



**ACADEMY**  
for Peace and Development

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## **Somaliland Dialogue for Peace: Working Notes**

**Hargeysa**  
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## **DIALOGUE FOR PEACE - WORKING NOTE**

### **AIM OF THE NOTE**

Since 1999, the Academy for Peace and Development (APD) and WSP International have been conducting participatory research and dialogue on strategic priorities for peace-building, democratisation and development in Somaliland. Previous entry points have included:

- ❑ Decentralisation
- ❑ Impact of War on the Family
- ❑ Media and Democratisation
- ❑ Pastoral Economy

In December 2004, APD will be launching a second round of participatory action research as part of WSP-International's "Dialogue for Peace" initiative. Based on previous experience and after broad consultation, four entry points have been pre-selected. The criteria for selection include immediate relevance to peace, security and progress in Somaliland.

- ❑ Decentralisation
- ❑ Parliamentary elections
- ❑ Constitutional review and reform
- ❑ Natural Resource-based Conflict

This document is intended to provoke and enrich discussion on these topics at the Project Group Meeting (PGM) on 28-29 November 2004. Discussion paper will be improved amended and, if necessary, factually corrected on the basis of the PGM discussions.

Following the PGM, Working Groups comprising key stakeholders from government, parliament, civil society and other sectors of Somaliland society will be formed to take the issues forward through a combination of action and research.

## **DIALOGUE FOR PEACE - WORKING NOTE**

### **DECENTRALIZATION CHAPTER**

#### **I. Introduction**

In accordance with the USAID Handbook Decentralization and Democratic Local Governance Programming, Decentralization is defined as:

“A process of transferring power to popularly elected local governments. It brings about change in the operation of institutions and almost invariably occurs gradually. Decentralization requires the existence of elected local governments because local officials do not have meaningful autonomy unless they answer to their constituents.

Decentralization is about power and is, therefore, a fundamentally political process. Specifically, decentralization is about handing power over to the local level, typically from the central government. And neither individuals nor institutions relinquish power easily. Largely for this reason, then, decentralization is a long, usually difficult, process that requires extraordinary incentive to enact and implement. It is invariably subject to fits and starts, as proponents and opponents maneuver for advantage in what is frequently a major national debate.”

Decentralization brings government closer to citizens and allows them to participate more effectively in local affairs, including identification of community priorities. As decentralization opens venues for the development of democratic local governance, local governments gain the authority, resources and skills; make responsive choices with citizen input; and operate effectively and accountably.

Decentralization has three dimensions: political, financial and administrative. These three, in essence, represent the primary components of power.

The political dimension (often referred to as political decentralization) involves the transfer of political authority to the local level through the establishment or reestablishment of elected local government (perhaps as part of a democratic transition), electoral platforms, political party reform, authorization of participatory processes, and other reforms.

The financial dimension (often referred to as “financial” or “fiscal” decentralization) refers to the deliberate shift of financial power to the local level. It involves increasing or reducing conditions in the intergovernmental transfer of resources and giving jurisdictions greater authority to generate their own revenue.

The administrative dimension (often referred to as “administrative” decentralization) involves the full or partial transfer of an array of functional responsibilities to the local level, such as health care service, the operation of schools, the management of service personnel, the building and maintenance of roads, and garbage collection.

Decentralization tends to be strongest, however, when real political autonomy, sufficient administrative responsibility, and the financial resources to carry out primary functions appear at or are transferred to the local level together.

Decentralization was one of the most cherished principles of the national struggle led by the SNM in its decade long liberation war. Since the independence and unification of Somaliland and Somalia in 1960, the overall administration of the country was centralized and everything was run from the capital, Mogadishu. This act of malfeasance and administration was further aggravated by the highly centralized and ruthless military dictatorship of Siad Barre for two

decades. Nowhere were the abuses of centralized rule felt more strongly than in what was then North-west Somalia, where isolation and neglect by the distant capital gradually gave way to brutality and massive transgression of human rights norms. Somalilanders shed much blood during the SNM's war with Siad Barre to achieve greater self-determination, autonomy and, in the end, independence.

In fact one could posit the Somali state collapsed because of this trend toward centralization.

The legal framework for implementation of the decentralization process was laid down in Somaliland's Transitional National Charter of 1993 and the National Constitution of 2001. Many Somalilanders believe that decentralization is essential to avoid a reoccurrence of the sort of authoritarian rule experienced in the past. The importance accorded to decentralization and good governance in post-war Somaliland is reflected in the Transitional National Charter of 1993 and the Constitution. One-time Somali watcher, John Drysdale has this to say:

“The intention of the authors of the Charter was clearly inspired by their wish to maximize the process of political devolution given that the majority of Somalilanders has suffered grievously over the past two decades from manifold abuses of power arising out of a highly centralized state system of government in Mogadishu.”

Since the establishment of Somaliland's sovereignty in May 1991, decentralization has been a priority for the country's leadership. Apart from the political program and other basic documents of the SNM, decentralization was enshrined in the National Charter endorsed by the Elders Conference in *Borama* in 1993. Article 21 of the National Charter of *Borama* clearly states the importance of and the commitment to a highly decentralized form of governance. Lastly, the decentralization issue became one of the most important principles broached in the Somaliland constitution adopted through a national referendum with 97% approval. According to the Articles of the Constitution, the Local Council Elections were organized in 2002 and these elections were a landmark of the decentralization process.

Somalilanders are almost unanimous in their belief that one of the most effective ways to improve popular participation in government and to promote a stronger sense of equity between the regions and the center is decentralization. In recent years, the term “decentralization” has entered the jargon of good governance advocates and political pundits across the country. There appears to be little consensus on what decentralization means in practice or how to realize it.

In the case of Somaliland, political decentralization has been emphasized while the financial and administrative aspects have been neglected. Most districts are not financially self-sufficient, nor do they receive regular subsidy from the central government. In the local councils many functional responsibilities are carried out by the central government. The equal and parallel devolution of these three aspects of power are vital to the success of the decentralization process.

A senior politician in Hargeysa is skeptical about the prospects of decentralization:

“It [decentralization] is a subject that has been over-studied as far as Somaliland is concerned. It has been on the agenda since the SNM days and it could not be moved forward because of clan divisions.”

Another experienced official notes that a review of regions and districts is required before an effective administrative system can be put in place, in order to minimize tensions and rivalry:

“The old structure of dividing the country into regions and districts is still intact. Moreover, new districts are being constituted, fuelling clan rivalry...Already in Somaliland we are aware of the ever-present conflict and rivalry between regional Governors and Mayors of towns—a fact that causes a lot of headache for the central government.”

In sum, decentralization is a complex and delicate proposition. Some Somalilanders might even describe it as an idea whose time has not yet come, but others would argue that, in the interests of national unity, devolution of power cannot be postponed.

Professor Saleebaan Axmed Guuleed, the President of Camuud University in a comment on the decentralization process in Somaliland has this to say, “The process of establishing the local councils was relatively good, but the product was of low quality because of our underestimation and the fact that we have not attached much importance the type of people we have presented for the candidacy of the local councils.”

## **II. Law No. 23 of the Regions and Districts:**

### **Brief Description of the Current State of Affairs**

Currently Somaliland is composed of six regions based on the six districts that existed on the eve of independence of 26<sup>th</sup> June 1960. These are: Awdal, North-west, Saaxil, Tog-dheer, Sanag and Sool. As a result of the Puntland regional administration’s political motivations, relations are highly volatile over the ownership of southern Sanaag and Sool. These tensions at times manifest themselves in armed conflict between the Somaliland and Puntland administrations. These skirmishes reached a head on October 28, 2004 when units of the Puntland administration attacked positions of the Somaliland armed forces at the village of Adhi-caddeeye.

Despite strict limitation on the number of regions, the number of districts is not so limited. Currently there are as many as 43 administrative districts in parallel with 23 electoral districts that have officially elected councils. This is a contradiction that frustrates both the central government and local administrations. Despite disparity between the actual number of districts and those that are officially functioning, the lack of official delineation of boundaries is another headache.

Law 23, which governs the decentralization process in the regions and districts of Somaliland, took effect in 2002. Currently a version of this law revised by the council of ministers has been tabled for debate by the House of Representatives. Although this revision is better organized than the previous one it still fails to address the absence of the Regional Councils cited in the Constitutional Articles of 109, 110 and 111. The institution of regional councils is further addressed in Articles 12, 13 and 14 of Law 23. Despite this legal emphasis on the establishment of regional councils, their absence from the scene remains a challenge that must be addressed sooner or later.

The post of Executive Secretary of Districts is another point of contention. Appointed by the Minister of the Interior, the Executive Secretary who represents the Central Government in the Local Councils remains a burden on many activities of the Local Governments. Controversy lies in the fact that he can only be dismissed by the Minister of Interior and the elected Local Councilors have no legal say in his appointment or dismissal. The Council of Ministers in their revised version of Law 23 empowers the Local Councils to forward complaints about the

Executive Secretary to the Regional Governor who will in turn pass these on to the Minister of Interior, who has the final say.

Law 23 does not delegate any power either to the local councils or the mayors of towns and cities. Legal demarcation of districts and regions remains another flaw of this law. In the current revised version of this law, the inputs of the local councils and mayors are not taken into account. In its present form this law does not delegate the necessary political powers to the Local Councils for the decentralization process to continue. Financial and administrative powers go essentially unaddressed in this Law.

The deadlocked situation in Sool and Southern Sanaag is an obstacle in the decentralization process and the effective extension of the administration to these regions and districts.

### **Overview of Law 23**

Law 23, passed by the House of Representatives in 2002, is the law governing the districts and regions of Somaliland. A new draft of this law prepared by the Ministry of Interior is now being debated in the House of Representatives. This draft has created conflict between the local councils and the Ministry of Interior.

### **Viewpoints of the Main Stakeholders**

Law 23 was drafted in large part by the Ministry of Interior giving limited accommodation to other stakeholders. The local councils have made little contribution, in part because they were not given ample time and opportunity to provide input. Political parties and the civil society are completely absent from the discourse.

### **Controversies and Constraints**

The main concerns of Law 23 lie in the fact that the local councillors deem that it empowers the Ministry of Interior more than it does them. The Executive Secretary remains the main point of contention, as he is appointed and dismissed by the Ministry of Interior and is not answerable to the elected councillors and Mayor.

### **Possible areas of review and reform:**

There is tremendous scope for review and reform of Law 23. The following issues could be a choice for review and reform:

- ❑ Delimitation of both regional and district boundaries;
- ❑ Establishment of the regional councils,
- ❑ Functions and duties of the Executive Secretary,
- ❑ Functions, duties and powers of the mayor and the local councillors.

### **III. Hargeysa City Charter**

#### **Brief Presentation of the Charter**

The Hargeysa City Charter establishes the city of Hargeysa as a separate entity despite the fact that there is no clear-cut demarcation between Hargeysa City and the North-western Region. Under the revised version of Law 23 Hargeysa Region is renamed as “Maroodi-jeex Region”, while under the Hargeysa City Charter it is called “Woqooyi-galbeed Region”, a clear evidence of the incoherence of drafting the City Charter or the Laws in general.

