

# REFLECTIONS AND LESSONS OF SOMALILAND'S

**TWO DECADES OF SUSTAINED PEACE,  
STATEBUILDING AND DEMOCRATIZATION**



Somaliland Parliament in session

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 **HEINRICH BÖLL STIFTUNG**  
EAST & HORN OF AFRICA

# **REFLECTIONS AND LESSONS OF SOMALILAND'S**

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**Presentations at the second annual SORADI conference held on  
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## **ACRONYMS**

APD – Academy for Peace and Development

FOPAG – Forum for Peace and Governance

CEDAW – Committee on the Elimination of Discrimination Against Women

EMC – Election Monitoring Committee

EIS – Electoral Institute of Southern Africa

IEO – International Election Observation

IGAD – Intergovernmental Authority for Development

IRI – International Republican institute

ISG – Independent Scholars Group

JPLG – Joint Programme on local governance

NEC- National Electoral Commission

SNM – Somali National Movement

SONSAF – Somaliland Non-State Actors Forum

TFG – Transitional Federal Government

SONYO – Somaliland National Youth Organization

SORADI - Social Research and Development Institute

SPU – NGO Safety Project

UNCR – United Nations Security Council

# INTRODUCTION

## Background

Somaliland is now recognized as a stable and democratic state in the Horn of Africa. During the last twenty years, the Somaliland people were struggling to build a state and democratize it at the same time. Most of the state and key democratic institutions are now in place. However, most of these institutions are not performing to the expectation of the public. Building of democracy and consolidating its institutions are of course expected to be long and complex processes. Despite a decade long intense engagement in democratization in Somaliland and the expectation that its institutions have attained comfortable levels of maturity and consolidation, shortcomings still abound and sometimes develop into crisis situations due to some fundamental legal gaps that are related to basic constitutional principles.

The most critical period was recognized as the last three years beginning from 2008 through 2010 when persistent political crisis almost stalled the development of Somaliland in all fronts. However, after the successful transfer of power from then ruling UDUB to Kulmiye party which won a comfortable victory in the 26 June, 2010 election, the general atmosphere for national development relaxed: All the sectors that were negatively impacted by the political confrontations between parties has changed for the better; the export of key products such as, livestock has improved, investment from the Diaspora started to follow again and the international partners became more confident to do business with an elected government. Does that mean all the problems which were causing the political turmoil in the last three years have been successfully addressed? The answer is definitely no.

While some key issues are being addressed, a more daunting task is overcoming the perpetual lack of commitment to democratic accountability and rule of law of key state institutions. For instance, the national elected institutions are being invariably challenged by clan allegiances which sometimes shake the foundations of the fragile constitutional system. When the highest democratic institutions such as the Parliament or the Executive are swayed by clan influences, then in the eyes of public the state is discredited. What are the missing links in the check-and-balance formula of the democratic system? A Judiciary with “teeth” is still conspicuous by its absence in the equation of higher governance in Somaliland.

As for the legislative branch, its ability to deliver the necessary laws is seriously wanting. The terms of the two Houses of Parliament were extended, a three-year term for the House of Representatives and a four-year term for House of Elders in the hope that they could be able to furnish the necessary legal regime for the elections and political associations; and hopefully facilitate a constitutional reform dialogue to remove provisions that are becoming bottlenecks to the democratization process. Furthermore, many people argue that both Houses suffer from serious deficiency of democratic culture and values.

The House of Guurti remains the only unelected representative institution in Somaliland. Its six year term has expired many times over and many members are sitting since the 1993 grand conference.

Article #58 of the constitution provides that its members should be elected every six years, but does not stipulate how, and despite years of debate no consensus had been reached on whether it should remain clan nominated or be directly elected, like the House of Representatives.

Critics believe that the Guurti unresolved status is a growing sore spot of the democratization process since they remain unelected, collude with any incumbent government, obstruct sensitive laws enacted by the elected legislative and are structured on clan lines without being accountable to the clan constituency. The Guurti House operates now in twilight zone, unelected accountable to nobody, but still wielding tremendous legislative powers as well as assumed traditional moral authority.

Despite governance challenges, Somaliland recovery is going well. The economic development front has been fairly successful in the service sectors such as telecommunication, airlines and money transfer. However, a corporate culture is very slow to emerge and the dominant business culture is still remains family based and close-knit group ventures. None of these companies has yet to develop into a public company to tap into potentially lucrative market of public investments. Furthermore, the Somaliland business is not able to break through into the widely coveted potential of the Ethiopian market and as a result the anticipated regional economic integration is not happening fast enough.

To deliberate on the above issues, to take stock of Somaliland recovery achievements and to discuss the way forward, the Social Research and Development Institute (SORADI) organized the annual Conference with the theme “Reflections on Somaliland Development: Lessons from two Decades of Sustained State Building, Local Institutional Development and Democratization and the Way Forward.”

## **The Conference**

On the 8<sup>th</sup> of November, the social Research and development institute has launched its second annual conference on the reflections of Somaliland's development for two decades. This conference was of significant importance for taking stock of Somaliland's past development in order to contribute to crafting of an appropriate future vision. The Annual Conference brought together experts ( both international and local) and provided a forum for development practitioners, government officers, researchers and donors to discuss, debate and exchange on Lessons from Two Decades of Sustained State Building, Local Institutional Development and Democratization and the Way Forward. The conference invited political parties' representatives, the National Electoral Commission, Local and International NGOs, Youth and women organization and Mayors.

SORADI's prime objective for this conference was to contribute to Somaliland's development process, through active participation of the domestic and oversea experts, which it believes will definitely make significant contribution to the future development of Somaliland. The key outcomes and recommendations of the Conference are summarized as follows:

## **Reforming the Elections System**

There were three critical issues discussed in the election system front: a) The Voter Registration b) The Local Councils Electoral system and c) Election fatigues as a result of four election four consecutive election-years system (elections of the Local Councils, House of Representatives, the President and the House of Elders).

The Voter Registration has been recognized as being central to the series of election crisis Somaliland experienced during the period 2007-2010. In the beginning the magnitude of the task to undertake the first ever registration system in a Somali setting became a herculean task for the fledgling Somaliland administration and political institutions. Mobilizing resources and choosing an appropriate system to employ, coupled with the problems arising from the process of replacing first National Electoral Commission took at least two years, which caused both the local councils and presidential elections to miss their target dates. When eventually the Voter Registration was undertaken, the resultant product was so polluted with fraudulent multi-registrations, that it defied any of the numerous attempts to clean it up and had to be eventually dropped all together. The frenzy which ensued during the Voter Registration process to corrupt the system was openly aided and abetted by both the ruling and opposition parties; a manifestation of the immaturity of the Somaliland political elite and the infancy of its democratic culture which was easily taken over by corrupt clan interests.

The conference participants cognizant of the above complications warned against repeat of such occurrences and future election delays resulting from controversy over Voter Registration. They recommended a more sustainable Voter Registration system. It is plausible that the ongoing civil registration system may serve as a source of the Voter Lists if not also corrupted. The participants also recommended a sustained civic and voter education which goes beyond the confines of the major cities to reached the majority pastoral population and other remote coastal and mountain communities of Somaliland. The first local election held in December 2002 was in many ways a pilot project for the future democratic electoral systems to be developed. That system was adopted without any public discussion, the electoral boundaries were fluid and still are, the quality of the resultant councilors became seriously wanting and the subsequent division of powers between the central and local levels of governments is full of ambiguity which ultimately marginalizes the latter.

The Conference further recommends a) to reform the electoral system b) to initiate public debate the direct election of Mayor and Deputy and a choice between the party list and open list system of electing councilors c) attend to the demarcation of electoral districts before the next election and d) urge political parties to bring quality candidates to compete.

The final major discussion and recommendation election issue was the need to address the present timeline sequence of elections (consecutive four election years for Local Councils, for House of Representative, for President and for the House of Elders), which can result in public fatigue from elections, but which is also a distraction from development matters. Moreover, continuous electioneering not only results in sustained social tensions, but also perpetuates clan influence in the state affairs. Furthermore, harmful social habits such as “Qaat” consumption and vote selling thrive in the election times. The participants urged the



government and civil society to address the above issues, which are often repeated in many Somaliland forums. The performance of the Councils was also an important subject of discussion and the participants recommended reforming the local government taxation systems, improve town planning systems and practices, reform the financial accountability systems and stamp out endemic corruption.

**Aid effectiveness:** Another important field of discussion in the conference was “aid effectiveness”. It is a theme relatively new in Somaliland forums. A general consensus in the conference was that aid flows in Somaliland could be substantially more, when considering the financial muscle of the Government, barely enough to keep the administration going through a national budget of about 100 million dollars in the year 2012. This was also to refute of the school of thought which attributes Somaliland successes to less aid flows; the fact of the matter is, Somaliland development is hamstrung by the undeclared international financial embargo. Some of the concrete recommendations of the Conference include: a) Increased donor support to government and civil society in Somaliland and access to international financial facilities b) Development of a legal framework with monitoring systems c) Strengthen Government implementation abilities d) Support government attract the right expertise for public jobs through improved salaries and effective co-ordination.

**External Negotiations:** Another new area of discussion is the realm of international negotiations: The thrust of this discussion area was for the Somaliland Government and society to strive to be negotiations savvy with an eye on diplomacy and political negotiations, donor aid negotiations, emerging resource development negotiations including oil and other minerals as well as investments on service sectors such as seaports, airports and trade corridors. Some of the concrete recommendations of the conference included: a) Organize debates and public forums on the above issues b) Formulate effective policies and across ministries and sectors c) Lobbying through the parliament in the promulgation of relevant laws d) Ensure clarity of mandate on different levels of negotiations e) Seek international and independent assistance and advice on the skills of negotiations and especially on strategic fields f) Seek adequate ground information on all issues related to the negotiation before starting them.

**Women's political participation:** This is a running theme of all serious forums addressing democratization in Somaliland. The conference reiterated the need for Somaliland to boost women political participation with following concrete recommendations: a) Women's quota in elected houses approved b) Establish and/or support gender & development Institutions c) Promote economic empowerment for women.

**The Environmental Crisis:** The state of the natural environment is a burning issue in Somaliland and following concrete recommendations are forward in the conference: a) Protection of remaining woodlands and forests b) Introduction of alternatives sources of energy c) Awareness raising at all levels of society d) A Forestation programs to be initiated e) Environmental education f) Policies enforcement g) Establish high level advocacy group h) Plan rain water harvesting.

**Guurti Issue:** The issue of the Guurti House in the context of the democratization process in Somaliland is viewed by the conference participants as a priority area for government and society to address with following core recommendations: a) Initiate wider forums of public debate about Guurti elections/selection modalities b) Government initiates the Guurti electoral law within the time frame of its current mandate.

**Follow-Up Committees:** Finally, to highlight the importance of the last two issues, the Conference established two follow-up committees to report within six months on the progress of the reform of the House of Elders and the issue of environmental degradation and climate change.

*Mohamed Fadal (Director SORADI); May 2012.*

## **Chapter 1: Public Perception of Local Councils in Somaliland**

**Haroon Yusuf and Mark Bradbury**

### **1.0 Introduction**

In Somaliland, the local council elections of 2002 were the first democratic elections that heralded the end of the clan-power sharing formula and marked the onset of a democratic order. This followed the adoption of a Constitution in 2001 which provides for a multi-party system and the passing of the Political Party and Associations Act that resulted in a Local Government Law (2001). Besides allowing the voters to participate in an open and competitive electoral process for the first time in thirty years, the local council elections were also significant in decentralizing the system of governance by granting local communities more power to manage their own affairs.

The Somaliland Constitution provides a framework for a decentralized system of government. The districts are given the primary responsibility for service delivery at the local level. In the 2002 elections, the local councilors and mayors were not directly elected, but through party lists. The mayor, selected from among the council members, is the highest official holding municipal office. Women's representation has been extremely low, with only two female councilors (in Berbera and Gabiley districts) in 2009.

Progress in decentralizing fiscal, administrative and sector functions to councils has been slow. Sources of local revenue include land registration and annual property fees, business licensing fees, sales tax, public employee income tax, and livestock taxes collected in local markets. According to the UNDP over half of district budgets are spent on staff salaries and allowances (JPLG, 2011b).

The official term of the local councils is 5 years, and Somaliland has been struggling to hold a second local councils election since 2007. The failure of the incumbent government and National Election Commission (NEC) to arrange the elections on time, and the prioritization of parliamentary and presidential elections, has necessitated the repeated extension of the term of office local councils.

The continual failure to hold to the electoral cycle has led to repeated political crises. This, in turn, encourages the tendency to solve these crises through negotiations and a Memorandum of Understanding (MOU) among the political contestants, rather than referring to the constitution.

As a result, the House of Elders extended the term of office of local councils on 12 December 2007 to 1 July 2008, so as to bring it in line with the terms of the political party's accord, which solved a standing political dispute at the time (Hashi, 2007). Another 18 month extension was also passed in 2010. In addition to political manipulation and the lack of robust institutions, the reasons for the repeated delays included challenges in the voter registration process.

Holding timely and periodic elections is a principal avenue for public involvement in political life and for citizen participation in a democratic local government. The numerous postponements of the local elections have not only denied the voters a second chance to exercise their democratic right to elect new local councils, but also undermined the progress of Somaliland's democratization and decentralization process. This has created a widespread public disappointment with the local democratic process and dissatisfaction with the current local councils, whose legitimacy is often brought to question.

Since 1991, numerous new districts and regions have been created by Presidential decree largely for political gain during elections, and encouragement from clan and sub-clan interests. At present, there are 13 regions and over 80 districts (APD, 2010). Only six regions and 42 districts have been approved by the Parliament. According to many political analysts legalizing them would be highly contentious as most of the new regions and districts have poorly defined boundaries. Out of the 42 districts, only 23 are electoral districts of which 17 officially elected their local councillors in 2002. Officially there are no functional differences between the elected and the appointed district councils (Abdi, 2012).

In addition to 300 elected councillors, there are also over 450 appointed district committee members (APD, 2010). The Ministry of Interior nominates councillors, (normally composed of a Mayor, Deputy Mayor and a Secretary) for all the recognized districts that did not have elections or were unable to hold elections for security reasons. The newly established districts have also nominated committees who act as district council. Obviously, these appointed officials are accountable to the central government, which changes them frequently. As political appointees, their qualifications and administrative skills to manage the business of local government is lower than the elected council members (Abdi, 2012). Thus, the legitimacy of the new districts (with unelected councils) and regions is challenged both by their lack of democratic mandate, as well as the capacity of its members.

Furthermore, many of these districts, and even some of the regions, are not self-sustaining due to the lack of adequate and taxable economic base. In the larger and more urbanized districts with elected councils, some capacity exists for both local resources mobilization, public expenditures management, and implementation of a level of public services, including infrastructure maintenance (JPLG, 2011a). But, while the elected councils have the mandate to raise their own funds through local taxation and resources (including international donor sources), most of the appointed councils depend on central government for subsidies (Bradbury, 2011).

## **The Study**

This paper focuses on "local government". This is understood as the set of formal institutions legally established to deliver a range of specified services to relatively small geographic jurisdictions. In Somaliland, these institutions take the form of an elected council representing an urban municipality or rural district, or a government appointed committee that is responsible for the day-to-day management of local affairs.

In order to strengthen democratic governance at the local level in any given location, it is necessary to carefully analyze the realities of local governance, its strengths and weaknesses, its capacity to effectively and efficiently answer people's needs for public services and economic development opportunities.

It is a widely accepted fact that the daily lives of the majority of the people of Somaliland remain relatively untouched by the agents and institutions of the central government. Most people are more likely to experience day-to-day interactions with local government entities or with informal, traditional or religious leaders in the community. This study focuses on the emerging, formal political relationships between citizens and local government.

The purpose of the study is to solicit the opinions of ordinary Somaliland citizens regarding the performance of their local councils over the past nine years (from 2002-2011). It examines local government performance from the perspective of the voters, with special attention given to questions of responsiveness, service delivery, representation, and accountability.

Since little is known about the citizen-government interface at the local level in Somaliland, the paper first addresses a series of descriptive questions about:

- Citizens' knowledge of the local council members
- What governmental and service delivery functions people attribute to local councils
- How well do they think these functions – from maintaining roads to collecting rubbish – are being performed
- To what extent citizens think that elected councilors are qualified to undertake local council functions
- And how accountable council officials are seen to be in informing, consulting and involving citizens in the management of local affairs

The study also asked people about the type of local governance they would like to see and how to improve the performance of these local institutions. The study found that while Somaliland has experienced comparative stability and has succeeded in establishing nascent administrative authorities, their institutional capacity remains limited. Overall, the study found that citizens have a realistic understanding of the limited scope of local government functions, but that they find fault with both the process of local decision-making and the substance of developmental outcomes.

The study is intended to inform practitioners, donors, and policymakers working in the field of decentralization and local governance. Especially those working on issues connected with capacity building for monitoring, evaluation, and democratic control of local governance structures.

## **Summary Findings**

The study found that citizens generally have a negative opinion about the performance of their local council, both in terms of the quality of service delivery, as well as, the quality of governance over the last ten years. Their perceptions will probably inform and influence their voting behavior during the upcoming local council elections.

The main messages that can be taken from the study are:

- To date, citizens have not seen any significant impact from the democratic election on the performance of their local council
- The distance between those who govern and those who are governed is increasing, at least in the districts studied
- Local government is increasingly governing the districts and municipalities on behalf of its citizens and not with its citizens
- This weakens the legitimacy of local government and steers Somaliland away from its collective vision of establishing a democratic system of government

The solution to this crisis is not simply a matter of improving the skills or technical capacities of local councilors or of pumping extra money into the system. It requires changing the attitudes of those serving the people regarding the way they relate to their citizens. Those interviewed for the study came up with valuable suggestions as how local government performance can be improved. Their message to prospective councilors is clear:

- Truly listen to us and be responsive to our needs
- Communicate actively and be transparent about how you use our money
- Be accountable to your electorate
- Deliver the goods

After a short introduction on the methodology used in the study and the selection of districts and municipalities that participated in this research, the report presents its findings and conclusions. The latter are important for central government policy and should be useful for prospective candidates in the forthcoming district council elections.

## **2.0 Methodology**

The study provides a comparative perspective on people's perceptions of the nature of the local government and how it functions in the context of political and economic decentralization, as well as, the type of local councils they would like to see in the future. The study involved a review of secondary literature and the collection of primary data, using a common questionnaire with open ended questions. This included questions about the quality of services as well as the quality of governance in order to deepen our understanding about how they influence each other.

## **The Study Districts**

In 2002, there are 42 administrative districts, of which 23 were electoral districts, 18 of which were officially elected. Since 1991, 21 new districts have been created by presidential decree, without their boundaries being specified, of these only two have been ratified by the Parliament.<sup>1</sup>

Data on citizen perceptions of local councils was gathered from a sample at five districts of different sizes and legal status (4 out of the 24 elected local councils and one with unelected local council), namely; Hargeysa, Borame, Salahléy, Sheikh and Sabawanaag districts (see Table 1). Each of these districts was taken as a case study. The criteria utilized to select the Council for the assessment were population size, rural-urban divide, and legal status.

**Table 1: Characteristics of the Study Districts**

<b>Districts</b>	<b>Grade</b>	<b>Established</b>	<b>Total council membership</b>	<b>Estimated population (authors estimate)</b>
Hargeysa	A	Before 1960	25	700,000
Borame	A	Before 1960	21	200,000
Salahléy	C	After 1991	13	40,000
Sheikh	C	1960-1999	13	25,000
Sabawanaag (This council has never been elected)	D	After 2007	9	5,000

## **The Study Population**

In total, 92 questionnaire interviews were carried out. Forty questionnaires were filled by the individuals themselves, and the remaining interviews were conducted face to face. It took almost three weeks to complete the process.

The respondents were randomly chosen from a cross-section of key stakeholder groups that included business people, academics, women, youth, elders, traditional and religious leaders, civil society organizations, high school and university students and professionals (see Table 2). Approximately one third of all respondents were women, which helped ensure a gender balance in perspectives. A large proportion of the respondents (60%) was aged below 35 years, with almost two thirds of them having secondary education and above. Students and academics, which included teachers from both high schools and universities, constituted more than 30% of the respondents.

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<sup>1</sup>The country is divided into twelve regions, namely Awdal, Marodi-jeeh, Sahil ,Togdheer, Sanag , Sool ,Gabilay, Salal, Odweine, Saraar, Buhodle, and Badhan. The regions areare sub-divided into 57 districts. Source: **Somaliland in figures, 2009**

**Table 2: People Interviewed**

<b>Groups</b>	<b>Number of respondents interviewed</b>					
	<b>Hargeysa</b>	<b>Borame</b>	<b>Sheikh</b>	<b>Salaxley</b>	<b>Sabawanaag</b>	<b>Total</b>
Civil Servants	2	2	1			5
Business people	3	2	3	2	2	12
Students	3	4	2	5	3	17
Academics/professionals /Lawyers	4	3	2	4	2	15
Local NGO's	3	3	3	2	2	13
Journalist	1	1		1		3
Traditional and religious leaders	3	2	1	1	3	10
Laborers/Bus drivers	2	1				3
Women & women Groups	4	2	2	1	1	10
Minority groups/individuals	2	1		1		4
Number of women	8	7	5	6	4	30
Total	26	21	14	17	13	92

### **3.0 Findings**

#### **PART I: Local Political Processes**

##### **The Extent to Which Citizens “Know” Their Councilors, Understand Their Role and Relate With the Local Government**

The assessment showed that 62% of all respondents knew the mayor of their district or some members of the local council, while 28% professed that they do not know the mayor or any member of the local council. 51% of respondents remembered correctly the year the council was elected.

Knowledge about the council members depends on the size of the district. In general, the smaller the size of the community, the easier it is for people to know their leaders. The knowledge is significantly greater among people above 30 years of age, among men rather than women, among people with higher education levels, and among those with relatively higher incomes. The least informed are mostly people below 30 years of age, women, and people with lower educational levels and socioeconomic status.

In Sheikh, knowledge about the mayor and council members is significantly lower in comparison with the other small districts. This may be because of the frequency of change or turnover of the mayors - four times in the last ten years in sheikh district.

Popular views about local government -performance were further established by assessing the people's awareness of the role and responsibility of the councils. Most respondents perceived the local Council to be a body charged with governing on behalf of central



government and to be in charge of development at the local level. The list of responsibilities mentioned by the respondents included a range of activities, from “the allocation of land” to “keeping the community clean”. However, a significant percentage (38%) understood the main role of the council as to represent the community, by identifying community problems and using local taxes to rectify those problems. A traditional elder from Borame noted: “the council members were elected to be responsible for the development of the district but I am not sure whether some of the council members remember their role at all.”

#### **Formal Responsibilities of District Councils**

- District Councils have self-administration powers. This means that district authorities have administrative powers to levy and collect taxes, provide services, and lead district development undertakings.

- The district council is responsible to implement the policies of the Government and to implement government programs. They must ensure that their development programs are in line with national development programs. District administrations report to the MOI [Ministry of Interior] on the use of Government financial transfers, management of district own revenue, and the progress of government programs and projects. **Source: Somaliland in figures, 2009**

While 60% of the respondents said that water provision falls under the responsibility of the Local Council, only 55% knew that local government is also responsible for refuse removal. On the other hand, and this is more worrisome, 75% of the respondents thought that primary and secondary education fall under the responsibility of the local government. In addition, 69% thought that security is the council's responsibility although their responsibility for this is very limited. Interestingly the respondents did not mention basic health care services at all, for which local and central government share responsibility. The differences in awareness between the various districts were great, with Hargeysa having the largest number (30%) of respondents who were ignorant of the council's responsibilities and Borame the lowest percentage (15%). Between small municipalities there were not big differences.

When asked what the Local council does for you, the overwhelming majority responded that the council does not do anything for them. An equal percentage added that they also do not do anything for women. It is possible that people were responding to the question about whether they personally benefited. However, 35% stated that they benefit from the rubbish collection and some road repair.

One trader in Hargeysa asserted that: *‘the local council collects taxes from me, but does nothing that is useful for me’*.

The assessment showed that only 15% of respondents would regularly visit the local council premises or local government offices during a given year. Twenty percent came in touch with the council only sporadically, and up to 72% did not visit their local council at all.

However, there were large variations depending on the size of the districts; people in smaller towns had more opportunities to visit the local council, although they may not benefit much from these visits. From those citizens who occasionally or frequently deal with their local council, the main reason given was related to pay taxes or a land issue.

A student from Hargeysa University argued that: *“poor awareness by community members and most local council members of their roles and responsibilities in the local governance has contributed to poor performance and in some cases a complete failure of the local councils”*. Another student added: *“most people are not informed about the role of the local government .....all they know is that they are part of the overall government.”*

Not knowing who is responsible for what services will make it difficult for citizens to claim such services from the right service provider and will also lead to the wrong institution being blamed for poor performance. In all places, improved public information about the responsibilities of the local council will be a prerequisite for any improvement in communication between local government and its citizens.

### **People's Expectations and Satisfaction with the Local Councils**

Over 70% of respondents said they were unsatisfied with the performance of local councilors; and 80% felt that the local councils never fulfilled their expectation after the elections of 2002. 60% of respondents also added that the local councils have developed an undemocratic culture and practice of discrimination against the public. Thus, for the majority of the respondents the Local councils are very disappointing, negative, ineffective, and undemocratic. For most people, the poor performance by the local councils dashed their hopes for an overall improvement of living conditions following the advent multi-party democracy. A religious leader from Hargeysa moralized that:

*“The thing that worries me is that all these people who we vote for make these wonderful promises but they always break them ... you can say that they are committing sin or fraud because it feels like they steal our votes because they don't honor their promises.”*

A livestock trader in Salaxley district commented:

*“He was all over the place during the 2002 local council election campaign, but no one has seen the councilor I voted for since he won his seat”* (Local livestock trader, Salaxley district)

Most of the respondents associated local councils with inadequate service delivery, corruption and mismanagement, inefficiencies in project implementation, lack of equity, and poor political representation. There are many reasons why the councilors are not seen as good representatives of their constituencies. One reason for this is the lack of regular contact between councilors and their constituency. Some 60% of the respondents mentioned that they never see their councilor except during election times. There is, therefore, a disconnect between people and their local councils.

There is a slightly more positive picture in the smaller districts where councilors seem to have been more active in meeting their constituency. For example the respondents in Salaxley were equally split (50:50) in their satisfaction with the quality of work of the local council and fulfilling their expectations.

Another reason why respondents were not happy with the performance of their councilors was the perceived lack of rule of law in the council. Some 60% of the respondents think that local councilors privately benefit from resources intended for service delivery. In Hargeysa, this figure is even higher with 72% of the respondents saying that local councilors benefit dishonestly from resources for service delivery, while Sheikh had the lowest score of 40%. A woman shopkeeper in Borame lamented:

*“The local council members care about their needs only. They seem to have been a thirsty lot and now they are quenching their thirst, rather than fulfilling their mandate, since we have not seen any improvement in the area that we live in. Maybe we have to change the people we have chosen to help us like the councilors ...”*

It should be stressed that this was a perception survey and did not cross-check whether the allegations were true. It is however important to know that, whether true or not, citizens (and therefore voters) think that there is no respect for rule of law in their council. This could be related to actual cases of mismanagement or to a lack of transparency and information supply by the council as to what it does to ensure that resources are utilized in the correct manner and in accordance with its policies and plans.

Downward accountability is defined as the ability of citizens to hold the local authority to account. It is measured by the presence of institutions necessary to enforce accountability such as elections or forums for citizen participation. Both of these have been lacking in these districts in the last decade. The few respondents who said the local councils were democratic pointed to the fact that council members can vote the mayor out of office. This has happened in some municipalities whereby up-to three mayors were changed by the council; Borame is a case in point.

Remarkably, there were no significant differences in the responses between the various social groups identified for this study. Men, women, and people from different economic and educational backgrounds all responded in the same way.

### **Role of the Local Civil Society**

On the role of civil society in their districts, 50% of the respondent felt that civil society is trying its best but it faces unresponsive and defensive local councils. About 25% of the respondents were of the opinion that civil society is not organized enough to mobilize public opinion against these councils and were not able to hold local officials accountable for their performance. A high school student from Borame, for example, insisted *‘that civil society is divided along clan and sub-clan lines and therefore, unable to stand up to the elected local officers’*.

Most respondents thought that civil society is facing political pressures from the elected councils by obstructing and frustrating their advocacy work. It is interesting to note that people felt that civil society is more active in smaller districts compared to larger towns.

The existence of a vibrant and diverse civil society is an important indicator of good local governance. Civil society organizations (CSOs) can play a role in identifying and drawing attention to local governance deficits, as well as using their expertise to support the councils.

### **Difference Between the Elected Councils and the Appointed Ones**

The majority of the respondents had contrasting opinions about the elected and the appointed local councils. They stated that the appointed councils were more qualified and effective but were accountable to their leaders, while the elected councilors were poorly qualified, ineffective but could be accountable to their constituencies. According to an Amoud University professor; *“One is democratically representative and the other had public confidence”*.

One of the major complaints about the elected councilors is that they are too many and thus produce more corruption and chaos through competition for power and resources. The popular saying is that *“Hargeysa is not able to support 25 mayors”*, meaning that all 25 council members think they were equally elected and therefore, should have equal access to power and final decision-making.

However, there were some who recognized that the fault did not lie entirely with the councilors. An elder from Salaxley, for example, admitted that; *“it is the competition among the sub-clans and clans that led to the creations of so many useless local councils.....this is fueled by sub-clan prestige and possible access to government resources”*.

The general opinion was that the elected councils can be brought to account by voting them out during the elections only, but the appointed ones can be expelled more easily by government.

## **PART II: Local Finance**

### **Awareness of Local Council Revenue**

The findings reveal that 70% of the respondents were aware of local Council's sources of income. The sources identified include taxation of businesses and properties, as well as issuing new land leases and sale of public land. Around 35% also added that the local Councils receive money from the central government and international organizations, such as the UN.

However, 78% of the respondents had no idea how the councils spend their money because the council doesn't provide them with this information. The majority of the respondents stated that the local council is not transparent about the way in which it spends its money. According to 58% of the respondents, the councils have not put any information sharing or

consultation mechanism in place in order to be more transparent and open about its activities to its citizens. In addition, 60% said they believe the funds are misappropriated. This data points to serious information gaps among citizens about the role of taxation in local development. As explained by one respondent from Hargeysa, *"this information is not public knowledge"*.

The smaller districts confessed more knowledge about the local council finance compared to larger population centers, but in terms of transparency and openness of the local council, the respondents were clear that there is a lot to improve.

### **PART III: Relationship between Central and Local Government**

#### **The Relationship between the District Council and the Central Government**

The majority of the respondents (55%) said they did not know about the relationship between the local council and the central government, but were aware that there was one. A women respondent from Sheikh asserted that they, *"work together for development"*. Some 30% said that the local council comes under the responsibility of the Ministry of Interior, though the central government cannot fire the elected council members.

A small but significant percentage (24%) mentioned that the local council are not independent from the central government interference, adding that the Ministry of Finance does not release the centrally held tax money to the local councils on time or fully. These respondents were mostly from the Hargeysa district.

The response indicates both a lack of clarity in the legal framework that demarcates the roles of central and local government and a lack of public education on the matter.

### **PART IV: Public Participation in Decision Making**

In order to assess the perception of citizens regarding the quality of participation in decision-making processes at the council level, respondents were asked whether people actively participated in activities and programmes organized by the local councils.

Seventy five percent of the respondents said they did not participate in any events at the local council and an even larger percentage (85%) confessed that they never contributed to any local council plans or programmes. Respondents living in large urban areas participate less in local government meetings (66% didn't participate in any functions) than respondents living in smaller rural areas. Most respondents argued that the local councils never invite the public to participate in the local development process; some added that the councils occasionally mobilize people for their own ends.

Non participation in Hargeysa is much higher (75% of respondents) than in the other districts. This could be because respondents in Hargeysa have lost confidence in their council even more than in other districts. Some 60% of youth and 79% of respondents from minority groups said they hardly attended any council functions, which is an indication that these groups are isolated from local governance issues and participation structures.

The majority (65%) of the respondents were dissatisfied with the level of community involvement in local councils. They claimed that local councils do not consult with the citizens or include their priorities in the development of the district. They added that the degree of involvement of various community members, civil society organizations, and the traditional authority structures is minimal. There is no mechanism for public participation. Therefore, the level of political activism of men, women, young people, traditional chiefs, and CSOs is relatively low.

A Hargeysa University student complained that:

*"We do not have control over decisions that affect our lives, we need to bring local government closer to us – and let us better understand decisions we cannot make ourselves but affect us deeply."*

Almost three out of every four respondents said that they are not well informed by the council about decisions taken, while only 15% were satisfied. In Hargeysa, the information provided by the council was bad (with 70% not satisfied) while Salaxley was slightly better (50% not satisfied). Borame was the worst performing municipality, with 93% of the population saying that the council is not properly informing them about decisions taken.

Women experienced many difficulties in seeking to enter political leadership that range from social-cultural factors, lack of economic empowerment to an unaccommodating political party structures and electoral system. Perceptions of equal opportunities for men and women in local governance reflect the reality in these districts. Over 90% of the respondents thought that women do not have equal access and influence to the decisions taken by local authorities. An analysis of the composition of local councils indicates that there are no women in political posts. Nationwide, the number of elected female councilors stands at two (2) out of a total number of three hundred and seventy five (375) elected councilors. This means only 4.6% of councilors are women.

A key conclusion is that, *despite the reality that the local council is the most accessible form of government administration for most citizens, none of the municipalities assessed consulted with the citizens in order to include their priorities in the development of their districts or municipality or to keep citizens informed of matters of public import.* This is reflected in the overall satisfaction levels of citizens with local government.

The multiparty democratic system does not seem to have ushered in a more democratic culture. In general people do not expect much from the government. They do not expect the government to consult with them, because they have never experienced that type of culture.

Most people contend that those in power have proven incapable of deepening democratization because they are more concerned with winning power than democratizing the country.

Most respondents believe that citizens lack the knowledge and power to make local councils accountable except in elections. Some stressed that people are not gathering their collective voice together to demand their rights, because they are divided along clan, regional, and political lines.

## **PART V: Local Service Provision**

People in the study districts judged the quality of local council primarily in terms of whether they think elected leaders “deliver the goods.” When asked whether their local council is efficient and effective in delivering public services, only 11% of the respondents mentioned that their council was indeed providing good quality services. Some 17% answered that they provide no service at all and 70% said that the council is not providing good quality services. Comparing the five districts, the level of satisfaction was highest in Borame with 25% giving a positive response and the lowest in Hargeysa with only 5% or one in twenty respondents said that the council is both inefficient and ineffective in delivering public services.

When asked about the type of public services the local councils provide 70% of the respondents mentioned only collection of rubbish and some road repair. A small percentage added issuing of land titles, resolving conflicts particularly on land and security.

The performance of institutions depends in good part on the quality of the individuals recruited to occupy key offices. The assessment therefore also asked respondents to comment on the qualifications and competence of elected councilors to hold local government office.

