ibrahim and Otto, 2017).

Upon the passage of the new law, unregistered tribal lands were deemed property of the state (Ibrahim and Otto, 2017). Most tribes could continue to use the land as they traditionally did, including collectively,⁵ except in a few cases where it was allotted to others for cultivation, such as the Mashashya in Al Awiniya (UNHCR, 2012; Salameh, 2021). It is difficult to estimate the number of properties that were affected by Law 142 and Law 123 because of the unclarity of tribal land rights (Ibrahim and Otto, 2017).

However, it is clear that the annulment of tribal law ownership did not prevent tribal tensions or persuade tribes to forgo their long-standing usufruct claims. Rather, it added another layer of land rights disputes to be untangled.

Later policy reforms were inspired by the notion that people should own the product of their labour, and that land is a property of none, but a right for all to utilize (Gaddafi, 1980). Laws 38/1977 and 7/1986 prohibited private ownership of land, replacing it with usufruct rights. Citizens were granted the right to work the land including through farming or pasturage and to pass this right on to their children. However, these rights changed with the political and economic transformation that took place in the late 1980s.

Political transformation and the commercialization of land was an important root cause that deepened inequality. A sharp drop in oil prices in the mid-1980s resulted in debt payment problems and international agitation for the privatization and liberalization of the economy, including the agricultural sector, which was already seeing a decrease in state investment (Ibrahim, 2016). The removal of agricultural subsidies, dissolution of state companies and projects, and mass transfer of ownership to the private sector resulted in decreased production and lower agricultural contribution to the GDP (Mousa, 2014).

In 1992, the government relaxed its property reforms, allowing private ownership for persons working the land. The distributed state land, was soon transformed to distinct and permanent individual holdings. The liberalizing reforms accelerated between 2000 and 2011. Ownership of more than one property was frequently permitted as well as foreign investment and land speculation, causing a sharp rise in property prices and the accumulation of considerable wealth by a small group of elites, including Gaddafi's allies and family members (Ibrahim, 2016; Ibrahim and Carlisle, 2013).

The rise in socio-economic inequality impeded economic development; employment and housing shortages coupled with political and civic repression paved the way for increased public dissatisfaction, the 2011 revolution

5 Also, because the state did not have the capacity to administer the vast tracks of Libyan's lands, tribal land administration remained the only option for most rural Libyans.

6 Situated along the Mediterranean coast in the north-western part of the country, Tripolitania was a historical region and a province as well as one of the three main administrative divisions in the Kingdom of Libya.

(Serafimov, 2012) and the awakening of property-related grievances.

Competition over land use and the legacy of colonial settler farming is another root cause. Between the 18th and 20th century, tribes in Tripolitania⁶ organized themselves in *sufuf*, alliances based on common interests in land and water. The Zintan and the Mashashya were in different coalitions that repeatedly clashed in the 19th and 20th centuries. Foreign powers exploited these rifts for their own benefit (Lacher and Labnouj, 2015). The Italian colonial forces gave privileges and concessions to tribes to control inland areas, which they had little interest in, while securing Italian governance over coastal and fertile areas near Tripoli and Benghazi (Jayne, 2010).

Italian settler farming accelerated in 1923, under Italian-led reform which stipulated that “all land that was not cultivated or that had not been farmed in the previous 3 years was considered public and available for allotment, rent and purchase for Italian farmers” (Bertazzini, 2018). This law as well as the formation of institutions such as the Libyan Colonization Board in 1932, facilitated the migration of some 110,000 Italian settlers into Libya (Amel, 2020), including 40,000 farmers. By 1937, roughly 840,000 hectares were made available, and 839 Italian farms were operating in Libya (Bertazzini, 2018). Libyan tribes were left to compete over limited arable land, most of which were already being utilized.

In 1942 Britain and France captured the three regions of Libya, expelling the Italians from the eastern region of Cyrenaica. After a long struggle for liberation, the UN announced the creation of an independent and united Libya in 1951 as a monarchy. Nevertheless, many Libyans were not content with the monarchy's cooperation with colonial countries and their joint oil industry. The leaders of the 1969 coup were quick to expel the remaining Italian farmers from Tripolitania and to nationalize (or partially nationalize) British, American, and other foreign-owned oil assets.