At present a revised version of the City Charter by the Ministry of Interior is in discussion in the sessions of the House of Representatives. In this draft version the inputs of the Mayor and Local Councillors of Hargeysa are missing despite their proposal of certain amendments and reforms. The post of Executive Secretary remains a controversial issue in both the City Charter and Law 23 of the Regions and Districts. In the draft City Charter the powers of the Local Council and the Mayor are again unaddressed. Thorough revision and reform of the City Charter by the concerned stakeholders mainly the government and the local council will be necessary before discussion of this draft version are begun. In general the Hargeysa City Charter extends more power to the government, represented by the Ministry of Interior and the Executive Secretary, than to the Local Council and the Mayor. In its present iteration the Hargeysa City Charter is an impediment to the process of decentralization.

#### **Demarcation of Borders: Hargeysa City and the Region**

One of the main constraints of the capital of Hargeysa is the status of the city as a national capital which also serves as the headquarters of the North-western region. It is the seat of both mayor of Hargeysa and the governor of the North-western region. This overlapping role has negatively affected the development and co-ordination of the activities of the different districts of the region. In addition Hargeysa is the seat of the government and all of the national institutions. There is dire need to demarcate the borders of the capital city and the regional headquarters. In both the drafts of the city charter and Law No: 23, such a demarcation of borders is clearly highlighted and has to be fulfilled in due time.

#### **Presentation of the different stakeholders**

With an array of stakeholders, the main antagonists of the City Charter remain the Ministry of Interior and the local council of Hargeysa. The present draft of the Charter has been mainly prepared by the Ministry of Interior with insignificant contributions from the local council. The mayor of Hargeysa claims that they have not been given the opportunity to contribute to the reform of the new draft of the Charter.

#### **Possible Areas of Review and Reform:**

As with Law 23 of the regions and districts, the Charter of Hargeysa has also much room for improvement. Law 23 and the Charter of Hargeysa have many similarities, both negative and positive. Both are reviewed and reformed by the Ministry of Interior with a little input from the concerned councillors.

#### **IV. Actors of the Decentralization process**

The main actors of the decentralization process are:

- ❑ The Administration
- ❑ The Parliament: House of Elders and Representatives
- ❑ Local Councillors
- ❑ Civil society
- ❑ Political Parties

Of these main actors, the administration and the parliament seem to be more involved and concerned than the others for the simple fact that they are the main authorities running the country. The government, with minimal consultation with other stakeholders, has taken on the role of revising and reforming these laws and passing them to the House of Representatives for approval. In turn the House of Representatives approve these laws hurriedly and without sufficient debate or scrutiny, as they lack the knowledge and resources to make the necessary amendments. The other two actors: political parties and civil society appear to be absent from the scene.

On one hand the local Councillors do not have the mechanism or means to exchange views and ideas among themselves during the revision and reform process of national laws. Civil society organizations and the political parties do not consider themselves effective actors in decentralization. With political parties, decentralization is conceptually and practically absent from their political activities. Political parties have no effective representation in the regions and districts. “Political parties are seen in the regions and districts only in their election campaigns,” says Ibraahin Maxamed Cilmi, the Deputy Mayor of Berbera local council. Typically, party activities are limited to the capital city of Hargeysa. There is no clear distinction between the leading national organs of the various political parties.

#### **V. Conclusion**

For the decentralization process to be successful in Somaliland, many arduous challenges must be overcome. Commitment to the process of decentralization and readiness for the devolution of powers is needed at the central level. Effective involvement of all the concerned stakeholders in this process is also critical. Training and education must be carried out. Collective participation of all stakeholders in the review and reform of the legal framework regulating the process of decentralization is an important factor in the realization of this noble task. Without the ownership of this process by all the stakeholders and the people at large, its realization will remain a dilemma affecting the overall development of the country.

In the eyes of decentralization’s critics, a strict constitutional definition of the term is needed to permit the drawing of a clear line between the central government and the local government. The absence of women from both the local councils and the local governments is another obstacle. Regulations should be implemented to solve the widespread dilemma of changing the Mayors, which has frustrated most of the local councils and spurred the constant formation of interest groups within the councils.



## **VI. References**

Self-portrait of Somaliland, APD, 1999

Consolidation and Democratization of Government Institutions, APD, 2002

Decentralization and Democratic Local Governance, USAID

The Role of the media in the political reconstruction of Somaliland

Notes of the Civic Forum by APD of March 2004

## **VII. List of the Actors Interviewed**

Maxamed Ismaacii Bullaale	UDUB Secretary General
Axmed Xaashi	UDUB Political Officer
Cabdiraxmaan Yuusuf	UDUB Central Committee Member
Cali Ismaaciil	UCID Executive Member
Maxamed Uur-cadde	Ad-interim Secretary General of UCID
Daa'uud Maxamed Geellee	Kulmiye Secretary General
Cabdicasiis Samaale	Kulmiye Executive Member
Saleebaan Axmed Guuleed	President of Camuud University
Enjineer Xuseen Jiciir	Mayor of Hargeysa
Ciise Kaahin	Hargeysa Councillor
Yuusuf M. Guuleed	Hargeysa Councillor
Ibraahin Maxamed Cilmi:	Deputy Mayor of Berbera
Axmed Cabdi Iidle	Mayor of Burco
Maxamed Jaamac Colow	Expert on Local Governments Affairs

## **DIALOGUE FOR PEACE - WORKING NOTE ELECTION CHAPTER**

### **I. Introduction**

Somaliland's transition to a multi-party democracy is two thirds complete: local and presidential elections have already taken place, with parliamentary elections scheduled for 29 March of 2005. For the time being, Somaliland remains a de facto one party state- since the opposition parties are not represented at the national level. Therefore, holding parliamentary election-is essential for the introduction of political pluralism at the national level.

Having successfully conducted two relatively free and transparent elections, the National Electoral Commission, the lawmakers, the government and the political parties are now in a position to review the process and reflect upon lessons learned. The purpose of this entry point, which is in the preliminary phase, is to provide a forum for review of electoral laws and procedures in the light of recent experience and to propose ways in which the environment for elections can be further improved.

### **II. Background**

#### **Political Rebuilding of Somaliland**

After the fall of the military regime of Mohamed Siyad Barre, cessing the hostilities between the northern clans has become the top priority of SNM leaderships and the clan elders. A mini conference was held in the town of Berbera on February 1991 to lay the foundation of peaceful coexistence between the clans in Somaliland.

In May 1991, a Grand Conference was held in the town of Burco, led to the rebirth Somaliland and the formation of first post-war administration. A two year transitional administration was established and Cabdiraxmaan Axmed Cali 'Tuur' then the chairman of SNM was appointed interim President for two years. Within a matter of months, the SNM was at war with itself, as old time grieves within the SNM and among the Isaacs resurfaced. Clashes first took place in Burco, then Berbera. As a result, the Guurti once more stepped in to cease the hostility and a cease-fire was agreed at the town of Sheekh, and conference in Borome for broader conciliation.

The 1993 "Grand National Reconciliation Conference" took place in Boroma in the aftermath of the fighting was an important benchmark in the process of re-establishing governance in Somaliland. The 150 member Guurti together with hundreds of delegates and observers from Somaliland oversaw the peaceful transfer of power from the SNM administration to a new administration headed by the veteran politician Maxamed Ibrahim Cigaal. A National Charter and a Peace Charter were adopted that provided a framework for a system of government for a three-year transitional period.

The system of government that emerged from the Boroma conference can be described as ((Beel) Clan base system) which is 'hybrid of western form and traditional body. It consists of an Executive with President, Vice President and Council of Minister, a Legislature, comprising a bicameral parliament with an Upper House of Elders (Golaha Guurtida)<sup>1</sup> and a House of

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<sup>1</sup> According to Bradbury (Bradbury, 1997) the Boroma conference was significant for the way it institutionalised the role of the clan and their elders in the system of government.

Representatives (Golaha Wakiilada) and an Independent Judiciary. The charter also approved of for an Auditor General and Regional Governors and Mayors to be appointed by the central government.

A combination of factors including dissatisfaction with the power-sharing formula, deep rooted mistrust between the clans and continuing factional discord with the SNM, led Somaliland into a second round of civil war between 1994 to 1996. The hostility ended at the Second National Conference in Hargeysa in 1996. The following was also achieved in this conference (Bradbury: 1997):

- ❑ The re-election of President of Cigaal for a term of five years;
- ❑ A new draft constitution intended to move the country to a multi-party democracy;
- ❑ Addressing some the grievances of the opposition grouped, by increasing their share in the two Houses of Parliament.

Since the Hargeysa Conference, the country has enjoyed the longest period of uninterrupted peace since 1991; government institutions have been established in the regions particularly the East and the House of Representative has been maturing as legislative body.

### **Political Transition**

The Hargeysa Conference adopted the provisional constitution that superseded the National Charter and stipulated a schedule for the transition from the *beel* (clan) system under which Somaliland had so far been governed, to a multi-party system characterized by free and fair elections (GOS-Constitution: 1998). The provisional constitution would govern the country until the completion of the transitional period in 2001. In the meantime, Parliament would debate and review the new Constitution article by article, until both legislative chambers approved a final draft. Following a broad civic education campaign, voters would be asked to approve or reject the provisional constitution in a nationwide referendum. The Constitution would legalize the formation of political parties, which would then contest local, parliamentary and presidential elections.

By late 2000, the Council of Ministers debated proposed changes to the provisional constitution by the government article by article, before it was accepted. In March 2001, the Parliament too, debated these proposed amendments by the executive article by article and then adopted it with minor modifications and change and passed the law of constitutional referendum (*Xeerka Aftida Distoorka*) thereby scheduling a referendum on the constitution on May 31, 2001. Passage of this law was the first and crucial step in the long overdue process of political transition.

As schedule, the new constitution was put to a referendum on 31 May 2001. This was the first democratic vote for Somaliland over 32 years and was conducted entirely without external help. Despite the last minute attempts to educate the population about the constitution's contents, very few Somalilanders understood the document<sup>2</sup>. However, the constitution was approved by an overwhelming majority of 97.7 per cent of the population. Though, there was a limited vote turnout in Eastern Sanaag and Sool regions. Nevertheless, international observers described the

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<sup>2</sup> Opposing views were not included in the referendum process, contrary to government claims

process free and fair with an estimated 66% of Somaliland's eligible voters approved of the new constitution<sup>3</sup>.

### **From Referendum to Elections**

The public endorsement of the constitution led to the implementation of the electoral process. On August 6<sup>th</sup> 2001, Law No 14 was passed legalizing the formation of political organizations. As result of that eight political organizations had been announced. With the exception of (ASAD) all were registered. An electoral law was passed in November 2001, and the National Electoral Commission (NEC) was formed in February 2002.

In May 2002 Cigaal died suddenly while in hospital in South Africa. In accordance with the newly approved Constitution, the vice president, Dahir Rayaale Kahin was named his successor. The absence of Cigaal from the political scene allowed a more open playing field. Political organizations such as ASAD, which was staunch opponent of the process, joined in.