While respondents again lacked information (up to a quarter “didn’t know”), they offered unfavorable evaluations of local council leaders of all assessed districts. Almost three times as many respondents felt that councilors were unqualified, as though they had not attained enough education (70 percent versus 25 percent). Most of the responds believed that the overwhelming majority of the councilors did not possess the experience to manage public service programs and the necessary commitment to care about the community (some were accused of a lack of nationalism). Indeed, the majority think that the councilors were unqualified to honestly handle public funds. A businessman in Hargeysa commented that:

*“People wanted to be able to choose leaders who have qualities of intelligence, integrity and sensitivity which makes them worthy leading our future development.....but the electoral system denied them that opportunity in 2002. The party lists produced the opposite of what people wanted.”*

While there are diverse opinions as to reasons for the poor service delivery by the local councils, it became clear that the respondents are linking their perception on the quality of service delivery to aspects of governance like corruption, responsiveness, consultation, the capacity of the elected councilors, clan influence, and lack of central government support.

### **Trends in Perception of the Main Constraints**

In order to understand people’s reactions to local council performance, we asked the respondents to identify the various problems which inhabitants of these districts are living with or the main obstacles hindering the achievement of a better quality of life in their locality.

- The most pressing problems in the views of citizens in the past ten years are seen as poor leadership, corruption, lack of services, and poor economic resources leading to unemployment. About 80% of respondents feel that these problems are now rife in their districts and the country as a whole. The majority of respondent consider these problems as poorly resolved.
- The second problem is connected with political issues, i.e. clan dispute on the distribution of local council posts and land dispute and gender inequality. These problems are mentioned by 60% of those assessed.
- The third problem areas are lack of knowledge and skills, poor management, environmental degradation and lack of public participation in the decision-making process.

Finally, it is important to note that there were no significant differences between the five districts in the responses to the service delivery, even though smaller districts were slightly more positive.

## **PART VI: Future Vision**

In order to find out about people's aspirations and future visions, we asked several questions regarding their expectations of local councils and type of government they would like to see. The results show that the respondents expect their councilors to behave in accordance with principles of good governance.

90% of the respondents said that they expect their councilors to be very committed, capable and energetic and accountable, while 50% added that they expect the local councilors to do more to meet the promises made by campaigning politicians. These include the provision of adequate services and fulfilling their assigned role and responsibility.

The majority of the respondents said that they would like to see a local government that service as a mechanism of good governance and effective decentralization of power. In other words, a government that actively encourages peoples' participation in the decision-making process responds to their needs; and fosters democracy and development. As one student from Sheikh Veterinary School put it, "*a democratic government that is close to the community*", a high school teacher in Borame added, "*an honest and consultative government*" and a local trader in Sabawanaag stressed: "*a can do government that can deliver and satisfy the need s of the people*".

When asked about their suggestions for making local government more responsive, efficient and accountable the majority of the respondents suggested establishing an accountability system to improve honesty. In other words reduce corruption and inefficiency. Many respondents also said that the number of councilors needs to be reduced and more qualified candidates need to be elected. **Other suggestions include:**

- Set strict criteria for the selection of local council candidates
- Enforce rules and procedures
- Local council to produce and publish monthly public reports
- Hold Free & fair elections now



- Increase public consultation
- Control corruption
- Establish a monitoring committee

When asked what has to change to make local government more effective, 80% said change current local council members and elect qualified individuals that have, at least, a first university degree. Fifty percent recommended improving knowledge and capacity of the existing council members and increasing working hours.

The respondents' opinion on opening up of political associations was overwhelmingly positive. People cited the need to provide opportunity for fair political competition, since the existing political parties are dominated by the founders and a few individuals. As well as the need to bring in new blood, energy, and ideas in order to improve critical thinking. A small but significant percentage (27%) argued that it will lead to clan divisions, negative competition, and chaos.

When the respondents were asked whether the local council members should be elected through party lists or through individual candidates campaigning on their personal merits, the 70% recommended individual campaigning, while 30% thought party lists were better. The justification for the individual campaigns was that it affords the voters a choice to select the more qualified candidates. The party lists were thought to involve clan manipulations, as well as, political corruption.

In order to assess the perception of women's rights to political participation, we asked the respondents their opinion on women joining the local council. 60% of the respondents welcomed such an initiative and advised women to seek a quota in the elected houses. Many of these respondents thought that women's participation in the local councils is positive and can contribute to both local and national development. A small percentage, which surprisingly included some women, thinks it is a bad idea, which is unadvisable on the basis of religion and culture.

## **4. 0 Conclusions**

A rather gloomy picture emerges regarding the perception of citizens on the performance of the local councils over the last ten years across five districts in Somaliland. The main conclusion is that only one in ten citizens is currently satisfied with the quality of service delivery and governance provided by the district and municipal councils.

The main conclusions of the study are as follows:

**(a)** A main trend in the last ten years has been the disillusionment from the hopes and expectations that were detected at the beginning of the democratization era. For the majority of the population, the local government system has not fulfilled the expectations that had existed at the beginning

**(b)** In terms of their public acceptance and esteem, local councils have been performing below par. Indeed, there is no function or procedure or sector in which a majority of citizens consider their local council authority to be performing well. People are especially unhappy at the failure of councils to integrate citizens into the agenda-setting and decision-making processes of local government

**(c)** People interviewed in the five districts have negative perceptions about the responsiveness of elected local government councilors. Only about one third felt that these leaders listen to what their constituents have to say regularly

**(d)** Citizens regard local government councils as weak institutions with an ineffective and undemocratic culture and attitude. They defined the current councilors as incompetent, unqualified, and corrupt individuals who enriched themselves on misappropriated public funds

**(e)** The people interviewed lacked information on the fiscal foundations of the local council and its administration. Up to one third of respondents said “don’t know” when faced with questions about amount of tax collected or budget managed by the local councils.

The important question that emerges is why citizen satisfaction with the performance of their local councils is so low. According to the assessment there are a number of reasons that could explain this trend.

One reason is that the service delivery gap -the gap between what people expect and what local councils are realistically able to deliver- is increasing.

Another reason is the lack of responsiveness of the councils to address the important priorities identified by its citizens. This is linked to the fact that, as shown by this assessment, consultation and participation structures do not exist, while downward or social accountability mechanisms are not in place.

Yet another reason, which is supported by the findings of this assessment, is that increasingly citizens base their assessment of the quality of governance on the performance of local government. They are aware of poor communication, lack of transparency, increased corruption and nepotism in their local government and the fact that these factors have a negative impact on the ability to deliver high quality services.

These findings confirm the dysfunction of the local council system in Somaliland is deepening. This is a systemic problem that has become more and more embedded in Somaliland’s political culture and actual system of local government. The governance issues raised by this assessment (lack of transparency, lack of communication between council and citizens, and lack of social and political accountability) relate to a disdain of basic democratic governance principles and values that are increasingly sacrificed by politicians for individual benefits and political power.

It is important to note that this survey was a perception survey, reflecting citizens' opinions. These may (as a result of lack of other information, for example) not necessarily reflect the reality in their districts and municipalities. But it will be very interesting to see how these

perceptions inform the voting behavior of citizens during the upcoming local government elections. Will citizens reprove the sitting councilors who didn't deliver enough in their eyes, will there be a shift in political preference or will it result in a lower voter turnout as people might have lost confidence in the local government as an institution that addresses their needs adequately?

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## **Chapter 2: Lessons From Somaliland's 2010 Presidential Elections: What Democratic Spaces, What Opportunities?**

**Steve Kibble** (*Progressio*), **Michael Walls** (*University College London*)

### **Introduction**

This paper examines progress and obstacles in the transition to representative democracy in Somaliland, drawing specifically on our experiences from the 2010 presidential election. There are many arenas in which the fight for democracy occurs – between state and civil society, within each, between patriarchy and equality, within religion, between the latter and secularism, in the security and judicial domains, and so on. This paper's focus lies specifically with the evolution of formal political institutions, although this cannot be divorced completely from some of the above-mentioned arenas. We draw on the lessons of domestic and international election observation in 2010, we note the successes and challenges of the largely peaceful campaign and election, and seek to identify some priorities that we feel would help to further deepen and broaden democratic space and strengthen institutions.

In 1991, after a civil war caused the collapse of the dictatorship of General Mohamed Siyaad Barre, the Republic of Somaliland unilaterally declared independence from Somalia. In so doing, the country announced the return of the independence it had enjoyed for a number of days in 1960, and which was based on colonial borders inherited from the previous British protectorate. This declaration represented an end to the territory's commitment to a greater Somalia. In the late 1990s, Somaliland's political leadership as part of its strategy for international recognition, declared a commitment to representative democracy. Local elections in 2002, presidential elections in 2003 and 2010, and parliamentary elections in 2005 all contributed to that transition. This process of representative democratisation has faced numerous internal and external problems, not least the crisis precipitated by the previous Rayaale government in attempting to cling to power after 2008 with a questionable political mandate. The then government failed to prepare for elections in any serious manner, and engaged in politicking aimed at extending the President's term through dubious constitutional means. This was exacerbated by the political manoeuvrings of the then opposition parties leading to an unstable stalemate in which repeated crises led to temporary last-minute settlements, each of which in turn broke down, before eventual arrival at the solution that permitted an election. This period of crisis lasted from 2008, when the election should have been held, until late September 2009. Eventually, a return to the discursive traditions of the post-1991 period, assisted by opportune external engagement, produced a free and fair election in June 2010. The formal settlement that permitted the election centred on an agreement of 30 September 2009. This established the basis for the appointment of a new and effective National Electoral Commission (NEC) and the cleaning up of a corrupted register of voters. Informally, resolution of the crisis was made possible by the strong desire of the Somaliland population to avoid a return to conflict, combined with a wish by the great majority to win international recognition (although yoking the two has also proved problematic).

In line with the then constitutional requirement limiting the maximum number of political parties to three, the legally mandated parties duly contested the vote<sup>2</sup>. The candidates standing for election in 2010 included the incumbent presidential and vice-presidential team standing for UDUB, the governing party, ex-SNM Chair, Ahmed Mohamed 'Silaanyo', standing with a new vice-presidential candidate for the opposition party Kulmiye, and Faisal Ali Waraabe of the third party, UCID. Although both campaign and election were largely fought in a reasonable spirit and without wider conflict, a number of incidents did mar the process. One serious attack, mounted by the SSC<sup>3</sup>, an insurgent group, led to the death of an election official near the village of Kala Baydh in Sool region.

Voter turnout varied between areas, and the lack of census data and unreliability of the new voter registration system made it difficult to provide a figure with any authority. However, polling stations in many locations were busy and, aside from some jostling and a number of disputes over voter organisation, they were overwhelmingly peaceful.

Kulmiye secured a convincing victory with a margin of 88,000 votes over the incumbent team and fractionally failed to secure a full 50% of the votes cast. The UCID candidates were disappointed with their 18% share of the vote, but all parties accepted the result. The transition from President Rayaale to Silaanyo took place within the timeframe specified in the Constitution, and despite some disputes along the way, the handover itself was markedly positive, with the formal ceremony attended by both the outgoing and incoming leadership teams.

The election marked a successful retreat from serial political crises. The nascent state remains weak and poorly-funded, yet has paradoxically enjoyed a degree of popular legitimacy exceeding that of many African and other governments. However, until the recent elections, the institutionalisation of a system that combines elements of traditional 'pastoral' male democracy in the context of the Westphalian and Weberian nation-state appeared to be in crisis as a personalised 'securocratic' approach became more evident, accompanied by provocative reactions to debate and criticism. This intolerance of dissent is at odds with Somali tradition more generally and can be seen as a legacy of the Siyaad Barre

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<sup>2</sup> The prohibition on the introduction of new parties is now being modified as promised by the new President. In November 2011, political 'associations' were given until 28 December 2011 to register their intention to contest local body elections scheduled for April 2012. At the close of registrations, 15 groups had registered successfully. The three highest-polling of these fifteen associations plus the three established parties in the local elections will thereby win the right to contest future parliamentary and presidential elections as constitutionally recognised political parties. The current law states that the process will be opened for the entry of new parties in this manner once every ten years.

<sup>3</sup> The initials SSC refer to the regions of Sool, Sanaag, and Cayn. The SSC were; a group established to variously contest claims from both Somaliland and Puntland over the territories named. Most of those areas lie within Somaliland's colonial borders, so the primary dispute was with Somaliland, but relations between SSC and Ethiopia and Puntland were also tense. In the course of 2011, the SSC group has effectively become moribund; hamstrung by internal disputes and financial crisis. A group of individuals associated with the SSC have since committed to the Somaliland electoral process, registering a political association under the name SSCD to contest 2012 local elections. In this instance, SSCD stands for 'Somaliland Sinaan, Cadaalad iyo Dimuqraadiyada' or 'Somaliland Equality, Justice and Democracy'. The depth of their commitment to the pursuit of their objectives through democratic channels remains to be seen.

regime. Nevertheless, it remains to be seen how much a part of the 'structural furniture' this is nearly eighteen months after the installation of a new government. The picture is a mixed one, particularly in the areas of media and judicial independence. There are, however, some signs of the implementation of new policies to overcome previous stasis in the arenas of justice, further democratisation, and development.

## **International Involvement and Voter Registration**

It has become something of a trend in recent times to view Somaliland as providing evidence of the inherently damaging nature of international donor assistance (Baobab blog, 2011; Birrell, 2011; Eubank, 2011). In some instances the points made are pertinent, but in others the arguments are polarised and inadequately elaborated. Our experience is that international support for elections and international observers specifically has largely been welcomed in Somaliland as contributing significantly to the success of the democratic evolution that is taking place. Internationally supported elections have long been seen as contributing to the case in favour of international recognition, and there is also an awareness that Somaliland could not afford to run peaceful, transparent, and effective elections without international support at least in these early stages.

However, the atmosphere has not entirely been a welcoming one, as the funding conduit for international electoral support, Interpeace, can testify only too well. External involvement has, at various stages, become politicised and has served as a focus for many complaints. This is perhaps at least partially inevitable, and there have been successes as well as failures. The two extremes are well in evidence in the instance of voter registration and the process that led up to the 2010 election.

Amongst other things, an agreement brokered by external government representatives in September 2009 was successful in introducing a new NEC to replace one which was widely seen as corrupt, ineffective and lacking in independence from the Executive. The new Commission and their advisers/consultants had to deal with an inherited voter registration system which had proved spectacularly ineffective, and which required considerable work to purge data (for further detail, see Walls and Kibble, 2011c). Once that purge had been completed, the NEC's pre-election assessment was that they had largely filtered out multiple entries, underage and other invalid registrants through a combination of software filters and a process of voter list display and the issue of new ID cards. They estimated that, using these methods, they had succeeded in reducing the error rate to approximately 10%.

The voter registration process generated an enormous amount of ill-will on all sides, and it is appropriate at this juncture to briefly review the causes of those antagonisms. The heat and politicisation of the situation is reflected in the arguments that were picked up both inside and outside Somaliland. The UK satirical magazine, *Private Eye*, employed a mangled version of the facts in an effort to deride "clumsy support from donors" (*Private Eye*, 2009), a line that was adopted by a number of other commentators (for example, Hassan Ali, 2009 and Ahmed Ali Ibrahim Sabeyse, 2009). This view held that international donor agencies 'foisted' an overly complex and largely unnecessary voter registration system on an unwilling Somaliland.

In fact, it was Somaliland's NEC of the time who plumped for an expensive and complex biometric system against the wishes of donors (and, indeed, their own chairperson, who subsequently departed). The system that was ultimately adopted represented a compromise which donors reluctantly agreed to fund (Walls, 2009b).

Ultimately, the resulting voter register was used, and probably contributed positively to the widely accepted validity of the outcome. An independent review of the registration process conducted towards its conclusion noted that while the process had suffered from significant fraud, the "overall system [was] sound ... data [was] well protected ... [and there was] virtually no disenfranchisement of genuine registrants" (Grace, 2009). The same report blamed "negligence of the operator and not failure of the system" for the majority of errors, though it also noted that the total number of voters registered was "still too high"<sup>4</sup> (Grace, 2009). The problems were significant, but they were primarily political issues rather than technical ones. In that sense, Private Eye's assessment could hardly have been more wrong. It can certainly be argued that donors, the NEC, and a great many Somalilanders erred in their political responses, but the technical approach worked far better than might have been expected.

The political problems remain. The reinvigorated NEC had hoped to maintain the voter register for forthcoming elections for local councils and the House of Representatives – and possibly the *Guurti* (Upper House). However, no maintenance was done on the register to update for errors exposed during the election, to register newly eligible voters or to strike off those who had died or otherwise become ineligible. That left a register that is now no longer current and remains the focus of intense political disquiet. Consequently, the decision by the House of Representatives, confirmed by the NEC in November 2011 to abandon the voter register for the forthcoming local elections came as little surprise to anyone (Mo Guled, 2011).

## **Election Observers: International and Domestic Roles**

Despite problems with the voter registration process and threats from al-Shabaab that Somalilanders should not vote or they would face the consequences, the elections went ahead on schedule. However, because of security threats (reviewed in greater detail below), international election observers (IEOs), as with other election workers, had to operate under strict security guidelines. On the whole though, they were able to go about their work unhindered, and security constraints did not seem to affect the work of other observation teams with whom we maintained close contact.

There is value in reflecting on the various roles played by different observer groups, and most particularly the overlaps and contrasts between international observers and their domestic counterparts. Both are mandated to collect information and make informed judgements on the electoral process.

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<sup>4</sup> Certainly the final number of registered voters of 1,069,914 looks suspiciously large against the numbers who voted in each prior election: 440,067 in 2002; 488,543 in 2003; and 670,320 in 2005 (Bradbury, 2008, pp.189, 191 & 208). That impression was consolidated with the final number of 538,246 valid votes recorded in the 2010 presidential election (Walls and Kibble, 2011c, p.35).

Both work within a framework dictated by the oft-quoted refrain of 'free and fair', whereby an election is evaluated in terms of respect for fundamental human rights and the provision of a level playing field.

Both domestic and international observers instil credibility and legitimacy in the electoral process by examining its every stage. The presence of both sets of observers is expected to deter overt acts of electoral fraud, as well as less flagrant abuses, by ensuring adherence to ethics, laws, and codes of conduct. There are no common observation standards, but it is generally agreed that all observations should be political although non-partisan, considering the circumstances and climate in which elections are held; and technical, assessing the conduct and administration of campaigning, voting, vote counting, and the formation of the new government. This perception of neutrality means that international observers have an important role in boosting confidence domestically. The almost symbolic nature that this affords foreigners is particularly vital in nascent democracies, where public trust in the impartiality of the electoral process is often lacking. On occasion, the presence of independent IEOs can reassure voters and candidates that it is safe to participate in a way which domestic observers might find difficult.

As with any form of analysis, the independence of the reviewer is integral to how much credence their conclusions are afforded. The findings of observers only bear weight if they are able to demonstrate credibility and impartiality. As with justice, impartial observation should not only be done, but should be seen to be done. The perception of the equation that 'external' is therefore 'objective' is integral to the role of international observers. The independent findings of an international election mission make it harder for political parties or candidates to dispute the results; they know that accusations of partiality will be harder to substantiate and that the world is watching their actions.

This is not to say that domestic observers are necessarily less impartial than their international colleagues, or that domestic observers are unable to put aside any personal opinions that they may hold about the protagonists in the election or the wider political context. One advantage that domestic observers generally have is a knowledge of local language and politics which enables them to pick up on nuances that might be missed by international observers. In Somaliland, we have been fortunate to have been able to allay this last concern to a great degree by involving as IEOs members of the diaspora, those with a longstanding interest in the country, and veterans of the 2005 Parliamentary elections. A code of conduct committed our observers to respecting Somaliland sovereignty and remaining objective.

The role of IEOs is not to supplant domestic efforts but rather to complement local observers during an election and to empower them for elections to come in the future. This can be done through the provision of technical assistance or by offering recommendations to the government that political space for local observers be expanded in future elections. Eventually, it is to be hoped that an election-based political culture becomes entrenched so that confidence in electoral processes no longer depends on external participation. In that respect, we would hope that one day the need for international observers might become superfluous in Somaliland, though their future presence may continue to demonstrate solidarity and commitment to transparent electoral politics.



The other importance of externality is that independent observer teams are perceived as being a voice of the international community. Representing the wider global community allows such missions to bestow a degree of legitimacy that domestic observers alone may not obtain. While the presence of international observers should not be seen in itself as bringing credibility to an election, their conclusions are likely to strongly influence the way in which the international community views that election. An objective evaluation followed by a proclamation of 'free and fair' by an internationally recognised body makes it more likely that the outcome of the election will be internationally respected. The newly elected government gains legitimacy in the eyes of external commentators, and its decisions are more likely to be seen to be in line with the will of the people. While some governments have simply brazened out criticism from IEOs, an international presence can make it harder for them to flout electoral expressions of the popular will than might be the case otherwise. In the case of Somaliland, which still lacks international recognition of state sovereignty, the significance of the implied legitimacy lent by an external body of observers assumes a heightened relevance.

We now turn our attention more specifically to the findings of the IEO team as they relate to the 2010 election. We review the legal framework and technical support provided to domestic observers, the operation of mediation and party agent systems as counter-checks within the election, and finally a review of our own actions as international observers. The material for these sections draws heavily on the report prepared following the observation (Walls and Kibble, 2011c).

## **Legal and Technical Support for Domestic Observation**

In mid-2008, the European Union initiated funding for training of local observers through a new community-based umbrella organisation, the Somaliland Non-State Actors Forum (SONSAF). In order to distance the EU from a perception that they were providing support for national elections in an unrecognised state, SONSAF funds were to be channelled through the UK-based international NGO Saferworld.

The NEC subsequently signed a Memorandum of Understanding with SONSAF, committing local observers to observe a range of election day processes:

- The adequacy of preparation of each polling station for voting
- The degree of freedom, order and security inside and in the surrounding area of the polling stations
- The degree of professionalism and impartiality shown by polling officers in implementing polling procedures
- The universality of freedom allowed to voters in the exercise of voting
- The degree of access permitted to political party agents, the media and observers to review the conduct of officials and voters on polling day
- The level of transparency applied during the polling and vote-counting processes

With Election Day looming, this training programme had to be augmented by three major NGO umbrellas, Nagaad, SONYO, and FOPAG, as it became clear that SONSAF would be unable to provide the necessary complement of observers in time. In the event, some 800 local observers were trained (500 by SONSAF and 300 more through Nagaad, SONYO, and FOPAG).

On election day itself, domestic observers were largely confined to a single polling centre, as few had access to authorised transport<sup>5</sup>. In some urban sites, polling centres included up to seven polling stations, so observers were able to move between stations. However, in general, restrictions on transport did mean that domestic observers were unable to cover as many polling stations as they might otherwise have managed.

One of the main objectives of the Somaliland National Electoral Commission was to guarantee a peaceful and fair election. Two local initiatives co-organised by the NEC in partnership with national and international civil society organisations – the electoral mediation and local (or domestic) observation projects – made a notable contribution to both the success of the elections and the empowerment of Somaliland citizens more generally.

One of the most significant features of the two initiatives was their success in mobilising hundreds of mainly young people. Each project identified and trained a large number of Somalilanders who committed themselves to supporting their fellow citizens on voting day through a diverse range of activities: informing the public on voting procedure, observing the voting process as well as the count, mediating disputes inside or outside polling stations, and registering and notifying authorities about irregularities in an effort to avoid further complications. In our view, these initiatives contributed greatly to the smooth running of the election, civic education, and local empowerment.

## **Electoral Mediation and the Handling of Political Complaints**

This initiative was co-organised by the NEC, the Centre for Humanitarian Dialogue (CHD – an independent mediation organisation based in Geneva, Switzerland), the Electoral Institute of Southern Africa (EISA), and independent Somaliland civil society organisations. It was set up within the framework of a broader strategy on Electoral Dispute Resolution, the objective of which was to guarantee the impartial and peaceful running of the presidential elections. The specific aim of the electoral mediation project was to deploy 600 respected community leaders to be available across the country on election day to intervene in any conflicts that occurred inside or outside polling stations. The Somaliland Research and Development Institute (SORADI) was sub-contracted to provide training to the mediators.

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<sup>5</sup> In principle only specifically authorised vehicles were permitted on the road on election day. Enforcement of that policy varied from district to district.

We were able to observe mediators playing a significant and positive role within polling stations, where they advised voters and assisted authorities, contributing to a decrease in the level of misunderstandings and the resolution of disputes that did arise. However, from our observation, their presence was far less effective outside polling stations, where conflicts were addressed either by members of the community itself or by the army or police. The latter on occasion used long sticks rather than mediation to control crowds. Equally though, it was often the voters themselves who, following Somali custom, reacted to maintain order.

The Electoral Monitoring Committee (EMC, originally the Electoral Monitoring Board) was an independent body of locally-respected people established for breaches of electoral codes and laws, making known their complaints, publicly where necessary. Their remit gave them no statutory power beyond making their findings public, and they were required to refer unrectified concerns to the NEC who have the power to discipline those in breach of the regulations. The EMC did take action along these lines over several electoral issues, with action over the perceived bias of state-controlled TV the most prominent and problematic of those issues. They also commented on bias on the part of Horyaal radio, although their censure on this reflected an assessment that the bias was not as strong as was the case with SLNTV.

As in past elections, we were made aware of allegations that the incumbent was using public resources including vehicles in campaigning, and that civil servants were also playing an active role in promoting the governing party. These complaints were also made to the EMC who concurred with them. We consider that such abuse compromises the fairness of the election, although we consider that the EMC and NEC took appropriate action, not least drawing the issue to the attention of the public. While the practices did not cease prior to the election, we do not feel that they are likely to have fundamentally compromised the election as a free and fair expression of the popular will.

Other complaints were seen by the EMC as minor, and no action was taken. The Committee remained active during polling day, providing a central phone line for complaints. They released a statement on 28 June, calling on the parties to remain patient and to refrain from declaring victory until the NEC had processed all ballots and announced the result themselves.

Mediation is entrenched in customary Somali culture, and the initiatives designed to train and mobilise community members as formal election day mediators did seem to build on those customs. It seems possible that there might be value in retaining such initiatives for future elections.

## **Political Party Agents**

The International Republican Institute (IRI) was also engaged in 2009 to provide a programme aimed at training 5,346 party agents (one for each party for each polling station). Only UCID was able to provide a full list of agents in time for the training, with the other two parties drip-feeding the names of their agents with most arriving well after the deadline. This caused something of a frantic effort on the part of trainers to maintain their programme, but in the end just over 5,000 agents were in place, with the majority having received at least some training.

The party agent shortfall was, for some time, a significant concern to the IEO team. While the law was amended to allow polling station results to be signed off by NEC officials should some party agents be absent, past elections (particularly in 2005 when a similar system was adopted) showed the value of having agents from each party present during both polling and vote counting. In a number of past instances, disputed results had been accepted on the basis that party agents had signed them off, and a significant shortfall in this election could have seriously complicated the process of declaring agreed upon results.

The eventual deployment of the great majority of the necessary personnel alleviated these concerns, although the limited training permitted by the lateness of their identification remained a cause for concern.

## **Pre-election Assessments of the International Observation**

We conducted two pre-election assessments, one in 2008 and the second a year later while the organising team arrived in Hargeysa a month beforehand. Immediately prior to the election, we interviewed a number of significant figures – the three presidential candidates, the commissioners of the NEC, its consultants, the political parties, the EMC, the ISG<sup>6</sup>, NGO security personnel, local NGOs and their networks involved in voter education and monitoring, mediator groups, women's groups, local analysts, and those monitoring the codes of conduct of political parties and media. Our conclusions were:

- The campaigning had been peaceful and enthusiastic, with many young people, especially young women, taking part. Unlike in 2005, there appeared to have been broad adherence to the agreement in which parties were permitted only to campaign on specified days.
- Similar to 2005, there were allegations of incumbent government misuse of official vehicles for campaign purposes, use of civil service personnel in active campaigning, and unequal access to national state television.
- All parties stressed their commitment to respecting the verdict of the electorate and they explicitly repeated this commitment to the international observer mission.

In general terms, while the issue of bias did surface, it appears that the local media made a positive contribution to the successful conduct of the presidential elections, with the media as a whole displaying more maturity than during the 2005 elections. The print media were generally more balanced than television, covering the campaigns of all parties. The profile of women across the various media outlets is reported to have increased markedly through the campaign, and Radio Hargeysa broadcast programmes advocating political and human rights for women.

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<sup>6</sup>Independent Scholars' Group; a group of local intellectuals who convened during the period of delays to the election, setting out to provide a reasonable commentary and analysis of events and corresponding recommendations.

## **What the IEOs Did**

The team comprised 59 observers from four continents and 16 countries, balanced in gender; 40% of the team were Somalilanders from the diaspora. Some members of the team were expatriates based in Somaliland, working as expatriate staff of international NGOs; the rest flew in for the elections.

IEOs were provided by the NEC with identification badges and caps, as well as vehicle authorisation to permit travel on election day. Those IEOs were required to sign a code of conduct and attend a series of logistical and security briefings. The IEO mission deployed 26 teams in all six regions and no major problems were experienced. The teams visited 571 polling stations – a 32% coverage rate. The total number of registered voters was 1,065,000 with voters required to vote where they were registered. The electorate was divided into 1,129 polling centres, each including between one and seven separate polling stations depending on the number of registered voters in each district. Most polling centres included one or two polling stations, with a total of 1,783 stations planned.

IEOs observed the whole voting process, including the opening of some polling stations, the procedures for checking voter cards, and applying thumbprints to the voter list, the issuing of a uniquely numbered ballot paper, the (usually secret) marking of the ballot paper, the placement of the ballot paper in a transparent ballot box, and the inking of the voter's little finger. We also observed the initial count which took place in polling stations in closed sessions attended only by election officials, party agents, and accredited domestic and international observers. The results were announced in the polling station itself with both polling station results and ballot papers then sent to the district NEC office, where they were to be tallied and disputed ballot papers reviewed.

## **IEO Security Prior to and During the Election**

As was the case in 2005, there was a security incident in Burco involving alleged political Islamists as well as rumours of other plots. The police exchanged gunfire with the occupants of a house in that area, sustaining one fatality, several injuries, and a number of arrests were made. The security group NSP<sup>7</sup> noted unconfirmed reports that “bomb-making materials, suicide vests, firearms, and ammunition were recovered”, and that those involved were al-Shabaab operatives. The operation resulted in the dismantling of a possible terrorist operation - a positive step in security terms. The lack of evidence that other cells might be active warranted due care but did not amount to a sufficiently credible threat for us to alter our plans at that stage. We continued to monitor the security situation carefully throughout the international observation mission.

Prior to polling day, there was a withdrawal of INGO and UN staff to secure locations outside Somaliland, but no subsequent indications of trouble occurred. Moreover, we remained conscious of different scenarios involving outside/terrorist violence throughout the mission and attempted to ensure that deployment planning mitigated these risks as much as possible.

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<sup>7</sup> NGO Safety Programme

We were able to send international observers to all of the major centres outside Hargeysa given the assurances of the police that sufficient SPUs would be provided. While there were some difficulties in implementing this promised security support, it was in fact supplied to a satisfactory level.

We made arrangements with local observer groups and the IRI to ensure close communication throughout the pre-election week as well as on election day and immediately after. We held a joint meeting on the day after the election at which representatives from local observer groups and IRI were present, and we invited them all to our own press conference on 29 June. We also continued to liaise with major local bodies involved in some way in the elections, including the NEC, EMC, the various civil society groups, including the Academy for Peace and Development, SORADI/Independent Scholars' Group, SONYO, Nagaad, and others.

### **IEOs on Election Day**

Our observer teams were present in all six regions, at 571 polling stations, distributed as follows:

Awdal	122
Maroodi-Jeex	255
Saaxil	35
Togdheer	111
Sanaag	24
Sool	24

Teams were able to observe stations setting up from 6am, the full day of voting, and then the closing down procedures. In some cases the closing process lasted until 7.30pm because queues were long and those already queuing at 6pm were permitted by law to exercise their right to vote.

The single most frequently reported problem was the absence of Help Officers outside polling stations. This was a greater problem than it might have been as a result of a late decision by the NEC to organise polling stations within centres with large numbers of prospective voters along strict, alphabetically-determined lines. Many voters were unaware of this arrangement and queued in the wrong line, being informed of their mistake only when they reached the front of the queue.

Tempers rose on occasion, particularly over the queuing arrangements, although the day was largely marked by enthusiasm and tolerance. Queues were very long in many areas, especially in the morning and latter part of the afternoon; the majority of voters appeared to be women and young people.

There were some polling stations, particularly in Awdal, where IEOs reported a significant lack of order outside the polling station, but according to the vast majority of reports, order was at least adequate.

Conduct by polling station staff was generally exemplary, and even the secrecy of the vote improved from 2005. There were, however, some problems with attempted underage and multiple voting which we address in our full report (Walls and Kibble, 2011c). We also noted once again that the technically illegal presence of police inside polling stations was frequently observed, but few voters appeared to be concerned by this and those police who were observed inside polling stations were not seen to be attempting to influence voting in any way.

The NEC showed considerable resolve in the face of some post-election problems such as seizure of counted ballot papers by police and a provocative press conference by members of the incumbent party UDUB alleging fraud although with no evidence.

On 28 June the teams' findings were released at a crowded press conference and we announced that in our view, the electoral process had been reasonably free and fair. Provided the results, when announced, reflected that process, they would represent an expression of the free will of the people of Somaliland. We also expressed some concerns that we thought should be taken up by the NEC.

### **Recommendations: Progress From 2005 and New Suggestions From 2010**

We were pleased to note that several recommendations that we made in 2005 appear to have been fully or partially taken up. Amongst the recommendations of the 2005 IEO team was support for a voter registration process and national census to resolve many of the voter identification difficulties that had marked elections until 2005. We pointed to the need for full registration of voters and the issue of voter ID cards. We also called for an increase in the number of polling stations and improvements in accessibility in rural areas.

We called for the replacement of the ballot bags used in 2005 and highlighted our concerns over the inking system (and were pleased in 2010 to notice changes). Also in 2005, we felt that the replacement of serial numbers on ballot papers with random numbers or bar codes would be a positive step, and we called for the provision of images of sample ballots and voter education material outside polling stations to assist voters. We also saw the need for a better gender balance in polling station chairpersons.

In 2010, we made the following recommendations:

- Greater civic education and polling staff/candidate training on all aspects of the voting process
- Begin preparations for future elections earlier
- Communicate unambiguously to the donor/international community that, without their support and commitment, further phases of the democratisation process are unlikely to happen (this needs to be balanced against the need for Somalilanders to continue to 'own' the process themselves, so requires deft management and sympathetic, competent, engaged international partners)
- Establish a permanent electoral commission with a permanent, established secretariat and a dedicated section dealing with domestic and international observers – this recommendation follows similar calls in 2002 and 2005

- Ensure that more women are involved in future elections, both as candidates and as officials
- Introduce consistent and stricter sanctions on those attempting to vote more than once (including sanctioning parties as well as individuals)
- Post notices about these sanctions in polling stations to deter parties/would-be multiple voters

## **What Has Happened Since the Elections and What Needs to Be Done?**

During his November 2010 visit to the UK, President Ahmed Mohamed Mohamoud ‘Silaanyo’, leader of one of the former opposition parties, Kulmiye, was questioned by many inside and outside the diaspora about his vision for the development of his country, his plans for further democratisation and for gaining recognition as an independent sovereign state (the latter given some impetus by the South Sudan referendum and subsequent internationally recognised independence – Walls and Kibble, 2011b). His decisive election victory in June 2010 was declared to be a valid expression of the popular will by international and domestic observers, while the subsequent peaceful handover of power set an important benchmark in how a discursive democratic custom is being gradually melded with the representative institutions of the nation-state. Hopes were high not just that the new government would effect a change from the securocratic and non-transparent practices of former President Rayaale, but for a change in the nature of the state towards a more interventionist and pro-poor model.