The longstanding lack of meaningful political participation is another key root cause. In 1972 the Libyan government dismantled political parties and introduced a system of “rule by the people,” via popular

committees and conferences. This experiment in direct democracy was eventually limited to local level decisions over social issues. Tribes were permitted to find solutions at communal level but not at the national level. Most important decisions were made centrally by the Gaddafi-led government, including with regard to investment, production, and property reform. The decision to resettle the Mashashya in Al-Awniya was not taken in a participatory manner with the tribes, and some saw it as an illegitimate act.

The issue of meaningful political rights was not resolved after the 2011 revolution. In fact, the National Transitional Council, formed quickly after the collapse of the previous government, monopolized decision-making and passed Law 13/2013 (also known as the Political Isolation Law) that banned all Libyans tied with the old government from holding office. This meant that the new policies, including those relevant to land and housing distribution, followed the interests of the revolutionary groups only.

The subsequent General National Congress elaborated a number of policies and laws prioritising legal redress for previous property owners, also granting amnesty for infractions they may have committed. Two of these laws (Law 16 and 20), issued illegitimately after the General National Congress' term had ended, abolished Law 4 on residential redistribution, and provided full restitution or compensation for formerly sequestered properties. Another draft law proposed to end Law 123 and “return the land to the former owner while allowing the occupant to stay in the dwelling attached to the land and a small piece of land surrounding it” but was not formally issued (Ibrahim and Otto, 2017, pg. iv).

The actions of the post-revolution government vis-à-vis housing land and property rights was seen as guided by the attempt of pre-Gaddafi elite and exiled actors to restore the previous state of inequality rather than enhance economic and social justice for the population.

Moreover, with the technical and financial support of Western governments, successive governments pushed for quick neoliberal reforms including privatization, deregulation, and opening up markets. Undertaken

without public participation, the initiatives stirred considerable opposition among the local population (Serafimov, 2012; Salameh, 2021). The lack of participation in decision-making will continue to stoke conflict in Libya unless effective processes are put in place that empower all citizens and groups to inform, influence, monitor, and evaluate public policies and actions, regardless of political orientation or tribal affiliation.

Finally, unequal distribution of land and state investment is another root cause to the conflict. The early redistributive reforms had intended and somewhat succeeded in combating inequality and landlord exploitation, strengthening people's control over basic needs including livelihoods and housing, and enhancing agricultural production. Restorative policies, in a context of considerable inequality after colonization and the monarchy, were seen to be essential even if harmful to some property owners. The Gaddafi-led government had granted lands to poorer families and disadvantaged tribes, including the Mashashya and others (Lacher and Labnouj, 2015). Nonetheless, the enacted policies supplanted old laws, including customary laws, without creating a robust institutional, legal and administrative framework – an environment ripe for arbitrary and unjust land redistribution.

Several tribes maintain that the Libyan government gave preferential treatment to certain tribes and groups, such as the Mashashya, to build a reliable local source of power and to limit the power of strong pro-monarchy tribes. They also allege the prevalence of nepotism. While the state provided for all basic needs (housing, a single agricultural or business site, water, electricity, cheap energy and food, health care, and education for both sexes), additional wealth was seen to be permitted only for the groups favoured by Gaddafi (Winer, 2019). With the economic liberalization and privatization of the mid-1980s, this inequality further deepened.

■ PROXIMATE FACTORS

After some time, the growing disillusionment with the results of the revolution pushed many groups to distance themselves and oppose the revolutionary government. During the second civil war (2014–2020), two rival

parliaments emerged, the General National Congress in Tripoli and the House of Representatives in Tobruk. The Congress' draft policies aiming to abolish Law 4 and Law 123 were rejected by the House. With two competing administrations, the divergence in property rights policies stoked further disorder and violence.

In March 2021, a Government of National Unity was formed, seeking to bring together the rival governments in Tripoli and Tobruk. However, CSO representatives are sceptical of this joining process and attempts at reconciliation initiated under this format. Their concern is that new policies regarding property rights will be adopted without consultation with CSOs, affected communities (including IDPs), and the various tribes. Several tribes maintain that the Libyan government gave preferential treatment to certain tribes and groups, such as the Mashashya, to build a reliable local source of power and to limit the power of strong pro-monarchy tribes. They also allege the prevalence of nepotism. While the state provided for all basic needs (housing, a single agricultural or business site, water, electricity, cheap energy and food, health care, and education for both sexes), additional wealth was seen to be permitted only for the groups favoured by Gaddafi (Winer, 2019). With the economic liberalization and privatization of the mid-1980s, this inequality further deepened.