On December 15, Somalilanders went to the polls for the first time in more than thirty years to participate in local council elections. The rationale for beginning with local elections was to determine which organizations would be eligible to contest presidential and parliamentary elections. Six political organizations (*Asad, Hormood, Kulimiye, Saban, Udub and Ucid*) contested the local elections, and on December 23, 2002 the NEC declared Udub, *Kulimiye* and Ucid as the three national political parties to contest Presidential and parliamentary elections.

On April 14, 2003, nearly half a million Somalilanders went to the polls this time to select a new president. The voting was peaceful, orderly, and without notable security incident. International and domestic observers confirmed that the elections were conducted in a free and transparent way.

As predicted by many observers in Somaliland the contest was very close. The preliminary results, announced by the NEC (National Electoral Commission) on April 19, gave UDUB a narrow victory over *Kulimiye*, by a margin of 80 votes. Both parties *Kulimiye* and *Udub* contested the results. The NEC refused to review either side's complaints and referred the matter to the Supreme Court. On May 11, after listening to the arguments of both sides as well as the NEC, the Supreme Court ruled in UDUB's favor. *Kulmiye* rejected this decision and questioned the competence of the court. Dahir Rayale was sworn in on May 16 as Somaliland's president. Shortly, *Kulimiye* leadership conceded the election, bowing to increasing public pressure in doing so.

### **III. What Are the Issues and Problems?**

Somaliland's elections had more than their share of problems and challenges. In this section we will highlight the critical electoral issues that exist in Somaliland.

#### **The National Electoral Commission**

The NEC was established as an independent body to prepare for and manage the elections. However, from the outset the opposition doubted the independence and the integrity of the electoral commission. This was so because seven commissioners were known to favour Cigaal: three were appointed by President *Cigaal himself*, two by the *Guurti* (House of elders), which

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<sup>3</sup> But there was example of no secret vote and government employees campaigned for a "yes" vote.

typically aligned itself with *Cigaal* (ICG: 2003) and only two were appointed by the opposition (ICG: 2003). After *Cigaal's* death, that sentiment subsided.

Further, a lack of previous experience, inadequate funds<sup>4</sup>, political support, and administrative capacity undermined the ability of NEC to develop confidence-building measures. Problems related to voter registration, equal access to public media by all parties, use of public fund and controls over party funding persisted. And there was no enforceable code of conduct<sup>5</sup> no independent monitor nor conflict management body to tackle these problems. As a result, many criticisms were levelled against NEC from various quarters, some of which were justified. To be fair, under the prevailing circumstances, NEC did a remarkable job. The commission strove to accommodate all parties throughout the electoral process and the elections were adjudged largely peaceful, free and fair.

### **Electoral law**

Key aspects of the electoral law, particularly those related to the distribution of seats in the legislature and electoral districts were intensely controversial and potentially divisive. The House of Representatives was unable to devise a compromise to resolve this aspect of the law. Eventually, to pave the way for local councils and the presidential election an electoral law was passed with incorporating proportional representation (PR) and without controversial provisions pertaining to the distribution of seats.

Even portions adopted by lawmakers faced problems, as they were government driven and not subjected to public or opposition scrutiny. Moreover, electoral law was a compromise between the executive and the legislative arms of government, and so naturally had ambiguities and gaps. The close outcome of the presidential election, in which neither party won fifty percent of the popular vote in the first round, was almost disastrous for the country. Exhaustive electoral legislation would have taken such a scenario into consideration and made provision for a second-round election to spare the country post-election uncertainty.

The restriction that there are only three political parties—to ensure that all parties have a national constituency—was another shortcoming in the process. This stipulation, which was not subjected to public scrutiny, has constrained public choice and prevented wider participation in elections.

In addition, the law lacked clauses to ensure that people voted for a candidate and not the party without knowing whom they were voting for. The end result was a local councillor who is accountable to his constituents.

### **Political Parties**

Popular endorsement of the new constitution, which legalised political associations led to the formation of new political actors. As many as eight organisations were formed although only six qualified as political organisations and were permitted to contest local elections: *Kulmiye, Udub, Ucid, Hormood, Saban and Asad*. Of these, three went on to become national parties. These political organisations were largely urban based, and there was little to distinguish between them besides the personalities of their leaders and the degree to which they appealed to various clan constituencies (ICG: 2003).

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<sup>4</sup> a little technical help from EU

<sup>5</sup> with the help of the Academy, the NEC and the Political parties have adopted non-binding code of conduct

The rationale for allowing only three national parties was to ensure that political parties secured a national base and to prevent the proliferation of political parties along clan lines as happened in the Somali Republic in the run up to the 1969 election. In Somaliland, both local and presidential election results reflected regional divisions and clan bias (Bradbury: 2003). In the first round, none with the exception of UDUB<sup>6</sup> were able to get above the 20% threshold in all regions. All did well in the home region of their leadership. In Awdel, the home of the clan of President Daahir Rayaale, 60% of votes went to UDUB. Both *Kulmiye* and *Saban* polled well in *Sanaag* and *Togdheer* where the clans of chairpersons of these two organisations are heavily represented.

All three parties suffered from the same issues. Party switching and power struggles were the order of the day. None of them had previous experience in running an election campaign and they were unable to raise enough funds to campaign countrywide. Although they were able to create party structures, they lacked internal democratic ordering—and were run by one man. Ideology and political platform were nonexistent. All stood for the same thing and offered neither radical departure nor bold initiative: a commitment to Somaliland's independence, the pursuit of the so far elusive international recognition and maintenance of peace.

### **Voter Registration**

Voter registration proved to be one of the most difficult issues. Many political organizations insisted on holding voter registrations as required by law, particularly when Cigaal was alive. Whereas UDUB claimed voter registration was unnecessary, at least in the local elections in which voting and registration could take place at the same time. Many believed it would be virtually impossible to develop a realistic system to register eligible voters. APD invited a renowned Swiss constitutionalist to Somaliland to convince key Somalilanders that polling can take place without registration.

NEC, with EU funding attempted to register voters and to issue voter cards without photographs prior to the local election. The voter registration drive was ill-conceived by NEC and subsequently abandoned when many people registered more than once.

On polling day Somalilanders were allowed to vote without having registered. They were instead marked with indelible ink to prevent double voting. The poor quality of the ink however, allowed double voting to take place in both elections. The ink used in presidential elections, ostensibly indelible, proved soluble in kerosene<sup>7</sup>, mild bleach and lemon juice, allowing many citizens to vote more than once.

### **Civic Education**

Lack of civic education programmes prior to the elections and the high illiteracy rate of Somalilanders led to voting irregularities. The public and party officials had difficulty adhering to standard 'democratic rules' and there was considerable secret voting, double voting and ballot stuffing. Policies and program were played down, so regional and clan biases were definitely a

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<sup>6</sup> UDUB was able to do well because of the robust machinery put in place by Egal.

<sup>7</sup> There allegation that Kulmiye people were doing that in organised and systematic way.

factor. Moreover, many citizens did not have a broad understanding of their political and civil rights, the electoral process and the concept of free and fair elections<sup>8</sup>.

One issue the voters and public everywhere acknowledged was the importance of maintaining peace and security. That issue might have influenced the vote of some people. During the campaign the public came out in a peaceful manner and with discipline for each party rally. On polling days, voters exercised self-discipline and patience, submitting to long lines. And finally, after the announcement of the presidential election results, which were very close, the public helped restrain those politicians who threatened to wreck the entire electoral process (ICG, 2003).

During the elections the EU provided two consultants who, among other things, provided some assistance with voter education schemes for domestic observers. Some 3, 200 elections workers were trained as well as 400 domestic observers (Bradbury and Abokor, 2003). But this was a short term procedural measure rather than one that substantively addressed promoting democratic or civic values.

### **Independent Media**

The media in Somaliland enjoy a great deal of freedom relative to other African countries. During the campaign the media covered the whole election without restriction. In fact, the privately owned media was critical of the government and its leadership during the campaign, whereas the public media tended to toe the government line. However, reports of media harassment have since surfaced. In the heat of the Presidential campaign staffers at the radio were suspended or purged on suspicion of being opposition sympathisers. After the presidential election, some reporters from *Hatuf* were intimidated or detained.

Access to the privately owned local media was not at issue. Whereas, the radio, which is widely considered to be the most powerful medium of communication in Somali society, in view of its compatibility with Somali oral culture, was one prime area of contention between UDUB and the opposition. The opposition accused the government of monopolising the radio during the hotly contested presidential elections and there is some evidence to support this allegation.

Opposition parties forwarded their complaints to the NEC but there are no strong provisions to ensure each party a minimum amount of air time.

### **Party Funding**

Party funding was another persistent problem during both elections. There was no public funding for the political parties or mechanisms to monitor and regulate party findings. Therefore, the opposition accused UDUB of using public funds for its campaign and pressing public officials into the service of the party, a charge vehemently denied by the government. But there were clear indications that public resources were involved in UDUB's campaign<sup>9</sup>. However, Kulmiye was able raise hundreds of thousands of dollars from its supporters in the diaspora, and UDUB could not match the former's funding raising success (ICG: 2003). For its part, Kulmiye was accused of handing out cash to buy votes. Each side spent a little over one

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<sup>8</sup> Probably they understood that free elections simply meant that no one could force them to vote for someone they did not want

<sup>9</sup> the appearance of new Somaliland Shillings, government staff and vehicles were press into services and UDUB stickers on government vehicles.

million dollars on the presidential election. According to one observer each party was trying to buy the supporters of the other by giving out cash.

### **Sool and E. Sanaag**

Another contested issue that surfaced throughout the election process was whether there would be presidential elections in Sool and East Sanaag areas, which are inhabited by Harti clans (Dhulbahante and Warsengeli). Inhabitants of Sool and Sanaag have split loyalties; their clan allegiance is to Puntland even as they live in Somaliland. The NEC, being aware of the problem, reached the decision that there would be no election in Harti areas. Not all political leaders welcomed the decision, perhaps, because they each sensed some advantage in that.

## **IV. Lessons Learned**

### **The Political Campaign**

- ❑ Strengthen party fund-raising mechanisms
- ❑ Public funding for all parties
- ❑ Expanding the political base of the parties
- ❑ Strengthening independent media
- ❑ Improve efforts to advance democratic and civic education programmes.
- ❑ Strengthening political parties' technical know-how of their basic organizational skills, improve their constituency relations, improve coalition building,
- ❑ Enacting a binding code of conduct with punitive enforcement measures
- ❑ To display the pictures and the names of the candidates
- ❑ Better screening of all the candidates
- ❑ To put in place all possible confidence-building measures
- ❑ To strengthen the independence and the impartiality of NEC

### **Polling Day**

- ❑ Improving secrecy of ballots. Standardisation of procedure to assist the illiterate and the unsure to vote and in secret,
- ❑ Training of party agents and all polling station staff
- ❑ Better screening of voters to stop underage voting
- ❑ Use of tamperproof indelible ink
- ❑ Better geographic distribution of polling stations
- ❑ Punishment for doubling voting

### **Post Election**

- ❑ Tribunal or conflict resolution



- ❑ Strengthening the rule of law and its application
- ❑ Timely announcement of results by NEC
- ❑ Improving the confidentiality of NEC staff, preventing the leaking of information

## V. Addressing these Issues for the Coming Election

Dealing with these challenges is crucial for holding peaceful, free and fair parliamentary elections in Somaliland. Various actors have a critical role to play in addressing them: these include the three branches of government, the National Electoral Commission, civil society, the three political parties and the international community. The responsibility for finalising and passage of the crucial electoral bill falls on the shoulder of the Parliament. But the government, particularly the president must provide the leadership in pushing legislation through the Parliament. This applies, also to the other relevant actors, the NEC, political parties and local NGOs, and of course the technical and financial assistance of the international community is indispensable.