The June 2010 presidential elections effectively increased the likelihood that external powers would grant greater legitimacy to the state as donors and powerful international actors seek to reward the country for a significant consolidation of past democratic gains. We have seen a number of significant steps in that direction, and there is potential for the change to be positive. The Somaliland state faces the considerable challenge of proving itself capable of negotiating robustly, with politicians and officials eschewing immediate personal gains in favour of a broad domestic polity.

## **Policy Possibilities**

There are a number of questions that will determine fundamentally the ways in which traditional institutions interact with the (Western) norms of nation-state democracy. Clan will continue to play a significant yet dynamic role in the political realm, while external actors from private, public, and non-governmental sectors must also expand their involvement.

On the first day of the new regime, the government delivered on a pledge to abolish the unpopular security committees. Originally established to address urgent issues of security in the wake of the civil war, these committees had been permitted to imprison without trial and they lay outside any due judicial process. A new National Security Board was established to provide security, defend borders, and fight against terrorism.



There has as yet been no effect on other parts of the judicial system. The judiciary remains ineffective and subject to executive pressure arising from its lack of independence. It is also alleged to be corrupt and non-professional with untrained clerks acting as judges. Arguably the system retains the characteristics of the SiyaadBarre regime: those with the most money and the best (clan) connections win.

The position of women has been another key element in the fight to further and deepen democratisation and Kulmiye has had, as well as its clan base, majority support among women, youth, civil society, and the diaspora. Activists cautiously welcomed the increase in female cabinet ministers from 5% to 20% but point out this still only means two ministers and an assistant minister (although the cabinet has also shrunk in size, so the ratios are slightly improved). There is also a woman commissioner on the Human Rights Commission. The new (female) Minister for Labour and Social Affairs is, unlike her predecessor, open to dialogue with civil society. Women activists welcomed these developments, with the umbrella network Nagaad promptly submitting an advisory paper on gender issues to the government. However, many advocates of greater participation for women are looking for much more tangible progress and, perhaps inevitably, this is slower to materialise. That said, there are promising signs. The prospect of a quota for women in future elections looks to have moved a step closer, with an apparent commitment from both government and key figures in parliament to such an initiative in time for the next local elections. A decision on the percentage for that quota has been imminent for some months, and remains so at the time of writing. Sources suggest that a level of between 5% and 15% is likely. At the lower end, that would represent little change to the status quo, so the precise level remains of critical interest.

There has also been the desire to have a much improved relationship with civil society since the election. A new NGO Act defining roles and responsibilities for NGOs and giving them some legal protection was signed into being, and a number of new ministers themselves have civil society backgrounds. These include one of the female cabinet members, ZamzamAbdi, now Minister of Higher Education but formerly a founding member of Nagaad, the Executive Director of the Committee of Concerned Somalis (CCS), and Chair of the human rights network, SHURONET. The new Minister of Planning was a founding member of the NGO Somali Relief Association (SOMRA) in the UK in the early 90s, and has spent the past few years working with the private sector hawala (money transfer company), Dahabshiil. Early in his new ministerial role, he held his first coordination meeting with the UN and international NGOs, and presented new guidelines for aid coordination. In addition, there is the promise of forums for domestic civil society to engage with government and to monitor performance, including input into the budgetary process. Indeed, informal accounts from discussions between the authors and numerous participants in civil society organisations suggest that the danger for many local CSOs lies increasingly in developing ties with government that are too close to permit effective advocacy when required; a marked contrast to past administrations, but a danger nonetheless.

There has also been some disquiet expressed over this new NGO law in that it could, according to aid workers and donors, undermine international humanitarian work. While establishing a legal framework for NGOs to ensure their activities are in line with the government's development priorities and to improve accountability and transparency is fine in principle, much of the wording of the law appears ambiguous. Foreign agencies working

in Somaliland are particularly worried about article 35(3), which states: "International NGOs shall not become implementers for other international NGOs and UN organisations working in the country." While the aim of building local capacity by encouraging international NGOs and UN agencies to work with local CSOs and businesses is laudable, there are fears that a blanket application of the principle could ultimately reduce donor funding. Some programmes require specific technical expertise that are not easily available in-country and, in addition, there are many different models for development cooperation, with relative effectiveness frequently related far more closely to the individuals involved than the model employed. A case-by-case approach would be far more effective than a one-size-fits-all policy.

Before the elections, the (then Shadow) Foreign Minister spoke of taking a far more nuanced approach to Somaliland's neighbours, including pursuing reconciliation with Somalia and Puntland, as well as with other Somali groups and neighbours in the Horn in general. This necessarily requires that Somaliland address specific sensitivities on the question of recognition, on which neighbours remain the key.

A fellow-facilitator of the international election observers with one of the authors of this paper has floated the concept of 'incremental recognition' suggesting that Somaliland leaders engage in confidence-building measures, such as pursuing the possibility of greater engagement with regional bodies such as the IGAD forum (Intergovernmental Authority on Development). The premise is that this would allow Somaliland to assume a more active role in the pursuit of recognition, setting modest incremental objectives that are nevertheless achievable and should one day lead to a situation in which full recognition represents mere acceptance of an *ipso facto* condition. Such an approach would contrast with past tendencies to emphasise recognition as a one-stop solution requiring a single, substantial policy shift on the part of other nations. The new policy seemed to reap rewards with the unexpectedly positive presidential visit to Djibouti in which President Silaanyo was awarded red carpet status as if he were a recognised head of state. The long-closed Somaliland liaison office was also reopened, marking a shift from the rocky relations between Djibouti and the Rayaale regime. It may be that this change is linked to the new fibre-optic cable coming into Somaliland via Djibouti.

Having initially viewed the new Somaliland government with suspicion, shortly after the installation of the new government, Ethiopia also hosted a Somaliland delegation led by Mohamed Abdillahi Omar, the Minister of Foreign Affairs. In so doing they indicated a willingness to work with the new administration. Hargeysa has also seen a visit from the new UN Envoy to Somalia, apparently at the invitation of the Norwegian Refugee Council. Significantly, the Executive Secretary of IGAD, Mahboub Maalim, also visited Sheikh Veterinary School and met the President, noting that his visit marked a new era in the relationship between IGAD and Somaliland. The President also made a visit to Europe, holding a ministerial-level meeting in London, and at the time of writing he is visiting Djibouti, Addis Ababa, and London. This latest visit was initially intended as a holiday, but requests for meetings from the UK side resulted in a change of status for the trip to encompass some official engagements.

In each case, there has been an apparent willingness by foreign governments to engage with Somaliland on a quasi-autonomous basis; a notable continuation in the gradual extension of greater levels of recognition being granted to the territory. There can be little doubt that warming relations with a large number of other countries have been accelerated by the success of the 2010 presidential election.

However, relations with Puntland have continued to be tense, with the contested sovereignty of the areas of Sool and Sanaag complicated by recent accusations from Puntland that Somaliland was harbouring and indeed promoting the 'terrorist' Mohamed Said 'Atom'. Puntland forces had clashed with Atom in the mountainous area of Galgala, and accused Somaliland variously of sending militia to fight alongside him and sheltering him when he fled. The Somaliland account inevitably differed from this, with senior politicians declaring Atom a terrorist and insisting that the two territories were cooperating over terrorism. These claims were repeated to us when one author spoke to the Somaliland President and the Minister of Foreign Affairs in London in November 2010. They suggested that the dispute was essentially between the Puntland administration and local clan groups. Since that date the situation in the border areas with Ethiopia near the town of Buuhoodle has also deteriorated, with renewed fighting between Somaliland forces and those of a breakaway militia titling themselves SSC early in 2011 resulting in significant fatalities. The same group was responsible for the election day clash near Kala Baydh. However subsequent events seem to suggest that the SSC is waning in power and support.

The President of Puntland, speaking at Chatham House in October 2011, reiterated emphatically that the whole of the Sool and Sanaag regions are a part of Puntland, though claimed also by Somaliland (Farooq, 2011). This was indication that nothing has changed in the formal Puntland position on the matter. As usual, he appended his comments with an assurance to his international audience that Puntland's claim would be pursued peacefully, although this has not always been the case, even in recent months.

A further significant problem lies in the apparent continuation of the Rayaale government's paranoia regarding press freedom. This started with the suspension of the right of the popular Somali cable broadcaster Universal TV to work in Somaliland in retaliation for having 'treated Somaliland unfairly'. That suspension was subsequently lifted, but was renewed when the broadcaster was caught displaying bodies from southern Somali areas and claiming that they were fatalities from clashes between SSC and Somaliland forces. The Chief Editor of the partisan Yool daily newspaper was also threatened by ministers and security personnel for unfavourable coverage. A further instance saw Mohamud Abdi Jama, the editor of the daily newspaper 'Waaheen' sentenced to three years imprisonment for publishing articles which accused the government of nepotism and an official of having appointed his own clan members to posts. Other journalists from the Saxafi, Hargeysa Star, Ogaal, and Yool are also facing charges of criminal defamation – all of which has attracted international criticism. Hopes that the new administration would not resort systematically to the measures of the prior regime which had a tendency to lock up perceived opponents, including journalists, for lengthy periods are beginning to fade. The presidential pardon granted to the Waaheen editor was welcome but did little to alter the perception that moves against the media tend to be far too arbitrary and open to political manipulation. Subsequent harassment and beatings of journalists by the Special Protection Unit continues to give cause for concern including from international journalist and solidarity organisations.

This relates to the wider worries that commentators and people on the street see little evidence of a unifying vision. In the fifteen months since taking power the concentration appears to be on reshuffling the institutions and getting rid of supposedly corrupt civil servants, while creating new agencies such as the Anti Corruption Commission. Essentially some charge that Kulmiye did not have a plan for governing. This line holds that they concentrated too hard on winning the election on an anti-government platform and, despite the high expectations of the population, they are now weighed down by the day-to-day job of governing. One commentator opined that the President seems to be overwhelmed and that he lacks the stamina for the job, relying instead on others to do the work for him. Persistent rumours suggest that the President is suffering from serious ill-health.

It remains difficult to determine whether such criticism is well-founded. Complaints about a lack of vision and unnecessary levels of negativity seem to hold some validity. Too many civil servants – including almost all ministry directors-general – were fired for what appeared no fault of their own other than (inevitable) ties to the prior administration. In the process, competent as well as less able individuals were lost. Equally, there have been concerning indications that the government has lacked a consistent agenda, with ministers too willing to embark on action at odds with the positions of other members of the Executive. It is possible that the anti-media moves described are a manifestation of this tendency.

There is nevertheless donor goodwill. In September 2010, the US Assistant Secretary of State for African Affairs announced a new policy on Somaliland that would see ‘aggressive’ engagement with the administrations there and in Puntland (Carson, 2010). Given that such engagement is likely to be highly focused on an anti-terrorist/anti-political Islamist agenda, these words are not necessarily reassuring for Somalis with echoes of the previous use of surrogates to ‘police the badlands’. Can Somaliland try to use this to its own advantage? As it attempts to reach out more actively and to establish a more nuanced approach to international and regional players, increasing international acceptance of Somaliland as an autonomous political entity could assist significantly. The US shift is part of a ‘dual track’ strategy which will see the US continue to support the Mogadishu-based Transitional Federal Government, but which will also result in an increase in direct aid to Somaliland, so the possibility for this and similar adjustments in attitude to result in tangible benefit for Somaliland is real.

In a similar vein, the UK announced a three-fold increase in donor assistance for the whole of Somalia, but a four-fold increase for Somaliland, while Scandinavian states are also exploring ways of increasing assistance to Somaliland.

Additionally, donors are exploring ways in which to channel an increased proportion of aid through the government itself. If implemented, which has not yet happened, this would mark a significant shift in donor engagement with Somaliland, contributing materially to the process of incremental recognition mentioned above. While donors are seeking ways of framing this form of assistance as something other than direct budget support, the implicit agenda clearly aims to strengthen the institutional capacity of a government that they do not recognise. As such, the mere effort to find ways of offering such support is both implicitly highly significant and much more consistent with repeated international statements promising support for democracies and legitimate government.

Somaliland also has some chance to gain leverage with the international community as a result of regional political shifts. The one-year extension granted by key international actors to the Transitional Federal Government (TFG) in the south gives them until August 2012 to negotiate a post-transitional transition. That agreement was widely criticised as an avoidance of the need to address fundamental problems, and it does nothing to mask a diminishing level of patience with the Transitional Government. The TFG has long represented an explicit obstacle if Somaliland is to extend the depth and breadth of its formal engagement with the international community, and evaporating international tolerance in the south provides Somaliland with an opening to enhance their own case.

The October 2011 Kenyan invasion of Somalia – code-named ‘Operation Linda Nchi’ – is precisely indicative of this waning patience both globally and regionally. While it remains hard to imagine the invasion offering an easier victory and withdrawal than was the case for Ethiopia in 2006, it is significant that the incursion is designed not only to destroy al-Shabaab, but to support the new (not yet secessionist) state of Azania in the Jubba area. Ethiopia’s more recent incursion into Beledweyne does little to change the picture.

Commercial opportunities are also opening. Negotiations continue between the Somaliland, Chinese, and Ethiopian governments for the redevelopment of the Berbera port and road ‘corridor’<sup>8</sup>. The investment being discussed is enormous – particularly in the context of existing finances in Somaliland. Figures of US\$6 billion are frequently suggested. The benefits for Somaliland could be very significant indeed, both directly increasing the quantity and value of trade through the port, and indirectly through the substantial improvements in transport infrastructure within Somaliland borders. The Chinese are looking to build a pipeline to move gas extracted from their Ogadeen operations, while the Ethiopians are interested in expanding Berbera’s capacity as a sea port for imports and exports, giving them alternatives to Djibouti.

There is, of course, criticism of this deal too. Many in Somaliland complain that negotiations are proceeding in secrecy, with some adding that the Somaliland government has refused to hire sufficient independent technical expertise to assist with negotiations. Once again, it is too early to assess the validity of these criticisms, though the significance of the deal itself seems clear.

## **Conclusion**

The 2010 presidential election in Somaliland proceeded remarkably smoothly in spite of substantial tensions in the two years prior, most significantly over voter registration. Through the campaign, election, and transition, Somaliland showed that it remains very much on a path towards successful transition from a kinship-based system of male egalitarian democracy to successful institutionalisation of representative democracy in the context of a nation-state. While many challenges remain, lessons were learned and applied from past elections, and the victory of an opposition candidate followed by a smooth transition of power represents a remarkable achievement.

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<sup>8</sup> The road link from Berbera through Hargeysa to Jijiga, connecting to the route to Addis Ababa is frequently referred to as ‘the Berbera Corridor’.

The election of a fresh administration promised much and in the first part of their term they have delivered on some of that promise. Early moves to disband security committees and to improve relations with civil society were welcome, and some successes have been achieved in foreign policy. Set against these advances have been continued harassment of media representatives. Similarly, a policy of unnecessary replacement of civil servants provided fuel to those complaining that the administration was too narrowly focused on clan and political appointment.

There is also some merit to the criticism that the government has failed to display a genuinely coherent leadership for the country. Again, this is an area in which the previous administration was signally poor, so setting a low benchmark. It is small comfort therefore that the new government has at least improved on that record. In the future, it will need to be far more clear-sighted and long-term in its vision if it is to maximise its potential in garnering outside support and in sustaining the momentum for democracy and development.

It is possible that we are now seeing further progress in the transformation of the Somaliland state from a largely seurocratic or semi-authoritarian model to one which embraces a fuller breadth of the citizenry, especially women. However that transition remains incomplete and difficult, and it is vital that a monitoring role for civil society be permitted in order to encourage the consolidation of a form of identity and state that fits with the context. Questions remain on the role and democratic nature of the Guurti and how best this Upper House can play a modernising and stabilising role, how youth, women, and minorities can be incorporated into the political mainstream, and how clan can continue to play a far less negative role than in the South. Positives are that the new government has opened up the political space of Somaliland by allowing new political parties to emerge. By the close of new registrations, fifteen political associations were registered to join the existing three in contesting local elections scheduled for April 2012. The three who gain the most votes in those elections will then be registered as full parties with the right to contest parliamentary and presidential elections. That marks a significant step forward from the undemocratic and unconstitutional situation that has pertained since 2002.

In late October 2011 the Lower House passed the amended Law no 20 of Presidential and Local Elections. This law will, for the first time, allow youth to participate in the forthcoming local elections. The candidate age has been reduced to 25 from 35. This is a step forward and constitutes a just reward for the lobbying work of the youth network SONYO. The first youth political organisation was launched in early November 2011.

The voter register which proved so contentious prior to the presidential poll has been ditched for the local elections scheduled for April 2012. While widely anticipated, this move leaves open the debate about registering voters in the future and could, with other unknowns such as new political parties and the lowering of candidate age, lead to confusion at election time. Donors are discussing with local civil society including Somaliland Non-State Actors Forum (SONSAF) and Progressio how to help move this process forward.

In terms of understanding the potential and nature of the Somaliland state as a catalyst for transformation, we need to note that in general there has been little perception of the state as a developmental entity. The recent introduction of free primary education and the doubling of teachers' salaries (along with those of other public servants) marks a move in that direction, although questions remain over the availability of resources. The focus hitherto has largely been on internal survival in the context of perceived external threat.

Such a focus provided the previous regime with a seemingly legitimate argument for a concentration on stability at the expense of development; a position in which a public determined not to return to conflict effectively acquiesced.

Clan has long provided the basis for social networks and safety nets, and the state has largely not attempted to capture that role. With the exception of the areas bordering Puntland and despite the continued lack of international recognition, we note a greater degree of acceptance of the legitimacy of the state and an identification of the great mass of citizens with it than is the case in many instances. To that extent in contrast with large areas of Africa, there does appear to be greater congruence between identity, legitimacy, and territory.

Rather than the clichéd 'hybrid' state combining 'traditional' and modernising forces, Somaliland has been shaped by interactions and conflicts between 'nightwatchmen' and securocrats, and between democratising and traditional or patriarchal forms. The balance of social forces that underlie them is shifting. The support base of Kulmiye appears progressive and developmental but moves against the media show that it is entirely possible that state organs can too easily reflect the structural inheritance of previous regimes. Important steps need to be taken to widen and deepen the democratic progress made so far and ensure that the desire of the population for stability (and recognition) does not undermine the equally strong desire for democracy.

International opportunities abound, as do the accompanying challenges. If Somaliland in general, and most particularly the government (the business community has already shown an aptitude to manage resources relatively well), are able to play their hand with competence and a commitment to sharing the resulting benefits amongst the population, then Somaliland could be on the brink of dramatic developments. It seems highly likely that international recognition will lag behind other developments, perhaps following the incrementalist course suggested in the paper.

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## **Chapter 3: Opening the Political Space: A Boost for Somaliland Democratic Process**

**Dr. Mohamed Fadal (SORADI)**

### **I. The Context**

One cannot emphasize more, how challenging it is to start a state and its governance institutions anew from the legacy of a state which was based on totalitarian principles and practices and to build a democratic system out of its rubble. Somaliland inherited, from the defunct system, a legacy of dictatorial mindset in all aspects of state behavior; it was after all the only state that had the profoundest imprint on the lives of the Somaliland people and their relationship with the state. So, in building this new state, the question of how much democracy is healthy enough for the people in the prevailing situation often lingered in the minds of those involved in the early process of crafting the new state institutions and laws. Article 9 of Somaliland's new Constitution attests to the conflict in the minds of the early leaders. While in 9(1) the Constitution adopts the multi-party political system, in the next section 9(2), it limits the number of political parties to not be more than three at any time. Therefore, to satisfy that limitation, which itself is a Constitutional contradiction in regards to other provisions guaranteeing fundamental rights of citizens, the country has to undergo, what under normal circumstances should be considered an unnecessary exercise of a two-stage process for citizens to form political parties: a) to register political associations, which will compete in the local elections. B) The top three winning associations will qualify for national political party status. These three political parties can field candidates for the two houses of parliament and presidential elections. Somaliland copied this system from Nigeria, which was also at that time moving from dictatorship to democracy, but for Nigeria it was one time process, whereas Somaliland is still shackled to the system, because of the Constitutional limitations on the multi-party system.

The political Associations/Parties Registration Law No 14 was passed in 2000 to provide the legal framework of the above process. It provided for a seven-member Registration Committee which administered the registration process as well as the process of qualifying the three successful parties. During the first cycle six associations fulfilled the criteria to compete in the local election. So, in December 2002, the first batch of three parties was crowned as national political parties, using the awe-inspiring designation of "Xisbi Qaran". UDUB became the largest and later the long-term ruling party, Kulmiye, became the bulwark of an opposition party and eventually after an uphill battle of ten years unseated UDUB and succeeded as the ruling party of Somaliland and finally UCID remained to be the underdog and eventually disintegrated.

True to the nature of most of the first generation of laws passed in Somaliland, Law No 14/2000 became a masterpiece of ambiguities. It lacked any clarity of whether the successful parties won a permanent status in occupying the three Constitutional slots open for multi-party system in Somaliland or whether or not there is room for new aspirants to join the exclusive political party club. The three original occupants of the constitutional slots interpreted the law as having won permanent status and encouraged challengers to join them, whereas some of the most ambitious members of the elite fought vociferously against this status to the level of rebellion which landed some of them in prison for few months.

This rebellion was only the tip of the iceberg of a widespread popular discontent with the way the political party culture is developing. UDUB was evolving as replay of the defunct regime's Somali Socialist Party. The party grass root structures were dismantled to be run only by then President as its Chairman aided by a select group of Ministers and a secretary General in the payroll of the state. All its officials and activities were funded through the coffers of the state. The wide grass-root base which the party built in its formative years was completely disenfranchised, so much so that in its last congress, the President and his inner group drew up an ad hoc list of loyalists as delegates, and at the same time barred from the occasion many of its founding key members who were not considered loyal enough to the president.

This congress was in fact worse than what used to happen in the Somali Socialist Party situation, because the latter was at least professional in following its Constitutional procedures. In the UDUB case, instead of the Congress electing the Central Committee of the Party and its Officers as its Constitution mandated, the Chairman asked for a waiver requesting that the congress authorizes him to appoint the Central Committee and Officers of the party at a later date of his discretion and so with a show of hands the Congress passed its powers to one man, the Chairman with no conditions attached to it whatsoever.

The democratic deficit levels of the other two parties were also a major concern to the public, but they were not as blatantly against the institutionalisation of the party system as UDUB was.

In the case of Kulmiye for instance, in the run-up to its pre-election congress, it was practically a national movement and genuinely as democratic as it can go in the Somali context, except when it came down to the election of the party officials. There was only one candidate and no competition for the Chairman position. Instead, there was a competition for the two deputy positions and the secretary general. However, during the follow-up congress meeting to elect the party candidates for the president and the vice president positions, the party split, losing a whole group of its founders and heavy weights, apparently due to a disagreement over some matters regarding the type of electoral procedure being followed to elect the vice presidential candidate. In the case of UCID, its internal conflict surfaced when the third congress was due. It was claimed that the Chairman made a pledge to the party in his second candidacy bid that he will not run for a third time, however, when the third congress was due he reneged this pledge and this became a national drama, where a court ruling ensued between a breakaway faction, which in fact looked like the whole party breaking away, and the Chairman. Eventually as a result of the court ruling, the breakaway faction formed a new political association with the name Wadani (the National Party) and the Chairman kept UCID.

In such a backdrop, it is obvious why the demand for opening of the political platform for new entrants became a national agenda. Although, all three political parties were expected to naturally oppose the idea of losing their privilege as national parties, Kulmiye realized the popularity of the idea and took it as a campaign pledge. The Somaliland civil society took the idea as the most important agenda in advancing the democratic process in Somaliland. The Independent Scholars Group and the Somaliland Forum were the most vocal and persistent in their fight for the open political platform.

Arguably, the above weaknesses of the political parties should be understandable and to be expected considering Somaliland had no historical experience of the political party culture and these parties are only a decade old with only a few elections' experience behind them. In spite of such realities, since the limitation to multi-party system is enshrined in the Constitution, it could spawn a monopoly of the political platform by the first entrants. Moreover, the parties' internal democracy became questionable. There was also a perception that the three political parties were becoming clan turfs and hence creating a society where some are in the club and others feel to be outside it. That was contrary to the consensus on which the Somaliland state and central authority are built, which is an inclusive contract of all clans. And the only way to compete with the clan turf culture is to ensure that the democratic path is strictly adhered to, to minimize the fissions and fragmenting nature of the kinship system.

When Kulmiye won the election in June 2010, the issue of opening of the political platform immediately surfaced and the President Silanyo was demanded to honour his election pledge. Therefore, the President opted for the path of public consultation and appointed a national committee to make recommendations on the matter and so the process of opening the platform unfolded.

## **II. The Consultative Process<sup>9</sup>**

In the beginning, although the President had given the Committee a mandate which was relatively well defined, the makeup of the committee seemed to be designed to fail. A committee of twenty persons was already a crowd and looked too cumbersome to be a functional body. Furthermore, the fact that, six members of the Committee were representing the existing three political parties, which declared their staunch opposition to any change to the status quo, also raised questions. Therefore, for the skeptics, it was a futile exercise designed to get the President off the hook from his election promise to open political parties and to exonerate him from any blame. However, the majority of the people in the Committee were from different social strata of the society: From the two Houses of Parliament, the Presidency, intellectuals, universities, religious scholars, traditional leadership, civil society organizations including the Human rights, youth , women and the business community.

The Immediate problems which the Committee encountered as it tried to start work in the first two weeks pointed to a self-fulfilling prophecy. The Committee had to expel an uncooperative member from UDUB in a unanimous decision, which obviously angered the party so much so that it withdrew its remaining member and so boycotted the process. In fact this proved to be a blessing in disguise for the Committee, because its work rolled smoothly afterwards and that successful collective decision created a spirit of cohesion and bonding among the Committee members. As the work progressed, the trust among the members to represent the people's wishes rather than those of any grouping strengthened.

The Committee decided not to confine itself in Hargeysa, but to cover all major regions of Somaliland to garner opinion from across the social strata, through the use of organized public debates and written questionnaires. The Committee opted for an unorthodox method

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<sup>9</sup> Presidential Degree 15 March 2011

of operation i.e. to travel to each region as one unit, in an effort to avoid the usual disagreements among such committees who split themselves to different geographical areas and later encountered difficulties to reconcile their different experiences. The only leg of the regional trips which the Committee split was between Laas Caanood and Cerigabo. In all other areas, such as in Hargeysa, Borame, Gabiley, Berbera and Burco, the Committee sat together in all meetings as one unit.

The most difficult aspect of the Committee's task was how to select the participants of the debates, to make it a fair representation of societal categories. In Hargeysa, the committee organized itself into groups to identify participants for Committee approval. Each group from a designated category of the city population was to have their day to debate and express their opinion on the matter. They included the traditional leaders (Sultans and Caaqils separately), the religious scholars, the professionals and intellectuals, the universities (students and teachers), the youth, the women and the business community.

In other regions, the Committee decided to leave the selection of the participants and organization of the meetings to the regional authorities. The Regional Governors and Mayors cooperated with the Committee in an exemplary manner and had done a commendable job in balancing the different shades of the regional groupings and opinions. It demonstrated how these regional authorities are very much in touch with the pulse of their own constituencies. According to the different circumstances of the regions, meetings were organized either as large gatherings in one place as in Berbera, Gabiley and Las Caanood or as separate meetings for the participants of different social strata as in Burco, Borame and Cerigabo. The debates were very lively and objective. The participants were given the opportunity to fill a "Yes or No" vote sheet, and asked to reason their choice and to give any advice. Those who wanted to speak were allowed 2-3 minutes time to further express their opinion. Participants used the opportunity to also express their approval or disapproval of the Government actions and to pass their messages. The Committee was satisfied that the process captured the general opinion trends of the population.

### **Most significant concerns from each of the "Yes" and "No" sides<sup>10</sup>:**

1. For the "No" side, the 1969 elections syndrome was evident in the debates: the experience of the anarchic proliferation of the political parties in 1969 election is still vivid in the minds of most elderly people and has obviously been passed on to the younger generation. We are aware of that, this was the main reason why the Somaliland Guurti kept Article 9(2) in the final version of the last Constitutional revision, defying the recommendation of the intellectuals, politicians and even the reigning veteran President Egal himself, when the latter group proposed to remove restrictions on the number of political parties in the Constitution. The same fear from the 1969 experience is still evident in large sections of the Somaliland public. In spite of that fear, participants widely expressed their disapproval with the present political parties system and pointed out its weaknesses which need to be addressed, but still many people argued to give them a chance to reform themselves and build their capacities, before subjecting them to any serious outside competition.

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<sup>10</sup> Consultative Committee Report 7 June 2011

2. For the “Yes” side, the most significant concern that emerged from the across country debates and which also many “no”- leaning voices shared with them was: the undemocratic culture of present political parties and the monopolistic character of the leadership positions. It was cited that there has never been any competition for the chairmanship and presidential candidacy of any of the three political parties. Their Congresses have hardly been democratic gatherings. The grass-root membership has no role or influence in the parties’ policy and decision-making processes and that they are capital-based, top-heavy and diaspora- dependent. Furthermore, instead of overcoming clan divisions in the society, the leadership of current parties perpetuates it and creates a fertile soil for entrenched clan political interests, which are a recipe for social disharmony and conflicts. The conclusion of this voice trend was that the present political parties cannot grow or contribute to the democratic process without being subjected to open competition, which is also their only salvation, if they are to survive as engines of political and democratic development in Somaliland.

### **The Outcome of the of the Committee Work**

The Committee reached its final decision through three key components of the process: a) the debated opinion trends b) the legal opinion of four commissioned lawyers and c) the voting tally of the “yes” and “no” numbers from a national sample of 1769 persons; this last item was considered to be the most important source of the decision.

### **The Key recommendations of the Committee, reached in a unanimous decision were as follows:**

1. To open the political platform, for the registration new political associations and complete the process certifying 2<sup>nd</sup> batch of national political parties in the first local council election.
2. To complete implementation of the registration of new political associations and hold the next local council election within the next 18 months starting from June 2011.
3. To complete the amendments and filling the gaps in the laws and regulations of political parties, associations and the elections in time for the next local council election.
4. To build a standing committee to register the political associations and to be responsible for the oversight of the national political parties’ practice of internal democracy.
5. To address the flaws of the current registration system.

The President adopted the Committee recommendations and the process has passed fairly fast through the Presidency and was afterwards submitted to the Parliament to address it in its ongoing session. Some of the controversial issues that appeared afterwards are whether to form a separate Standing Committee as the case was in the first cycle or to give the mandate to the existing National Electoral Commission.

## **Lessons to be learnt from the consultation exercise for future similar undertakings**

- 1) Committees when formed for specific tasks need to go to the people to garner their opinion, instead of talking among themselves in a closed room and reaching decisions. In the latter case seeking expert opinion could be a more appropriate route for the authorities.
- 2) The addition of Political Parties in this Committee undermined the credibility of the Committee from the beginning. People argued that it is conflict of interest situation. But in the end all these fears were allayed due especially to behaviour of most political party representatives who took responsible national stands on the issues by accepting and agreeing with the rest of the group to base their decisions on the people's verdict.
- 3) Committees should use the media to first educate the public on the issue at hand and the clear objective of the particular mission. This committee did not do that from the start and its work has been made more difficult because of that.
- 4) The influence of partisan group influences on the selection of the debate participants could be said to be more in the capital city than in the regions. The organized interests are more active in the capital city than in the regions.
- 5) Boycotting a national process is beneficial neither to the boycotting body nor to the public. UDUB had made the cardinal mistake of withdrawing and therefore had forsaken its chance to contribute to the process. It has to be observed that boycotting has not been a culture for Somaliland political parties, even during the difficult times when the Rayale's government employed heavy handed methods.
- 6) This exercise demonstrated that the Somaliland public in the regions needs to have dialogue with the Government and have public debates to participate and be informed in the national decision making process. 7) The process and its outcome removed a lot of uncertainties in the Somaliland democratization process and created hope for political transparency and dynamism.
- 8) Clan meetings will increase, but if the law is applied, they cannot translate themselves into increased clan political fragmentation. For political associations to register and for national political parties to emerge, there are adequate criteria and legal provisions which make it impossible for clans and sub-clans to have their stand alone national political entities.

## **III. Further Deepening of Process of Democratization**

The Law No 14 has been amended and a more advanced version of it is spawned by the process of opening the political space, although it still needs further harmonization of its articles and significant debugging efforts. Some of key additions include (see [Somalilandlaw.com](http://Somalilandlaw.com)).

1. An independent Registration and Approval Committee (RAC) with an increased lifespan of two years and an extended mandate of taking the oversight role even after the successful parties attain their national status. This is a very important addition and the mandate will pass to the National Electoral Commission when RAC's two-year mandate expires.
2. The cycle of opening the political platform for registration of new political associations is now fixed to be every 10 years which is reflected in the validity of the license issued to the national political parties. This is a chance for the reinvigoration of the democratic process time and again, but it is on the other hand a cumbersome and expensive process, which could easily be done away with, if the political will is there, by removing article 9(2) of the Constitution.
3. Another important addition is Article 25 and most of the articles that follow it, in which most of the gaps of the original law No 14 are addressed including the important area of political parties' internal democracy, the required oversight from a mandated institution and the imposition of sanctions in case of breach of the law.

However, in another perspective, despite the adequacy of the legal instruments, the quality of membership of the new RAC was less than adequate, which reflected in its subsequent performance in the registration, screening and eventual certification of the new political associations. It was as a mediocre, sloppy and far from fair process. In addition, the deposit required from new political associations was raised from around \$400 in 2002 to close to \$27,000 in 2012. No reason has ever been given, but the guessing game concluded, that it was designed to deter less wealthy aspirants to register and hence should reduce the number of applicants, but that did not work - 15 new associations have registered themselves and paid the hefty fees.

The RAC had the opportunity to follow the strict criteria available to it, before it collected the fees and hence to ensure that those going to pay will eventually have the opportunity to compete in the election. The following criteria was quite adequate to weed out the imposters and political speculators: 1. Requiring 1000 genuine members in each region is not an easy job to accomplish if properly registered and screened; establishing functioning centres in all six electoral regions, which could be extended to districts and localities if competition is fierce could also easily test the popular base and the national reach of the organizations; scrutinizing the internal democratic process of the competing organizations by following up their congresses and internal election processes could easily weed out the one-man show organizations; scrutinizing the source of funds of the organizations would ensure that organization are not externally driven agents; screening their Constitutions and by laws will ensure, their compatibility with the Somaliland Constitution and other national laws; and finally payment of the hefty fees. These are more than adequate criteria to give opportunity to the genuine political associations to shine, if properly administered.

Above all the greatest unfairness in the process is the advantage given to the existing parties, which were totally left off the hook to compete in the qualifications process except for holding a congress. Also, they were not required to pay the hefty fees. Furthermore, the mediocre performance of RAC has marred the results of the process. Having 15 new

contestants<sup>11</sup> seemed to be a prophecy fulfilled for those who are haunted by the 1969 election experience and could almost discredit the whole efforts of all different actors and branches of government that made possible for the process to reach this stage. Cutting the number to 6 new entrants and existing three was a bitter pill for RAC to swallow and to shoulder the blame. This naturally caused uproar from those disqualified and left a host of unanswered questions on the fairness and democratic credentials of the process. After the dust settled the successful candidates in the process of screening to compete in the upcoming local elections became: WADANI, DALSAN, NASIYE, UMMAD, XAQSOOR and RAYS.