Lastly, prior to 2011, Libyans had limited access to firearms, and most violent altercations involved rudimentary tools and cold weapons such as knives and sticks. After the revolution, the country witnessed an unprecedented rise in militarization and the prevalence of arms. Hundreds of autonomous militias sprung up, many supported by foreign countries and hosting mercenaries.

This environment of growing insecurity harboured numerous threats, such as forced evictions, infrastructure destruction, theft, and wanton violence (Salameh, 2021). Foreign intervention has contributed to weak stability and national reconciliation, preventing the disarmament of militant groups and their integration back into society. These conditions intensify the impact of the triggers, leading to quick escalation of violence.

8 البلي اللبى بللى عم اجماعه اعلى ينطو لم رم تومل (Al-Mo'tamar Al-Watani Al-Jame' Al-libi Al-libi)

(LPDF) which started in Tunis in November 2020, also under the auspices of UNSMIL. Its road map includes establishing national sovereignty, ending foreign military presence and influence, fostering state institutions, and establishing reconciliation based on the principles of transitional justice. Its objectives also include “work[ing] for the voluntary and safe return of displaced persons inside and outside the country; and reparations for damages without prejudice to the right to litigation.”

The LPDF selected the Government of National Unity in February 2021. Concerns remain regarding the inclusivity of the mediation process that produced this government and its ability to resolve land disputes and facilitate the return of IDPs to their homes (Salameh, 2021). According to Lacher (2021, pg. 2), “the LPDF includes proxies of individual political figures and, to a lesser extent, military actors, as well as civil society representatives.” For some, this breakthrough unity government is supported by foreign governments interested in oil revenues.

Until governmental policies towards dispute resolution materialize, independent initiatives, such as the Libyan Campaign for Peace, should be supported with further technical, financial, and/or media assistance to carry their initiatives forward. These local actors have demonstrated a profound understanding of customary structures and tenure as well as methods to address related problems.

Thankfully, the majority of Libyans are sympathetic towards IDPs. Over 90 per cent support IDPs returning

to their properties as a key precondition for national reconciliation (UNDP, 2019a). However, steps must be taken to durably address grievances and implement the lessons learnt from the land committees of the Gaddafi period.²³ Moreover, Law 142, which dismantled tribal land ownership, has to be reassessed to protect customary and collective land ownership and prevent further conflict in the future. While many previous property claimants of Law 4 (on residential redistribution) have the right to litigation, many Libyans realize that restitution or full compensation for all previous owners will displace millions of people and would reinstate an extremely wealthy property-owning elite – at a price of billions of dollars (Salameh, 2021; Ibrahim, 2016; Ibrahim and Carlisle, 2013). Similarly, reverting to the agricultural land distribution that existed prior to Law 123/1970 would displace and impoverish families and entire tribes such as the Mashashya tribe.

Whatever solutions are proposed to solve previous grievances or enhance equitable access to land in the future, they should be assessed in a transparent and participative manner, including through traditional tribal leaders and customary structures.

These structures are the main vehicle for conflict resolution in Libya, preceding formal judicial institutions. Tribes may propose new solutions including seasonal or collective access to fertile land. They may also request equitable public investment from the government.

9 The Gaddafi-led government formed the People's Court (1988) and the Committee (2006) to assist Law 4 claimants in compensation and restitution. The Committee stopped accepting applications in 2010, by which time it asserts to have resolved 8,000 out of the 25,000 received claims (Ibrahim and Clarisle, 2013).

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ABOUT THE CASE STUDY

The case study “Conflicts over land rights escalate amid fractured state governance and competing interests” was documented by the Arab Land Initiative of UN-Habitat and the Global Land Tool Network (GLTN), in collaboration with the Arab Group for the Protection of Nature (APN). It forms part of a broader initiative to examine land-related conflict dynamics across the Arab region. The analysis was developed by Mariam Al Jaajaa, Rami Zurayk, Minerva Sadek, and Elle Ambler, drawing on data from an interview with Naima Salameh and contributions from an Expert Group Meeting. It employs the GLTN methodology “How to Do a Root Cause Analysis of Land and Conflict for Peace Building” to systematically identify the underlying causes of conflict, its proximate factors and triggers.

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