With less than six months until Election Day, unfortunately there are no tangible efforts in progress on the ground to move the process forward by any of the relevant actors and to deal with election challenges: voter registration, voter education, electoral law, training, budget allocations etc. One thing is already certain the election will be conducted without voter registrations. The only known good news is that the Academy with the help of the UK government has hired an international consultant to assist the Parliament in redrafting the critical electoral law for the elections. Hoping, that the Parliament would make use of him, and then would pass the much overdue electoral bill and get way to the election. There are also, some in the international communities who are engaged in fund raising, provided we do some commitment to holding the election.

Naturally, some one has to be blamed for the setback. The key actors: the administration, the Parliament, NEC and opposition political parties began pointing the finger at each other. The oppositions claims the President along with Parliament are dragging their feet for its own self-serving reasons and the election does not serve their own political interests. They accuse the President along with Parliament of failing to pass the bills necessary for timely elections. The administration claim it is the Parliament, which is responsible for the bill not them. NEC too, is feeling the pressure from all sides. The opposition feels that it is NEC, which was supposed to be pushing the parties to move the process forward. But the same token, in such polarised political environment, the other side is accused the NEC as a political instrument of the opposition. Moreover, host of other obvious and overt obstacles: lack of reliable census and resources, weak institutions are complicating the situation further. In any case, the President reiterated his commitment to the election and said: *He is going to hold the election with or without outside help.*"

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## **VII. List of the Actors Interviewed**

### **The Parliament**

Axmed Maxamuud Qaybe	Speaker of the House of Representative
Saciid Cilmi Roobleh	Chairman of Sub-committee for Security and Internal Affairs of the House

### **Political Parties**

#### Kulmiye

Axmed Maxamuud Silaanyo	President of Kulmiye
Siraad Cali Yuusuf	Second deputy president of Kulmiye
Cabdicasiis Samaale	Member of executive committee
Layla Cismaan	Member of executive committee

#### Udub

Maxamed Ismaaciil Bulaale	Chairman of UDUB
Axmed Xaash	Political affair officers
Abdiraxmaan Yuusuf	Member of Executive Committee

### **National Electoral Commission**

Axmed Xaaji Cali	Chairman
Abdilaahi Xaaji Cumar	Vice Chairman
Shukri Xaaji Ismaaciil	Member
Muuse Maxamed Jaamac	Member
Axmed Aadan Goodir	Member
The Late Maxamed Cabdilaahi	Member

### **NGOs**

#### Cosongo

Cabdi Saxardiid	Chair
Ismaaciil Cumar	Member

#### Nagaad

Kinsi Xuseen Qowdhan	Co-ordinator
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## **DIALOGUE FOR PEACE - WORKING NOTE CONSTITUTION CHAPTER**

### **I. Introduction**

On May 31st, 2001, an overwhelming 97 percent of Somaliland voters endorsed the country's new constitution. Public ratification of the new constitution ended a decade-long clan-based system of governance, and signalled completion of the first crucial step toward political transformation.

Although Somaliland's political transition began in May 1991, the first Constitutional documents of independence the National Charter (*Axdi Qarameed*) were adopted in *Boorame* at the Conference of the Somaliland Communities in 1993. This was followed by the first Somaliland Constitution, which was adopted at the second Conference of the Somaliland Communities in Hargeysa in February 1997. The constitution was provisional and took immediate effect. However, before the provisional constitution was put to the nation for endorsement it was revised and adopted by the House of Representatives on 30<sup>th</sup> April 2000.

However the endorsed constitution is the product of long and complex negotiations between the executive and legislative branches of government, with limited public participation and scrutiny. This paper or Note provides a brief description of Somaliland's constitutional reform process. It then advocates implementation of a public constitutional review. The Note is based on discussions held among key actors, as well as interviews and a review of relevant literature.

### **II. Somaliland's Constitutional-making Process**

#### **The National Charter**

The 1991 Grand Conference in *Burco* led to a cessation of hostilities, reconciliation between the warring parties, the founding of the Somaliland Republic on 18 May 1991, and a two-year interim government led by SNM (Somali National Movement). However, in a country devastated by war, the new administration had scant authority or resources to undertake the daunting tasks of restoring peace and re-establishing government institutions. Less than a year after the *Burco* meeting, the country found itself embroiled in factional fighting and clashes, first in *Burco*, then in *Berbera*, and *Hargeysa*, which reduced the country to a state of near-anarchy and halted all institutional development. A peace process brokered by the *Guurti* (the traditional elders) in *Shiikh* restored peace in October 1992, and paved the way for a national conference in *Boorame*.

The 1993 Grand *Boorame* Conference, which lasted five months, was a watershed in Somaliland's constitution-making process, as well as its political reconstruction. At *Boorame*, 150 members of the council of elders (*Guurti*), and hundreds of delegates and observers from across Somaliland, adopted two accords—a Peace Charter and a Transitional National Charter (*Axdi Qarameed*)—and oversaw the peaceful transfer of power from the SNM interim government to an administration headed by civilian president *Maxamed Xaaji Ibraahim Cigaal*.

The National Charter adopted at the *Boorame* conference served as Somaliland's constitution for two years, and established a new type of government, known as the *beel* or clan system, a hybrid

of Western-style government and the traditional Somali practice of clan representation. The new government comprised an interim administration with a president as executive, a bicameral legislature comprising an upper house of elders (*Guurti*) and a lower house of representatives. These houses make up the Parliament. The new administration was mandated to draft a national constitution to be ratified by public referendum within two years. In addition the charter stipulated that the judiciary, auditor-general and central bank would be autonomous agencies, independent of the government.

## The Two Version Constitutions

Drafting of the constitution began in the middle of 1994, when the House of Representatives, as stipulated by Article 11-T-1-b of the National Charter, established a ten-member parliamentary committee, the terms of reference and mandate of which had been set by the lower House. The Committee established its own internal regulations, work plan and timetable.

In an effort to broaden participation in the drafting of the constitution, the Committee availed itself of the advice of a 20-member consultative body. This body comprised five legal experts, five traditional leaders, five religious figures, and five politicians. Furthermore, the Committee sought to facilitate public involvement in the drafting process by holding three levels of public consultation<sup>10</sup>: at the district level, at the regional level and at the national level. Subsequent to this, the draft was to be submitted to Parliament.

President *Cigaal* was not pleased with the Constitutional Committee's work, largely because he was powerless to influence it. Unbeknownst to the parliament, he sought to bring the process under his control by hiring a Sudanese constitutional expert, whom he tasked to draft a new constitution. The move provoked confrontation between the president and the parliament's leadership, with both sides claiming the right to formulate a new constitution. The disagreement remains a bone of contention between the two sides, as both proceeded to draw up their own versions, without public input or consultation<sup>11</sup>. The secretary of the Parliamentary Committee explains:

“The late President Cigaal stopped the funding of Parliamentary Committee and asked them to turn over their premises, stationeries and other equipments and materials to the Sudanese expert. So because of a lack of funding the committee was unable to carry out the planned public participation and consultations. The Sudanese expert has occasionally consulted some members of the committee while he drafted the constitution. Overall, it was one- man process.

Both versions essentially shared the same structure, although the Parliamentary committee's version advocated a strong legislative branch in contrast to that of the outside expert, which favoured greater powers for the executive.

## Combining the Two Versions

The two versions of the constitution were submitted to the Second National Conference in Hargeysa in 1996. To break the deadlock, the conference chair named a 15-member committee from among the delegates to combine the two versions into one document. It was intended that

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<sup>10</sup> That is according to the Secretary of the Committee

<sup>11</sup> The President prevents the Parliamentarian committee to get the funds to conduct three level of public consultation on the version they drafted.

this new draft would be tabled for debate at the conference and adopted as a provisional constitution.

After three months of intensive dialogue and bargaining, the 15-member committee drew up a constitution that was essentially a compromise, and which contained 156 articles. According to a member of that committee:

*“Many of us in the committee felt that the Presidential version, authored by a Sudanese expert recruited via an advertisement in the famous British Magazine “the Economist”, was a good document and able to be adopted as it was. It was well written, detailed and the work of a professional, whereas none of the members of the parliamentary committee had a constitutional background or were professionals in that field. The problem for many members was since it came from Cigaal’s side, it was shaadh nin toshay, or a self-tailored document, and that was understandable. For me, the problem with the presidential version was that it had auxiliary provisions that gave the president sweeping powers”.*

Approximately sixty percent<sup>12</sup> of the resultant document was drawn from the parliamentary version<sup>13</sup>. The new draft was distributed to the delegates for review before being discussed on the floor. Subsequently, the new draft was debated article by article at the meeting. Following the debate, the assembly endorsed the new document as an interim constitution in effect for up to three years in which time the matter would be put to a general referendum. The government and the Parliament were tasked with incorporating the proposed comments and changes in the constitution.

President *Cigaal* was deeply dissatisfied with the compromise document, and wanted to re-examine the constitution. In 1998, representatives from the three branches of the government met to discuss further changes to the constitution. Once more, the executive and the legislative arms were at odds over how to amend the constitution. The president wanted a committee jointly nominated by the executive and the legislature to review the document, whereas Parliament favoured the procedure prescribed in the constitution to tackle any modifications or revisions to be made. After lengthy discussion, the three sides accepted the Parliamentary proposal, in which the executive would review the constitution and then forward to the Parliament its proposed amendments. And the legislature would debate the proposed changes to the provisional constitution article by article, until each article was accepted by two-thirds of both Houses.

*Cigaal* assigned three of his ministers to the task of making changes. By late 2000, the ministers produced a document that reduced the original one to 99 articles from 156 articles. The council of ministers debated the changes, before accepting it. The Parliament too, debated these proposed amendments and then endorsed it with minor modifications, increasing the number of articles from 99 to 131. The final document was acceptable to both parties. *Cigaal* was able to secure most of the executive powers he sought, while Parliament received additional powers of financial oversight and a role in the approval of administrative appointments (ICG, 2003).

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<sup>12</sup> According to Abulqadir Jirde the First deputy of the House representative.