### **Lessons to be drawn from the Opening of the Political Space Process:**

- 1) Somaliland people have shown time and again that they are ready to go all way to improve their democratic process, but it is rather the leadership that waivers and needs to muster the necessary political will to move forward as it did in this case. Amending selected articles of Constitution and addressing the Guurti case are two current issues in point.
- 2) There are no major entrenched interests, clan or otherwise, in Somaliland, that can block or derail any initiative, which deepens the democratization process and consolidates peace and state building gains.
- 3) There are serious challenges in the professional capacities available for the system through which the preparation and harmonization of draft laws are processed. This is demonstrated by the number of times (three times in less than 12 months) the Executive has submitted Law No 14 for amendment to the Parliament and the ease with which incomplete drafts sail through the legislature.
- 4) RAC's performance in executing the first cycle of its mandate – the screening of new political associations – was far short of professional standards and this could happen in the oversight function of its mandate if not provided with more substantive support especially from the civil society.
- 5) The political associations and parties are progressively moving away from national issues-based political agenda and now concentrate more on institutionalizing clan mobilizations with no national agendas needed. This would have negative influence in the stability, democratization, and state building processes in Somaliland. In the Constitution and other laws exclusive clan parties are prohibited, however, there are no legal provisions which address their activities to mobilize exclusive clan conferences and meetings and the use of clan inciting rhetoric. A balance needs to be drawn between the national and clan level activities of political entities.

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<sup>11</sup> WADANI, DALSAN, UMADDA, NASIYE, XAQSOOR, RAYS, NUUR, DAMAL, HORYAAL, NDP, BADBAADO, GURMAD, UDHIS, JAMHUURIGA, SSCD



## **Recommendations**

1. To ensure the strengthened law No 14 provisions regarding the oversight of political parties are applied. The focus should be on internal democracy of the parties.
2. The system of screening political parties should be appraised and its loopholes and weaknesses mended while still fresh in the memory of involved actors and the public.
3. The pending local election is creating a bottleneck on the unfolding Democratisation process: the certification of the national parties is pending; the start of civil registration is unclear, the dates and schedule of other national elections are still up in the air and above all a credible opposition is still not in sight. So there is an urgent need to go on with the pending local elections, which will no doubt remove the knot in the process.
4. The central government needs to plan election costs in its budget as part of the national development expenditure. The international community has stepped in during need but should not be expected to create a long term dependency on the matter.

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## **Chapter 4: Supporting Local Peace Building and Access to Justice: Traditional Leaders as Drivers for Change?**

**Louise W. Moe; Maria Vargas<sup>12</sup>**

### **Abstract**

Since 1991, and particularly during the last decade, state institutions in Somaliland have increasingly consolidated. However, in terms of providing security and justice for local people the formal state institutions are still weak and under-capacitated. Everyday security, peace and justice are primarily provided by local modes of conflict resolution, and in particular the Somali customary law. Customary law coexists with both the state law and Sharia law. This multi-layered security and justice sector is in constant transformation, where different interests and notions of peace, security and justice intersect, merge and compete.

The chapter explores possibilities and limitations for supporting local peace building security and access to justice under these conditions. It does so through a case study of an ongoing initiative, started up by a group of traditional authorities from Somaliland and supported by the NGO, the Danish Refugee Council (DRC). Starting in 2003 the initiative departed from conventional security reform and international rule of law projects by taking as its point of departure the actors that *de facto* provide the bulk of security and justice in the local context -the traditional leaders- instead of focusing solely on state-labeled 'formal' actors and legal institutions.<sup>13</sup>

In its first phase (approximately 2003-2010) the initiative was a 'stand alone' initiative. It focused on the traditional leaders and on the customary law, the *Xeer*. DRC gave support to arranging a series of dialogues between traditional leaders within six regions in Somaliland (Toghdeer, Awdal, Maroodijeex, Sahel, Sool and Sanag) with the dual aim of letting the traditional leaders build stronger networks and relations among themselves to enhance local peace building, and improve local justice and security provisions through revising certain aspects of their *Xeer*. Elders from different clans and sub clans had the opportunity to meet, share experiences and mediate inter clan conflicts. Moreover, the elders agreed upon a number of revisions to the *Xeer*, which were specified in regional and national *Elders Declarations*. This led to a number of positive changes, particularly in terms of peace building and increased local security, resulting, to a great extent, from a decrease in the practice of revenge killings. Yet, some limitations, specifically in terms of the aim of enhancing access to justice, were also apparent. It became apparent that written Declarations of revisions of *Xeer*, and commitment on the part of the traditional leaders, was not in itself sufficient to tackle the challenges of lack of access to justice for less influential groups in the communities.

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<sup>12</sup> <sup>12</sup> The chapter draws on fieldwork by the authors in Somaliland in 2010 (February-March), and 2011 (Sep-Nov).

<sup>13</sup> Estimated 80-90 percentages of all crimes and disputes are handled through the customary system in Somaliland (Gundel 2006).

In 2010 the initiative went into a second phase, where it adopted a broader community driven approach. The efforts have been widened to include not only the elders but also the wider communities. The approach to justice has shifted from *revising the customary legal order* per se, to *assisting broader community processes of contestation* over the societal norms and practices that are producing and reproducing legal orders. This approach includes continuous support for the traditional authorities while also supporting, for example, women's peace committees and community conflict resolution and policing. These serve as 'bridging' platforms for both supporting and contesting with the established (traditional and state) security and justice providers. The chapter discusses how this widening of the approach may address some of the limitations encountered (in terms of access to justice) through the first phase of the initiative.

The chapter is organized in the following manner: The first section provides a background introduction to the context and the dynamics that shape the security and justice sector in Somaliland, and a brief discussion of possible approaches to international engagement with this sector. The second section examines the particular security and justice initiative set off by the Danish Refugee Council and a group of Somaliland elders. It attends to pros and cons of the approach chosen, and discusses possible ways forward.

## **Part One: Background**

### **Multi-Layered Security and Justice in Somaliland**

Somaliland's de facto statehood features elected institutions of government, as well as police and courts, at the national, regional, and municipal levels. However, notwithstanding the ongoing expansion and consolidation of state institutions, everyday governance in the local arenas is still primarily provided by community and traditional leadership, not by state actors. In particular within the domains of peace, security and justice, traditional leaders and traditional law –known as the *Xeer*- remain the main providers in the daily life of local people.<sup>14</sup>

The relative strength of *Xeer* (and the elders), also vis-à-vis the formal system (and judges and police), is closely connected to the role played by the customary system in Somaliland during the reconciliation and reconstruction processes after the disintegration of the central Somali state in 1991. Throughout this period the *Xeer* was central in promoting stability and facilitating peace negotiations.

Traditional authorities operated through shifting alliances with political elites, militia leaders and community representatives to consolidate peace and to constitute new institutions of government. As drivers in state and peace building the traditional authorities took on a range of roles that boosted their influence significantly. In addition to spearheading local reconciliation processes, they were selecting representatives for parliament; ratifying region-wide peace accords; and; demobilizing militias (Menkhaus 2009). This strength, adaptability and durability of the *Xeer* during the reconciliation and

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<sup>14</sup> There are different categories of titled traditional authorities, the two most common and active being the Suldaan and the Aqil.

political reconstruction of Somaliland since 1991 elevated its status within the wider emerging judicial framework.

While customary law is the most prevalent system of justice in Somaliland it links and negotiates with Sharia law and the formal state law. These relations and dynamics underpinning the sectors of security and justice are not easily understood through the clear-cut categories of 'state' and 'non-state' providers and institutions, or the idea of 'parallel' discrete justice systems. Rather, it resembles what Baker and Scheye (2007) have described as *multilayered security*. This is characterized by blurred and dynamic boundaries and relations between state and local providers operating primarily outside or beyond the legal framework of the state.

As is also the case in many other African contexts, the uneasy coexistence of different systems results in competition and sometimes confrontations. It also, however, generates connections across difference as the various providers are "tapping into the knowledge, capacity, and resources of others" (Baker 2010: 2) to in this way strengthen their leverage. The interactions and exchanges, according to Baker (2010), depend on mutual recognition of capital (symbolic, cultural, economic and social) amongst the different providers.<sup>15</sup> And such recognition of capital in others, "draws providers together into security and justice networks" (Baker 2010: 3).

In the Somaliland context, the practice of customary law has, to a great extent, embraced Islamic Sharia. Sharia, more specifically the Shafi'i school of Sunni Islam, holds social and cultural capital among Somalis. Yet, in aspects where Sharia contradicts customary law, the former has typically been subordinated and adapted to the latter. Generally, Sheikhs and religious leaders tend to function in support of the efforts of the traditional leaders by blessing their decisions (Gundel 2006).

The main capital, or resource, of the formal state and security/justice providers -such as the army and the police- is their (moderate level of) law enforcement capacity. However, overall, the many years of civil war has left the formal system severely underdeveloped and under-capacitated in terms of economic capital. This system is not strong and advanced enough to address contemporary crimes, conflicts, and interests. This is also because the state providers lack the symbolic and cultural capital that the traditional authorities have accumulated through their role as main providers of peace, security, and justice for Somalilanders throughout history. Given the status of the *Xeer* as foundational for peace and reconciliation in Somaliland, it is common that when the traditional leaders assert their jurisdiction over a matter, judges as well as police officers facilitate this in the belief that the traditional leaders best understand how to maintain the peace and avoid further clan conflict. In this way, the traditional system also taps into the 'capital' of the state security providers, since the latter provide enforcement capacity that the traditional system does not have.

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<sup>15</sup> Here Baker uses Pierre Bourdieu's notion of capital (Bourdieu 1980).

These multi-layered and networked relations between the different security and justice providers, have been partially institutionalized in the parliamentary framework of the state of Somaliland, namely in the House of Elders, also known as the Guurti. The link between state and traditional governance is also reflected in the practice of Ministry of Interior registering the *Aqils*.<sup>16</sup> This registration is aimed at facilitating quick and efficient cooperation between state security providers and traditional leaders in cases of crime or conflict.

From a perspective of national state governance today, and also with regard to the role of the Guurti, the independence and influence of traditional leaders has gradually been reduced and become mostly complementary to state governance. On the local level, in the domains of peace, security, and justice, however, their role remains principal and in these domains, the traditional leaders make decisions largely independently. Especially outside the urban centers, the state providers (who are often few in number) are supplementing and supporting the traditional system, rather than vice versa.

### **Gaps in the Provisions of Local Justice and Security**

Somaliland is known as a positive example of an alternative, indigenous, approach to reconstruction and state formation. It is commonly argued that it is precisely the fusion of traditional leadership and state authority that has allowed Somaliland to achieve its relatively high levels of security and peace over the past 20 years. At the same time the these multi-layered arrangements provide unequal levels of security and justice to different community members , and do often not conform to international human rights standards. Especially women, members of minority lineages, and internally displaced people (IDP's) are regularly discriminated against in matters of justice and security (Menkhaus 2009).<sup>17</sup>

The historical key function of the *Xeer* is to restore relations and maintain peaceful coexistence between the different clans and sub-clans. Since *Xeer* is based on a doctrine of collective responsibility, it lacks provisions for the punishment of individual perpetrators, or rights of individual victims. Instead, when a crime is committed, responsibility as well as compensation is collectively based. *Xeer* and the rulings of *Xeer* are also not based on an equal representation of all groups. Traditionally, *Xeer* is entered into by the traditional leaders of the *diya*-paying group.<sup>18</sup> Although in theory, all men can participate in negotiations and mediation, access is often restricted to adult men from majority clans, and

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<sup>16</sup>The *Aqils* are leaders of the *diya*-paying groups. They serve as decision makers, judges and conflict-mediators between the different *diya*-groups (Gundel 2006).

<sup>17</sup> The term IDP is problematic in the context of Somaliland. Somalis fleeing from the south to Somaliland are sometimes considered refugees, given Somaliland's self declared independent statehood.

<sup>18</sup>The *Diya*-paying groups can be understood as the basic social structure or lineage entity, above the family level. Each *Diya*-group is loosely connected to higher levels of lineage, the highest of which are conventionally known to be the six clan-families *Raxanweyn*, *Darood*, *Hawiye*, *Isaq*, *Digil* and *Dir* (Bradbury 2008). As per the *Xeer*, the *diya*-paying groups are bound to pay or receive blood compensation in cases of crime or murder (Menkhaus 2000; Gundel 2006).

women do not, traditionally, have access. Minorities, due to their inferior status in the Somali clan lineage system, are similarly denied equal representation in *Xeer* negotiations<sup>19</sup>.

Expectations vis-à-vis the state –as a justice provider- have increased in Somaliland, and liberal discourses of individual human rights and gender equality, have grown stronger. There are a number of factors behind this, related both to gradual institutionalization of the state and to societal changes, including those sparked by migration and socio-economic change.<sup>20</sup>

At the same time, the customary system remains vital in terms of maintaining peaceful relations and security, especially in areas outside urban centers. Moreover, it has proven highly adaptable, while also striving to remain an institution that protects Somali culture, and serves as a common reference point for Somalis. Also, important to bear in mind, the customary authorities have not ‘taken over’ functions from the state but are historically the main source of local security and legitimate authority.

The question is, therefore, how to engage with issues of peace, security, and justice in a manner that both builds on the strength and local legitimacy of the customary system, at the same time facilitating greater access and protection to vulnerable groups in the communities.

## **Beyond Mainstream Approaches to Enhancing Peace, Security and Access to Justice**

Promoting peace, security and access to justice are important components of broader international state-building and democratization agendas for Africa. The mainstream approach has been to promote reforms of the formal institutions and to build the capacities of these institutions (police, judges, military) while reducing, ignoring, or trying to do away with the role of communal and so-called ‘non-state’ justice and security systems and actors. While donors have started to pay increasing attention to these actors, the categorization of ‘non-state’ is, as noted by Baker, “a categorization that subtly questions whether they are or ever can be professional, effective, reliable or authorized” (Baker 2010a:2). Basically, the categorization invokes a justification of the search – on the part of mainstream international donor strategies – for unity and homogeneity around state based principles.

However, as noted by Chopra & Isser (2010:15), “experience shows that especially in post-conflict situations the road to a well-functioning formal justice sector, which is acknowledged by the population and which has the capacity to be the exclusive deliverer of

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<sup>19</sup>Until quite recently, access to justice for minority groups through customary fora was preconditioned by their being sponsored or “adopted” by the elders of majority groups. This situation has now been marginally improved, and minorities can also gain access to customary processes through their own elders, although their level of protection and the quality of justice meted out remains limited. This is because minority elders do not enjoy the same status as majority elders, violations committed against minority individuals are rarely viewed as important priorities, and the enforcement of decisions can be difficult (Gundel 2006 56-57)

<sup>20</sup> The Somali diaspora’s influence on society is considerable, both from abroad and through returnees, as they impact both through remittances, and through pushing social and political reforms.

justice is an impossibly long one". The same holds true for the security sector in many post-conflict settings. Meanwhile, ignoring –or seeking to undermine– justice or security arrangements operating outside the state, means ignoring the *main* providers (in many rural areas the *only* providers), and the often substantial capacity and legitimacy they hold.

In Somaliland, traditional leaders take care of about 80-90 % of everyday conflicts, disputes, and crime (Gundel 2006: iii).<sup>21</sup> Nevertheless, in the Somali context, support to peace building and governance has largely ignored existing communal and customary institutions. Even international programs specifically targeting local level governance and peace, often suffer from insufficient participation of communities and their leaders, and lack of attempts to support linkages between local state institutions and traditional community institutions (see for example Gundel 2008, on UNDP's 'community and district based peace

In recent years, consensus has grown –across the academic and policy making spectrum– that (contrary to past modernist claims), traditional and other so-called non-state providers of justice and security providers are here to stay for a foreseeable future. The question has therefore become how, rather than if, efforts should be made to promote peace and greater access to justice through engagement with customary justice systems.

We will in the following attend to this question, through a discussion of a concrete ongoing initiative aimed at enhancing local security and justice in Somaliland. The initiative was developed by a group of traditional leaders in Somaliland in cooperation with the NGO the Danish Refugee Council. The approach departed from conventional rule of law and security reform projects, by taking as its point of departure the actors that *de facto* provide the bulk of conflict resolution, security, and justice in the local context –the traditional leaders– instead of focusing narrowly on state-labeled 'formal' actors. The initiative attempted to build upon the existing linkages between the different justice providers, and engaged with leadership on a continuum of 'local' and 'state', instead of assuming a dichotomy of state versus non-state. The underlying hypothesis when starting up the initiative was that an approach focusing on the locus of conflict resolution for the majority of the rural population was more likely to yield an impact than an approach focusing solely on either non-existent or remote state institutions.

The remainder sections look at the initiative as it has developed through two phases: First a phase with a focus on the traditional system and on making revisions to the *Xeer* (2003-2009/10), and second, a phase in which the efforts have been widened to include not only the elders but also the wider communities, and where the approach to justice has shifted from changing law, per se, to instead facilitating broader processes of societal contestation and change (2010-onwards).

These sections draw primarily on our fieldwork in Somaliland (in Hargeysa, El Afweyne, Ainabo and Sheik during February-March 2010 and Sep-Nov 2011. See footnote 1).

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<sup>21</sup>Similar numbers can be found in many other African countries (see for example DIIS 2010).

## **Part Two: A Local-International Initiative for Enhancing Security and Justice**

### **Traditional Leaders as Drivers for Change**

In 2003 the Danish Refugee Council (DRC), was approached by a group of local traditional leaders who wanted support in starting dialogues and experience sharing amongst leading traditional clan leaders, to facilitate better cooperation in addressing increasing insecurity. At the time, there had been an increase in revenge-killings, in particular in the Togdheer region. These traditional leaders were of the opinion that better linkages and stronger joint efforts between the different justice and security providers were necessary in order to deal with this increasing insecurity, and in particular the security threats associated with an increase in revenge killings.

Recognizing the importance of the traditional system as the principle source of conflict resolution, and also keeping in mind the role of the traditional leaders as key actors in the interface of the state justice system and the *Xeer*, the DRC decided to support the initiative.<sup>22</sup>

Through discussions between the DRC and the group of traditional leaders spearheading the initiative, the idea developed that the Somaliland traditional leaders, during the dialogues, would attend not only to issues of security and peace building, but also to the related issues of access to justice –and specifically the issue of co-existence of the three different justice systems (*Xeer*, state, and Sharia). Hence, the traditional leaders committed to also consider possibilities for bringing the *Xeer* in better alignment with the two other justice systems. This way, further adding to the overall effectiveness of the provision of security and justice, especially for vulnerable groups.

Hence, the initiative came to serve a twofold purpose: first, facilitating knowledge and experience-sharing amongst the traditional leaders and in this way strengthening the customary system and its effectiveness in terms of peace building. Second revising elements of the *Xeer*, so as to better align it with state laws on individual human rights, and with the Sharia. It was reasoned that linking the traditional leaders through networks and facilitating inter-clan contact would be critical both for enhancing peace and for successfully reaching new agreements on justice provisions.

The first step was to facilitate a series of regional dialogue meetings among traditional leaders in Togdheer, Sahel, Awdal, Maroodijeex, Sool, and Sanag Regions. During these dialogues and experience sharing, the traditional leaders produced regional declarations, spelling out a number of revisions to the *Xeer*. The dialogues culminated in a national conference in Hargeysa in 2006. At this conference a *Somaliland National Elders Declaration*, which specified and summarized the agreed upon changes to the *Xeer* was endorsed.<sup>23</sup>

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<sup>22</sup> For an introduction to the underlying strategy of the DRC program supporting the traditional leaders in Somaliland and Puntland, see Joakim Gundel 2006.

<sup>23</sup>The declaration is referred to as a 'National Elders Declaration' by its proponents because Somaliland is seen as an independent state from the Republic of Somalia. In the reminder of the paper we make reference to the



## **Key articles in the *Elders Declaration* included:**

- Commitment to hand over offenders of serious crimes –in particular intentional murder and rape- to the state authorities, instead of offering clan protection. This is to be combined with the obligation to disburse a smaller compensation payment, directly to the family of the victim rather than to the clan
- Commitment to increased protection of women's rights including: commitment to protect the right of widows to inherit according to Sharia principles<sup>24</sup>; abolishing the practices of *domical* (where a widow is forced to marry a male relative of her deceased husband)
- Commitment to increased protection of vulnerable groups such as minorities and internally displaced people
- The formation of committees to resolve conflicts that were deemed threats to on-going peace and security (Somaliland National Elders Declaration 2006).

In conjunction with the dialogue meetings and the work with the Xeer, funds were given to support the logistics (transportation, food, venue facilities etc.) of direct conflict mediation between traditional leaders in a number of clan conflicts –mainly in Sool and Sanag regions.

## **Achievements**

Research on the first phases of implementation of the initiative (2003-2010) indicated mixed results. As for positive developments, there had been a notable increase in the number of murder cases being processed by the courts since the *Elders Declarations* in Somaliland were made, and a corresponding decrease in revenge killings.<sup>25</sup> Interviewees confirmed that the practice of shielding the perpetrators from the courts had been considerably reduced as the traditional leaders had generally come to disapprove of this practice, and managed to reach consensus across clans (i.e. consensus between elders from different clans and sub-clans) to put pressure on conflicting parties to refrain from revenge killings. They also noted that peace and security had been enhanced due to this decrease in revenge killings, and more effective cooperation among the traditional leaders from different clans and sub-clans, and joint efforts between them and the state actors (e.g. murderers being handed over to prosecution by the state).<sup>2627</sup> Altogether, there was a sense that the relationships and

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*Elders Declarations* (plural), denoting both the regional declarations (that served as the basis for producing the final national declaration) and the national declaration. The word *Elders* is exchangeable with *traditional leaders*.

<sup>24</sup> Principles of Sharia are generally more advantageous than *Xeer* for women in terms of family rights. Apart from the issue of inheritance, the principle of *dumaal* is not applicable to –or practiced in- Sharia law.

<sup>25</sup> According to United Nations Development Programme (UNDP) in 2006, the caseload for the state courts across Somaliland was 1,852 cases; in 2007, this had increased to 3,293, and in 2008, to 3,833.59. These results were cross checked in terms of the variable of the overall number of serious crimes during these years. On this basis, the research concluded: “there is reason to believe that this change are at least partially linked to the National Declarations” (Vargas Simojoki 2010: 12).

<sup>26</sup> Revenge killings are often taking place as a result of the clan shielding the murderer from the courts. In these cases, the clan of the deceased may kill someone from the clan of the murderer, which then may spark another killing in response. Such spirals of revenge killings can be infinite.

networks between key peace and security providers had been strengthened significantly through the dialogues. Yet, several of the elders and facilitators, who have taken part in the initiative from its beginning, stress the continuous need for support (mainly logistical support) for such dialogues, experience sharing, and mediation between elders of different clans and sub-clans.<sup>28</sup>

In addition to the improvements in terms of peace and security, a more coordinated 'division of labor' between the customary leaders and the religious leaders have led to advancements in women's inheritance rights, as cases of inheritance are increasingly handled through the application of Sharia law. A general reaffirmation of Sharia law in family affairs has resulted in a decrease of the discriminatory customary practice of *dumaal*.<sup>29</sup>

It is noteworthy that these positive changes have resulted from improvements of the linkages and interaction between different providers underpinning the Somali multi-layered justice and security architecture, not by overcoming pluralism.

## **Limitations**

While the support to the traditional system led to some significant and positive changes, a number of limitations of the initiative were also apparent, specifically in terms of enhancing access to justice. For example, the research found that cases of gender based violence and rape cases were still primarily handled in the customary system and with reference to collective responsibility rather than with reference to the individual.<sup>30</sup>

While the traditional leaders were prepared, in principle, to refer such cases to court, victims remained under significant social pressure to resolve these cases through *Xeer*.<sup>31</sup> Also, regarding the aim of referring rape cases to the formal system, it turned out that unrealistic evidentiary requirements that discriminate against rape victims in the formal system make the prosecution of such cases in the state courts extremely difficult. Hence, cases, which reached the state courts, would thus often be sent back to the customary system.

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<sup>27</sup> Interviews with representatives from the Ministries of the Interior and of Justice March 2010, Interview with Haqsoor Representatives, Haqsoor Office, Hargeysa, Somaliland March 2010; interview with Hornpeace Representative, Horn Peace Office, Hargeysa, Somaliland March 2010

<sup>28</sup> Interview with Haqsoor Representatives, Hargeysa, Somaliland November 2011. Focus Group Discussions with the District Peace Committees of Aqils, El Afweyne and Ainabo, Sep and Oct 2011.

<sup>29</sup> Interviews with representatives from the Ministries of the Interior and of Justice March 2010, Interview with Haqsoor Representatives, Haqsoor Office, Hargeysa, Somaliland March 2010. Focus Group Discussion with the elders, Horn Peace Office, Hargeysa, Somaliland March 2010.

<sup>30</sup> This means that the clan of the perpetrator would pay compensation to the clan of the victim. Or, alternatively, the victim would be married into the family of the rapist.

<sup>31</sup> In fact the elders noted that a key challenge was to get all members of the communities to accept change in customary practices (Interview with Haqsoor Representatives, Haqsoor Office, Hargeysa, Somaliland March 2010; interview with Hornpeace Representative, Horn Peace Office, Hargeysa, Somaliland March 2010. It is even sometimes the case that women themselves put pressure on each other not to report for example incidents of rape to the state system (Interview with NAGAAD Human Rights Advisor, Hargeysa, Nov 2011. Nagaad 2011).

<sup>32</sup>According to a Regional Court judge in Hargeysa, 44 cases of rape were prosecuted in court in 2009. Of these, only eight convictions were obtained, while the other cases were either dismissed due to lack of evidence or withdrawn from court.<sup>33</sup>

The research also concluded that for members of minority clans and IDPs, access to justice remained very limited. Since these groups are marginalized from, or sometimes entirely outside, the wider clan-system, they are often by and large excluded from the arrangement of *Xeer*, and therefore have limited benefits from the revisions of this customary law. At the same time, they also continued to find themselves discriminated against in the formal state justice court system. In cases of rape committed against a member of a minority clan, the victim will often suffer a 'double marginalization'. The traditional solutions offered through *Xeer* –requiring the rapist to marry and provide for the victim - are unattainable because marriage between a majority and minority member is not permitted, and the power of a minority clan to exact fair compensation from a majority clan is weak. Respondents stated that victims in such situations, unable to marry and socially "tainted", may commit suicide or leave (or be forced to leave) their communities.

The research finally concluded that widespread lack of awareness of the Declarations, and of the traditional leaders' dialogues, was a key limiting factor in enhancing the legal protection of vulnerable groups, since lack of awareness of rights naturally preclude assertion of rights –or attempts to hold providers accountable for guaranteeing them (Vargas Simojoki 2010).

## **Discussion of the Limitations**

The findings reviewed above highlight that the challenges of access to justice do not solely concern specific law systems (whether state or customary). Rather, they also relate to structural socio-political inequalities, and broader societal lines of inclusion and exclusion.

For example, the fact that weaker groups in society -such as members of minority clans, and women- are unable to access justice in *any* of the justice systems shows that the challenges are not simply a matter of law systems, state or customary. As noted by Chopra & Isser (2010:5) "both systems are just players in the much larger theater of social and political processes and power dynamics". Therefore, efforts to simply push cases from the traditional system to the state system are often not going to address issues of marginalization and unequal access to justice. Along similar lines, the research on the first phase of the initiative indicates that social power issues and broader societal norms –that are not immediately amendable by mere will of the traditional leadership- profoundly shape access to justice in Somaliland. Therefore, one cannot expect that putting 'acceptable' laws (in this case the *Elders Declarations*) in place will in and of itself be a solution, although it may be an important first step.

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<sup>32</sup> For many judges some settlement is better than no settlement at all – meaning that if they are not able to provide any redress through the formal legal system then judges will refer the cases back to the customary. (Interviews with judges and the Minister of Justice, Hargeysa, March 2009).

<sup>33</sup>Regional Court Judge of Hargeysa, Prosecutor Workshop, Mansoor Hotel, Hargeysa, Somaliland, March 2010.

On this backdrop, DRCs initial engagement with only the traditional leadership –i.e. the providers- and the creation of the written *Elders Declarations* for revised *Xeer* as the *sole* basis for creating change in terms of access to justice has limitations.<sup>34</sup>

At the same time, the openness to change on the part of the customary leadership, and the *Elders Declarations* these leaders produced, may well offer important entry points for challenging and contesting exclusionary and marginalizing practices, particularly if other community members can enter the negotiation of what justice and security provisions might look like. As argued by Chopra & Isser (2010:3) “as the reflection of social norms and dynamics, legal orders are not static, but the product of continuous processes of social and political contestation”.

Recently, DRC has embarked on a more broad based community driven approach to supporting local justice and security provisions. Focus of the support has partly shifted from attempting to *revise the customary legal system*, to *assisting the continuous processes of contestation* and negotiation over the societal norms that are reproducing this legal order.

The following provides a discussion of this change in approach and of the second phase of the initiative (2010- ).

### **Possible ways forward: From changing law to facilitating processes of contestation**

When DRC started its cooperation with the traditional leaders in 2003, the program was a stand-alone program for peace building and justice, focusing solely on the traditional leaders and the customary law. It provided ‘one off’ support to large scale dialogues between the traditional leaders from different clans. Recently, however, DRC started to integrate the work with peace and justice with their program of community driven development and recovery (CDRD). This entails that some of the initiatives promoting peace and justice now follow similar methodology (community driven) as CDRD –i.e. focus is on facilitating community networks, cooperation, broad based dialogues, and platforms for inclusion of marginalized groups- rather than the more constricted approach of focusing only on the established security and justice providers (state as well as non-state). In accordance with the community driven approach, the current work on peace and justice focuses on a specific number of districts, and follows a longer project circle, during which DRC has staff present in the communities.

<sup>35</sup> DRC has given the regions of Sool and Sanag priority, since these areas are characterized by long periods of insecurity and poor government outreach “combined with existing civil society and traditional systems that – if properly facilitated - can strengthen both the situation of human rights and the security situation in the area” (DRC proposal 2010:5).

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<sup>34</sup>Here it should also be noted that the *Xeer* is based on an oral, not written, tradition. Written agreements do not necessarily have strong weight in the primarily oral Somali society.

<sup>35</sup>Interview with Cabdirashiid Yusuuf, DRC advocacy officer, El Afweyne, Oct 2010. Interview with DRC Community Based Police-officer, Ainabo and El Afweyne Sep 2011.

The work, still to a great extent builds on the achievements of the previous work with the traditional leaders. It continues to include support to facilitating meetings and dialogues between the traditional leaders, as well as between them and the state justice providers, to build momentum in terms of the enhanced cooperation on peace and security achieved in previous processes.

Interviews in 2011 indicated a broad acknowledgement of the continuous importance of the traditional system in resolving large-scale conflict resolution and in building peace. Hence, the support to enhancing peace and security building through facilitation, logistical support and funds for dialogue meetings between elders from different clans and sub clans. Also through support to strengthening the linkages between local state institutions and the traditional institutions, remain of key importance.<sup>36</sup>

In El Afweyne and Ainabo district (Sool and Sanag regions) peace committees have recently been established. These committees consist of Aqils, who are leaders of the clans inhabiting the districts. The committees are meant to complement the formal district authorities. The intention is that the Aqils in the committees combine their role as leaders for the clans (i.e. non territorial leadership) with a new responsibility –as a committee- for everyone living in the district (a territorially defined responsibility). This provides a platform for interaction and experience sharing between traditional leaders from different sub-clans. Also, with territorial responsibility for providing security for inhabitants, IDPs are also, at least in principle, included under the duty of the Aqils.<sup>37</sup>

While engagement with the traditional leaders remains important, DRC has also engaged in dialogues with, and support to, other groups of the community, so as to bring them on board, and make their resources more visible in peace and conflict resolution work. As part of these dialogues and support, information about the *Elders Declarations* (and the revisions of *Xeer* stipulated in these declarations) has been disseminated and discussed.

Examples of support since 2010 include assistance to existing women's groups and associations in El Afweyne and Ainabo in getting together and forming women's networks for peace (called the 'women's peace platform'). While there was relative broad consensus that the traditional leaders remain the central actors in terms of negotiating and agreeing on the final resolution to the conflict, the women's platforms, or networks, have developed different ways of influencing peace building and conflict management in their areas. Since women are not considered parties to clan conflicts, and since they have affiliations to both their husband's clan and the clan they were born in, they at times function as 'bridging' actors between the conflicting parties. Members of the women's peace platform described how in cases of clan conflict they mobilize the women on both sides to pressure for a solution, and in this way facilitate the actual mediation/negotiation of the elders. They also

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<sup>36</sup>Interview with Haqsoor Representatives, Hargeysa, Somaliland November 2011. Focus Group Discussions with the District Peace Committees of Aqils, El Afweyne and Ainabo, Sep and Oct 2011. Focus Group discussions with the Women's Peace Platforms, Ainabo and El Afweyne, Sep and Oct 2011. Interview with Police Commander, El Afweyne, Oct 2011.

<sup>37</sup> Focus Group Discussions with the District Peace Committees of Aqils, El Afweyne and Ainabo, Sep and Oct 2011.

The Aqils were aware that the responsibility to protect IDPs is central in the Elders Declarations, and they explained that their new roles in the committee make for a concrete application for this commitment. We do not have direct interviews with IDPs as to whether in their belief this has resulted in de facto enhanced protection.

raise economic support for these peace-negotiations, and help in terms of the logistics. Hence, these women saw themselves as functioning in conjunction with the elders, but as another 'layer' of conflict resolution actors.<sup>38</sup> This view was partially shared and partially contested by the elders.<sup>39</sup>

Moreover, women play key roles in resolving small-scale conflicts in their neighbourhoods or within households. For example, members from the Women's Peace Platform were called upon to mediate in small-scale conflicts such as disagreements between family members, fights between married couples, and neighbour feuds.<sup>40</sup>

In an attempt to strengthen such grassroots capacities for peaceful conflict management, DRC and the Danish Demining Group (DDG, which function as a unit under DRC) have offered conflict management education to different groups in the communities.

The Somali DRC and DDG staff explained that the training tends to take the form of an exchange of knowledge, where local community members discuss existing resources of conflict management in the community, after which the trainers introduce new additional tools and insights from international conflict resolution practices.<sup>41</sup> Apart from the added knowledge (for all parties), an important outcome of these activities is that different members of the community get an entry point to shape everyday community level conflict management, and that ordinary community members get to interact and enter into dialogue with the more established security/justice providers.<sup>42</sup>

This training and support to the communities is generally endorsed by the elders –who also participate themselves- as it is perceived as beneficial for the community *as a whole* to organize and strengthen its capacities for peaceful solutions to conflicts. Several interviewees, including elders, noted that through community discussions concerning the nature of conflicts, they have become more aware of how small scale and interpersonal conflicts, if not attended to, can escalate to the level of clan conflict. And, given this, the work of solving small-scales disputes is significant and complementary to the work of solving large-scale clan conflicts.<sup>43</sup>

The principle of connecting different actors in working for peace and safety is also evident in the community policing activities, which serve as another element of the community driven security and justice activities supported by DRC and DDG. The main aim of community policing is to facilitate cooperation and trust between the police and the communities. The community policing committees consist of different community members, men as well as women, and oftentimes also including elders. Often smaller cases are taken to the committees rather than to the police directly, as many people continue to

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<sup>38</sup>Focus Group discussions with the Women's Peace Platforms, Ainabo and El Afweyne, Sep and Oct 2011.