<sup>13</sup> Some in the fifteen-member committee preferred Sudani’s version and want it to adopt as it. However, many of them felt it was tailor made for *Cigaal*

### III. The Constitutional Referendum

In March 2001, the Parliament passed the Constitutional Referendum Bill (*Xeerka Aftida Distoorka*), thereby scheduling a referendum on the constitution for May 31, 2001. A six-person National Referendum Committee was established to oversee planning and managing the country's first national referendum in 40 years. The government also allocated almost five percent of its annual revenue—more than \$650,000 (IRI 2001) - to carry out the referendum.

The scheduled referendum on the constitution provoked intense debate and acrimony. Critics argued that the public was given too little time to grasp the issues and discuss cogently the draft constitution, which they considered flawed in some fundamental respects. They also asserted that the government was deliberately setting up the referendum as a “yes” or “no” vote on independence, which the public supported categorically, and not as a referendum on a constitution that was open to change and revision. In short, they accused the government of playing on the public's strong support for independence, when in fact it should have given a fair chance for public acceptance or rejection of the constitution.

As the scheduled referendum approached, the opposition became more strident; the administration ignored it. The public, which had thus far ignored the debate, sensed that a crisis was building. On March 15, 2001, the Academy for Peace and Development (APD) intervened by persuading the government and the opposition to publicly debate the issues in what it called a *Forum for Civic Dialogue*. In the process each side openly acknowledged its misunderstanding of the other side's position on the imminent referendum. As a result of the debate, tensions subsided and preparations for the referendum proceeded as planned without a hitch.

As the referendum was the first national voting in the country in 40 years, the Somaliland National Referendum Committee, which lacked prior experience or training, faced numerous challenges. Extending suffrage to all eligible Somalilanders was hampered by a number of factors: (IRI 2001) widespread illiteracy, a large nomadic and semi-nomadic population with no voting experience, logistical weaknesses, a lack of reliable census data, and the high costs of holding a national referendum in accordance with international standards<sup>14</sup>. Under these extreme difficulties, the government did a commendable job in designing procedures that were simple, fair and easily implemented consistently and uniformly by regional officials in all the regions of the country (IRI, 2001).

The aforementioned factors also made it difficult for the government to carry out public education initiatives on the vote, which was crucial for the success of referendum process. A small portion of the funds allocated for the entire referendum process was earmarked for a public education campaign. With the limited funds available, the government was forced to rely on clan elders, radio, television and newspapers to spread information on the referendum. The government also employed colourful posters, cars and trucks with loudspeakers as another campaigning tool.

As scheduled, Somalilanders went to the poll to have their say on the provisional constitution. Accordingly to the Somaliland government, approximately 1.19 million people voted on the

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<sup>14</sup> Particularly given that many international organisations the Somaliland government approached for assistance on the referendum refused to provide assistance because Somaliland is not recognised internationally.

constitutional referendum of May 31, 2001, with an overwhelming 97.7 % approving it. There was however limited voter turnout in Eastern *Sanaag* and *Sool* regions. Nevertheless, outside observers concluded that the process adhered to internationally accepted standards and estimated that approximately 66% of Somaliland's eligible voters endorsed the new constitution (Ibid).

#### **IV. Why a Review?**

There are several good reasons and explanations that justify the need for a constitutional review now. First, the Somaliland constitution was enacted to offer a “fresh start” intended to close painful chapters on colonisation, democratic misrule, one-partyism, protracted civil war and regime change. Some argue that revisiting the constitution offers a golden opportunity to ensure that the “fresh start” does not become a false start by verifying that the document accords with Somaliland’s dominant social interests and values. Also there is broad recognition that the constitution need not be a ‘once and for all’ document; it can and should be reviewed and amended in response to changing circumstances.

There are several types of constitution (Elazar: 1985): One is the loose framework of government, in which details evolve through customs and subsequent adaptation. A second type of constitution is the state code in which the powers of, and relationships between, political institutions are specified in considerable detail. In a few cases, such as with Britain’s ‘unwritten’ constitution, the document embodies an ancient source of authority, which focuses on the sovereignty of the Parliament. Somaliland’s constitution currently does not fit clearly into any of these types, but may be described as a state code short on detail.

As the constitution is a compromise between two draft documents, many issues remain unresolved. The most important aim of any such document is to assign and apportion power while ensuring that that power is circumscribed and that officers and institutions remain accountable to citizens. This is not clearly set out in the Somaliland constitution. The separation of powers, checks and balances and the relationship between the centre and the regions are all inadequately addressed and in need of another review.

The constitution itself contains numerous omissions, inconsistencies and contradictions (ICG, 2003). For instance, article 9.1 limits the number of political parties and thereby contradicts article 23.3, which permits the right of political association. There is also a risk that, once registered, political parties will become complacent, dormant and, to a degree, unaccountable. Moreover, many provisions in the constitution currently lack a regulatory framework of procedures or by-laws<sup>15</sup>, which has inhibited the practical implementation of the constitution in certain areas.

The constitution also suffers from the fragmentation of clauses across several provisions, which diminishes its internal consistency, particularly in its second and third sections. That its main pillars, such as the bill of rights is not contained in a single, internally coherent statute makes the constitution at times incoherent.

A Law review committee<sup>16</sup> established by the Ministry of Justice expressed particular concern at:

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<sup>15</sup> many provisions in the constitution ends with Shall be determine by a law

<sup>16</sup> Its mandate was to review the conformity of Somaliland’s laws (old and new) to the constitution

- ❑ The need to remove transitional provisions,
- ❑ The need to change “the text” or the language used of some provisions
- ❑ The need to change “the substance” of some provision

Previous attempts at constitutional reform were one-sided or government-driven, lacking public input, and therefore true legitimacy<sup>17</sup>. Very few Somalilanders including leading opposition figures<sup>18</sup> know or grasp the approved documents. A more public process of consultation and review would serve not only to educate the public, but also to endow Somaliland’s constitutional democracy with a legitimacy it currently lacks (ICG: 2003).

However, in all fairness, the opposition and civic groups showed scant interest in the reform process and little ability to advance credible alternatives. The government had little choice consequently but to make the rules and set the pace (Bryden: 2003) without meaningful consultation.

The constitution makes provision for a constitutional court, through which there would be judicial review of decisions by government and scope for redress. However, this has never been enacted. Consequently, the judiciary has rarely been important in the arbitration of ongoing disputes over the constitution in Somaliland. Unsurprisingly, there has not been a single ruling from the constitutional courts pertaining to constitutional challenges. Occasionally, *Xeedh Iaalayaha* (the Attorney general) delivers an opinion and reaches a verdict<sup>19</sup> on these constitutional quarrels, and so does the Speaker of the House of Representatives<sup>20</sup>.

Startlingly, despite the constitutional disputes no party has so far filed any formal challenges<sup>21</sup> or litigation through the constitutional court.

## V. Key Actors or the Stakeholders

Described by Duchacek (1970) as a “power map”, a constitution regulates the structure of, and relationships among, the public authorities, and between the public authorities and the citizens (Robertson 1985). Therefore, every citizen has a stake in its formulation. And the participation of the public imbues on the process legitimacy and acceptance.

To achieve constitutional reform, it is important for all key actors to participate in and support the process. From the outset the leadership of all three branches of government particularly the president must be involved.

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<sup>17</sup> Limitation on the number of political parties, presidential executive or Primer ships

<sup>18</sup> Some leading elements of the opposition that voted “yes” on the constitution realised after the fact that its article 83, permits automatic extension of the current administration if elections do not take place.

<sup>19</sup>The attorney general did defend the government position, when the Interior Ministry banned temporarily all political debates organised by local NGOs.

<sup>20</sup> On May 14, 2004, the Speaker of the House of Representative gave an opinion that favours the constitutionality of the controversial Security Committee and on 6 of May 2004, he has issued a decree forbidding the City of Hargeysa not to use a new tax code passed by the city council, and declared the new tax code unconstitutional since it goes against these articles in the constitution (14.1, 14.2, and 38.1) and the Somaliland law 12 on local government’s tax code

<sup>21</sup> Probably there might have been some formal complains



That does not mean that others' political support is not crucial to the process. *Kulmiye* the leading opposition party in Somaliland welcomed the constitutional reform initiative and perceived a flawed constitution as one of the main problems confronting the nation. Its archrival, *UDUB*, also supports the idea of constitutional reform.

## **VI. The Options**

As stated earlier constitutions are not closed or finished documents and should be reviewed and amended in response to changing circumstances. There are several options that present themselves in terms of addressing the reform process.

The first option is comprehensive constitutional reform. This would require intensive scrutiny and time.

The second option is partial reform, which would entail review of specific articles in the constitution and proposed amendments to these. However, it is currently unclear whether partial reform will suffice to overhaul Somaliland's constitution.

The third option would entail concentration on a single section of the constitution, such as the judiciary or the checks and balances. One aim of this approach would be to strengthen judicial independence and impartiality. Irrespective of which option is chosen, it should incorporate the basic principles of any constitution reform process. These include:

- Inclusivity
- Diversity
- Transparency and Openness
- Autonomy
- Accountability
- Legitimacy

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## **VIII. List of the Actors Interviewed**

### **The government**

Daahir Rayaale Kaahin                      The President of Somaliland:

### **The Parliament**

Axmed Maxamuud Qaybe                      The speaker of the House of Representative

Saciid Cilmi Roobleh                      X-The chairman of sub-committee for security and internal affair of the House:

### **Political Parties**

#### Kulmiye:

Axmed Maxamuud Silaanyo                      The President of Kulmiye

Siraad Cali Yuusuf                      Second deputy president of Kulmiye

Cabdikasiis Samaale                      Member of executive committee

Layla Cismaan                      Member of executive committee

#### Udub

Maxamed Ismaaciil Bulaale                      Chairman of UDUB

Axmed Xaashi                      Political affair officers

Abdiraxmaan Yuusuf                      Member of Executive Committee

### **National Electoral Commission**

Axmed Xaaji Cali                      Chairman

Abdilaahi Xaaji Cumar                      Vice Chairman

Shukri Xaaji Ismaaciil                      Member

Muuse Maxamed Jaamac Member

Axmed Aadan Goodir Member

The Late Maxamed Cabdilaahi Member

## NGOs

### Cosongo

Cabdi Saxardiid Chair

Ismaaciil Cumar Member

### Nagaad

Kinsi Xuseen qowdhan

## Others

Maxamed Saciid Gees X-member of last constitutional committee

Cabdi Yuusuf Ducaale (Boobe) The Secretary of the Parliamentary  
Constitutional Committee

Axmed Mucallin Jaamac Gudoomiyaha guddida dibu-eegista shuruucda

Matt Bryden WSP International & ICG

# **DIALOGUE FOR PEACE - WORKING NOTE**

## **NATURAL RESOURCE-BASED CONFLICT CHAPTER**

### **I. Introduction**

The attribution of specific root causes to conflicts is problematic (L.Cliffe and R.Lukham, 2000) and particularly so in the Horn of Africa or Somaliland in particular. “the conflicts in the Horn of Africa...need to be contextualized in relation to many centuries of state formation, conquest, imposition of centralized authority ....in the face of considerable ethnic ....and social diversity...being kept in motion by shifting balances of power and poverty,linked to changing international alliances ..trade...” they contend. In the case of Somaliland, these factors are all relevant to a degree. The linkage between conflict and natural resources in light of relatively low ‘social capital’ is apparent in many phenomena. These are as diverse as the number of identifiable resources, but also require the understanding of complex social processes in unstable environments such as that of Somaliland. This paper will focus on the existing economic activities in Somaliland and provide short synopses of the conflicts triggered. The study will then proceed to map out the implications of the Somaliland situation for future research and in-depth studies.