<sup>39</sup> Focus Group Discussions with the District Peace Committees of Aqils, El Afweyne and Ainabo, Sep and Oct 2011.

<sup>40</sup> Focus Group discussions with the Women's Peace Platforms, Ainabo and El Afweyne, Sep and Oct 2011

<sup>41</sup> There are examples of the Somali conflict management education staff learning about conflict management techniques from the communities and adding this knowledge in the training manual.

<sup>42</sup>Field observations El Afweyne, Ainabo, Sheik, Sep-Nov 2011.Focus Group discussion with community members who had received conflict management education in Ainabo, Sep 2011.

<sup>43</sup>Focus Group discussions with the district peace committees of Aqils, Ainabo and El Afweyne, Sep and Oct 2011.Focus Group discussion with community members who had received conflict management education in Ainabo, Sep 2011.

have a certain level of distrust in the state police. Hence, the committees have a function as 'bridging' institutions between the police and the communities.<sup>44</sup> A female interviewee explained that as members of community policing committees, local people can put pressure to hold accountable not only the traditional leaders, but also the police, to agreed upon principles of rights. This would, at the same time, help to strengthen the linkages between the different providers, and thereby enhance their effectiveness.<sup>45</sup>

Through these above-described activities, different members of the communities have a chance to access the multi-layered justice and security architecture, and become actively part of the processes of contestation and negotiation that shape and reshape this architecture. At times they can become directly involved in finding resolution to disputes within the communities or instances of crimes, and defining how the cases should be interpreted, judged and solved. The way in which for example the community policing forums or the Women's Peace Platforms, both complement and challenge the established providers, seem to be important for sparking gradual change.

The mediation and resolution of greater clan conflicts remain the domain of the elders. Yet, there seem, in other words, to be openings for other community members to influence the resolution of smaller scale disputes and crimes. It is often in these smaller cases of disputes or crimes –between family members, spouses, or within the neighborhoods- that everyday issues of justice and security are especially pertinent.

There are indications that in the processes discussed above, the *Elders Declarations*, which were produced in the early phases of DRCs work with the traditional leaders (as discussed in the previous sections), have acquired a function as what Chopra & Isser (2010) terms 'tools for contestation'. In other words, some interviewees noted that the *Elders Declarations* (and specifically, the revisions to *Xeer* that the declarations spell out) have been used as a reference point to challenge discriminatory practices. For example, there is some anecdotal evidence of community members participating in the new types of forums and conflict management arenas, sometimes using the 'tool' provided by the *Elders Declarations*, to hold justice providers more accountable in terms of protecting the victims in cases of rape, and to propagate for rights of members of minority clans.<sup>46</sup>

Another interesting example of active use of the revisions made to the *Xeer* is provided by a current attempt by the Somaliland women's umbrella organization, NAGAAD, to use the *Elders' Declarations* as a basis for promoting the passing of new laws, regarding women's and minority rights, in the formal legal system.

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<sup>44</sup>Field observation of 3 days community based policing workshop in Ainabo, Sep 2011. Interview with Police Commander, El Afweyne, Oct 2011. Interview with head of the community based policing committee in Sheik, Nov 2011. Interview with female member of the community based policing committee, and also working as a conflict management volunteer, Sheik, Nov 2011.

<sup>45</sup> Interview with female member of the community based policing committee, also working as a conflict management volunteer, Sheik, Nov 2011.

<sup>46</sup> Interview with Police Commander, El Afweyne, Oct 2011. Interview with head of the community based policing committee in Sheik, Nov 2011. Interview with female member of the community based policing committee, also a conflict management volunteer, Sheik, Nov 2011. Interview with the Women's Peace Platform, El Afweyne, Sep and Oct 2011.

<sup>47</sup> This illustrates that the volatility and complexities of multiple legal orders are not necessarily only a drawback in periods of rapid change, since one legal order can be used to advance rights within another legal order.

In terms of drawing on the *Elders Declarations* in advancing rights, it is critical that these declarations (and the revisions to the *Xeer*), are a product of the traditional leaders' own initiative and dialogues rather than an externally imposed reform.

As for the role of international actors, providing support to human resources and ongoing processes of contestation - rather than insisting on law revisions as per international human rights principles- allows space for local people themselves to define and shape justice (Chopra & Isser 2010). The outcome may not always fully reflect internationally defined human rights. For example one of the female interviewees (active in a local community policing forum, and dedicated to improve justice for women) noted that if woman gets a divorce or gets her husband jailed in response to, for example, domestic violence, this may seem 'just' from a human rights perspective, but would often de facto leave the woman in a very unfavorable situation.<sup>48</sup>

To sum up, there are still many challenges for Somaliland communities in terms of local security and justice.

The positive results in terms of enhanced peace and security that followed from the early phases of the DRC supported initiative, and the continuous central role of traditional authorities in conflict mediating and resolving clan conflicts, indicate that support to dialogue meetings and experience sharing among traditional leaders from different clans and sub-clans, as well as among them and state security providers, continues to hold substantial potential as a peace building approach.

It is too early to assess the long run impact of the more recent, and broader, DRC supported community driven approach promoting security and justice. Yet, the fieldwork in 2011, reviewed above in this section, indicates some encouraging developments in the specific areas where more focused support was given to facilitate involvement of the communities, and where the *Elders Declarations* had become tools for contestation and dialogue, rather than merely written statements.

## **Concluding remarks**

The initiative discussed in this chapter represents an innovative approach to supporting peace building and enhancing justice provisions, tailored to complex local conditions. It started out by engaging with the traditional leaders and the traditional law, the *Xeer*. The approach was motivated by the acknowledgement of the traditional leaders as de facto the most prominent and accessible providers of security, peace, and access to justice for local community members and as key actors in the interface between the different justice systems.

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<sup>47</sup> Interview with NAGAAD Human Rights Advisor, Hargeysa, Nov 2011.

<sup>48</sup> Interview with female member of the community based policing committee, also working as a conflict management volunteer, Sheik, Nov 2011



The dialogues among the traditional leaders, and the *Elders Declarations* that were produced led to a number of positive changes. These illustrate the continuous relevance of support to meetings and experience sharing among traditional leaders, as well as to their involvement in solving large scale conflicts.

Moreover, the dialogue meetings also helped strengthen the relations between the traditional system and the state and Islamic systems, and thereby, the overall capacity to deal more effectively with security problems such as revenge killing. Also, in terms of enhancing access to justice for women in family matters, a number of positive changes, resulting from the first phase of implementation, could be observed.

There were less positive results, however, in terms of enhancing access to justice in cases of gender based violence and rape, and in cases involving minorities and IDPs. In brief, it became apparent that the commitment of the traditional leaders, and the *Elders Declarations*, were not sufficient in and of themselves as a basis for enhancing security and justice for vulnerable groups. A change of law (whether state law or customary law) simply does not, per se, produce immediate corresponding changes in societal practices and socio-political structural issues, affecting individuals and groups who are marginalized within multiple competing power structures contesting for power.

On this backdrop, it is encouraging that the some of the activities recently have adopted a broader community driven approach. In addition to providing 'one of' support to traditional leaders and to addressing the perceived limitations of the *Xeer*, a number of activities are now directed at facilitating greater involvement and participation of ordinary community members in issues of security and justice, and in widening the space for contestation and dialogue over how cases are interpreted and judged. To be clear, this should not be seen as an approach that *replaces* the support to experience sharing and dialogues on peace making among traditional leaders, but as an *additional* –and ideally integrated – type of engagement.

To support rights and local security as a *community driven process*, may appear like a diffuse and elusive approach, compared to changing specific articles of law, and producing written agreements. This is especially the case since change of norms and practices in a society happen gradually –not abruptly- and through synthesis and un-linear adaptation. The 'results' of such an emergent process, which focuses on relationships rather than on law, may indeed be challenging to document and to describe within the conventional paradigms and language of development practice. However, given –as we have argued in this chapter- that provisions of justice and security are not isolated and strictly legal domains, but rather deeply steeped in socio-political dynamics, societal norms and power relations, such more broad based and multifaceted community driven approaches may indeed be what is needed to facilitate new opportunities for local groups to drive changes.

As a final comment, we would like to highlight that the positive potentials of a community driven approach to security and justice utilizes resources and linkages already existing in the communities, including the traditional institutions. Accordingly, efforts for expanding arenas for contestation and dialogues should not create new forums *in opposition* to existing ones, but seek to encourage current community resources to be flexible and adapt positively with each other.

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## **Chapter 5: Indigenous Forms and External Interventions in a Somali Context**

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### **Introduction**

There have been numerous outside interventions in the Somali areas, many of them ill-timed, ill-thought through and poorly implemented. Over a period of more than twenty years, serial efforts have been made by a range of actors employing the techniques of state-building on the one hand, and military invasion on the other, to lay the foundations for a 'national' government. Some seventeen externally-sponsored 'reconciliation' conferences have been held between the collapse of the Siyaad Barre government in 1991 and the Ethiopian invasion of 2006. Perhaps in time, the Kenyan invasion which commenced in October 2011 will also be seen in that light, although it is too early to draw that conclusion yet. While the pattern is particularly clear in relation to efforts to establish a viable government for the nation-state that is presumed should follow the Republic of Somalia, much the same criticism can be leveled at development interventions more generally. International interest in intervention in the Somali context has recently been renewed with yet another major, internationally supported conference on Somalia, this time in London.

In this paper, we argue that, while much negativity is deserved, there are in fact models for engagement that should allow for effective, proactive, and socially appropriate intervention by a range of external actors.

With respect to the political realm, but applicable also more broadly, Walls and Kibble point out that:

'Socio-political norms that emphasised the importance of negotiation and compromise have averted a number of crises in recent years. Meanwhile, cautious and fully engaged external interventions have, in marked contrast to efforts in southern Somali areas, been successful in supporting this process, building on local initiatives, resources and traditions and breaking through roadblocks where local negotiations have stalled. Somali custom explicitly creates space in which outsiders may assume constructive roles, with such activities periodically playing a decisive part in resolving significant difficulties. Indeed, it is notable that, as successful as they have been, the indigenous patterns that provided the basis for both Puntland's and Somaliland's achievements remain incomplete and, despite mythologies to the contrary, continue to rely on external inputs from both non-Somali and diasporic agents' (Walls and Kibble, 2011)

This paper reviews Somali customary bases for intervention and then considers a number of specific instances of both success and failure in an attempt to posit ways in which development and political interventions might employ culturally appropriate forms.

Both in recognition of the significance of successes there and in an effort to permit some depth to the analysis, much of the focus of this paper is on Somaliland, albeit within a wider social, cultural and political context of the Somali Horn of Africa. In spite of a lack of

international recognition, Somaliland has been the recipient of an increasing flow of aid, and while the political situation has long been impressively stable, infrastructure, education, health and most other sectors remain about as poorly developed there as elsewhere in what was the Republic of Somalia. However, there are a number of telling instances in which political and development interventions have either succeeded or failed, and where the methods employed help us to understand the connections between the more theoretical discussion of custom and the exigencies of actual, contemporary circumstance.

One of the principles that Somaliland demonstrates particularly well is the way in which local and external interests have balanced each other. By and large, this has not occurred by design, but is nonetheless illustrative. In most cases, donors have not been able to 'set the agenda' in as dominant a fashion as elsewhere. They have nevertheless been essential partners in many significant developments in the past decade. This has most clearly been the case in the political arena, where technical and practical support has worked alongside deep involvement by outsiders over relatively long periods of time. Rather than external agents wielding such financial heft as to permit them to dictate terms on a 'take-it-or-leave-it' basis, donors have often been forced by the political fact of non-recognition to act as full participants, subject to the same disputes, debates, and agreements as are experienced by others. That model has underpinned an engagement which has had its problems, but which has nevertheless contributed to the political stability and democratic evolution that is rightly beginning to attract accolades.

Indeed, Somaliland has been both blessed and afflicted by the support of international aid agencies. Civil society in pre-war Somalia was a state enterprise with little room for individual maneuvering to cover necessary social issues. Inevitably, the involvement of external donors and diaspora sources of funding, a local NGO network has flourished since 1991. Currently civil society is healthy and largely free from undue government interference and control, providing a substantial service for Somaliland citizens. In tandem with international non-governmental organisations (NGOs) and donor agencies, local NGOs thus provide a great many services which the government cannot afford to provide, with civil society thus constituting by far the largest employment sector. Nonetheless, all that glitters is not gold and this paper will examine some of the positive and negative aspects of aid in Somaliland.

## **Lessons for development interventions**

The issue of external involvement in state-building, humanitarian relief, and the promotion of development is central to debates about aid and the succession of models that have been employed by donors and civil society over the years. Competing arguments are significant in large part because of the scale of the money that is involved, coupled with the fact that development funds are required to operate in an environment quite different from that of the private sector or the nation-state. They therefore support (indeed, require) a parallel discourse that seeks ways in which aid can be effectively governed often in parallel with the institutional arrangements of the market and/or the nation-state.

The experience in Somalia and Somaliland confirms the relevance of the debate as well as offering some clues as to the types of roles ‘outsiders’ might play in the multi-faceted ‘development process’. Underlying the relevance of the Somali context, in recent months it has become something of a minor focal point for debate in the UK media on the effectiveness of aid. The Daily Mail, The Economist, and, more surprisingly, The Guardian, have all recently carried stories that contrasted southern Somali failure with Somaliland’s success in gradually building a viable representative democracy as evidence of the damage caused by aid. The reasoning is that Somaliland’s lack of international recognition has meant “ineligibility for foreign assistance” (Eubank, 2011), yet the unrecognised state has been more successful than its recognised and lavishly funded transitional counterpart in Mogadishu (Baobab blog, 2011; Birrell, 2011). Ergo, the argument runs, Somalis do better if left to themselves.

However, while some in the UK and Somali media might be only too keen to draw on simplistic readings in order to bolster their arguments against aid, it is simply insufficient to conclude that Somalis will succeed if and only if they are left to themselves. Reality is far more complex and nuanced than such formalistic readings allow. Somaliland has in fact long been the recipient of growing levels of aid, and in reality external intervention has, on occasion, achieved significant success in breaking through roadblocks where local negotiations have stalled. Importantly, Somali custom explicitly creates space for outsiders to assume constructive roles in these areas, with such activities periodically playing a decisive part in resolving significant difficulties.

Unfortunately, though, the pattern in which ill-conceived, if well-meaning, external engagements in Somali affairs have tended to exacerbate problems rather than resolving them, has become so sustained over the past two decades that this discussion demands considerable care. Serial failure on the part of outsiders demands fresh thinking and indicates the complexity of the issues faced and the consequences of error.

## **Customary Bases for External Intervention**

The Somali experience in peace-building and state formation is particularly illustrative of the many roles that can be played by outsiders to a conflict both in resolving issues and in helping to establish agreements on how future conflict and governance issues will be resolved.

## **Defining the External Actor**

We will first look briefly at the roles played from time to time by the various agents who might be considered ‘external’ to specific conflicts or negotiations: mediating ‘elders’ within a clan or sub-clan, mediatory groups from an uninvolved clan, and women. We will also consider the conditions under which both diaspora groups of Somalis and non-Somalis could also intervene.

The argument behind this paper is essentially that external parties can play either a constructive or a destructive role in interventions, and that custom provides a basis for discernment as to how the chances of success might be maximised. This presupposes that there exists some evident distinction between 'insiders' and external parties. The distinction is, of course, not always clear, and the descriptions that follow hint at the fluidity of those roles. Groups who are 'external' in one context may be seen as 'internal' in another.

However, it is possible to broadly define a number of actors who from time to time intervene as external agents in activities that facilitate or support peace, state-building and the like. These groups include:

- Mediators from uninvolved clans;
- Somali women;
- Members of the 'international (diplomatic) community', including NGOs, foreign governments and multilateral agencies; and
- The large and scattered Somali diaspora

The traditional roles described above tend to revolve around the first two categories, with the diasporic contribution cutting across (or informed by) norms pertaining to clan and gender. Outsiders have long struggled to identify and occupy a space within which constructive engagement is possible, yet the Somali case does offer some clues as to how such a role might be - indeed, has been - possible.

Before elaborating on such instances, though, it is worth briefly revisiting an important normative set which provides further support for the view that a role for outsiders has always been permitted in Somali custom. When conflict occurs, there are clearly-understood principles that govern the conduct of war (*heerka biri-ma-geydada*). These rules centre on a principle captured in the Somali name for the rules themselves: *biri-ma-geydo*, which is translated by some as 'immune (or 'spared') from the spear' (Bradbury, 2008: 18; Hoyland, 1999: 19; ICRC, 2008). The principle here is that mediators acting in good faith, religious scholars, women and those who are elderly or frail must be protected from any fighting (Bradbury, 2008: 18; Rashiid Sheikh 'Abdillaahi Gadhweyne, 2009: 57).

These principles open a customary avenue for the intervention (and protection) of those engaging in mediation efforts; a position that could conceivably be extended to non-Somalis should they be seen as respected and appropriately informed in the context of the intervention. Were a constructive redefinition of 'conflict' extended to the political realm, then it could be argued that the protection accorded to mediators in physical confrontation should also be available to those playing an equivalent role in political or developmental stand-offs.

Somaliland provides rich evidence of the potential for positive action by each of these agents, and we argue that the pragmatism of customary norms permits space for such actors to engage constructively, drawing on similar customary yet flexible principles.

Clan will continue to play a significant and dynamic role in the Somali context, including in Somaliland, but the relationship between customary kinship structures and individual Somalis living in a rapidly changing world are dynamic and themselves subject to pressures from many sides. While Somali mythology lauds the qualities of strength, independence, and self-reliance, there is also space for constructive external engagement with political processes in the Horn and at a number of levels.

An examination of particular actor groups helps to refine the ways in which these and similar principles can support constructive engagement by external actors in specific contemporary situations.

## **Elders as Mediators**

Formally, intervening external agents have tended to be male Somalis, representing kinship (clan) groups who have not been involved in a given conflict or dispute. Custom permits male actors in this position to attempt to mediate between conflicting groups, achieving success only if the conflictual parties are willing to recognise the legitimacy of those efforts. Intervening males may be widely acknowledged as elders (*oday*), although successful mediation can also provide a path to that status, and customary practice allows space both for those within conflictual kinship groups and those with no lineage-affiliation to a given conflict to take their chances. Either as neighbours to a conflict, or as members of a sub-clan so afflicted, the individuals or groups concerned are seen to hold a sufficient interest in peace to motivate such intervention.

Social relations in Somali society are based on a system of customary contract known as *xeer*, adjudicated by ad-hoc committees of elders, assembled as required. The fundamental contracting unit is the *mag* group, the members of which act as guarantors of the good behaviour of fellow members, on pain of having to share the burden of compensation on any member's behalf should they be adjudged the guilty party in a dispute.

Each *mag* group is represented by one or more informal leaders or '*aqil*'; a term which is sometimes translated as 'chief', but which is primarily an influencing, negotiating and chairing role, rather than one which grants the incumbent authoritative power. During the time of the Somaliland Protectorate and the Italian colony and trusteeship, both colonial administrations attempted to co-opt the role by paying a stipend to '*aqils* or their equivalent in return for work on behalf of the colonial administration. A similar practice had earlier been employed on a more limited basis by Egyptian administrators, and quite likely before that (Abdi Ismail Samatar, 1989: 32; Lewis, 1999: 200). It was also continued and adapted by subsequent Somali governments. This resulted in a burgeoning number of '*aqils*, and also the politicisation of the role. These external influences were relatively less pronounced in the north than in the south, where the Italian administration had much grander plans for the 'modernisation' of their colony.

There is a clear hierarchy of male traditional roles in which the '*aqil* is only one, but all retain an emphasis on negotiation, mediation, and facilitation. It is therefore misleading to describe Somali society, without further context, as either acephalous on the one hand or employing a formal hierarchy of power on the other. There are certainly differentiated levels of influence and respect, and these carry great weight.

Typically, the customary system is also heavily biased against individuals who assume too much direct authority in the eyes of their respective communities, while according considerable autonomy to those who act as mediators or facilitators. In hierarchical terms, a number of titled elders sit at levels above *'aqil*, and the terms used can differ slightly from clan to clan. Generally, though, *garaad*, *ugaas*, *boqor* and *suldaan* all refer to positions of greater seniority than the *'aqil*.

Somali political institutions tend to display a "... lack of any clearly defined authority roles ..." (Laitin, 1977: 27), and even without the noted differences in colonial influence, that tendency is more pronounced in the north than in the south (Lewis, 1999: 241). Nevertheless, as Virginia Luling notes, "... the loose form of political organisation found ... in southern Somalia, though it allows a higher degree of authority to clan elders than in the north, does not generally give permanent power to any fixed hereditary office" (Luling, 1971: 357).

When disputes arise, the onus falls first on the head of the families involved if between two such units, or else on the *'aqil* of affected *mag* groups to attempt to negotiate a settlement. If the problem proves intractable, a mediator might step in. The identity of such an individual or the composition of a mediating group would need to command the respect of the protagonists; a task made easier if the mediator is seen as 'independent'. Any individual or group who assumes such a mediatory role may be referred to as a *guurti*, a term that has more recently been institutionalised and, many would argue, politicised in the Somaliland context through its application to the upper house of the Parliament (see for example, Jhazbhay, 2009: 75-76). As already noted, the essential etymology of the term, though, refers more generally to the necessary wisdom of any person or group responsible for mediating disputes.

There is also room for additional mediation at the instigation of an even more loosely defined group of respected individuals formed with the specific purpose of mediating particularly difficult conflicts. The generic term *ergo*, or simply 'delegation' is sometimes used in this context.

The lessons we can draw from these comments are several. Firstly, practices differ through the Somali areas, albeit around a theme in which there is a tendency to distrust, often very strongly, any overly authoritarian exercise of power. There is nevertheless explicit room for 'outsiders' to act as facilitators. In addition, Somali customary law is based on sets of principles. It is not rigid, as there is explicit recognition that too great a level of specificity in law will fail to provide the flexibility necessary for dealing with the vagaries of day-to-day life. Those principles have evolved around the dual focus of protection of the rights of the individual to life, liberty and property as well as the individual's commitment to family and clan (Notten, 2005). Also, rhetoric and oratory are prized skills, with the ability to persuade one's people of the strength of a given position contributing directly the esteem in which the orator is held. Hyperbole forms an inevitable part of that equation, and affects the nature of negotiation.



The related processes of adjudication, mediation, negotiation, and consensus-building carried out with a commitment to transparency and in good faith are the critical mechanisms for the application of recognised principles. At first sight, such an approach accords well with donor concerns with participation, empowerment, and accountability. However, they work directly against situations in which foreign agents require clear and pre-established objectives and where lines of accountability are directed back to domestic constituencies with little direct interest in the minutiae of Somali processes and priorities.

## **Women as 'External' Agents**

Women, too, play a role deriving from their perceived status as 'outsiders'. That status arises from the perception that a woman's allegiance is split between kinship and marriage, allowing them to serve as a communicative channel between their affiliated kinship groups if necessary, but without a presumed assumption of full loyalty to either.

One though by no means the only way of consolidating exogenous alliances is through marriage. Sometimes, this is explicitly intended as settlement of past grievances, in which case it is known as *godob-reebta gabadhaha*, or literally, 'the leaving behind of a grudge through women' (Rashiid Sheikh 'Abdillaahi Gadhweyne, 2009: 129). More generally, as in most societies, marriage offers a useful means of confirming or consolidating friendly relations between groups. Consequently, there is an informal yet pivotal role for women, who can act the as go-betweens of their clan of birth and that of marriage (Anab Omar Ileye et al., 2007; Gundel and Ahmed A. Omar Dharbaxo, 2006). In this context, women can act as agents who are sufficiently removed from a given conflict to assist with communication and with the provision of logistical support. Repeatedly, in discussing their role in Somaliland's peace-building, women comment on the importance of their commitment to sewing police uniforms, carrying messages between opposing clan groups, and cooking and providing for peace conferences (Walls et al., 2008: 20-26, 48 & 88).

While women traditionally have had relatively little formal political influence, their intermediary status along with Somali pastoral practice more broadly, has historically accorded a great deal of influence on an informal basis. However, while that remains true in many respects, it is also true that climate change, population growth, conflict and resulting patterns such as sedentarisation and urbanisation have altered and often undermined informal gendered patterns of influence, while failing to significantly alter formal patterns in the political realm. To express that in more tangible terms, women would once have expected to influence social and political decisions through household and clan-related roles. The past decades have undermined those roles, yet women remain woefully under-represented politically. Consequently, as often as women comment on the significance of their role in peace-building, they complain that that role goes unappreciated.

The implications for development are twofold: firstly, gender programmes remain a primary focus for many social interventions and must therefore take full cognisance of the fact that gender empowerment must acknowledge and harness the potentials inherent in an institutional context in which collective and informal power structures are just as important as individually-oriented and formal ones. Secondly, the role played by women in itself provides another context in which a group that is 'outside' a given process is given space to use that status to intervene.

## **Somali Diaspora**

As residents, and often citizens, of countries outside the Horn of Africa, diaspora groups must also be seen as at least partially removed from the domestic scene. However, many remain active participants, influencing the situation in diverse and not infrequently contradictory ways.

Diasporic interactions can be illustrated with reference to patterns for remitting funds. Remittances tend to flow in one of three layers. The first being the usually monthly remittances known in Somali as 'the bill'. This refers simply to regular contribution of sufficient funds to cover necessary bills, including rent, utilities, education and so on. These 'bill' payments arguably constitute the bulk of funds required to keep the Somaliland economy buoyant.

The second level is known in Somali as *hoo oo ku shaqayso* which translates approximately as 'money for use to create your own employment'. Somalis are renowned for their entrepreneurial skills and this level sees remittances directed at small investments to establish small businesses. Often the amount involved only permits the recipient to establish a small kiosk, or perhaps to purchase a vehicle for provision of taxi services.

The third level is ad hoc transfers to cover extraordinary costs such as weddings, emergencies, or as contributions to help the family through a time of need. This style of remittance is very likely increase in both quantity and importance in the coming years. As increasing numbers of diaspora members lose their close connections with home, regular payments are likely to be replaced by infrequent transfers. As the current generation retires and life's natural progression takes place, young diaspora members who were either born abroad or else left the country very young will begin to lose their ties to family members in the Horn. Memories may continue to be refreshed with occasional holiday trips to meet members of the extended family, but it is unlikely that this will be sufficient to maintain current levels of financial support.

Diasporic remittances both support and undermine development. On the one hand, they send remittances that far outweigh any other assistance received by the country: they have built schools, hospitals and mosques; and they have provided employment opportunities through investment in infrastructure and in small and large businesses. The example provided by Somaliland's tertiary educators, including Amoud University in Borama, the longest established of them, is illustrative of this point. Fundraising, recruitment and ongoing support have come in large part from an engaged and informed external constituency.

On the other hand, the diaspora can be seen to provide a support base that bypasses inter- and intra-governmental channels, potentially both weakening them and reducing the accountability of the state to its citizens. Investment is haphazard, and results are uncoordinated, yet they hold considerable influence over extended families, and therefore political actors. Consequently, many politicians see much of their most influential constituency as being outside Somaliland. Both ministers and opposition leaders frequently maintain homes outside the country, in some cases spending much of each year in Europe, North America or the Gulf nations. The current Silaanyo government in Somaliland boasts no fewer than fifteen diaspora ministers, with many more appointed to key official

positions. The diaspora is also a major source of funding for political parties. Kulmiye, the current ruling party, have long fostered strong diaspora connections and conducted frequent overseas fundraising tours. A similar pattern is repeated throughout Somalia, and in Puntland.

Beyond providing a flow of funds, it is notable that the Somali diaspora have played roles in promoting both conflict and peace, sometimes simultaneously. Somaliland conflicts in the early 1990s were supported predominately by diaspora communities, and that pattern is again evident in recent tensions around Khatumo state in Sool region.

Many commentators also suggest that the Somali diaspora have helped to foster a dependency culture. Rather than promoting independence, hard work and personal responsibility, they have offered free money and a culture of laziness, leaving people ill-equipped to deal with the realities of life. Diaspora members returning to the Horn are frequently viewed with a suspicious eye, with local graduates feeling that they are offered preferential treatment in employment, salaries and career promotion. Locals complain that many, especially the young, have little awareness of Somali culture or else have acquired distasteful habits from Western countries. The derogatory term *dhagan bi'is* is often used to refer to young diaspora members.

This sense that some members of the Somali diaspora interfere without suffering the consequences of their actions is captured by their description as representative of “[t]he traveling sales men of Diaspora Somalis who are not personally affected by Somali chaos in anyway [and who] have caused much more harm than good to Somali society” (sic, Abdulshakur Jowhar, 2012).

### **Non-Somali ‘Outsiders’**

Just as those from neighbouring clan groups can be seen as holding sufficient interest in supporting conflict resolution and the bases for sustainable peace, the same argument should also be available to neighbouring countries, and to those with some other distinct interest in Somali development and stability. In that respect, there must be strong cultural support for understanding the motivation for intervention. Supportive engagement aimed at assisting in state-building and socio-political cooperation is more understandable from those with an interest in those outcomes, and a sustained commitment to achieving them. Where direct military intervention is predictably seen as a hostile effort to dominate Somali society, modest and proactive engagement that seeks to understand and work with Somali socio-political institutions would be unlikely to arouse the same negative reaction. However, it is important that the motivations behind such interventions are spelled out clearly and are open to debate.

This is not a process that has been well defined in practice. A handful of international NGOs and individuals working for donors and multilateral institutions do fit the description but many of those engaged in Somali projects do not. The implication is that, for non-Somalis to establish the legitimacy for their own involvement they must demonstrate a long-term commitment and a depth of understanding of the specific context. In addition, they must demonstrate an integrity and strength of will that accords with the traits prized in Somali society. The model in which relatively well-funded projects are managed remotely from

Nairobi is particularly poorly suited to a culture in which direct, modest and long-term commitment is valued. Simply employing ethnic Somalis is often not sufficient to allay the resulting suspicions.

Security concerns associated with operating in Somali areas are frequently cited as the basis for the need to situate project teams externally. There is ample evidence that such concerns can be valid. But there is also considerable evidence to suggest that, while real, security concerns are also politicised. The judgement that Somaliland as a whole remains dangerous represents an example of this thinking. The British Foreign and Commonwealth Office continues to advise against all travel to all areas, even though western Somaliland is not demonstrably more dangerous than, for example, Nairobi. That is not to deny that al-Shabaab and other groups represent a threat in Somaliland. But the sense that there is little proportionality in security assessments is hard to escape. An examination of customary space for external involvement also suggests that, if the situation is so insecure as to prevent development activities being based locally, it may be necessary to take the tough decision to downscale or re-orient the focus of activities so that they support activities that can be locally situated. If that results in a temporary reduction in financial flows to some areas, then perhaps that is at least less damaging than perpetuation of a system that lacks legitimacy and therefore risks undermining gains in the long-term.

As it is, non-Somali actors are frequently and widely vilified for the roles they play and the approaches they employ. INGOs, foreign states, and multi-lateral bodies are often seen as complicit in conceiving and executing interventions that have worsened the problems they were designed to address. They are considered to be distant, unwilling to invest in meaningful engagement and subject to questionable motivations. The complaint that diaspora members are often insufficiently 'affected by Somali chaos' can be reasonably represented as a desire for external agents more generally to be directly engaged in and 'affected' by local processes.

## **External Intervention: Instances of Success and Failure**

We will now review a few instances that illustrate the ways in which the various external actors have played both positive and negative roles in the past.

### **Intervention Gone Wrong**

While regrettable, the axiom that external intervention in Somali territories has done more harm than good draws on numerous examples that are cited in support of that position. It is worth relating a few examples, contrasting such experiences with some more constructive instances of external engagement.

An obvious starting point is the protracted series of negotiations that led to the 2004 Mbagathi agreement which eventually resulted in the creation of the Transitional Federal Government of Somalia, which continues to receive international support. The donor community made a fateful decision to abandon the 'building blocks' approach that had previously been mooted as a means of building a decentralised governance system and consequently fostering the support of local communities. As late as 1999, the argument was

put that "... any unitary Somali state is improbable for the indefinite future" and that a localised process of state-building might be possible "... if it can operate without external interference, and can get a degree of sympathetic and careful international support [which is] not yet apparent" (UN IRIN-CEA, 1999). However, when the Transitional National Government (TNG) was formed in 2000, it excluded the leaders of these 'blocks' and effectively represented a shift away from the earlier decentralised approach. By the time their mandate expired in 2003, the TNG had failed to gain support beyond the narrowest geographic confines, but the new IGAD-sponsored talks in Kenya (first in Eldoret and then Mbagathi) continued to engage militia and business leaders on the basis that they held the 'real' power. This therefore ignored more legitimate local power structures in favour of a 'real-politik' engagement with those with superficial might. The Transitional Federal Government (TFG) that resulted in 2004, supposedly a government of national unity, also consequently failed to win broad support (Bryden, 2006).

While the venality and incompetence of the individuals involved in such attempts to form a government has been a major factor in their failure, the role of external agents, and in particular donors, in supporting a process that so signally failed to build on local sources of legitimacy must also be seen as highly significant. Essentially, international support was seen as propping up individuals who were already viewed as attempting to draw too much individual authority to themselves, against more consensus-based alternatives. While the 'building blocks' approach may have moved more slowly than was palatable given the political cycles of donors and neighbours, it nevertheless held greater potential for success than the approach taken.

Another pertinent example was the US intervention in support of the 'Alliance for the Restoration of Peace and Counter-Terrorism' (ARPCT). US funding of \$100,000-150,000 a month was reportedly provided to ARPCT to finance militia action against the Islamic Courts Union (ICU) in 2006 in the hope of shoring up support for the Transitional Federal Government (in which many ARPCT members were Ministers, MPs etc). The result of this intervention was the polar opposite. It galvanised the Somali population in opposition to an intervention against clan traditions that provided support to a hated group of authoritarian militia leaders. The ICU quickly prevailed over the Alliance, driving them from Mogadishu and introducing a period of some six months in which ICU dominance was clear, if unpopular in some of its dimensions, and relative peace prevailed (Barnes and Harun Hassan, 2007; Kagwanja, 2006; Rice et al., 2006). Powers including the Ethiopians and the US were so alarmed at this turn of events that the Ethiopian invasion of Somalia proceeded with broad, if in some cases tacit, international sanction.

There is also a danger that, in spite of their best intentions, outsiders become convenient scapegoats for domestic disputes. That situation was vividly demonstrated in Somaliland at quite a different level from the prior examples. There, the voter registration programme became mired in a welter of accusations and counter-accusations between political leaders, the National Electoral Commission, and the international NGO (and conduit for donor financing), Interpeace. For some influential commentators, it was the very involvement of Interpeace and the 'clumsiness' of donors that had caused the problems (Private Eye, 2009). By this reading, this was an evident case of counter-productive external intervention. That opinion was expressed vociferously and in spite of compelling and readily available evidence of widespread fraud which had itself been perpetuated by domestic political actors.