### **II. Background**

The many upheavals through which the people of Somaliland had gone through serve as a basis for present-day conflict. The Siad Barre era is characterized as a strong central authority where the rule of law worked, despite leaving a legacy of authoritarianism and the exercise of power selectively for the benefit of those who supported the regime, There, however were an array of policy measures implemented as a result of the dramatic changes that the regime underwent—embracing socialism in the 1970s and abandoning it subsequently. The earlier nationalization and cooperativisation measures were later quietly set aside, most having failed on their own, and replaced by what seemed a capitalist outlook of free markets and liberalization of the economy. These sometimes contradictory policies were haphazardly applied and their legacies affect many issues today, including tensions within a society that regularly erupts into outright conflict. Subsequent events such as the downfall of the national regime and the establishment of the Somaliland State through lengthy clan reconciliation efforts have only made the situation more complex. Some of these include:

- ❑ The occupation of public property, the looting of government equipment, such as heavy tractors, crushers and trucks, and the forging of documents purporting entitlements.
- ❑ The reclamation of ownership of vast expanses of land offered to influential elites during the socialist era of Siad Barre. This is particularly true in Sanag Region where the ‘ceshimo’ phenomenon is extensively affecting age old animal rearing practices.
- ❑ The problem of disregard for central authority and the formation of a rebellious psyche confronting enforcement.

### III. Economic Activities and Conflicts

Despite the fact that a great deal of change has taken place in the Somaliland way of life in the past three decades, it is still valid to say that the people depend primarily on the natural environment for their livelihood. This dependency is highest in the rural areas where the majority of the population (60%) remains pastoral. An increasing process of sedentarisation is transforming the pastoral way of life into an agro-pastoral one, particularly in the western regions of Somaliland.

Conflicts over natural resources are not new in Somaliland. The great episodes involving clashes during the past century is vivid in the memories of elders and epitomized in poetry, songs and even, in more recent times, in writing for future generations' reckoning:

- ❑ The Eidagale – Ogaden wars involving camel raids and territorial contests lasting close to a century. The war between The H.Younis and H. Jeclo clans of the 1950s which lasted for more than 2 years began over what seemed trivial matter, fist fight between two youngsters one snatching a belt from another, during the watering of camels.
- ❑ The more recent ones such as the Access-to-Berbera clashes of the Tuur era with clan implications, the anti-Egal upsurge that took similar undertones, the HY Vs HJ clash in Burao in (94), the Rer Cabane –Rer Samatrer onslaught which took place more in Ethiopia but affected areas of Somaliland.

The list is but a short sample of what could otherwise be a long historical account of a cycle of quarrel and hostility ranging from mere confrontations between groups of the same clan or opposing clan affiliates to all-out armed conflict leading to loss of life. In the absence of data enumerating clashes and their specific character, many observers believe the conflicts mainly arise from competition over resources that each combatant regards as crucial to his or her continued existence. Some also believe that resource-based conflict has escalated in recent times. The causes of these conflicts are attributable to changes in renewable natural resources, many of which are undergoing or have undergone degradation, in general terms. The degree of degradation varies from one eco-system to another and for variables in each production system. The Somaliland peoples' well-being is dependent on utilization of the natural resources for "the purposes of deriving food and tradable products" from what was once perceived by them as unfailing and reliable source of livelihood. These production systems are under serious strain and their continuity as a viable and sustainable source of livelihood is in doubt.

### IV. Conflicts in Urban Areas:

Most major towns and cities have experienced conflicts of various degrees and dimensions. The city of Hargeysa has suffered the heaviest, as government buildings and property destroyed during fighting in the 1990s remains unrepaired. The land issue remains, and is a cause for continuous bloodshed and tension. In *Burao*, the airport recently became a source of struggle between same-clan affiliates and the Borama. 'Seraha 'is presently grabbed by real estate dealers. Most urban conflicts have their roots in:

- ❑ Properties nationalized by the state, or confiscated by the Commercial Bank as a result of default on a loan, or land acquired for a specific purpose such as the building of a factory

or the establishment of an agricultural cooperative that has long become defunct, in the break down of authority simply returned to the original owners.

- ❑ Properties auctioned by the Bank and whose ownership changed hands became sources of tension, triggering conflict in many towns.

These issues manifest themselves in the following manner:

- ❑ Government buildings are to this day occupied by squatters.
- ❑ The government's reluctance to force out anyone is interpreted as a form of weakness.
- ❑ The plots of land at the periphery of the old colonial bungalows are mercilessly carved out by fortune seeking brokers and government officials alike.
- ❑ The former regimes' associates who fled the urban centers left behind booty for many to fight over. The plots of land owned by members of the former regime became the center in a tug of war where claims and counter-claims of ownership becomes a daily occurrence at courts and even at site.
- ❑ The occupation of public property, the looting of government equipment, such as heavy tractors, crushers and trucks, and the forging of documents purporting entitlements.
- ❑ The problem of disregard for central authority and the formation of a rebellious psyche in response to law enforcement.

## V. Ethnic (Clan) Geography

A historian of the Somaliland protectorate, Mr. John A. Hunt, produced a catalogue of tribal lineages, distribution along territories and the particular wells most often used by clan groups for watering their camel herds. The general pattern of clan distribution remains but changes are noticeable with closer scrutiny. Some of the changes are attributable to the socio-economic transformations that beset the people of the territory at large but others likely emerged from the general anarchy and lawlessness, driven by political motives.

In Somaliland associations along clan lineages and social relations according to clan affiliations are entrenched and permeate all facets of life. Clan distribution in the territory has not undergone far-reaching changes. However a closer look reveals movements of clans in a westerly direction but more generally rather southerly, with most clans in a parallel orientation, towards the richer pastures of the Haud. When the *Boran* of Ethiopia are pushed further south, The Somali (*Dhulbahante*, *Isaqs* and *Gadabursi*) clans inch forward to replace them. They in turn have sub-clans within each group replacing one another and hence the lowering of population densities from the northern coastline and higher plateau of the eastern provinces, in the west where population densities are higher, the trends are less apparent. Friction points therefore occur along traditional borderlines and a more detailed study of such matters is required. It is also worthwhile to note that the conflict points over each production mode need to be juxtaposed against these clan borderlines.

- The Warsangeli and the Dhulbahante are on the North East and South-East of Somaliland, Sool and Eastern Sanag regions respectively. To the West of the Warsangeli are sub-clans of the Isaac family of clans namely Habar Je'lo (Muse Abokor) and Habar Younis (Muse Ismail). To The West of Dhulbahante are the Habar Je'lo (Mohamed Abokor) and Habar Younis (Saad Younis) lineages. The territory inhabited by these clan groups constitutes more the 50% of the Somaliland land mass. It contains the best livestock rearing plains and the largest source of the resins from frankincense and myrrh trees.
- Further West along the border with Ethiopia the Habar Younis clan is interspersed with Habar Awal/Esa Muse clans and Abdalle Arap fall. The Eidagale are the second largest clan group to the west followed by the Arap and then The Habar Awal/Saad Muse clan groups further west. Along with the latter are Ayub and Toljecle family of clans. Beyond, the land is occupied by the Gadabursi, with Issa clan junctions all the way to the border with Djibouti.
- Each clan group is further subdivided into smaller units of sub-clans or sub-sub-clans. Collaboration within a group depends on the magnitude of threat and level. The wealth of experience gained over centuries has molded the norms and customary *Xeer* that resolves issues that appear within the society beginning with the individual, the family, the group and even larger formations within the clan or outside it. Frictions between two major clans are resolved even when a clash occurs. However, certain disputes are hard to resolve particularly those involving willful territorial gains. With the population increase and environmental degradation, such disputes are more common. The widespread use of modern weaponry makes confrontations of this nature quite deadly.

## **VI. The Livestock Production Mode:**

The livestock production system remains the mainstay of the Somaliland economy, although this is increasingly less so. The pastoral population rear camels, sheep, goats and cattle, species well adapted to the arid environment and ephemeral forage. The herding of these animals, besides being a source of subsistence (IUCN 1997, ADP 2004), is the embodiment of cultural values unique to the people of this territory. Livestock accounts for 80% of foreign exchange earnings (UNDP 1998).

Government livestock population statistics are obtained from extrapolations of a 1975 census but most agree that livestock numbers within Somaliland have declined recently. There is noticeable human population growth (UNDP Human index report 2002), which is the case in the aftermath of most war-ravaged societies.

The pastoral environment is ‘the complex interaction between bio-physical or ecological, socio-economic, cultural and political factors’ (ADP 2004) of problems are believed to be the primary cause of the continuing decline in the well-being of the nomadic population and the basis of the crisis in the livestock production mode. These problems include

The commercialization of the livestock trade, which led to the transformation of the pastoral economy from one based on subsistence to one with a market orientation (Cindy Hollman 2002). The quest to have as many animals as possible available for marketing by the producer,

oblivious to consequences, instigated the process of *berkad* formation, which spread throughout the *Haud* at an alarming rate. This is true more in the trade of sheep and goats (shoats) than in camels. The shoats' breeding cycle is shorter and, when the trading business is in full swing (1997), the choice for more is rewarding. The increased numbers of shoats consequently has a devastating effect on the environment. The camel's soft paws and browsing contributes relatively less to environmental degradations. The sheer numbers of shoats with their stiff hooves wreaks havoc on the topsoil around water points. The export of a million (average) heads from the territory, 50% originating from within the territory, acted as a safety valve against pressures on the environment. The livestock ban eliminated the safety valve mechanism and aggravated the already deteriorating environmental crisis and in consequence enhanced tensions between community clans.

The pastoral community has become poorer as a result of the drought cycles and ban on animal exports. The coping mechanisms mitigate the effects of these factors but the crisis in the livestock mode of production is causing a great deal of suffering and destitution among the rural population. In these circumstances tensions emerge with more regularity.

Most pastorals agree that rustling of animals is no longer a feasible undertaking. In the past when men used spears and shields and the occasional single cartridge rifle, camel rustling was tempting and sometimes lucrative despite the risks involved. However, in these days when AK 47s abound and every herder has one, the risks become much greater and hence prohibitive. Traditionally only camels were rustled. There are no reports of camel raiding or looting in the Somaliland territory in the recent past.

Stray animals were traditionally protected in the past but many in the rural community confirm that during hard times such protection is no longer a guarantee.