On a number of occasions, Interpeace was presented as outsiders who should have prevented domestic fraud from occurring. This set such an impossibly ambitious expectation for which Interpeace had no mandate, and in which they consequently and self-evidently 'failed' (for example, Ahmed Ali Ibrahim Sabeyse, 2009). Others saw outside involvement as *prima facie* evidence of conspiracy (a widely cited source making this claim was the dubious Panamian-registered website 'Oilprice.com': Defense and Foreign Affairs, 2010). The electoral commission of the day accused the most senior Interpeace staff member in Somaliland of "inciting the opposition", and the government expelled him from the country (Somaliland Times, 2009). Our view is that Interpeace were in fact functioning effectively, albeit with a demanding remit, and simply became embroiled in a dispute not of their making. Ultimately the voter register was used in a largely successful election, and Interpeace's role was applauded by many more sane commentators.

While the intervention was seen by many as another externally-sponsored failure, perhaps it would be more accurate to present it as a difficult success that fits within the customary context described previously. Interpeace's primary apparent fault was to allow themselves to become embroiled in a domestic political dispute. However, if the principles of successful external engagement are to be deeply and locally involved in a manner in which the external agent is 'personally affected', then that is precisely what Interpeace did. In our opinion, it would be accurate to suggest that the ultimately successful 2010 presidential election was testament to exactly that engagement as Interpeace remained integrally involved in preparation for and management of the election in spite of their earlier difficulties.

## **External Successes**

There have certainly been significant successes in external intervention in all the manners outlined previously. For development interventions funded by external donors, the Somaliland education sector has been the recipient of a significant flow of aid since 1991. The national curriculum was developed by supporting agencies in partnership with the Ministry of Education, teacher training is funded largely by developmental agencies, as was school construction and the provision of school supplies. The non-formal education sector in Somaliland has also been heavily supported by local and international NGOs alike.

As with any success, there are also critics, with education investment criticised as inadequate. More importantly, work in the education sector has largely been carried out by the development agencies themselves, with insufficient attention to building the capacity of the Ministry to successfully manage Somaliland education. This is in part a legacy of the refusal by donors to channel funds through a government they do not recognise. Whatever the intricacies of arguments over sovereign recognition, the cost has been high. By bypassing government institutions, the Ministry of Education has effectively been crippled, and now lacks the capacity to manage, train or support teachers. Many schools, most especially in rural areas, are semi-autonomous units with more connection to the external funding agency that supported construction than to the Ministry. Similarly, the Ministry was barely involved in much curriculum development, and now lacks the capacity to update or develop it.

In the political sphere also, there is a mixed record on external engagement, with notable successes and failures. From time to time, though, the interventions of external agents,

drawing on the traditions and norms described, have played an important role in state consolidation since the fall of the Siyaad Barre regime in early 1991. We'll consider a few instances, including the engagement of different external groups In Borama Conference.

The declared purpose of the conference was to determine the 'destiny' of Somaliland, and it agreed a peace charter which dealt with immediate issues relating to the most recent conflict, and a 'national charter' to serve as an interim national constitution. These impressive achievements were enabled by a combination of external but clan-based facilitation and logistical support with additional low-key (and minimal) support from non-Somali sources. UNDP supplied air transport for delegates travelling from the eastern regions of Sool and Sanaag (though no cash), while a number of foreign governments, NGOs and faith groups, including the Mennonites, Community Aid Abroad, and the Norwegian, French and US embassies gave sums of cash for conference organisation (Walls et al., 2008: 50). By channeling this support through existing channels and in a manner that avoided its 'politicisation', the engagement was constructive and non-disruptive, but still vital.

The role played by women at a national meeting in the town of Sheikh which served to establish the ground for the Borame conference is instructive in a different way. Again, acting as agents external to the immediate negotiations - a political process from which women are traditionally excluded in Somali custom - a group of female activists gathered outside the venue, demanding that delegates make meaningful decisions. The women went to the length of barricading the exit from the venue, preventing delegates from leaving the meeting until they had addressed key points, including agreement on reconstruction of water facilities, a decision that UNOSOM involvement in Somaliland be rejected, and the creation of a police force. Their intervention, although formally external to the decision-making process, was constructive and won concessions (Walls et al., 2008: 48-49). The point here is not so much the gender role (although that in itself was important and pointed to future trajectories), but that parties who were evidently external to the process of political decision-making but who retained an interest in the outcomes were once again able to intervene in a manner that contributed to agreement on key issues. The international diplomatic community sometimes has the potential to play a role similar to Somali women in this instance: intervening through a combination of logistical or technical support and also as sometimes vociferous advocates of given positions.

An additional and more recent example of this dual role lies in the late 2009 agreement on a six-point memorandum which defused a situation that had already led to violent protest and the deaths of demonstrators. Here the donor group fulfilled a function outlined in brief some months before (see ISG, 2009). They simultaneously maintained a strong position on a number of prerequisites for their renewed support for elections while also engaging in supportive diplomacy with UK representatives in particular working through the Ethiopian Deputy Foreign Minister. Using this combination of muscular and supportive diplomacy - not dissimilar if on a different scale to the approach of the women in Sheikh - these external representatives were able to draft a 'non-paper' which subsequently reappeared as the draft for a six-point memorandum signed by the key Somaliland stakeholders (Kibble and Walls, 2009; Walls, 2009).

The common thread here is that, in contrast to the unsuccessful interventions cited above, the successful ones are smaller in scale and build actively on local initiatives. In each case, external funding did not disproportionately dominate, and outsiders did not establish frameworks and deadlines beyond the immediate release of funds. Critical decisions were made by local actors who then had to face their own constituents, or by deeply engaged external actors who were 'personally affected' in often tangible ways by the outcomes. External actors did not escape criticism by any means: they were seen as active participants in a contentious process and therefore, for many observers, complicit in bad decisions and deserving of condemnation. However, by not dominating proceedings as hosts, primary funders, or the deliverers of state-building frameworks, outsiders were able to adjust their positions as events unfolded, ultimately remaining engaged.

## **Conclusion**

The perception that outsiders are simply making the Somali situation worse continues to hold sway (Kibble, 2007). Certainly, outside involvement with the US military intervention in 1992 under the title Operation Restore Hope through to the 2006 Ethiopian invasion have failed manifestly to address the problems they set out to tackle. The UN-sponsored Djibouti Peace Process that resulted in a June 2008 agreement between the Transitional Federal Government and the Alliance for the Reliberation of Somalia (TFG/ARS/UN, 2008) was seen as establishing an effective process, but it too failed to win the broad support needed to achieve real change. Continued international support for the Transitional Federal Government has also been seen as evidence that external involvement in Somalia is counter-productive, and that Somalis should be left to do things themselves (although such arguments ignore the massive human rights abuses that have tended to ensue). More recently, we have begun to see the pendulum swing back in the other direction: increasing disillusion with the lack of success of recent interventionist policies is leading to renewed calls for disengagement. In some instances the message is nuanced (for example, Bruton, 2010), but the danger is that once again the nuance is lost to the attraction of polarised position-taking.

The argument that 'outsiders' should withdraw altogether from engagement springs from sources both Somali and non-Somali, and is employed in a variety of instances. We argue in contradiction that active and informed engagement from outsiders is essential if past advances are to be built upon.

For those who blame external intervention, the easy corollary is that Somaliland succeeded in the period following 1991 precisely because outsiders were not involved, while Somalia has serially failed because of external engagement. While there is undoubtedly some truth in these observations, they represent a significant and dangerous oversimplification. Indeed, while it is superficially easy to support calls for international disentanglement in the Somali areas, the reality is that both Somaliland as soon as possible and Somalia in the long term will need to be reintegrated into global political, financial, and logistical networks if the Horn of Africa is to move beyond the current state of failure, or at best marginal success.

In fact, we argue that there is a basis for external intervention in Somali tradition and that such engagement can be constructive if based on a deep understanding of the context in which it must operate and a realistic awareness of the areas in which outsiders can indeed



play a constructive role. Importantly, an effort to identify and build constructive modes of engagement, drawing on a full but pragmatic understanding of tradition and context is essential if Somalis living in the Horn of Africa are to escape the cycle of violence, crisis, blatant corruption and geopolitical manipulation that has come to typify a large part of the area. In so doing, examples of success such as the state-building project in Somaliland, however much they might be incomplete and to some degree inconclusive, must be examined and understood not as models for replication, but as valuable lessons in how appropriate solutions can be found if the circumstances are created in which they can emerge.

It is also important that Somalis are able to draw on all sections of society if a stable and reasonably just polity is to be built on the successes that already exist. Women in particular are playing an increasing role in business and social life in general. It is critical that they are also accorded more say in political processes, and there is room to build on the pragmatism that is central to Somali socio-political systems to expand that space. A gendered perspective also offers insight through consideration of women's past contributions as a possible framework for wider external engagement. Just as women have historically provided logistical support and influenced policy positions from outside, donors and similar international actors have the potential to exert similar influence. There may also be room in the future for outsiders to play a role as mediators or facilitators. This is a more difficult proposition, and the potential ill-effect can be seen in the Kenyan conferences. If 'facilitation' is taken to mean hosting and funding conferences or meetings, then the potential looms large for that to become a junket for delegates with the incentive to achieve meaningful agreement on complex matters removed by generous arms-length funding. Part of the answer is to ensure that external funding for such processes remains proportionate, and also that it is tagged to very specific outputs. Equally important, though, is the facilitative role that can be played by individuals and small groups who have a long-term commitment to Somali affairs and sufficient capacity to adjust their commitment - in terms of both time and approach - to accommodate shifts in local context. Above all, external engagement of whatever type needs to be long-term, patient, fully engaged and open to the flexibility required to permit real local 'leadership'.

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## **Chapter 6: Level of Gender Equity and Women's Empowerment in Somaliland**

**Ahmed Abdi Jama (Nagaad)**

### **Background**

Somaliland reclaimed its independence by nullifying the union with Somalia in 1991, which coincided with the collapse of the Somali Republic. Since the declaration of the Republic Somaliland, both the government and the people have focused with conviction towards rehabilitation and state-building starting with local initiatives at the grassroots level. As a result of 20 years of reconstruction experience, the country has achieved considerable progress in all aspects of life. A government based on constitutional democracy was established, both private and public institutions were rebuilt, and the socio-economic indicators improved largely due to the contribution and collaboration among all the citizens of the country.

The most remarkable of these achievements includes the introduction of a multi-party system in 2001. This democratisation process included the successful and peaceful holding of municipal elections (December 2002), the first presidential election (April 2003), parliamentary elections (September 2005), and the second presidential election (June 2010). Despite this marked progress and the government's lobbying efforts to win support for its claim to be a sovereign state, Somaliland does not enjoy international recognition.

While lack of formal recognition has denied the country much needed international investment, it has also has given the people of Somaliland the opportunity to craft a system of government rooted in their local culture and values, and appropriate for their needs. Therefore, the reconstruction of the last 20 years has largely been a locally driven effort.

Through the process of state-building, many locally significant issues were mainstreamed in the process of development. Gender equality and women's empowerment are some of the pressing issues which the Somaliland society has identified as a necessary priority. Although women were marginalised and denied participation in the first nation-wide reconciliation process of the early 1990s, they have subsequently strived to change public opinion and taken action to demand their rights to actively participate in the decision-making of the country. In order to achieve their goal, women's coalitions and associations at all levels have been introduced and established by elite Somaliland women who have been involved in the process since the early 1990s.

Gender equality and women's empowerment have been largely supported by civil society groups. At first there was no government support though women constitute the majority of the Somaliland population. Instead, women were exploited as supporters and voters by the political leaders without any representation in the past Somaliland governments. However, women had been involved in the private and non-profit sectors, mainly through Small and Medium Enterprises (SME) and local NGOs.

Women's rights and empowerment work has always faced an uphill struggle due to the negative social practices in Somaliland society. The Somaliland patriarchal culture and clan

system which still overlaps the nascent democratic systems to a large extent, limit the potential advantage that a solid and organized gender equity and diversity context can offer to achieve the rehabilitation and development process in a country recovering from devastation of years of conflict.

Other major features of Somaliland society include the traditional elders who are both confused and infused with the different political systems (formal & traditional), and a poor public understanding of women's capacity to engage and contribute to the development of the country.

During the long years of Somaliland's rehabilitation process, mobilized women's organizations, leaders, and gender activists have engaged both political leaders and civil society in order to elucidate that the voice of women is crucial for the development of the country. Although they had faced barriers including denial at the outset, they continued their initiative through advocacy, lobby, and public awareness campaigns. This experience has strengthened the capacity and experience of the women's associations and organizations, women political aspirants and activists, and finally led to women's face-to-face discussions with the political leadership for their demand for inclusion in the decision-making of the country.

Some of the strategies to tackle the constraints include initiatives designed to reduce the influence of the traditional system, brining it closer to a formal system which is more amenable to the practice of democratic social progress.

It is widely accepted that women's involvement in Somaliland's democratisation process over the last ten years has been an important element in the social change and development of the country.

This paper essentially addresses the progress made improving women's rights and empowerment over the last twenty years in Somaliland. This does not mean that women have achieved the fulfillment of their rights or equality with men. Obviously, women will continue to struggle for their constitutional rights in the years ahead.

In order to depict the level of development of gender equality and women's empowerment in Somaliland, the following intervention areas will be assessed:

- Women's access to education
- Women's political participation
- Women's human and reproductive health rights
- Women's economic empowerment
- Employment opportunities
- The fight against harmful cultural practices
- Freedom of Association

## **Women's Access to Education**

In 1991, women's access to education at all levels was very low in Somaliland. Due to a vicious cycle of poverty and cultural rigidities, parents preferred to educate their boys rather than girls. Their belief system was favouring boys as a stratagem for the development of the family. Thus, there has been a trend of high dropout rates for school girls due to limited household incomes, early marriage, and other factors rooted in the above mentioned social values.

According to the Ministry of Education records, both primary and secondary schools have increased female student enrolment from 9,641 in 1998/99 to 62,608 in 2009 for primary schools and from 51 to 5,646 for secondary schools (Somaliland MDG Report, 2010). There has been a remarkable improvement in education gender equality between the years 1995 to 2009, where the Gender Parity Index (GPI) rose from 0.4 to 0.6 in primary education and 0.2 to 0.4 in secondary schools (NDP, 2011). Presently girl's school enrolment rates are increasing steadily not only because women are the majority of the population, but also because many parents have accepted girls' education and provide girls equal opportunities with boys for their access to education. In higher learning institutions, female students are increasing in number and the popular prediction is that they will outnumber boys in the near future.

A recent UNICEF report confirms the above mentioned encouraging news by revealing that girls constitute 31% of the secondary school students and 37% in primary schools (UNICEF, 2006/7). Furthermore, the study shows that 15 out of 928 head teachers, 1 out of 13 regional education officers, and 19 out of 109 education supervisors are women. This is quite a big improvement in the country's education system in comparison with past years, where such figures remained insignificant.

It is civil society organizations that have promoted and encouraged the education of girls/women and this has contributed to better provision of schooling services for girls. The value of girls' education is now better understood by the public and this has also contributed to equal access of boys and girls to education services. Furthermore, there is growing realization that girls with academic background have increased/improved household incomes, which also improves the aggregate economy of the country.

## **Political Participation**

Following the 2010 Presidential elections, there has been remarkable progress as far as women in politics is concerned. The incumbent government and its political party has fulfilled part of its promise to women by nominating two cabinet ministers and other significant posts in the government structures, including a vice minister, directors general, directors, and heads of independent national commissions, such as the Human Rights Commission. This was an unprecedented development for women in the history of Somaliland. Although the issue of culture has been the main obstacle for women's participation in the national decision-making processes, it is the knowledge of the public that has transformed the nature of their understanding and perception, leading to this progress in women's political participation.

It is worthwhile to mention here that this relative progress in respect for women's political rights is what Nagaad and other women's groups have been striving to achieve over the last 14 years.

All along the women's political action course, Nagaad Network was lobbying for enactment of a women's quota, whereby women are allocated specific percentage of seats in the parliamentary and local council elections. During the first year of new government, Nagaad submitted a concept to the current ruling party, advocating for the integration of the women's quota policy in the national governance system and as a result of this initiative, the President nominated a national consultative committee to collect public opinion and advise him on how women and other minority groups can participate in the decision-making of the country.

Due to long years of awareness raising, capacity building and significant advocacy work, there are currently a large number of women who have political will and are eager to participate in the coming parliamentary and local council elections as candidates. This state of the matter was lacking in the past where women themselves failed to recognize their potential in relation to political development process. There are a good number of women political aspirants in all the entire regions of the country and most of them are ready to compete even if the quota policy is not approved.

The establishment and enactment of the women's quota shows much promise in the current political atmosphere and hopefully a specific number of the local government and parliamentary seats will be allocated to women. This is a major threshold for women's political development in Somaliland and can be interpreted as a positive responsive since the political representation of women has become a public/national issue throughout the country. The announcement of the final decision for the quota slot is expected to be communicated shortly.

## **Women's Human and Reproductive Rights**

There is an international women's rights mantra which says that women's rights are human rights. Other than education, health, economic, political, and basic human rights, there is also women's right to be safe from domestic violence, rape, and all forms of sexual violence. During the 1990s, women's rights to maternal health were not in place and the country lost hundreds of mothers due to poor health services, yet women continued to be productive in these appalling conditions.

There are still legal gaps in the rights of women who fall victim to various forms of gender-based violence (GBV) in Somaliland. In the past, there were no women lawyers representing women in the judiciary and legislative bodies of the national court system; but due to women's academic access and improvement, there is a considerable number of women who have graduated with law degrees and they do stand by and support their women clients to reduce the mental anguish of GBV victims in the courts. The establishment of the Somaliland Women Lawyers Association in 2008 is in itself a significant indicator of the progress made by women in the last decade.

The aims of the association include educating society and particularly women in Somaliland society about their legal rights. According to the association's website, 24 new female lawyers graduated from the Faculty of Law at the University of Hargeysa in 2010 (SL Women Lawyers, 2010).

Domestic violence, rape, and sexual abuse that were endemic in Somaliland in the past have also now been relatively contained through pro-active advocacy, lobbying, and aggressive public awareness-raising. Due to the lack of both public and household resources; however the necessary care for GBV victims has not made progress either in terms of health services or legal assistance. Victims are generally denied their rights (since most of the cases are solved outside the formal judiciary system) by the traditional system which does not favour the needs and rights of the women victims. There have been attempts to address this problem for the last twenty years; the Nagaad Network has recently established a Judiciary Monitoring System for GBV and a data facility tool which is designed to contribute to the elimination of all forms of violence against women.

### **The Right to Own Property**

Due to outdated social norms, women's rights to own property were not widely accepted historically in Somaliland. However, the experience of the civil conflict has prompted changes in the traditional gender roles in both family and society; by the time of Somaliland's declaration of independence in 1991, women had become the bread winners for a significant percentage of households (Gardner and El Bushra, 2004). Women were forced to engage in small businesses and employment where ever possible in order to feed their families and secure their livelihoods.

Though largely denied inheritance from their fathers and husbands, many women were able to build their own private capital and property through their businesses. This financial independence also facilitated some women's ambition to be engaged in politics. Since political candidates can't contest elections without financial resources, it bends to logic that women should have their own businesses and properties to be able to participate in politics.

Over the last two decades women's organizations like Nagaad have advocated for women's economic empowerment and property rights. One of the main strategies was the establishment of micro-finance projects that provided loans and small grants, improving the financial capacity of women in most regions in the country and most significantly in the capital city. Support from CSOs, international NGOs (INGOs), and the UN have also played a prominent role in the enhancement of women's economic rights in Somaliland.

There is a clear link between financial capacity and the attainment of political power. Whoever has the means, has the prospect of being elected, otherwise public vote goes to clan based interest or business interests (Amina, 2001). This leads to the assumption that, if women's economic rights are improved in Somaliland, then they will be able to demonstrate their potentialities in the country's political structure.



## **Employment Opportunities**

Just like women's access to education and political participation, women's access to gainful employment opportunities has also been limited. This is due to the traditional gender roles which assigned separate duties for the genders. Women are expected to stay at home instead of earning incomes from either public or private employers.

Women's improved access to education in the last two decades has led to some progress in their employment opportunities. The number of women employed in both the public and private sectors has increased to some extent. The leading industries, such as the banking, hotel and telecommunications are hiring more women.

The capacity-building and skills training opportunities that have been provided by both the international and local NGOs in the recent years have promoted women's exposure to job skills and stimulated their prospective in the labour market. In addition, NGO sector job advertisements have encouraged women to apply, leading to employment for many women who are graduates of local universities.

## **The Fight against Harmful Cultural Practices**

In the last fifteen years numerous studies on the root causes of violence against women have been published and widely shared in public forums, improving women's awareness and public awareness about their women's rights. Mobilization and consciousness-raising on women's rights has also challenged the political status quo and brought women's rights issues into the public domain.

Many religious leaders have consented to preach against the practice of female genital mutilation (FGM), which is not against the Islamic religious teaching. More traditional leaders have also agreed to advocate for solving rape cases through the formal justice system rather than the more lenient traditional courts, which often deny women their rights.

The majority of the people of Somaliland are presently familiar with the consequences of these primitive and severe practices as a result of a very long fight and eradication campaigns by Nagaad and women's coalitions. Subsequently, the practice of FGM and other harmful traditional practices that were common in the past have now been reduced to some extent.

The national democratisation process has also contributed to the public understanding of gender equality and women's participation in the national development process, which are presently supported by the majority of the people, particularly the elite.

The practice of democracy has nurtured the freedoms of association, press, citizen's rights, and freedom of speech. This has meant that everybody without discrimination along gender, clan, and age bases has the right to speak and express his/her self. In parallel with the democratisation process, women's coalitions, groups, and organizations have also dramatically increased over the last 15 years, a sign of democracy.

## **Conclusion**

In Somaliland, women-led civil society organizations have achieved much over the past two decades. They have assisted in and rallied for national reconciliation and reconstruction, as well as, the most recent democratisation processes. They have raised public awareness about women's rights and lobbied for the enactment of laws and policy that advance women's position and condition in the Somaliland society. In the early years, they campaigned for the representation of women and civil society in national conferences, which is essential to any peace and reconciliation process. Somaliland women have made some progress on their participation in politics against all odds. But Somaliland women still face constraints in breaking through gender based inequalities as well as cultural and practical barriers to equal political participation.

Since 1991, women have been striving to achieve and attain their basic rights to education, health, political participation, economic, social rights, and all other rights. The advocacy and influencing work done by Nagaad and other CSOs demonstrates that when women are mobilized and empowered they can work wonders. The capability of women and their organizations to affect change has been widely accepted in Somaliland.

Thus gender equality and women's empowerment have undergone a long struggle and course of action and will surely continue to make progress. The Somaliland government, people, and communities have shown growing understanding and acceptance of the importance of women in the national development processes and this has improved women's access to education, employment opportunities, property ownership, and political participation. In the recent past, gender equity has developed into a national issue that has led to both legal and policy reforms. The democratic political system which Somaliland has adopted has also contributed to creating opportunities for women's involvement in the decision-making machineries of the country.

Finally, it is important to conclude that though Somaliland women have achieved significant progress in realizing some of their rights, they are still far behind in achieving gender equity and there is still plenty of work to be done towards that end.

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## **Chapter 7: The Saga of the Pursuit of Women's Quota in Somaliland**

**Haroon Yusuf (SORADI)**

### **Introduction**

*On September 7 2011, the President of Somaliland released a presidential decree announcing the formation of a National Consultative Committee to advise him on how women can be mainstreamed within the decision-making legislative bodies of the country. In his decree the President nominated nine persons from the two chambers of the Parliament and Cabinet and authorized them to conduct nationwide consultations with all sectors of the Somaliland society, collate their opinion and recommendations, and prepare an advisory position for taking forward a women's quota system in the national decision-making institutions.*

This unprecedented evolution is a culmination of 20 years struggle for women's rights by Somaliland women, their organizations, local civil society, and the moral and technical support of the international community.

The argument for gender quotas made by women's rights activists in Somaliland has come about in response to women's continued collective marginalization from political power in the country.

In Somaliland, political power in all government spheres, such as the legislative, judiciary, and Executive rests in the hands of men. Women's participation in the political and administrative power structures and the national decision-making processes are minimal. Somaliland's conservative patriarchal society, as well as, the absence of effective governmental policies and procedures that aim at helping women and enhancing their political participation vemade it very difficult for women to be accepted as leaders and to be granted votes in elections.

Despite these formidable challenges, women in Somaliland have been striving courageously to achieve and realize their rights since 1991. In recent years the growth of women's organizations led by an increasing number of educated, experienced, and politically aware women, combined with the diffusion of the UN-sponsored global women's rights agenda, has increased calls for women's political participation and representation in Somaliland. One of the mechanisms to realize this objective is the gender quota. Women's rights activists in Somaliland favour the implementation of the gender quota – which may come in the form of a constitutional quota, an electoral quota, or a political party quota – but it still remains both controversial and elusive.

This article explores Somaliland women's struggle for their rights, examines the case for gender quotas, provides a context for the discussion of its appropriate use in Somaliland, and draws attention to the wider implications and ramifications of women's political representation.

## **Background**

Since the establishment of Republic of Somaliland in 1991, women's participation in decision-making has consistently been at the centre of women's struggle for achievement of their rights.

Somaliland women, estimated to be more than 60% of the nation's population, have actively participated in the reconstruction and development of the country since its independence in 1991. Even during the civil war against the Barre regime, women played a critical role in the liberation movement by holding families together. They have participated in the reconciliation and peace-building processes of the early 1990s, and later actively engaged in the democratisation programme following the introduction of the multi-party political system.

The civil war and conflicts have had a mixed impact on women and their roles. Traditionally, Somali men have been expected to provide for the family economically, whether in the rural or urban settings. However, because men were engaged in the armed struggle, women were left with the responsibility of taking care of the children, the household, and as such keeping the family together. Shukri Bandare (Candlelight) explains that due to necessity, "women were forced to exit the household compound, which was their 'traditional sphere' and fully explore the 'outside world' often engaging in small businesses and petty trade to feed their families".

Thus, in the aftermath of the civil wars many roles that were played by men have shifted to women. Since the return from the refugee camps, many men did not assume their former roles. Due to the lack of employment and the death of husbands in the wars, a large number of women become heads of households in Somaliland (Gardner and El Bushra, 2004).

This phenomenon has had a dual nature. In the first place, it has put an extra burden on women, bequeathing them with responsibilities previously held by men. Secondly, it increased women's economic independence and allowed more equal balance in economic decision-making at the family level. It is widely acknowledged that women's economic contribution to their families has increased significantly and continues to the present day. This capacity as breadwinners has earned women some important economic status and respect, but this did not translate into political decision-making power.

The role of women peace-making and reconciliation between the clans during the internal conflicts of the 1990s has also been widely acclaimed. They assumed an important role in the organization of the peace-meeting venues and served as ambassadors and envoys in the reconciliation process. Women's organizations have also made public declarations demanding peace and organized demonstrations in front of peace-meeting venues (Bradbury, 1997). They have been credited with convincing their spouses and sons to keep their guns at home and this action eventually led to the demobilization of the militia in Somaliland.

However, women were excluded from participation in peace conferences; despite extensive lobbying they were prevented from taking part in the 1997 National Peace Conference in Hargeysa because they did not represent clans (Nagaad, 2008). Eventually, six women were

allowed to participate as observers. Furthermore, after the peace process and formation of the government, women were left out of the mainstream decision making processes. In addition, grassroots peace processes have continued to sideline and violate the rights of women and girls in many ways. Hodan Elmi (Care International) laments that “the exclusion of women was contrary to all international conventions on the rights of women, which strongly recommend that it is critical that women are present at the peace table and in post-conflict policy-making where new constitutions and legislative structures are being created”.

Similarly, the multi-party democratic system adopted in 2001 did not usher in any improvement in women's political participation. The continued and pervasive influence of the the clan system in representative politics ensured the exclusion of women. During the elections women in large numbers exercised their right to vote. However, while votes continue to be cast along clan lines, the chances for women to be elected remain slim.

During the parliamentary election campaign of 2005, women candidates faced critical obstacles. The selection processes for identifying candidates were left to male-dominated traditional clan structures, which restricted the chances of many women who expressed interest in running for elections, leaving only seven women candidates who were nominated as a token by the three political parties. The strong influence of clan support for particular candidates, combined with the fact that clans are male led and male dominated means men are put forward as candidates (Bradbury, 2008). Moreover, during the campaign the seven women candidates suffered extreme financial constraints as they were pitted against 239 male candidates fully supported by their respective clans which provided both financial and moral support to boost their chances.

Despite the vital contributions women make to their families and communities, they are economically, socially, and politically marginalized. This is due to various factors that include male biased cultural traditions, low economic status, and patriarchal attitudes. Inadequate capacity of women's movement, underdevelopment, and poverty are barriers to women's political participation, and prevent the creation of an adequate supply of women political actors or leaders.

Gender-based gaps in educational attainment, employment, unfair family inheritance laws, and income impede women's access to economic resources, creating obstacles to funding political campaigns. The persistence of the sexual division of labour – as both ideology and a form of social organization – is remarkable, given women's increasing educational attainment and social participation. Family responsibilities are consistently cited as major stumbling blocks for women's career advancement in politics and other domains, especially in the absence of adequate institutional policies.

## **Women's Campaign for Their Rights**

Somaliland women and their organizations have over the years promoted the empowerment of women and girls in order to transform gender relations, and make a positive move towards gender equality, equity, participation, and fulfillment of their rights.

Nagaad which is a leading women's national Network was founded in 1997 as a direct result of the denial of women to participate in the third nationwide peace conference in Hargeysa (Nagaad, 2011). Consequently, Nagaad was formed to serve as an organized, collective voice of women who were determined to fight for their socio-economic and political rights as equal citizens of Somaliland.

Women non-governmental organization (NGOs), associations, and networks and their supporters have adopted various strategies on matters related to the campaign for positions of power and decision-making. Some concentrated on advocacy, lobbying, and media, demanding the participation of women in positions of power and decision-making during events of political, administrative, and municipal appointments and nominations. These women are often armed with international conventions to which the Somalia/land state is signatory through the United Nations agencies. Individually and collectively women reiterate their stand in conventions, seminars, and conferences. They demand increases in the number of women in all national decision-making institutions with a view to bringing women into the mainstream of politics.

Other women's groups focused on working with women at the grassroots level all over the country. They do so within the available frameworks, in order to mobilize women and motivate them to participate in the political process both as voters and candidates during the election season and in broader political life.

The drive to promote women in decision-making positions were informed by international conventions, action plans and goals, which have provided a powerful framework for Somaliland women's advocacy on the importance of women's representation in a post-conflict context. Guided by UNSCR 1325 (2000), the Beijing Platform for Action, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Millennium Declaration and the Millennium Development Goals, women's rights advocates argue that it is necessary for women to be represented in legislative bodies to make these bodies pay attention to women's issues.

Since the Parliamentary election of 2005, there has been a great deal of pressure both from Somaliland women's groups and from the international community and donors concerning the importance and significance of a quota for women in parliament. One of the encouraging results of women's groups' continued lobby and agitation to push forward their demand is the increase in the number of women in decision-making positions since the election of the new government in June 2010.

However, the Somaliland women's movement is not satisfied with small gains when lobbying for women to reach positions of power and decision-making positions. Nor are they content when a few women, even if qualified, are appointed once in a while in administrative positions.

## **Women Quota in Somaliland**

Demands for the adoption of women quota in public office, whether these positions are by election or appointment, took time in materializing and reaching the agenda of policy-makers in Somaliland. Persistent efforts by women's and civil society organizations since

the 1990s and the support of the international organizations led to a draft electoral law submitted by consultants in early 2005 suggested a quota or other form of positive discrimination would be needed to address the issue of women's participation and representation in the electoral process. However, the parliamentary committee which oversaw planning for the election refused to even discuss the idea (Abokor, et al, 2006). Predictably, women were not engaged in the drafting process of the new multiparty system.

The prime consideration for granting reserved seats to women is their political weakness in contesting male contenders for general seats. The quota or reservation is considered an appropriate political device for guaranteeing women "protected" representation in the legislature. The constitutional debates over the draft article incorporating the provision of the quota or reservation for women in the legislature basically centered on the number of seats to be reserved and was justified as a safeguard made constitutionally available in view of women's drastically unequal political strength.

Political theorists have explained that women have interests, experiences, values, and expertise that are different from those of men, due principally to their social positions. At the very least therefore, women must be represented in formal politics (Phillips, 1991).

The first official attempt at dealing with women's under-representation in the political arena appeared in the Amended Presidential & Local Councils Elections Bill submitted to the House of Representatives on the 7 July 2007. The Bill, which was prepared by the Internal Affairs, Defence & Security Committee of the House, a committee warmly welcomed by the Somaliland human rights organizations and civil society groups, introduced quotas in the form of reserved seats at the local (district) councils for women and excluded minority groups. This Bill therefore, for the first time in Somaliland, set in Article 22A mandatory quota at all local district councils which provide for reserved seats for female candidates. However, women's rights activists and legal experts believe that for the quota system to work there should be a corresponding obligation on the political parties to include in the candidates lists for each district council a minimum number of women.

This Bill was rejected by the House of Elders (Guurti) citing constitutional factors, which infuriated women's rights activists and the wider civil society. On July 10 2007 Nagaad (on behalf of all women's rights activists) sent a letter to the House of Representatives explaining the reasons why the proposed Bill does not contradict national laws, including the Constitution, in order to dispel the concerns of the Guurti, while at the same time recommending improvement in the Bill itself. The letter emphasized the fact that political parties are the gatekeepers against women in politics and they hold the key to the equal participation of women in political life; therefore the internal barriers to women within political parties are the key issues to be addressed (Nagaad, 2007). The House of Elders later accepted the quota in principle and passed a proposal for wider national consultation on the issue of women's participation in the national decision-making processes.

During the 2010 presidential elections, women activists intensified their campaign on influencing the national political parties and lobbied for women's political rights by arguing for the deepening of representative democratisation.

The Kulmiye Party, whose political manifesto included the provision of a 25% quota for women in all legislative branches of the government, won the election partly due to the support of women. The Kulmiye party largely kept its promise through the appointment of women to three Ministerial level positions and the position of the head of the National Human Rights Commission.

Women's groups welcomed these developments, with the Nagaad network promptly submitting an advisory paper on gender issues to the government. In reference to the promises of the Kulmiye party, Nagaad also sent an appeal on the 24 July 2011 to the President urging him to take action on the promised quota for women (Nagaad, 2011).

Given that the quota was passed by the House of Representatives and principally accepted by the House of Guurti (Elders), the President released a decree on September 7, 2011 nominating a consultative committee for finding possible processes for women's political participation (as well as the minority groups).

### **Quotas and the Somaliland Constitution**

Somaliland has constitutional provisions on human rights and gender equality. The Constitution guarantees equality before the law and non-discrimination, while there is also a national gender policy on affirmative action measures to remedy existing imbalances which are occurring between males and females in the social, economic, political, and civil spheres of society.

The legal justification for quotas in Somaliland is the combination of the following Articles of the Constitution (Somalilandlaw, 2007):

- The Equality Clause in Article 8(1)(b) states that "All citizens of Somaliland shall enjoy equal rights and obligations before the law and shall not be accorded precedence on grounds of colour, clan, birth, language, gender, property, status, opinion, etc."
- In the context of political participation, not just as voters, but also as representatives of the electorate, Article 22 of the Constitution states that "1. Every citizen shall have a right to participate in the political, economic, social, and cultural affairs in accordance with the laws and the Constitution. 2. Every citizen who fulfils the requirements of the laws shall have the right to be elected and to vote."
- Article 10(2) of the Constitution explicitly states that Somaliland shall act in conformity with international law and shall respect the Universal Declaration of Human Rights 1947. Article 21(1) of the Declaration states that everyone has the right to take part in the government of his country, directly or through freely chosen representatives. Under Article 21(1) of the Constitution, the fundamental rights and freedoms in the Somaliland Constitution shall be interpreted in a manner consistent with the international conventions on human rights.

Exclusion of women from participating in decision-making processes means that they do not enjoy the fundamental right to be elected to public office in the same way as men. Therefore, they are denied the formal equality accorded to everyone under Article 8(1) of the Somaliland Constitution and quotas are, therefore, special compensatory measures to



help them attain that equality. Voluntary promises by the political parties to include more women in their lists of candidates has not worked so far and, in any case, the pervasive effect of the Somali clan system is unlikely to produce formal equality at the ballot box. Even if women are included in party lists, there is no binding order about how prominent they should appear. In general, women's names are placed so low that their presence will make little difference.

## **The Consultative Committee**

Though the nine-member National Consultative Committee included only one woman, most of the women's groups and civil society organizations welcomed the move and promised to support and facilitate their work. The assignment of the committee was to conduct nationwide consultations with all sectors of the Somaliland society, collate their opinions and recommendations on women's participation in the national decision-making processes, and prepare an advisory position for the President to make a decision on the women's quota.

The committee decided to visit and cover all the capital cities of the six regions of the country and hold consultative meetings and discussions with women, religious leaders, traditional leaders, elites, academia, and the influential people of the communities in the regions. The aim of the meetings was to help the Committee understand the opinions and thoughts of the different target groups on the issue of women's political participation.

The Committee managed to hold 11 focus group discussions with the different groups mentioned except Las-Anod, Sool region. The Committee also carried out two meetings at the national level; one with women and the other with the National Electoral Commission (NEC).

The Committee met with a total of 390 people which included 125 women, 100 members of minorities, 150 religious and traditional leaders and elites, and 15 members from regional offices of the official political parties (Committee Report, 2011).

However, women's groups and activists have found deviation and biases in the process adopted by the Committee half-way into their assigned period and lodged a complaint by writing an appeal to the President. The Women Activist Group, which included 28 of the most prominent and national level women leaders, cited the following discrepancies in their letter of complaint and appeal to the President (Women's Rights Activists, 2011).

- The Committee designed the consultation process by starting with back-dated and backward-looking positions and issues, which were relevant in the 1990s; these include basic questions such as, the issue of whether women should or should not participate in the national political process? They argued that the Constitution has already dealt with such issues and provided women with political rights. It must be reiterated that the traditional positions – that gender is irrelevant in politics or that politics is a man's business – are disregarded here as out of date. Therefore, such an approach shall only reverse the gains made in the long years of struggle for women's rights and public awareness-raising efforts.

- The largest group which the Committee consulted is the religious and traditional leaders, who constitute the most prejudiced and gender-biased sector of our society.
- The questions and statements that were framed by the Committee to create and facilitate debate were very much misleading and reflect the culture of negativity against women's rights and gender equity.
- The data collection tools were not developed in a participatory manner and were inadequate in generating relevant and constructive opinions, data, and information to help formulate informed and inspired decisions.
- The above mentioned factors will only damage the cause of the women's rights and impede the realization of your (President's) promise to advance women's rights, such as the quota.

Due to the above mentioned factors the Women Activists Group concluded that they do not trust this Committee and shall not be satisfied with their recommendations. Their worry is that the Committee would argue for and recommend a quota that is even less than 10%.

Finally they requested the President to use his executive powers to issue a decree providing women with the promised 25% quota based on the women's rights enshrined in the national Constitution.

After the completion of their assignment, the Consultative committee submitted their final report with the findings of the consultations and their recommendations to the President.

The President has not yet announced his decision at the writing of this article. The women's rights activists are worried that anti-quota political forces might convince the President to water down the proposed percentage into ineffectual proportions.

Nafisa Yusuf (Executive Director (ED) of the Nagaad Network) pointed out that "experience from neighbouring African countries informs us that some political elites view quotas as a way to demonstrate some sort of commitment to women without really intending to alter existing patterns of inequality, for example by deliberately designing very weak quota regulations".

### **Factors Hindering the Adoption of the Women Quota**

During the long years of women's rights campaign in Somaliland there has been an ideological struggle between the progressive, gender-oriented civil society members (led mostly by activists in women's organizations) and some sympathetic policymakers on the one hand, and the conservative political Islamists and clan oriented traditionalists, on the other hand.

While introducing quotas provides a means of addressing the gender imbalance in decision-making which is acknowledged by the mainstream public, the initiative often lacks support from important political actors or meets opposition from the entrenched patriarchal traditions. Much like the debate around affirmative action, those opposed to quota systems say they discriminate against men. The factors obstructing women's access to public office by election or appointment have been extensively debated and documented in the literature on the subject.

These include political factors emanating from patronage and "masculine model" of politics which characterizes the Somaliland political system, the fact that the political competition is basically among personalities rather than among political parties and national programs, and the lack of serious political will to enhance gender equality.

Socio-cultural barriers have also worked against women's representation in political decision-making positions. First among these factors are the patriarchal, religiously-based culture, and the ensuing gender-based role perceptions. There is no clear-cut text that precludes women from holding a high level political position. However, some Muslim scholars severely restrict the presence of women in public life, citing varied reasons — moral vulnerability of women and, in their view, women's tendency to be a source of (fitna) temptation and social discord (APD, 2002). Second is the highly segmented clan based culture and the perception of women as being incapable of representing, protecting, and serving the interests of such clans. Lastly, it is the prevalent negative view of politics as a dirty field from which women have to be shielded (Nagaad, 2008).

Added to the political and socio-cultural obstacles are the economic and legal ones. Economic obstacles are most apparent in the high cost of electoral campaigns that may be beyond the reach of many women, mainly those who lack financial independence. The legal obstacles have always emanated from the adopted electoral laws that never provided for legal mechanisms needed to ensure equal opportunity among all candidates. They also emanated from the customary laws that help consecrate the prevalent clan and family structures and power relations.

Nafisa Yusuf (ED, Nagaad) stresses that "the remaining formal entry barriers must be dismantled, and women encouraged and supported by political parties to stand for office. In the present Somaliland context, legislative quotas are the only effective vehicle for bolstering women's representation in local government and national level. We need to push forward."

Another important factor is the nature and extent of the role played by the civil society in general and non-governmental organizations (NGOs) working on women's rights and gender equality in particular. While this sector has been dynamic and active, it is not without serious flaws that have weakened its ability to push for the women quota earlier on. Despite the long lists of NGOs working on improving the status of women, only very few qualify as active pressure groups at the political level. Most NGOs suffer from lack of coordination and sometimes exhibit relationships that can be described as competitive rather than cooperative, particularly, for funding sources. Though competition may be highly valued as an incentive for better performance, it must not have negative effects on any needed coordination, or lead to the duplication of work resulting in the waste of badly needed money, time, and effort.

Very few NGOs have been able to establish channels with policy-makers, and most lack effective means to influence them. This is in large part due a) to their inability to bring women to act as a voting bloc capable of influencing politicians' behaviour, and b) to their lack of a media strategy, or at least a well designed one, that can help them raise public awareness, reach as broad an audience as needed, and mobilize public support for their cause.

Not only do women's NGOs lack coordination among themselves, they, with the exception of very few, lack coordination with other NGOs working on other highly related issues in the field of human rights and the national democratisation process. This has resulted in keeping the women's issues isolated from the broader national context and most importantly in depriving NGOs from the mutual help, exchange of knowledge and expertise, and the support with which such organizations can provide each other. Excessive NGO specialization and concentration on gender specific issues is needed, but this must not be done in a vacuum. It should be part of a holistic approach to secure rights for women.

The above, coupled with a lack of needed funds, outdated management and planning, as well as lack of rotation of power in some women's NGOs, have resulted in their success being dependent in large part on the existence of a serious political will to act on guaranteeing gender equality in practice as in theory and according to constitutional principles. Unfortunately, this did not happen until recently and only among few decision-makers. How successful these decision-makers will be in leading the change remains to be seen.

## **Conclusion**

This article aims at tracing and analyzing the long struggle of Somaliland women in the pursuit of for fair political representation and the recent proposal for introducing a women quota in elected national and local councils, which have reached the decision-making agenda.

Despite the long struggle which brought about a relative progress in women's participation in Somaliland, women still remain largely excluded as representatives in decision-making positions and institutions.

In Somaliland women's experience over the last twenty years has shown that one of the surest ways to increase women's political participation and representation is the gender quota. Electoral gender quotas are defined here as an equality policy measure, the aim of which is to rapidly change an unwanted under-representation of women in the political institutions. The quota is also regarded as a key to promote women-friendly policies within other areas of women's civil, social, and economic rights.

However, social and cultural views about women in Somali society based on traditional gender ideology continue to exert a strong influence on women's access to leadership and decision-making.

It is apparent that activists supporting gender equality and democracy in Somaliland are faced with the realities of entrenched views and a political culture which needs to change. That political culture needs to change, not only for the sake of gender equality, but for the sake of inclusive and participatory democracy itself. Changing political culture is a long-term endeavour, but, as we have seen in Somaliland, the impulse of democracy is strong and can produce surprisingly impressive results.

This paper also aims at directing the attention of those concerned to the weaknesses and flaws that must be avoided regarding the implementation of the quota, including any future reform of the electoral law governing parliamentary elections and regarding the currently discussed reform of the law on municipal elections in order to ensure that true women's representation at those two levels become a reality and not a false promise. Therefore, successful implementation of the quota depends on its acceptance and endorsement as a workable device for achieving gender equity by all major actors in the political process, including political parties.

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## **Chapter 8: The House of Elders: Where Modernity Meets Tradition**

**Mohamed Farah Hersi (Academy for Peace and Development)**

### **Introduction**

The pre-colonial political systems of most African countries were constituted by absolute, centralized, unified governments similar to those of their counterparts in the kingdoms and empires of Europe. Unlike other African countries, the Somali political system had no central authoritative power. The informal organization of traditional leadership—known in Somali as the ‘Guurti’—was the only body that had legitimate authority to resolve conflicts, maintain peace, declare war, collect resources, and adjudicate between the people. Following the civil war in Somalia, the Somali National Movement (SNM) incorporated the Guurti into the formal organizational structure of the political system. The Guurti played a vital role in resolving inter-clan conflicts in the post-Siyad Barre regime.

At the Borame Conference, during which the first Somaliland National Charter was adopted, the Guurti was incorporated into the formal state structure as a legislative body. Taking on the title of the House of Elders, the body was selected through a clan-based representational system at the Hargeysa and Borame National Reconciliation Conferences held in 1993 and 1997, respectively. The House, being the oldest public institution since the reassertion of Somaliland independence in 1991, has played a vital role in peace- and state-building. The House represents Somaliland’s hybrid political structure in which the modern operates alongside the traditional. At the same time, unlike the country’s democratically elected presidency, parliament and locally representative bodies, the House has remained the only unelected (or selected) institution in Somaliland since its inception in 1991.

Despite the fact that the Constitution contains clearly stipulated guidelines laying out the powers and functions of the Guurti members, the House’s appointment process remains a contentious and divisive issue. While certain provisions in the Constitution hold that members of the House are to be selected, other provisions state that the members of the House are to be elected. It remains unclear whether or how these seemingly incongruous processes—selection and election—could complement each other or whether a complete reformulation of the appointment process is in order. Responding to such currently unresolved contradictions, this paper will first examine the traditional importance and constitutional functions of the House of Elders. The paper will then go on to critically analyse the role of the Guurti in peace- and state-building, post-Barre reconciliation process and democratization. Additionally it will examine the challenges facing the electoral systems of the House of Elders and finally, will conclude with recommendations for resolving such shortcomings through the enactment of significant improvements to the system.

## **Historical Importance of the House of Elders (Guurti)**

Prior to the colonial epoch, the Somali political system was highly decentralized with small, autonomous groups interrelating without a central unified authority to mediate between these segments of the social whole. There were no standardized rules and regulations among the Somali people and as result, miscellaneous traditional customs and norms evolved to resolve conflicts between disputing parties. Each clan had its own rules and the Sultaan or Chief (Aqil) acted as leader of the clan. The appointment process of the leader was different from one clan to the next. There was no consistent system of selection; however, there was a lineage-based system by which succession was used as means for the transfer of power from one leader to another.

The Guurti came into existence out of necessity, during situations in which intra and inter-clan conflicts erupted. They were regarded as the elite intellectuals who garnered the deference of their respective communities. Their traditional mandate was limited to mediation between conflicting parties in order to ensure that peace was maintained. Throughout the political history of the Somali people, the role of the Guurti has been constantly changing and adapting to new circumstances. The modernization of the political culture of the Somali people and the emergence of the nation-state in the late nineteenth century substantially transformed the role of the Guurti from a traditional ad hoc committee into a formalized institution. The formalization of the Guurti traces its origin back to August 1984, during which time the Somali National Movement (SNM) –an armed insurgent group which fought against the ruthless Siyad Barre regime– integrated the Guurti into the formal organizational structure of the political apparatus.<sup>49</sup> The Guurti played a crucial role in the struggle against the Barre regime through the mobilization of resources, recruitment of armed groups, collection of weapons, and provision of moral support. In this situation, the Guurti was not a peace-maker, but a supporter of armed struggle. A traditional institution whose main roles were to maintain peace and resolve conflict had become a war mobilizer. It could be argued that this transformation was a result of the emergence of the nation-state and the changes it created in the Somaliland social structure as a whole.

After the defeat of Barre's regime in 1991, the Guurti played an instrumental role in peace-building, state-building, demobilisation of armed militias, and adoption of a multi-party system of governance. As it was the only political institution left intact after the devastating struggle against Barre, the Guurti became the centre of the state- and peace-building.

## **Traditional Role of the Guurti**

Traditionally, resource-driven clan conflicts were mainly resolved through the Somali customary laws, unwritten verbal rules and regulations known as 'xeer'. Xeer is a system of traditional law which all the respective clans agree to adhere to. Throughout the history of conflict in Somalia, xeer was the only existing instrument used to resolve conflict and restore peace and order. Elders who were regarded as respected individuals among their communities played a crucial role in enforcing the xeer.

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<sup>49</sup> Duale Boobe, Dhaxal Reeb, 2004

The incorporation of the Guurti into the formal organizational structures of SNM became a sign of the successful harmonization of both systems. Internal organizational conflicts were resolved through the Somali customary rules enacted and enforced by the Guurti and, as result, traditional institutions became an important part of the organizational structure. The role of the Guurti in the peace- and state-building processes of the post-Barre political development of Somaliland can be divided into five phases during which numerous local and national conferences helped to stabilize Somaliland and allow for the reconstitution of institutions of governance and law and order.<sup>50</sup> Each of these will be examined in the following parts of the paper.

- SNM insurgency
- Peace-building
- State-building: establishment of security and government
- Institution building
- Democratization

### **Somali National Movement Insurgency**

After nine years of civilian rule under Abdirashid Ali Sharmarke, the Democratic Republic of Somalia witnessed its first military rule following a coup led by General Mohamed Siyad Barre. Following a period of marginalization, oppression and human rights abuses perpetrated by the military regime, a political movement formed in the northern regions of Somalia (Somaliland) against its rule. The Somali National Movement, as the resistance movement came to be called, was formed in London on 6 April 1981, with the aim of organizing armed opposition to the Barre regime. One of the unique governance features of the SNM was the fact that it practiced a degree of internal democracy within the leadership of the organization. Over the course of insurgency, the SNM had five leaders; each was selected in accordance with the SNM constitution and involved a peaceful transition of power.<sup>51</sup>

Questions regarding organizational governance emerged during the course of the struggle. Some suggested that the modern governance structure of the organization should incorporate certain traditional elements, such as the Guurti. Others suggested that civil society organizations should be included in the system of governance. However, in the end it was agreed that the Guurti, comprised of the traditional leaders of clans, be integrated into the SNM governance system.<sup>52</sup> The Guurti thus became part of the SNM and served a multitude of purposes, including: Resource mobilization (food, shelter, fuel, arms, ammunition), Internal conflict resolution and mobilization of new recruits.

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<sup>50</sup> APD and Interpeace, Search for Peace, Somali Programme, Peace in Somaliland: An Indigenous Approach to State Building, 2008

<sup>51</sup> APD and Interpeace, Search for Peace, Somali Programme, Peace in Somaliland: An Indigenous Approach to State Building, 2008

<sup>52</sup> an interview with Boobe Yusuf Duale, on 20/12/11



At the time of the incorporation of the Guurti into the governance structure of the resistance movement, the SNM Constitution did not clearly stipulate the functions and the powers of the Guurti. The formalization of the Guurti was only intended to preserve traditional institutions and be of use where needed. Yet, the importance of the Guurti ended up going way beyond this narrow mandate, as the Guurti ended up providing great assistance to the effective organizational functioning of the SNM by preventing and resolving internal organizational disputes.

## **Building Peace**

After the collapse of the Barre regime in 1991, peacemaking clan conferences were held throughout Somaliland. This peacemaking was intended to mediate and reach a mutual understanding between supporters of the SNM and supporters of Barre's regime. An agreement had been reached during the course of the struggle that if the SNM were to seize power it would not conduct clan driven revenge against the supporters of the ousted dictatorial administration. This created an enabling environment for the peace process in Somaliland and laid down the foundation for successive clan conferences which were intended to diffuse existing differences between the clans who supported Barre's regime and the SNM.

The Guurti led the reconciliation process as a result of their traditional mandate to resolve conflicts and preserve peace. The Guurti organized 39 clan reconciliation conferences during the period from 1990 to 1997,<sup>53</sup> which fulfilled a variety of functions, including:<sup>54</sup>

- Restoration of peaceful relations between communities affected by the war
- Establishment of a relatively stable security regime in which law and order has increasingly fallen within the ambit of the partially-decentralized government
- Establishment of local and national institutions of governance
- Creation of an environment conducive to economic growth and the beginnings of what might be considered a more broadly-defined process of development

The peace-building process started in February 1991; the responsibility of peace-making fell upon the Guurti of the various clans. A meeting held in Berbera established a formal cease-fire and fixed a date for a conference of the Guurti to be held in Burco two months later, an event that was to be followed by an SNM Central Committee meeting.<sup>55</sup> In the period in-between the conference and the meeting, the Guurti had to conduct consultations with their respective clan constituencies. During this period, the traditional peace-making skills of the Guurti were put to the test on a grand scale.<sup>56</sup>

The Burco conference has fundamentally transformed Somaliland's political history. Dozens of Sultaans, Garaads, Ugaas, and other traditional titled leaders participated,

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<sup>53</sup> January –June 1991 peace process: Oog Conference (2<sup>nd</sup> and 8<sup>th</sup> February 1991).

<sup>54</sup> Tulli (Dilla) and Borame Meetings (early February 1991)

<sup>55</sup> APD and Interpeace, Search for Peace, Somali Programme, Peace in Somaliland: An Indigenous Approach to State Building, 2008

<sup>56</sup> APD and Interpeace, Search for Peace, Somali Programme, Peace in Somaliland: An Indigenous Approach to State Building, 2008

<sup>56</sup> APD, War Torn Society, A Self-Portrait of Somaliland: Rebuilding from the Ruins, 1999

representing the different clans of Somaliland including the Isaaq, Harti and Dir clans. The Guurti played only a mediating role, as it had no legislative mandate to approve the outcomes of the conference.<sup>57</sup> The deliberations of the conference were therefore submitted for approval to the SNM Central Committee, which was the only decision-making body present within the country at the time. The following outcomes were presented by the Central Committee:<sup>58</sup>

- Reconciliation of the warring parties to the conflict
- Declaration of the Somaliland Republic on 18 May 1991
- A two-year transitional rule by the SNM and the incorporation of the non-Isaaq communities into the government structure during this period
- Initiation of a separate reconciliation process for the Sanaag region

These community-based, Guurti-led national reconciliation conferences paved the way for state-building efforts to begin. The Guurti had successfully managed to organize conferences and restore trust among the different clans. Their peace-making skills proved that locally-led, community-driven, bottom-up peace-building processes are more reliable and productive than internationally-driven, donor-sponsored, top-down ones. This is a valuable lesson to be learnt from Somaliland's peace-building process.

## **State-building**

Building peace is a necessary precondition for state-building. Only once conflicts are resolved and trust among warring parties is restored can the state-building process truly commence. The Guurti was successful in establishing these preconditions by resolving inter-clan conflicts between the SNM and Siyad Barre supporters. Following the Burco conference where a two-year transitional government was elected, SNM internal tensions emerged over power-sharing arrangements.<sup>59</sup> The Guurti did little to resolve tension within the SNM as they put their focus on the neutralization of potential violent conflict between the Isaaq (supporters of SNM) and their neighbours. This neglected internal SNM conflict became an obstacle to the state-building process. Violent armed clashes between competing factions within the SNM erupted in Burco, Berbera, and Hargeysa from 1992 to 1997. In October 1992, the Guurti stepped in, a cease-fire was reached in the town of Sheikh, and a grand conference was held in Borame from January to May 1993.<sup>60</sup>

On 18 May 1993, the mandate of the former interim government led by the SNM was about to end. There were two possibilities: one of which was to hold the SNM's 7<sup>th</sup> congressional meeting, thereby extending the SNM's transitional authority; the other was to transfer power to an external body, such as the Guurti. This power vacuum helped the Guurti to become the first community-led legislative body with extensive powers and mandates. As a result, the Guurti became a hybrid political institution which combined traditional authority with modern functions, such as nomination of the president and interim legislative Houses. The delegation of the Borame conference also formulated a civilian led government.

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<sup>57</sup> APD, War Torn Society, A Self-Portrait of Somaliland: Rebuilding from the Ruins, 1999

<sup>58</sup> APD, War Torn Society, A Self-Portrait of Somaliland: Rebuilding from the Ruins, 1999

<sup>59</sup> APD, War Torn Society, A Self-Portrait of Somaliland: Rebuilding from the Ruins, 1999

<sup>60</sup> APD, War Torn Society, A Self-Portrait of Somaliland: Rebuilding from the Ruins, 1999

The following are the main outcomes of the conference:<sup>61</sup>

- The peaceful transfer of power from the SNM interim government to a community-based (beel) system
- The election of a civilian president (Mohamed H. Ibrahim Egal) and a vice-president (Abdiraxman Aw Cali)
- The adaptation of a National Charter and Peace Charter intended to provide the foundation for peace- and state-building

The peaceful transfer of power from the SNM to a community-led governance structure has been a unique political experience in Africa's history of de-colonization and pro-democracy movements. One reason behind this non-violent transfer of power was the role of the traditional leaders –the Guurti– in the anti-regime struggle and their subsequent incorporation within the organizational structures of the state. The other reasons include the internal fragmentation of the SNM, the lapse of the tenure of the SNM-led transitional government, and the Constitution of the SNM. The latter provided that if the SNM emerges victorious from its struggle against the Barre regime, a transitional government led by SNM will govern the country for two years and then transfer power to the community as the means for electing a civilian government. The election of a new multi-clan, community-led government was a sign of the peaceful withdrawal of the SNM leadership and the beginning of new clan-based (beel) system. It was a time when clan differences were settled and a unified, inclusive government was established.

## **Reconstitution of Governance Institutions**

Post-colonial state formation in Africa has been greatly influenced by the administrative legacies of colonialism. State institutions, the demarcation of borders, and international recognition were established or granted by the outgoing colonial governments. However, the situation has been different where civil wars and internal pro-democratic movement exist. Most of these African countries have collapsed as result of brutal, dictatorial regimes, and this experience has had a fundamental impact on the way in which these countries could approach state building and the reestablishment of state institutions. In the case of Somaliland, post-conflict reconstruction revolved around a traditionally-led, community-based, bottom-up state-building approach. As result, Somaliland has been created through the reconciliation of clans and attainment of a mutual understanding on the need to have a central, unified authority.

The Borame Grand Conference was arguably the most successful conference held in Somaliland, a civilian led government was elected and interim state institutions were established. The Guurti, as the successor of the SNM Central Committee and the only legitimate legislative body, formally laid down the general framework of the beel-based government with a mandate to establish and manage all required state institutions. Due to factional conflict along clan lines within the SNM during the Borame conference, a full-scale conflict erupted that engulfed the central regions of Hargeysa and Burco. Once again the Guurti organized a national reconciliation conference in Hargeysa in 1997 to end the internal conflict. Additionally, the conference coincided with the end of the two-year

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<sup>61</sup> APD, War Torn Society, A Self-Portrait of Somaliland: Rebuilding from the Ruins, 1999

mandate of the civilian government led by Mohamed H. Ibrahim Egal. The Guurti conducted an election where several candidates competed with the incumbent president. In the end, Egal won the majority of votes and was re-elected for another five years.

## **The Constitutionalization of the Guurti**

The Guurti became an institutional body during the Borame conference, where the first civilian led administration was established. The National Charter of 1993 provided the legislative functions of the Guurti, which are similar to the functions underlined by the 2001 Constitution. Article 62 of the Constitution highlights the main powers, duties, and legislative functions of the Guurti, outlined below:

- The passing of legislation relating to religion, traditions (culture), and security
- With the exception of financial legislation, the review of legislation approved by the House of Representatives. It may refer back, with written reasons of its views, to any such legislation of the House of Representatives only once within 30 (thirty) days beginning from the date when the relevant legislation was forwarded to the office of the Speaker of the House of Elders
- Advice on the shortcomings of the administration of the Government and the presentation of such advice to the House of Representatives
- Assistance to the Government in matters relating to religion, security, defence, traditions (culture), economy, and society, whilst consulting the traditional heads of the communities
- The summoning of members of the Government and putting questions to them about the fulfilment of their duties. The House of Elders shall also have the power to put to the House of Representatives' proposals for projects so that the House of Representatives can debate and reach resolutions thereof.<sup>62</sup>

The institutionalization of the Guurti has transformed the traditional elders into a politically oriented institution with an extensive legislative mandate. The transformation of the Guurti politicized the traditional mandate of conflict resolution and the maintenance of peace between conflicting clans. Experience has shown that the incorporation of the Guurti into governance structures has politicised its mediation and peace-building efforts in regions affected by inter-clan conflicts. The adoption of the multiparty system has also seriously influenced the impartiality and the neutrality of the Guurti. On several occasions in which conflict has erupted in the country, the Guurti's peace-making efforts have failed to resolve the conflicts and even escalated them by politicising the core issues of the conflict. The case of Ceel Bardaale, for example, has shown that the Guurti can easily be manipulated by party politics, something that in this case, resulted in a failure to diffuse the conflict between the Borame and Gabiley inhabitants. This pattern can also be detected in the case of the Kalshaale and Cerigabo conflicts, where the mediation offered by the Guurti was refused by the conflicting parties, alleging the Guurti impartial. For a long time it has been perceived that the Guurti is controlled by the government, and as such the legitimacy and neutrality of the Guurti has been in decline since then.

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<sup>62</sup> see more on article 61 of the Somaliland Constitution

Traditionally the Guurti was an ad hoc mediation committee which only existed during conflicts. The institutionalization of the Guurti has negatively impacted the traditional credibility of Guurti, and its restoration to its traditional status will serve the interest of both the community and the modern system of governance. The author argues that the combination of modernity and tradition has negatively impacted on the traditional values and norms of the community. Therefore, separating tradition from modernity is the only feasible mechanism for developing an enabling environment where both systems can work hand in hand in the way they were originally intended.

## **The Guurti and the Democratization Process**

Following the adoption of the Somaliland Constitution in 2001, the political system of Somaliland has dramatically changed from a country ruled for 20 years by a ruthless dictator and devastated by civil wars to a country governed by multiparty democracy where fundamental political and socio-cultural rights are respected and promoted. The Guurti has played an important role in the making of the Constitution through the resolution of disputes between the House of the Representatives and the Executive over the interim provisions and final adoption of the draft national Constitution.

In 2002 the first democratic local council elections of the post-Barre era were held, with more than 350 local councillors elected and three national political parties approved. Following the adoption of a multiparty system, the Guurti's role has changed from a traditional conflict resolution body to a constitutional institution with a legislative mandate, a transformation that has mainly been caused by the changing political system of the country. The Guurti as the Upper House of the parliament now has various constitutional mandates in relation to the electoral process.

First, the House of Elders has the mandate to approve and/or amend all bills passed by the Lower House. Due to the historically intimate relationship between the Executive and the Guurti, most bills passed by the Lower House deemed inimical to the interests of the government were blocked in the Upper House. This kind of relationship has been described by the general secretary of the Guurti who notes that 'the Guurti was part of the ruling party for the fact that it was the Guurti who built the government'.<sup>63</sup> The Guurti is alleged to have lost their impartiality, meaning that they no longer provide a politically neutral space where institutionally-based conflicts can be resolved. As author of the Somaliland-oriented political commentary Dhexal Reeb, Boobe Yusuf, explains 'the Guurti were not neutral in regards to the formation of the government; it was their responsibility to lead the transitional period from a beel based system to a modern western style of governance'.

Secondly, the Guurti has the mandate to extend the tenure of the office of the government, the Lower House, the local councillors, and the Guurti itself. This constitutional mandate has always been politicised despite the fact that the constitutional requirements of the extension have yet to be fulfilled. The Guurti, disregarding a strict compliance with the conditions for the extension of offices set forth in the Constitution, extended the tenure of the offices of the President three times, the local councillors two times, the Lower House

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<sup>63</sup> Duale Boobe, Dhexal Reeb, 2004

one time, and the Guurti itself one time. Political analysts have observed that the Guurti's extension of the terms of office of other bodies has been a challenge to the electoral process.

## **The Electoral System of the Guurti**

Traditionally the Guurti was selected through pre-identified criteria based on the customs, values, and norms of the Somali people. Before colonization the Guurti served as an ad hoc committee whose duty was to intervene in situations where conflict threatened to erupt. It remained outside of the institutional framework of the colonial and post-colonial state governments until the SNM incorporated it into its organizational structures. It was from this point on that the Guurti became an institutional rather than ad-hoc committee. However, during this time the Guurti's leadership selection process was not clearly defined by the Constitution, and as result, its members were appointed through the traditional selection process.

Post-SNM state formation started at the Borame conference where a new community-based government was selected with the Guurti as the first selected legislative House. The selection process was conducted in a manner consistent with tradition. Despite the fact that most of the rest of the government, such as the Lower House and other public institutions, were elected popularly following the adoption of multiparty democracy in Somaliland, the Guurti remained an unelected body.

The Constitution provides two types of appointment to governmental postings: election and selection. The delineation of when and where each of the alternatives is appropriate have not been addressed, and there is no specific law regulating whether the Guurti is to be selected or elected. It is therefore important to examine which of these two systems is more appropriate under the current political structure of the country and the challenges ahead if either of them is chosen.

## **Election-based System**

The choice of appointment systems is one of the most important institutional decisions for any emerging democracy.<sup>64</sup> For Somaliland there has not been a clearly defined, undisputed electoral system for the Guurti, despite the fact that there are provisions in the Constitution which generally provide that the Guurti would be popularly elected in a manner to be determined by law. This law for the election of Guurti has not yet been enacted and as such, the issue remains unresolved. Although certain segments of the Constitution state that the Guurti would be elected, other articles speak to the contrary. For instance, Article 58 (1) of the Constitution provides, "The members of the House of Elders shall be elected in a manner to be determined by law". On the other hand, Article 62 of the Constitution states, "The inaugural meeting of the House of Elders shall take place within 30 (thirty) days of the date when their selection is completed. The meeting shall be opened by the Chairman of the Supreme Court who shall administer the oath of office, and shall then be chaired by the oldest member of the House (in age) until the election of the official Speaker of the House and his two Deputies".

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<sup>64</sup> IDEA Electoral System Design, The New International IDEA handbook, 2008

In addition, Article 68 (1) of the Constitution provides, “A person may lose his membership of the House of Elders: if one of the conditions under which he was selected is no longer valid, or he cannot fulfil his duties in accordance with the Rules of the House of Elders”.

Articles 58 and 62 of the Constitution are contradictory and there is no comprehensive answer on whether election or selection is the process for which to appoint the representatives of the Guurti. This constitutional ambiguity will only come to the surface once a new law for the Guurti is presented to the House. What will follow will be a constitutional crisis which will hinder the process of the enactment and approval of the law. According to Article 6 of the Law for the Organization of the Judiciary, the Constitutional Court will have the mandate to issue the final ruling on the issue. However, it is very important to examine the advantages and the disadvantages of the election-based system in relation to the current political structure, as well as the possible effects this system could engender in regards to the political landscape of Somaliland.

The election-based system has certain advantages. First, the popular election of the members of the Guurti could be a means of promoting and consolidating the democratic institutions by establishing accountability and transparency between the elected and the electorate. In addition, elections might enhance the effectiveness of the checks and balances between the various democratically-elected public institutions. Apart from that, the election-based system has tremendous disadvantages in regards to clan power-sharing and political balance among the clans. Major clans will have a distinct advantage under this system because their numbers will ensure they will win any majority vote. Minority clans will thus be crowded out of the political fold and generally lose out in the process. This has been the case with the Lower House, where most minority clans disappeared from government following the 2005 election.

The adoption of the election-based system will therefore have a wide-ranging negative impact on the clan power-sharing formula and the legitimacy of such public institutions. Clans not represented within public institutions will not regard them as impartial and therefore, their interests will not get addressed. The cohesion and unity of the Somaliland people depends on the fair representation of its diverse inhabitant clans. Consequently, the election based system will not be able to heal such deep rooted clan-based representation issues.

The election of the Guurti as a traditional institution will make it a modern democratic institution. The question stemming from this issue is why the Guurti needs to be elected through popular vote when there is already a lower representative house where its members are elected popularly through a regional-based system.

### **Selection-based System**

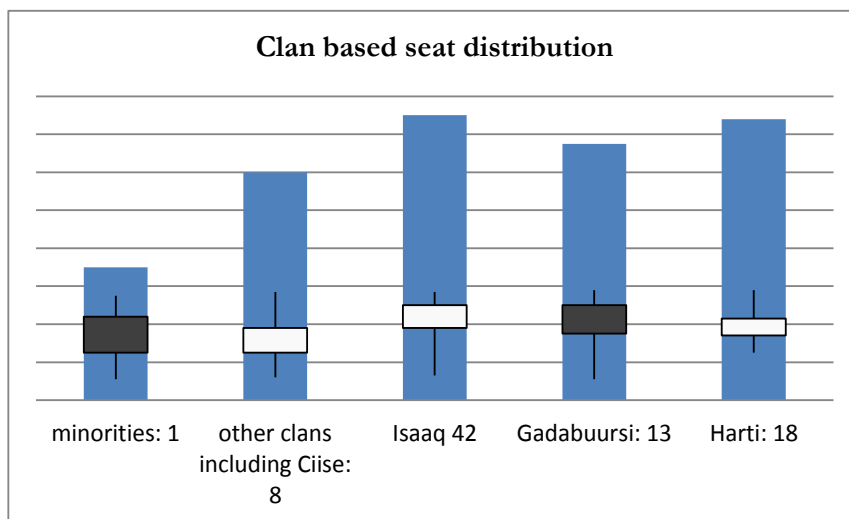
As illustrated above, a constitutional ambiguity exists over the appointment process of the Guurti. The competing constitutional articles mentioned do not come to a unified conclusion; rather they create a constitutional ambiguity over the matter. Nevertheless, it is extremely important, if a selection based system is adopted, to highlight the merits and demerits of the selection-based system.