## VII. Water

In the absence of rivers, surface water is the main source for both human and animal consumption. There has been a general decline in rainfall, according to many local observers, an idea not substantiated by fact. It is nevertheless known to have become more erratic (COOPI), throwing off both the nomads and farmers in planning breeding cycles and cropping. Up until the end of the second world war, dry season water points for the herders were small in number: Hargeysa, Odweyne, El Hume, Adaaley, Burao, Eeg, Harada, Ainabo, and Las Anod, to name the most popular congregation locations for watering animals. Clashes over access to the water, particularly during the dry season, were common. There has been a great deal of proliferation of water points since. It started in the 50s when the British colonial administration established communal dams or *Ballis* on many points along the border with Ethiopia. Thus began the formation of settlements around these *Ballis* namely *Balli-cabane*, *Balli-gubadle* and *Balli-dhiig* among others (OXFAM). *Balli-dhiig* or the *Blood Water-catchments* is a reference to its gory past, and renaming it 'Balli-Khayr' never materialized. Although Somalis were skeptical of the colonial power's largesse at the beginning (M.Lawrence, Tree of Poverty), the construction of dams instigated the building of underground water cisterns known as *Berkas*.

In the regions of *Togdbeer* and *Hargeysa*, 5,513 *Berkas* and 4969 *Ballis*) have been recorded by UNICEF. The *balli* water lasts 3-6 months and the *berkas* about 3 months. The last inventory report on water points in the territory lists 209 bore-wells: Out of the total only 58 were functioning (27.7%) and 151(72.2%) were abandoned or not functioning.



In addition there are numerous dug wells throughout the territory, which depend on rainwater for their recharge. Most are located along dry riverbeds, the *togs*. The perennial springs also provide water and are mostly located along the slopes of the *Golis* watershed. Since the survey, a great deal of activity, regarding the bore wells and construction of dams and even *berkas*, though uncoordinated and unplanned, has been carried out mainly by the INGOs and UN agencies and to a lesser extent by the government. Even the World Bank, in 1980-1986, constructed communal run *Ballis* and *berkas* in areas south of Hargeysa. .

Water quality tests done by UNICEF indicate high salinity in the eastern regions, Sahil and coastal areas of Awdal. High sulphate contents were noted in the Gar Gaar wells. Wells in parts of Hargeysa had high fluoride content. In Sool, particularly in Cojade I bore wells traces of arsenic in the water samples were noted by the UNICEF survey. Most *berkas* have high nitrate contents due to human and animal waste pollution. Animal and human faeces as well as animal carcasses contaminate water points (FSAU 2003, food security report).

The pastoral community is aware of the negative effects of increased water points, particularly the *berkas*, on their ability to raise their animals efficiently and pursue their way of life (J. Sugulle & R. Walker, 1998). The devastation this causes includes top soil erosion, destruction of trees for fencing and wood-fuel around settlements' ever widening perimeter and the desertification of the whole area including gully formation and badlands. However the need for water persists and becomes more precarious following seasons of low rainfall. In areas of the *Haud*, most clashes between individuals or groups occur over water accessibility particularly over communally owned water points such as *berkas*, *ballis* and boreholes.

A clash between the Yesif and sub-clans of Ayub began as a contest over dwindling water at Qolat, a *balli* in the Ethiopian side of the border. The demand for more water, of paramount importance and essential for survival, propels the devastations caused by increased water points and hence the endemic dilemma. INGOs and international agencies attempt to give assistance in these circumstances, but many become ill-fated or fail to convince recipients of the goodwill. A case in point is as follows:

An Oxfam project at Hussein-Hamar between Waraabeeye and Harta Gubatahil which proposed the rehabilitation of a dam in 2003 came to a standstill when community members from the two neighbouring villages objected to its implementation and an armed confrontation ensued. No casualties occurred. The location of the dam is a mere 10 km from either of the two settlements. The rejection was heeded and the dam was never built. The underlying causes of the incident are summed up as follows:

- ❑ The Waraabeeye and Harta settlements have each close to 700 *berkas* and the dam was seen as an economic threat as it would undermine their ability to sell their commodity, i.e. water to the needy during drought periods. The dam would have availed plenty of free water to the public minimising the need for purchasing *berkas* water.
- ❑ The expansion of water points has increased the devastation of the environment in the vicinity and the locals have now realised the negative effects of having a large dam close-by.
- ❑ The rivalry between clans in the area could have been the underlying cause. Waraabeeye is inhabited by HY (R. Hussein) and Issa Musa clans while the Harta is predominantly

Musa Ismail (R.Cawl). The Proposed site would have given, supposedly, an advantage to the R. Hussein sub-clan who inhabit the Hussein-Hamar territory. The jostling for such advantages irks some and provokes resistance from their opposites in this scenario.

- INGOs are often oblivious to underlying causes of opposition to a well-meaning project and baffled by the confrontation and possible conflict scenario and hence in consequence withdraw the project. The conflict scenario might not be deep rooted and can, and in certain cases has been, a mere reaction to the staff members or project implementer's clan affiliation, which the opposition to the project perceive, rightly or wrongly, as serving interests contrary to their own. The crisis in the livestock sector has greatly affected the livelihood of the pastoral population and their economic well-being is precarious at best. Any intervention from outside is not only confronted with suspicion but instigates a wild, sometimes, irrational competitive behaviour. The motto is often 'if I am not part of it, I don't want it around'.

### **VIII. Pastoralism in Transition**

*Sedentarisation* of the pastoral community developed and continues to develop in areas that had been predominantly pastoral such as South and South-West of Hargeysa and in Togdheer region. The bulk of pastoralists, destitute as a result of the loss of their herds, during drought periods, move to areas near water points such as *ballis* and start a farm with what remains of their stock. The wealthier herd owners who can invest in building a *berka* in the best spots of the rangeland also form part of the category of the pastorals in transition. Most farms established in this manner were rain-fed. These are joined by others affiliated to them by lineage, which leads eventually to the establishing of a village or hamlet. Those that settle around these water points abandon the practice of *nomadism* - roaming wide areas for the search of better pasture for their animals. Others who adhere to the old ways move further into neighboring territories, sometimes across the border, and into collision with others. Through this process the nomadic population is being pushed further into Ethiopia as a result of the diminishing land space available for common use.

Early contests over rain-fed farming in the areas to the west of Hargeysa prompted the British colonial office to draw the demarcation line (physically done with a tractor blade) known as the 'Meter' - 10 km to the west of Hargeysa - as being reserved for farming leaving the remainder '*absolutely*' free for grazing. The line widened towards Ijara, but Idagale and Arap areas, according to their demands, were to remain outside 'Meter' demarcation. In the 1980s the government, carrying out its policies of cooperative formation in line with the socialist ideology it embraced, expanded the Meter twice in lieu of the land-grab zeal of influential people in government. In Balli-gubadle (an Arap domain) the land remained outside the Meter boundary and the usurping of land for private use began only after 1991.

Drought cycles occur with increasing regularity and become embedded in the Somaliland pastoral mind-set. The failure of one rainfall or more at expected time is sufficient to set the drought psyche in motion and the feverish endeavour to provide for the household at whatever cost, including warfare.

The coping mechanisms include moving to other territories, outside traditional limits if possible, minimizing usage of food in stock, reducing cash outlays for veterinary medicine and accessories, sending 'extras' (i.e. labor) to urban centers, seeking support from kinsfolk, etc.

The land-grab process begins with the formation of enclosures or the building of thorn bushes from felled trees around a perimeter of rangeland. The purpose is the growing of fodder for animals of the land-grabber. Once the process of usurping common land begins every household hustles to obtain a portion before it is too late. The phenomenon is dramatic and often takes a few months at the most. Despite efforts by the authorities and more often the elders to thwart the pandemonium, it is often futile. A few meters of space is left between fences for animal caravan and traffic movements. Confrontations often occur between nomads looking for better pasture and agro-pastoralists, who take up the best portions of the grazing land through the enclosure formations. Many incidents of this nature have taken place recently along clan junctions to the South of Hargeysa. Pastoralists often trespass into enclosures when they run out of alternatives during periods of drought. In Sheikh district, where enclosures seized up most land available for grazing, pastoralists on the move forcibly settle in the enclosures proper and dared plot owners to intervene. This takes place almost annually and locals often give way rather than risk a deadly confrontation.

## **IX. Agriculture**

Agricultural output is determined by the relief of the territory, the climatic conditions, and the seasonal changes and also by the farming culture or lack thereof. The wind regime determines the two dry and two wet seasonal variations. It blows from SW during the Hagee (June to September) dry season and from NE during the Jilaal (December to March) months. The intermediary *dayr* (October to November) and *Gu'* (March to April) wet seasons help the replenishment of life into the semi-arid and parched landscape.

Humidity is drastically reduced during the dry season by a combination of factors including the veracity of wind and plant cover reduction.

The agricultural production is limited due to the arid ecology of Somaliland and the general inclination of the population towards livestock rearing. Arable land is only 10% of land surface, of which 3% is used for cropping. In the West, where people cultivate privately owned rain-fed farms in the rainy season and at the same time keep some animals Sorghum is the traditional crop most commonly grown. Maize and beans are planted as rotational crops while Khat (*Catha aedulis*), the stimulant ubiquitous to all Somali territories, is taking up a good portion of the land as a cash crop. Awdal and Hargeysa are described as regions where food production has taken a foothold. Other regions such as Sanag and Sahil have, since 1991, increasingly become fruit and vegetable growers through irrigation farming triggered by increasing consumer demand in growing cities and towns. The popular crops are sorghum, *Elmi Jama* variety, and corn of 3 and 6 months maturity respectively. The 2003 cereal output totaling 28,210 MT (FSAU assessment report) from total cultivable land acreage of 46,055 Ha of which 88% was sorghum and 12 % corn. The regional contribution was as follows: Awdal-15%, Gabiley 71%, Hargeysa 13% and Togdheer 1%.

Crop production in Somaliland has endured ups and downs reflecting the historical changes that the society had experienced over the years: Barre's socialism of cooperativisation, the war of 1988 and the civil wars thereafter. Food provisions to refugees, which flooded the market with agro-products cheaper than local produce at market, land allocation to '*khat*' growing, and labor force depletion from sector have been some of the problems.

Most Somalilanders regard people in the west regions as less aggressive or tempestuous than their pastoral counterparts. This perception is no longer true regarding the constant tension between

members of neighboring clans or even members of the same sub-clan over land tenure. Conflicts continue to surge or remain latent in the Gabiley district and Borama, where feuds over land occur quite regularly. The Aada, a location established for irrigation farming cooperative, has aroused strong feeling, setting a Gadabursi sub clan against a Habar Awal sub clan. Emotions sour over entitlement to land and many interventions to mediate disputes seem to have succeeded but the grudges continue to simmer. Other locations where such frictions over farmland occur is Gatiitale and Odweyne (both Togdheer), Sheikh district (Sahil), El-Afweyn and Dararweyne (Sanag) and in Erigavo district, a merging point for different clan groups. These events prompted the UNDP cadastral survey project that offered registration and mapping in the most contested area of Gabiley.

## X. Mining

Mining done in Somaliland is primarily for gemstones and there is great potential in prospecting for minerals and oil. There is limited understanding of the range of minerals but gemstone mining is practiced in Awdal region. The most common stones sought are emeralds, aquamarine, berylls, garnets, opals and quartz. The absence of proper mining strategies including marketing is the biggest hurdle.