Under the election-based system, certain members of society, specifically the minority clans who cannot command a large pool of voters, would no doubt lose out during the process. During the 2005 House of Representatives election, minority clans lost their membership as their small numbers proved a liability during the voting. In a Somali political context, inclusion of minority clans is a major factor in establishing the political legitimacy of an institution. On the contrary, the exclusion of some parts of the community from Somaliland institutions has revealed that the political legitimacy is challengeable. It is therefore very important to accommodate minority clans into institutions so that political legitimacy is attained. Adopting a selection-based system will improve the political legitimacy of the Guurti and, as a result, help reinforce a unified, well-functioning system of government. Only the adoption of this selection-based system will create representative, inclusive, and participatory institutions with the political legitimacy to represent their constituencies.

On the other hand, the disadvantage of the selection-based system is that it weakens the consolidation of democracy and the transformation from a clan-based system to democratically-centred institution. In addition, a selection-based system would face serious technical complications, including the designing of the selection process and the creation of a credible and accepted body which would be mandated with selecting the representatives. Developing a very comprehensive framework through which selection would be regulated would be difficult in a context where clan disintegration has occurred and clan leadership is absent. There is a central unified authority making up each clan, and overcoming this authority would present a great challenge to the selection based system. For instance, if a clan is allotted seven members in the House, it would be difficult to nominate those members in a situation where there are more than five Sultaans and dozens of Aqils.

### **The Guurti and Clan Power Sharing Formula**

During the Borame reconciliation conference, informal power-sharing mechanisms were developed. This system of power was agreed on to some extent by all participating clans attending the conference. Below is chart which highlights the clan distribution of the parliamentary seats during the 1997 election.





There have not been any significant concerns or complaints vocalized by any clan in regards to the equality of the distribution of seats in the House of Elders since 1997. If this widely-accepted power-sharing formula is disturbed through election, grievances will arise from within certain communities unhappy with the inequality of seat distribution.

## **The Relevance of the Guurti in the Current Political System**

Whether the Guurti remains relevant in this current political context where a clan based system is theoretically no longer in applicable is a contentious issue. Some may argue that the Guurti is still needed because of its cultural attachment to the people, and others may argue to the contrary, saying that the Guurti has no relevance in this current political system. The answer depends on the institutional objectives and mandate given to the Guurti. For instance, if the Guurti is intended to be a traditional house with traditional functions, then there is a need to amend the Constitution to reduce the legislative powers currently imparted upon the Guurti. A return to a traditional role could allow the Guurti to regain its authority in strengthening peace and resolving conflicts by re-establishing the body's neutrality. The Guurti should not in any way be affiliated with political associations, as this further compromises the impartiality and the neutrality of the Guurti. The author therefore argues that the Guurti, in its current form, has no relevance in Somaliland's present-day political structure.

## **Conclusion**

Historically, the Guurti had wide-ranging powers and functions that enabled it to engage with the society in a very constructive way. In the post-colonial epoch, these powers and functions have gone through fundamental transformations. The Guurti, which for a great deal of its existence functioned as an ad hoc committee selected during times of crisis, was institutionalized by the SNM during the struggle against the Barre regime. The institutionalization of the Guurti transformed the traditional mandates of the Guurti—such as maintaining peace and resolving conflicts—temporarily into those of a war mobilizer. In this sense the anti-regime Guurti had a different role from the Guurti of the past.

Following the collapse of the central government of former the Somalia and the subsequent unilateral declaration of Somaliland independence in 1991, the Guurti once again became a conflict resolution body within the SNM framework. It managed to successfully diffuse potential conflict between the supporters of the SNM and Barre regimes. This peaceful agreement was the beginning of a new era for the people of Somaliland and the end to years of ruthless administration. The clan based conferences that were held in the different parts of Somaliland were organized by the Guurti. In fact, the Guurti was the only body with the legitimacy and trust of the people necessary to bring such diverse groups to the table, and without them, the SNM would not have had the capacity to bring different clans together using solely non-violent means. During the Borame Grand Conference which marked the establishment of formal governance institutions, the Guurti was the only existing legislative body able to formulate a blueprint for the government and approve the creation of the Lower House.

It is undeniable that the Guurti has been the main source of peace- and state-building in Somaliland. However, what remains controversial is the future political dispensation of the Guurti. This paper has highlighted several options, in the end arguing that the separation of modernity and tradition would allow the country to preserve both. The Guurti as a traditional house has been transformed into a politically-oriented modern legislative body. This institutionalization has tremendously impacted the impartiality and neutrality with which the Guurti has conducted its core functions, namely, resolving conflict and promoting peace. The politicization of the Guurti has compromised the legitimacy, trust, and authority of the Guurti in society. It is therefore in the best interests of democratization and the development of state institutions to either dismantle the Guurti or to limit its powers to those that foster traditional, inclusive clan representation. Finally, this paper examined the pros and cons of competing appointment systems for the House of Elders. The lack of any comprehensive constitutional clarity over whether the Guurti is to be elected or selected poses a great challenge to the future of the house. However, it is important to note that both systems have disadvantages and advantages with regard to the matters of political power-sharing and constituency representation.

## **Recommendations**

The paper concludes the following recommendations as means for overcoming the challenges that are currently facing the Guurti.

- The Guurti must be a traditional body with traditional powers
- The Constitution must be amended with regard to the nature of the Guurti
- The appointment system for the House of Elders should be carefully examined, and a process should be agreed upon and codified in a way that preserves national unity and clan inclusiveness

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## **Chapter 9: A Gap in the Somaliland Constitutional Process: Reforming the Guurti House**

**Dr. Mohamed Fadal (SORADI)**

### **Background**

The Guurti is an essential institution in the Somali traditional non-state governance structures. The Somali society, usually characterised as stateless in the advent of colonialism, manages its social, political, and security affairs through its *guurti* systems which could be ad-hoc in nature or also are standing bodies affiliated with a sultanate or a traditional strong ruler. In the Somaliland context, the traditional understanding of Guurti is usually any group of dignitaries who are appointed to solve a problem between opposing parties in accordance with the existing *xeer* (Somali customary law). Cases like murder, rape, trade and property dispute, defamation and family problems usually trigger assignments of a body of *guurti*. A body of *guurti* could also be appointed when a *beel*<sup>65</sup> is facing a crisis such as war, famine, or anything that threatens the livelihood or survival of the group. The use of the *guurti* system is not only confined to the rural nomadic settings but is also adopted in the urban culture and even by the Somali diaspora communities.

However, the focus of this article will be more on the role of the Guurti in the political sphere and the formalization of its structure into a state institution - a parliamentary chamber known as the “House of Elders”. The appearance of a more formal, larger, cross-clan Guurti arose with the survival needs generated by the upheavals experienced by the Somaliland society in 1980s, as a result of the war, which the Somali Government army unleashed against the population of what was then known as Northern Somalia. The Somali National Movement (SNM) facilitated the formalization of the Guurti system first to use its support to mobilize fighters and resources for the population and secondly, to provide conflict resolution services to the displaced populations in the refugee camps and elsewhere, as well as among the SNM ranks.

The Somali National Movement organized prominent elders and traditional leaders initially from the *Isaaq* to become its Guurti arm in 1988, while still in the armed struggle against the Siyad Barre dictatorship. Later when the Somaliland state was established, the Guurti was expanded to become a more representative structure of all major Somaliland inhabiting clans. It immediately became a very influential body on which the people pinned their hopes to sort out the myriad of problems arising from the collapse of Barre’s regime and the internal conflicts of the SNM which intensified in the wake of its victory against the dictator’s army. The Guurti indeed fulfilled these expectations of the people by embarking on a comprehensive programme of reconciliation. In the process, it overshadowed the SNM transitional government under whose mandate it was working. The Guurti became so influential that eventually initiated the deposition of the SNM transitional government and oversaw the transfer of power to a non-SNM President in the Borame Conference of March 1994.

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<sup>65</sup> *Beel* (plural *beelo*) is employed here to replace the use of the word “clan”, which is not adequate to convey the context of ‘beel’ or ‘reer’, especially when used with a political connotation.

In the National Charter which came out of the Borame Conference, the Guurti carved itself a formal role as the House of Elders, which was primarily concerned with peace and reconciliation matters in addition to religious and cultural affairs. The role of the House was even further strengthened in the National Constitution adopted in May 2000, into a powerful upper House of Parliament. On top of its original mandate, it acquired the mandate to be able to block and amend laws passed by the House of Representatives unless passed with a two-thirds majority, to initiate legislation and to have an oversight role of the Government. At the same time as the House of Elders' mandate was fortified in the new Constitution, directions for the mode of its election/selection or renewal of its mandate were left flimsy. There are two Articles which touch this issue: Article 58 which addresses its "election" and Article 62 which introduces the word "selection", to explain the procedures of its first sitting. The inadequacy of these articles has created confusion on the mode of election of the Guurti House. However, reading ambiguity into the intention of the constitutional articles has ultimately served only one purpose, to allow its present House membership to sit without submitting to the choice of the people for over a decade now.

### **The Current Debate about the Role of the Guurti House in the Somaliland State**

The Guurti House has both its critics and its supporters in the Somaliland society. Its early role as peace builder is very much recognized within Somaliland and outside it; however since it became a legislative body, the most important character of the traditional Somali *guurti* as an independent arbiter has been lost to it (Wiuff 2009). It is also argued that, it has become a partisan political institution which is extremely conservative. It is accused of being predisposed to align itself with the presidency, to keep the House of Representatives at bay, therefore tipping the balance of power towards the already very powerful Executive branch against all other branches of the government including the Judiciary.

The debate on the state of the present House of Elders could be narrowed down into three main arguments. First, the deficiency in the laws governing its election, secondly, looking at its performance track record and whether it fulfilled the expectations of its mandate, and thirdly, its utility, value, and use as a second legislative House towards the development of a sustainable Somaliland state and the consolidation of its democratic system of governance.

### **The Argument on Interpreting the Relevant Constitutional Articles**

The legal argument revolves around whether the Somaliland Constitution is clear about whether the members of the House of Elders must be elected or selected. Article 58 titled "The Election of the Guurti" is not ambiguous about the matter. It clearly states that the members of the House of Elders are to be elected. In fact, the word election is used three times in the otherwise shortly worded Article. The other side of the argument refers to Article 62 titled "Convening the first sitting of the Guurti, after its selection". Since the word "selection" is used here, those against the election of the members of the House of Elders make it the anchor point of their legal argument. However, the argument should not be reduced exclusively to the mode of replacing the members or their recruitment, but should focus more broadly on whether the method of election, selection, or a combination of both is more appropriate to adopt in the light of the experience acquired by the Somaliland people in the last two decades of state building and democratization.

The proponents of the election route say that as long as it is a legislative House which not only initiates laws but can also block those passed by the House of Representatives, it should also be elected and be subjected to the rule of the ballot box. The argument sees it as an aberration to the democratic process should a non-elected body be able to block the laws passed by an elected body. However, it should be stated here, that such an occurrence is not uncommon in the democratic world.

On the other hand, the proponents of the selection method argue that the House of Elders is an institution which is above all else is established to cater for the tradition and culture of the Somaliland people in the modern state system functions. Therefore, its members have to be those recognized for their meritorious deed for the community and hence should be selected to further serve the society on that basis; they need not be subjected to the vagaries of electoral competition. Elders and other community dignitaries cannot put up themselves for electoral competition. It is further argued that from the experience of elections, it is not often the case that the best people for the job are those elected, whereas with selection, the choice could be made on consensus basis and the system could be creatively designed to accommodate the quality, equity and the representational need of the society<sup>66</sup>

### **The Track Record of the Guurti House under Scrutiny**

The Somaliland House of Elders exists in its present form as an Upper House of Parliament since 1997 and it is expected to perform four distinct functions:

- To provide alternative and additional representational services, to that of the House of Representatives, for the *beel* system and the other related cultural and religious needs and interests of the society.
- To enact laws relevant to its constitutional mandate especially on cultural, religious, and peace maintenance matters.
- To take a mediation role when conflicts involving “beelo” arise. The Guurti may also mediate elite factions who may escalate conflicts concerning elections and other state matters. This latter function is necessary so long as the Judiciary is not taking its rightful role to apply the rule of law and the due process to address conflicts.
- The Constitution provides the House of Elders with the mandate to review the laws passed by the House of Representatives, if not with a two-thirds majority and less the budgetary laws.

Therefore, the track record of the Guurti in its two decades of existence is going to be scrutinized on the basis of the quality its performance on the above functions. On the first function, the Guurti did not take clear responsibility for the role of representation to articulate the interests of the “beelo”, the traditional sectors of the society or for that matter has not addressed any religious issue including the growing influence of extremism in the region. In the public perception, the Guurti did not position itself to represent above interests.

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<sup>66</sup> See also Sadia Muse, SORADI: 2010.

On the second function to enact laws, again its performance is serious wanting. It is expected to build a legal regime governing its constitutionally mandated areas: “to enact laws on religious issues, culture, tradition and security”<sup>67</sup>. There is definitely need for laws to regulate traditionally managed resources such as the issue of pasture land; at present land conflicts overwhelm the Somaliland rural life: the *Kalshaale* and *Ceel Bardaale* type conflicts are growing. The traditional *xeer* is not enough is under pressure due to growing complexities of the societal development. It needs to be reformed and to be beefed up to meet the growing demand of conflict resolution in the traditional sectors.

On the third function, to mediate conflicts, the Guurti has a glowing record in the early days of Somaliland formation during the period 1991-1994. The Guurti, then as a grand Council of “beelo”, initiated, lead, supervised, and successfully concluded all the historic reconciliation conferences of Burco, Sheikh, Sanaag and Borama. However, since its form and mandate changed to a House of Parliament after the Borame Conference, its record did not continue to be as impressive and there is hardly any significant successes to claim afterwards. Since it was established as a House of Parliament, the Guurti has tried to mediate in several major conflicts including the 1994-1996 internal Somaliland conflict, as well as clan conflicts in Ceel Bardaale, Kalshaale, and Sanaag to mention a few; in all of them has failed to be recognized as a neutral party and therefore, its mediating role has degraded. In the Ceel Bardaale conflict, despite the Guurti being involved since 1992, gruesome acts of conflict which shake the moral core of Somaliland society continue to take place. The Guurti has yet any results to show for in solving or even containing the conflict.

On its track record of reviewing laws passed by the House of Representatives, the House of Elders has definitely been very active in this regard, although it lacks the capacity to do any meaningful review of the laws in question. It is argued that the Guurti has politicized its role in this function by aligning itself with the Executive branch to check the legislative powers of the House of Representatives. How many times the House of Guurti has come to action to block a law passed by the House of Representatives and to what motive could be a pertinent research theme, especially if in fact it is considered as an act of abuse of its powers. To the level of absurdity, the Guurti House blocked the draft law prepared by House of Representatives as required by the Constitution to regulate the election of the House of Elders, and it has not yet offered a way out of this impasse.

Another controversial area of activity in which the Guurti has been more than active is what has come to be known as “extensions”. Of recent, the name of the Guurti House has been closely associated with this rather dubious role, more than any other activity. This House sprang into action more than six times in the last ten years to extend the expiring term of office of a state organ, which has failed to observe its election duty. It has never held accountable the Executive Branch for failing to fulfil its duty to hold elections on time, nor has it commissioned any review, internal or otherwise of why such delays happen, in spite of the fact that the Constitution charges the Guurti with the mandate to monitor government work and to alert the House of Representative in case of dereliction of duty (see ISG-26 July, 2009).

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<sup>67</sup> Somaliland Constitution, Article 57.

What is more questionable is that the Guurti bases its “extension” action on a constitutional article 83(5) intended for “force Majeure” situations affecting presidential elections. While some of the extensions were based on consensus among the key stakeholders, several of them were very controversial and partisan in nature. The Guurti extended the term of office of President Rayale and his deputy three times. It has extended the term office of the Local Councils at least three times who as a result are still in office for close to a decade. It extended its own term of office two times since 1997 and two times prior to the present Constitution since 1993. The first extension during the constitutional period was based on a Bill by the House of Representatives and the last extension was on consensus from most stakeholders; however the case which will always be cited in the annals of Somaliland history as an act of sheer abuse of power is the extension by the House of Elders of its own term of office on 6 May 2006 in a clandestine movement shrouded in secrecy and with the alleged collusion of the President and the Supreme Court of the time. This move has no doubt damaged the credibility of all three institutions involved: the office of the President, the Guurti, and the Supreme Court<sup>68</sup>.

The Guurti is not known to have exercised its mandate to monitor the Executive and to challenge it for the dereliction of its duty to hold constitutional elections on time. On the contrary it is known to have been a willing partner in the abuse of power by the Executive especially during the term of office of President Rayale. The last unilateral trial of the Guurti to extend President Rayale's term of office for the fourth time could cost Somaliland its cherished peace and stability. It was on the verge of a popular uprising, when averted in the wee hours of Friday 25 September 2009, as a result of the President backing down from seeking extension of his term.

## **The Utility of the Guurti as a Second House of Parliament**

It is important to address what utility this Guurti House has for the Somaliland society. Generally people believe that it has value as a key institution in the effort to build a sustainable state and equitable governance system based on its traditions as well as the relevant international experience. Therefore, the House of Elders was envisioned to accommodate the traditional component of the emerging state. It is to absorb the demands and governance needs of the *beel* system and to establish its space in the formal state structures as well as to foster development of the *xeer* to accommodate the changing needs of the society. It was an attempt from the Somaliland society not to repeat the mistakes of the recent past, which resulted in the failure of the first Somali state. That state tried to deny or circumvent the age old system of *beel* system of governance, which draws from its culture and especially from its *xeer* and religion.

An opposing argument to its reform is that it is redundant as a legislative house. The House of Representatives can do whatever function it has in its present setup. Only a fraction of the countries of the world have a bicameral parliament and these are mostly large countries often with a Federal system. So why does Somaliland need it, especially if it has so far been a negative competition to the other more functional House of Representatives? Somaliland can make better use of the resources spent on the Guurti House and getting rid of it will also streamline the legislative and political process by removing a cumbersome extra layer of

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<sup>68</sup> See also Somaliland Forum, (2006).

law making. We can make the House of Representatives a more effective and efficient legislative House. Furthermore, the Executive can better be made more accountable by directly dealing with the House of Representatives, and the Judiciary will have breathing room to ensure compliance with the rule of law without the intrusion of the mediation acts of the Guurti. This argument, however logical, is not a mainstream trend in the on-going debate. The trend to reform it is more widespread.

Therefore, the urge to reform the House of Elders is to make it more effective to represent the needs of the traditional sector of the society and to foster its synergy with the modern aspects of the emerging Somaliland state and nation. If the House of Elders meets its expectations as the representative of the interests of the traditional sector in the government, it is an indication that the Somaliland trial to build a hybrid governance system, which marries the traditional with the international experience, is bearing fruit.

### **Why is the Guurti House Overdue for Reform?**

There is general public dissatisfaction with the present state of the House based on the following reasons:

- The membership of the present House is based on the last selection of 1997. Since it has a six-year term of office, its mandated time has expired twice and the last extension of its term for 3 years and 8 months in September, 2010, will expire again in May 2014. There is no law in place to govern the mode of election or selection when the term expires and the present practice of “self-extension” is unconstitutional and is no longer tenable.<sup>69</sup>
- Seats vacated within the House, as a result of death or from resignation of its members are filled routinely through the method of inheritance, which is not the constitutional or any existing law of the country. So far 36 deceased members were replaced with their sons or their close kin and that is almost 44% of the total membership of the House.<sup>70</sup> Therefore, it is long before the total membership could be sitting unconstitutionally on inheritance grounds.
- For the seats filled through the inheritance method, the criteria designed for the Guurti membership is not in any way respected. Therefore, the current membership lacks the quality, capabilities, and public trust to fulfil the House mandate and its wider responsibilities to the society.<sup>71</sup>
- The composition of its membership needs to be matched to the evolving needs of the Somaliland state and society, especially in accordance with social groups, gender, and professional representation needs. At present the distribution of its membership is based solely on the *beel* power-sharing system adopted in the formative days of the Somaliland state. This type of power-sharing was subsequently replaced by the

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<sup>69</sup> see ISG 29 Aug 2010; Somaliland Forum May 2006.

<sup>70</sup> Haatuf: 23 August, 2011.

<sup>71</sup> Criteria specified in the Constitution for Guurti candidacy are: 1. Must not be aged less than 45 (forty five years) and 2. Must be a person who has a good knowledge of the religion or an elder who is versed in the traditions.



constitutional system adopted in May 2000. There is only one female out of eighty two House members, who inherited her deceased husband's position. Furthermore, the House lacks professional membership which could provide the skills needed for it to fulfil its mandate.

- Its present mandate is diffused and lacks focus to be effective. In its present mode of operation, the role of the House of Elders often undermines the legitimate role of both the House of Representatives and that of the Judiciary. It especially undermines the Judiciary since its mediation rulings often by-pass due process and the rule of law on the pretext of traditional consensus building.
- The fact that House membership sits on *beel* lines does not mean it serves *beel* interests. There was no other system in place to select its members when the House was first established in 1993. There should be a better way of accommodating *beel* interests in the formal state system than taking it literal as a function of the distribution of clan members sitting in the House. Current members are not accountable and do not functionally provide representation to the *beelo* they hail from, but rather their behaviour is more like government employees, who take their cue from the Executive Branch.

### **Choice of an Electoral System: Options for Guurti Election or Selection**

To address this issue, we have to take three things into consideration: the contextual realities of the Somaliland society, its experience from elections of the last two decades and that of the international community relevant to Somaliland context. The current debate on the mode of its election revolves around two concepts: direct or indirect election. While each method has its proponents, the tide seems to be turning towards the indirect election or a hybrid form of the two modes. Those insisting on direct election are rightly saying that with its present powers, the Guurti House should be subjected to the vagaries of competition, or else its powers have to be reduced and mandate streamlined. However, there is also the realization that indirect elections may offer more flexibility to accommodate diverse competing representational interests of the society. There is need to introduce a conscious distributional context, to allocate certain percentages to broad representational groups: The traditional representatives, the civil society including: women, the marginalized groups, professionals and distinguished artists, academicians and traditionalists and also to accommodate marginalized regions. Some of the criteria for a viable Electoral system could include<sup>72</sup>:

1. The Electoral system is designed to provide representation to targeted sectors of the society to offset the shortcomings of that of the lower House.
2. It promotes independent role of the Guurti House and its effective legislative and oversight functions.
3. Makes elections more accessible and meaningful for all sectors of the society to improve the quality and utility of its representational system.
4. Make election process sustainable to produce effective and stable government.

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<sup>72</sup> See also IDEA (2008).

## **Conclusion**

The Guurti House is a trademark of Somaliland, a valuable contribution to the emerging state institutions of post-conflict Somali political culture. It is the embodiment of the traditional component of the hybrid state structure. It therefore, is incumbent upon us all, the government and society alike, to ensure that the Guurti House works as a state institution and in the spirit and practice of the Somaliland Constitution. Somaliland has proven time and again in its short history, its preparedness to innovate and to be able to reform its emerging governance institutions. The Guurti House is the only key institution which resisted reform and to which full attention need to be given to bring it into the fold of the constitutional process. There is still a gap in the constitution process; the law which should regulate the election/selection of Guurti House members is still not passed. It is definitely a national priority and is incumbent upon the Government to ensure mending this constitutional gap in the Somaliland democratic governance system. This Law will provide the legal base to streamline the mandate of House, to fulfil the representational needs of relevant sectors of the society, to accommodate the equity principle in the representation and to ensure the effectiveness and independence of its oversight functions.

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## **Chapter 10: Somaliland's Major Environmental Challenges**

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### **Abstract**

*According to the writings of some of the Europeans who travelled through Somaliland during the nineteenth and early part of the last century, the region has been well endowed with and well-known for rich floral and faunal diversity characterized by a high degree of endemism. Over the years, however, the integrity of the environment was seriously compromised, and today the situation on the ground marks a sad contrast with the past.*

*The British colonial administration, established the Department of Natural Resources (DNR) in the late 1940's covering agriculture, livestock, forests, wildlife and rangeland conservation and protection. This institution carried out many interventions, including recruitment and training of foresters, forest guards, range guards, and establishment of grazing reserves, as well as formulation of forest conservation and protection policies. Subsequent governments also maintained some sort of environmental conservation and protection actions although they were not keeping pace with the scale of environmental degradation that had been going on.*

*One of the definitions of sustainable development made popular by the World Commission on Environment and Development, otherwise known as Brundtland Commission (1983), implies a pattern of resource utilization that 'meets the needs of the present without compromising the needs of future generations. Good governance and peace are two prerequisites to achieving sustainable development. Therefore, other than global climatic factors, environmental degradation in the country, among other things, can largely be related to conflicts and vice versa.*

*This paper will attempt to discuss some of the major environmental issues in the country which pose significant challenges to the realization of sustainable development. It also outlines some recommendations for action in order to mitigate those challenges.*

### **Introduction**

The Horn of Africa is currently (2011) experiencing one of the worst droughts in sixty years. More than 11 million people are now affected in drought-stricken areas of Djibouti, Ethiopia, Kenya, Somalia/Somaliland and Uganda and the situation continues to deteriorate. The main climatic trigger for the drought is widely believed to be *La Niña*, a cyclical meteorological phenomenon affecting rainfall in Africa and elsewhere. However, what has made the Horn of Africa one of the most vulnerable regions in the world is the combined effects of extreme poverty, conflicts, and accelerated environmental degradation in the region, climate change and poor governance.

Somaliland is a microcosm of this bigger picture and therefore is subject to the effects of these challenges. Ecologically, the country has been undergoing transformations which are characterized by diminishing natural resources, rising human population and livestock pressure, unabated environmental degradation, and population movements.

Descriptions and photographs of some parts of Somaliland by the end of the 19<sup>th</sup> century, such as those by Major H.G.C. Swayne, recorded that the country was then “park like” with abundant trees and grass and teeming with wildlife. In his words, “elephants could be seen roaming or resting in the shade of large trees and the Wild Ass was then so common and tame that shooting it was no sport...” Almost all the big animals have long gone even before the civil war (1988) due to poaching and habitat loss.

Today the country is so degraded and denuded. The reduction in the vegetation cover is also very notable when comparisons are made between the current situation and those described by earlier travelers.

Deterioration of rangeland integrity has been recognized by the British colonial authorities as early as the 1930's. In one report (1946), P. E. Glover and his research team attempted to make tree counts in different parts of the country to find out what proportion of the trees were dead, cut or mutilated in relation to the proportion of uncut young trees. In one sample, they counted 15,422 plants of which 11,218 were damaged and only 2,146 were young, of which 1,172 were seedlings whose chances of survival were extremely slim because grazing was so intense. Now, more than half a century later, if the above data is compared to the current situation, one could hardly find a plant which is not either maimed or misused.

In order to highlight the relationship between conflicts and environmental degradation, the present writer believes that during the long history of Somali existence, probably there is no other times whereby the integrity of the environment was compromised through anthropogenic (man-made) activities than two periods: The first was the wide scale instability during the first quarter of the 20<sup>th</sup> century at a time when the British authorities in Somaliland were trying to defeat Sayid Mohamed Abdulla Hassan and his dervishes. Equally, the last quarter of the same century till present day saw a similar situation characterized by institutional weaknesses, poor governance, violence, and lawlessness. Some of the outcomes of such hostile situations were land use changes and disruption of traditional movement of pastoralists. Also the resultant overgrazing, deforestation, and over-stretched of rangelands' carrying capacities led to destitution and massive movement of populations as internally displaced persons (IDPs).

## **Main Environmental Challenges Facing the Country**

### **a) Deforestation**

Deforestation, with its devastating effects, is one of the most debated issues in the country. Unfortunately the attention afforded to this issue either by the government, development agencies, private sector, and direct resource users is minimal or non-existent. In the past three decades, the rate of deforestation, in response to the rising demand for charcoal, wood for construction and establishment of enclosures has been rising to an extent that millions of hectares of woodlands have been cleared. Biomass is the main and, indeed, the only

traditional source of energy for Somaliland populations. Charcoal is the principal energy producing fuel commonly used in urban areas for cooking, whereas firewood is popular in rural settlements. With increasing populations and high urbanization rate, the demand for charcoal has been rising exponentially.

Deforestation is contributing to the diminution of rangelands integrity, water ineffectiveness and watershed degradation. It is causing severe soil erosion and compaction, and flash floods with destructive effects. Moreover, deforestation is a direct threat to rural livelihoods as Somaliland's domestic economy is heavily dependent on pastoral production.

#### **b) Soil erosion**

As a result of overall decline in biomass production, reduced ground cover, litter and organic matter, and the resultant soil compaction, large tracts of land became exposed to increased water runoff and erosion processes (rill and gully erosion). Shifting sands is also becoming more common in many areas, particularly in treeless plains (*ban*) causing transportation and deposition of soil material. The main causes of soil erosion are overgrazing, deforestation, inappropriate agricultural practices, and woodland fires.

#### **c) Climate change and Droughts**

Remarkable increase of temperatures in higher altitude ecological zones and elsewhere compared to earlier periods is being experienced in many parts of the country. Nowadays one could hardly hear words used to describe severe cold conditions such as “*gabadano, gawre and juube*”. Extreme weather conditions such as decrease in precipitation levels, soaring temperatures, increase in the frequency of droughts, and flash floods are more common than before. Moreover, there are changes in the biological succession of some of the plants in certain vegetation zones. For example, the unexplained high mortality of *Acacia tortilis* {*Qudhac*} and *Balanities orbicularis* {*Kulan*} in the Guban areas is a disturbing trend. Changes in weather patterns have also contributed to the disturbance of calendars for both livestock mating and crop production. The cumulative effects of climate change led to erosion of assets and deterioration of livelihoods among pastoral and agro-pastoral communities in Somaliland. Climate change has also led to an increased drift of rural population to the urban centers.

#### **d) Wildlife poaching**

By the turn of the last century, much of the wildlife of Somaliland, particularly the big mammals such as elephants, lions, the Somali Wild Ass (*Equus asinus somalicus*), Oryx (*Oryx gazelle*), *Alcelaphus buselaphus swaynei* ('*Siig*') and others, has been decimated in numbers, some of them to extinction levels. The last elephant in Somaliland is believed to have died in Dibira-weyn area of Awdal region in 1958. The site of Hargeysa city, which is now characterized by bleak and bare hills and its seasonal water course which bisects it, still carries its old name *Maroodi-jeex* (the Valley of the Elephants).

Traditionally, hunting wildlife for subsistence and economic gain was an uncommon practice and indeed was regarded as the task of the inferiors. Political unrest during the past three decades has facilitated better access to automatic guns. Therefore, other than poaching and illegal exportation of wildlife to some Arabian countries, habitat loss is major cause of their decimation.

Baboons (*Papio hamadryas*) and warthogs (*Phacochoerus aethiopicus*) are among the most common wildlife species remaining and had they not been sanctioned as unlawful (*Haram*) by Islam, their number could equally have been drastically reduced. *Speke's gazelle* and Gerenuks can still be encountered in few numbers, while Dik-dik (*Madoqua spp.*) is still numerous, thanks to their small body size which makes it a difficult target for poachers using guns. Remaining carnivores include hyenas, bat-eared foxes, and wild cats (*Felix lybica*).

#### **e) Garbage and pollution**

With rising urban populations, the inadequate municipal services and low public awareness, waste litter has been crowding the streets of all major urban centers. The most eye-catching thing is the plastic bags strewn everywhere and hanging from acacia trees. In the rural areas, these bags, when not disposed of properly, are eaten by livestock (due to shortage of browse and grass) and consequently, contribute to the death of large number of animals.

Because of the inefficient garbage collection and disposal system in Hargeysa, the largest city in the country with a population of three-quarters of a million, the inhabitants dump garbage in the nearest place available or accessible, and to their relief, if rains come, runoff water carries most of the garbage all the way to the Gulf of Aden, with dire consequences on the marine life. For example sea turtles and sea birds mistaking plastic bags and pellets as authentic food or fish eggs, causing the clogging of their intestines and their eventual death. Improper disposal of effluents such as those originating from tanneries and the existing few factories – many of them improperly sited in or near residential areas or water sources – can render water unsafe for domestic use and also represent potential hazard to human health.

#### **f) Unsustainable fishing practices**

As Somaliland's terrestrial ecosystems continue to be degraded and over-exploited on one hand, and human needs continue to increase on the other, more and more people are determined to earn a living from the sea.

Culturally and historically, Somalis have never been dependent on fish for their nutritional needs and their knowledge of the sea has been very limited. This might be the reason why Somalis call a man-eating fish '*Libaax-badeed*' literally 'sea lion' because lions used to abound in their lands. However, even though there is a high prevalence of nutritional deficits among the local population, it is unfortunate that foreign fishing vessels (particularly from Yemen) maintain continuous presence in the sea and in most cases inside the twelve nautical mile territorial range of the coast intended to be utilized by artisanal fisher folks.

Selective fishing practice where higher value species in the sea are collected and the remaining dumped into the sea is often reported by local fishing associations who have also been raising their concerns through the local media.

Somaliland authorities have their own licensing mechanisms and assigning monitors to board some of those vessels, but because of the inadequacy of surveillance in terms of knowledge, capacity and logistical arrangements, there are certain gaps in carrying out the strict monitoring required for the sustainable utilization of fishery resources. Therefore, as reported by the concerned fisher folks, there has been a continuous decline of fish catches.

#### **g) Institutional challenges**

Lack of political will and commitment to protect the environment is exemplified in the fact that the ministry which is mandated for environmental conservation and protection is one of the least funded government institutions. There is also absence of regional cooperation on issues related to environment. Moreover, while a number of policies related to natural resource management have been passed over two decades, their implementation is a sure challenge. This includes the newly reviewed Somaliland Environmental Policy which has been developed in 2011.

### **Recommendation**

**a)** Devastation of woodlands poses a great threat to the environment and the livelihoods of the pastoral and agro-pastoral communities as well. Therefore, there is a need to crucially address this issue through reduction of dependence on charcoal which is the main contributory factor to the denudation of the land. This can be addressed through popularization, diversification, and adoption of viable alternative energies. Liquefied petroleum gas (LPG) is slowly being adopted although not affordable to most households. Also studies aimed at determining the magnitude, quality, and economics of exploitation of local coal deposits is recommended if successful, suitable coal (briquette) stoves for domestic use could be introduced. Moreover, exemption of tax from kerosene, LPG and energy saving materials and appliances is necessary.

**b)** There is a need to activate the various natural resource management policies and legislations. However, a major challenge facing the concerned government institutions to live up to their mandates is the paucity of resources. Capacitating and empowering these institutions to deal with those challenges through trainings, technical and material support and resource mobilization could be an important step to address this challenge.

**c)** There is also a need to initiate techniques towards recycling and salvage of garbage. This will contribute to cleaner and healthier environment, more jobs and income for many people. On the other hand, an in-depth analysis of the current garbage management initiatives and why it is not serving the purpose need to be conducted and the necessary remedial actions be taken to address this problem.

**d)** Somaliland is not recognized internationally as a nation and therefore not represented in the United Nations Framework Convention on Climate Change (UNFCCC) either as a party or as an observer status. This is one of the reasons why the

country is not involved in any international efforts on mitigation or adaptation to climate change. Despite its isolation, Somaliland should develop its own strategies to deal with the issue of climate change at local level. Linking civil society and government organizations with the political instruments of the UNFCCC and other forums of international advocacy work on climate change can lead to opening new horizons for cooperation and support.

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