Artisanal mining engages most destitute and least skilled labourers. These become part of a team of a landlord and cooperatives. Neighbouring gangs of miners often trespass into one another's territory and conflicts emerge. The tensions are diffused by elders and government authorities.

The Ministry issues three forms of licences: Prospecting licences, mineral dealer licences and mining licences, and there have so far been 74, 15 and 2 licences respectively obtained. Most licensees have expired.

Most observers believe that tensions and serious clashes can occur when mineral exploration or mining begins at any location. It will immediately invoke action from locals within the clan or outside it. A lot of ground work such as mutual understanding and commitments from prospectors will be necessary before any work is commenced.

## XI. The Rangelands

Woodlands in the Somaliland territories consist of a) various densities of openly spaced mostly Acacias -*Bussei*, *Millifera*, *Nilotica*, and *Tortilis*\*<sup>22</sup>- and along the banks of water courses and flood plains or water retaining depressions in the upper plateau or Oogo zone. In more arid but fertile areas, *Acacia Edgeworthii*\*<sup>23</sup> bushes grow. *Acacia Etbeica*\*<sup>24</sup> grows on the slopes of the watershed ridge slopes of the Golis watershed and b) the Montana forest woodlands such as *Juniper Procera*\*<sup>25</sup> grows with more density on the highest altitude of the ridge(1500m-2000m), despite a merciless onslaught of cutting for timber and destruction by fire from lightning during thunderstorms. Other timber in the higher altitude include the *Buxus hildebrandii*\*<sup>26</sup> used for the racking in building thatched-roof huts along with *Dodonaea*\*<sup>27</sup> used for the thatch itself. c)

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<sup>22</sup> Galool, Bilcil and Qudhac in Somali(MPD&E)

<sup>22</sup> Sog-sog in Somali.(et al)

<sup>23</sup> Qansax in Somali(et al)

<sup>24</sup> Sog-sog in Somali(et al)

<sup>25</sup> Dayib in Somali(et al)

<sup>26</sup> Dhosoq in Somali(et al)

<sup>27</sup> Xayramad in Somali

In the coastal areas, *Balanites Orbicularis*\*(kidi) and *Balanites Egyptiaca*\*(kulan) withstand the hotter climatic conditions.

These woodland trees, except for the *Dodonaea*, the trunks of which do not grow beyond more than a few inches, are threatened by the increased charcoal production and consumption of wood fuel for the growing urban population. It has become the occupation of destitute members of the pastoral community and a 75 million dollar industry (UNDP, Bertolli). A family household uses 3000 Somaliland shillings (sh. sld) worth of charcoal per day. A bag is 16,000 sh. sld and equals one third of the charcoal produced by one *A. Bussei* tree. In a month a family might spend 90,000 sh.sld or US\$15 on charcoal or would need almost two trees burnt down to meet energy requirements. In a city of 60,000 households (both Hargeysa and Burao exceed these numbers) or more, a total of 112500 trees would be consumed in a month. Charcoal production supplements the falling income of the animal herder during periods of economic hardship and is a major growing threat to the vegetation cover of the country. It employs young men, often armed, who follow the woodland patches sometimes beyond the traditional enclaves of their kinsmen and thus become instigators of rows and hostilities.

A good deal of grazing land is taken over by invasive plants such as cactus, *prosopsis* and 'keligii nnole' reducing available acreage for cultivation.

The best-farmed land in the Gabiley district was cleared of *A. Bussei* in the 1930s but still retains 'galoolei', the name that referred to the abundance of the plant colony of the locality. Presently none can be seen at the vicinity of Gabiley. The pastoral population use the *A. Bussei* for making most of their mobile hut gear such as the 'Dhig' (arked racking), and the 'maydhax' (the softer portions of bark from which mats and other household items are woven, etc.) The pastoralist has never constituted a threat to the regeneration of *A. Bussei*. Although all the woodland trees are burned for charcoal production, the *A. Bussei* is preferred and is under threat from many fronts.

The best grazing lands of the Haud have seen a marked decrease in availability of palatable grass species (Sugulle & Walker) such as the *Plummulosis* sp<sup>\*28</sup> (dareemo) and *Detyeclium aegyptium*\* (saddexo). The MPD&E (M.M.Awale) classify the 'dareemo' and 'dixi'<sup>\*29</sup> as receding from open plains because of overgrazing. The continuous grazing of areas adjacent to *berkas* and villages formed near water points depletes the palatable vegetation and turns areas into a barren wasteland. The formation of villages a mere 5-10 km distances from one another ensures the total devastation of the grazing lands. Nomadism ensured the recuperation of a stretch of land when animals were driven to new locations for fodder or access to water during seasonal changes. The *Gu* or *Dayr* rains provided enough precipitation for the grass to grow, mature and bear seed. With the year-round grazing pattern at one location, the recuperation period is no longer there, and the sprouts that emerge during the onset of rains disappear without reaching maturity.

Many nomads are nostalgic about days past when wild fruit and plentiful berries in the plains supplemented their diet. These include the *bobob* (*Grewia bencilites*<sup>\*9</sup>), the *yicib* (*Angustifolia* sp<sup>\*9</sup>), the *dhafaruur* (*Grewia tenax*<sup>\*9</sup>), the *himir* (*Grewia indigofera*<sup>\*9</sup>) and many root plants. Aid

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<sup>28</sup> Chrysopogon aucherii according to MPD&E(MMAwale)

<sup>29</sup> spropolus vareigatus

<sup>30</sup> walker & Sugulle clasifications

agencies operating in the drought-affected areas (UNICEF, OXFAM) report serious nutrition deficiencies among pastoralists. The marketing of animal products in exchange for newly acquired consumer tastes deprives the herder of the nutritive milk products and occasionally meat that once constituted the sole protein and dietary source of the nomad.

Frankincense and other tree products once ranked high as a foreign exchange earner in Somaliland, contributing about US\$80 million annually. The disruption caused by the civil war and earlier monopolization of trade by the Siad Barre regime acted as a disincentive to exploitation of this resource. The *Boswellia Camiphora* (mohor) grows wild on the limestone slopes of the Golis range but has a traditional tenure system and is guarded by a web of customary laws. The plants are tapped and the valuable resins collected at intervals according to the climatic changes of the seasons. Grazing is allowed though the plots and young seedlings rarely survive the intense grazing. The second threat is invasion by pests, which destroy whole areas. Trespassing is forbidden and the occasional looter is severely punished to dissuade further doings of the kind.

Acacia *Senegal* (cadaad) is a valuable tree that produces Gum Arabica and grows sparsely over a wide range of arid terrain in the Ogo region and is harvested by the pastoral community on an ad-hoc basis. Tenure for the plant is non-existent.

## **XII. The Fishery**

The people of Somaliland are avid eaters of meat, although fish consumption is not yet common. There has however been an increase recently in tandem with an upsurge in restaurants in urban centers and refugees returning from abroad, having become exposed to fish eating practices of others. Out of 350 boats operating prior to the war, only 170 are operational at present. Fishermen do not total more than 100, according to fishery ministry officials. These operate out of Berbera, Seyla, Siyara and Karin

The local fishermen pursue three kinds of activities: fishing for daily consumption, shark fin fishing and sea cucumber fishing. The latter is a new practice, and aimed at satisfying markets in the far-east, especially Hong Kong, where it is an aphrodisiac. Shark fin fishing is dwindling because of incursions by foreign boats. The sea cucumber harvest is falling sharply as populations dwindle. Eritrean fishermen have recently entered the sea cucumber market.

The fishermen of Berbera attribute conflicts in the area mostly to foreign Fishing boats, which, with or without permits seek the permission and protection of local fishermen; local fishermen find providing such protection, which is of nominal nature, more profitable than actual fishing, hence the low fishing output. They receive diesel and food rations from the foreign boats in return for the service. The competition between different groups in the provision of the so-called protection is the root cause of most recent violence. This pits one clan group against others or sections within the same sub-clan against one another. Several clashes of this nature have taken place in the past year.

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### XIII. Conflict Resolution and Government Role

There are only three instances in which a person can justifiably use force impromptu, according to tradition:

- ❑ When a moving caravan wants to settle down for the night and someone obstructs the move forcibly, momentary retaliation is warranted.
- ❑ When a victim of an assault requests public hearing from the perpetrator, and the perpetrator does not heed such a request, the victim can resort to violence or whatever measure he deems fit to avenge the harm done him.
- ❑ When a family homestead in distress during a drought period is prevented from access to necessities by force, the use of force is also admissible.

It is only under these specific circumstances that violence is allowed in normal situations. These permissible actions do not absolve the individual from harm caused, but simply give him or her credence to have acted justifiably.

Conflicts in Somaliland vary in kind and form but fit the general pattern of connoting violent confrontations between identifiable social groups or sections of society. The composition of contestants, the root cause of issue and the veracity of incident are among the variety of factors that determine its classification. The basic approach to resolving any conflict—a strategy utilised by both the government and mediators of the general public alike—is two fold:

1. The acceptance by both parties of the mediation role of a neutral third party, whose neutrality is recognized as such, and the cessation of hostilities during talks and the affirmation of both parties to accept and abide by the rulings of the judgement in advance and under oath and also the availing at location of one's *xadbiga* or bond whose presence ascertains the obligation to abide by judgment. The *xadbiga*, which each party nominates from closest in kin, is there to witness the proceedings and give reciprocal assurances of compliance.
2. The proceedings entail the registering of all complaints from either end. The easy ones are tackled first and the more complicated issues, involving other parties are handled later, with utmost prudence. Incidents where death or serious injuries occur, are first confirmed, or denied under oath, and compensation is decided according to existing *xeer* between the parties. Judgements are reached when the payment of expenses incurred *aga-bare* during proceedings is paid equally on site to the mediating elders.

In these resolutions, mediating authorities use elders or talented men with experience in particular situations. Some of the elders develop skills for which they attain celebrity status among their folks. The Somaliland people's Law of Torts is renowned for its wealth of juridical value similar to modern court proceedings—the use of witnesses, conflict of interest denunciation and '*xeer*' references among other aspects of customary law.

The government of Somaliland, through experience, assumes no direct mediation role but allows elders to iron out differences on its behalf. Its direct involvement frequently caused problems, perpetuating the conflict rather than bringing about its successful conclusion. The government's role is appreciated when force is necessary to intervene and forcibly stop a potentially volatile situation from gaining momentum and escalating any further.

The most significant shortcoming in the government's role is the use of police or other security forces in situations of conflict. The government does not give police officers in such a situation the necessary assurances of inviolability in the case of use of force to apprehend a perpetrator or in self defense. The police officer serves at his or her own risk. This does not mean that the government does not compensate victims of wrongful actions of officers. Payments have been made to defuse situations that might have escalated. However, the victim pursues the litigation against the clan to which an officer is affiliated despite government compensation and payment. This perpetuates the cycle of violence and renders police involvement ambivalent or useless at best.