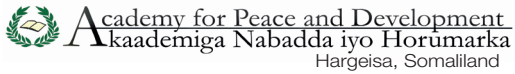


SOMALILAND'S PROGRESS TOWARDS PEACE: MAPPING THE COMMUNITY PERSPECTIVE



PILLARS OF PEACE
SOMALI PROGRAMME
August 2015



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ABBREVIATIONS

APD	Academy for Peace and Development
CBO	Community-Based Organisation
CR	Civil Registration
CSO	Civil Society Organisation
FGD	Focus Group Discussion
FPTP	First Past The Post
IDI	In-Depth Interview
IDP	Internally Displaced People
IRI	International Republican Institute
JPLG	Joint Programme for Local Governance
LGA	Local Government Authority
LNGO	Local Non-Governmental Organisation
MOI	Ministry of Interior
NED	National Endowment for Democracy
NGO	Non-Governmental Organisation
NPGM	National Programme Group Meeting
PAR	Participatory Action Research
PoP	Pillars of Peace
PR	Proportional Representation
SCs	Steering Committees
SNM	Somaliland National Movement
SRP	Social Reconciliation Pillar
UCID	Justice and Welfare Party
UDUB	United People's Democratic Party
UNDP	United Nations Development Programme
VR	Voter Registration



PREFACE

The Academy for Peace and Development (APD) is proud to present its Pillar Note – the central document of its Pillars of Peace II programme. The pillar note brings together the findings of an extensive mapping exercise carried out across Somaliland by APD at the end of 2013.

The vision of Pillars of Peace is to assist Somaliland stakeholders to consolidate close to two decade's experience of peace- and statebuilding and create new space for sustainable socio-political harmony and progress.

This programme is premised on the assumption that Somaliland has successfully emerged from the state of emergency that prevailed in the early and late 1990s, and that it should now concentrate on the task of strengthening the foundations of peace, security, and stability in all parts of the country through a participatory, consensus-oriented, and integrated approach.

Pillars of Peace builds on extensive work in Somaliland by APD and its partner Interpeace, dating back to 1999. The first phase of the programme was carried out from 2009-2012, followed by the second phase which is the focus of this research report.

The current Pillars of Peace programme is comprised of three pillars – democratisation, decentralisation, and social reconciliation – that were deemed to be critical

to Somaliland's peacebuilding and statebuilding agenda during the first phase of the programme.

The specific objectives of Pillars of Peace are to:

Support the strengthening of state and independent democratic institutions through tailored, action-oriented initiatives in these areas;

Broaden the peacebuilding base through engagement with civil society and community leaders;

Enhance the role of women, youth, minorities, and marginalised groups in peacebuilding initiatives and interventions of Interpeace and its partners, and continue strategic engagement with the diaspora in peacebuilding processes;

Facilitate local and international programmes and interventions by providing a critical peace building lens and informing their processes with a community-based approach gathered through Participatory Action Research (PAR).

METHODOLOGY

APD utilises Participatory Action Research (PAR) as the basis for its work. Such a methodological framework is inclusive in nature, and is preferable as participants actively engage in data collection and recommendation formulation, pursuing consensus-based decision-making at all levels. The essence of PAR is to reach consensual solutions for key challenges faced by society as identified by key stakeholders. These range from national level political and business leaders, leading civil society actors, traditional elders, and representatives of youth, women's groups, minorities groups, professionals, and NGOs. Literature reviews, interviews, and focus group discussions were conducted to develop a thorough overview and understanding of the achievements, challenges, and opportunities in the respective Pillars.

Consensus is based on the inclusion and genuine participation of all sectors of society. PAR engages both horizontally with a cross-section of the community and vertically from the grassroots to the leadership. Both the design and management of the process is directed towards increasing locally-owned decision-making. With adaptations over the years, this methodology has provided an important foundation to the peacebuilding work pursued by APD and Interpeace in Somaliland.

Pillar Mapping and National Programme Group Meeting

Every three years, the Academy conducts a PAR-based pillar mapping exercise for each of its three pillars. This involves extensive field work across all six regions of Somaliland. The process maps the current context through close-range analysis – FGDs and IDIs, as well as through other consultations and

observations – aiming to capture local perspectives on the achievements, challenges and opportunities in the respective pillars throughout Somaliland's regions.

In the most recent mapping exercise, conducted from October to November 2013, the Academy engaged with 1,600 people. At the end, the results were compiled into the Pillar Note – an amalgamated narrative about people's perceptions of key issues in the three aforementioned thematic areas. A draft Pillar Note was presented at the National Programme Group Meeting (NPGM) held in Hargeisa in June 2014. Two hundred people from all six regions – representing government and non-governmental institutions, as well as political parties and various segments of society – came together at the NPGM to discuss the research findings. As with previous meetings, the selection of participants was based on criteria similar to those used for the pillar mapping exercise.

The main purpose of the NPGM was for the public to validate the research findings and to prioritise the issues that APD would work towards addressing in upcoming programming. A number of separate discussions were also held, recognising the challenges that some groups of society (especially women, youth, and minorities) face in freely expressing their views. For three days the participants worked together, discussing the different challenges raised in the Pillar Note. Participants shared their views and offered suggestions and recommendations. Finally, the participants voted on three priorities for each pillar, as shown below.



Democratisation Pillar

- Electoral Laws
- Voter registration
- Presidential and parliamentary elections

Decentralisation Pillar

- Vertical deficiencies in devolved governance
- Council-community relationship
- Local council capacities

Social Reconciliation Pillar

- Judicial reform
- Natural resource (land conflict) management
- National dialogue (low social cohesion)

To address the prioritised challenges in each pillar, three Steering Committees (SCs) were established. For each pillar, around fifteen members were nominated by relevant institutions and social groups based on their expertise, availability, commitment, and all-inclusive representation. The SCs, along with

the appointed pillar researchers, jointly design an annual work plan to implement advanced, innovative solutions to the priorities that came out of the NPGM.

1.0 INTRODUCTION

Since withdrawing from its union with Somalia in 1991, Somaliland has achieved a remarkable degree of peace and stability; some would even say that Somaliland is the most stable part of the Horn of Africa. This relative peace and stability is due, at least in part, to Somaliland's strong tradition of bottom-up processes, including local negotiations and national peacebuilding conferences. While Somaliland has suffered its fair share of internal strife, these processes were momentous for building social cohesion and resilience.

Most of Somaliland's founding principles were established at the national Borama Conference of 1993. The Hargeisa Conference (October 1996 to February 1997) established a provisional constitution, intended to move Somaliland from the beel (clan-based) system to multiparty democracy. The first democratic elections were to be held in late 2002. It was planned that harmonised presidential and parliamentary elections would occur shortly thereafter in early 2003.

This experiment with democratisation was not Somaliland's first. Following independence from British rule in 1960 and the announcement of the union of the two former colonies (British Somaliland and Italian Somalia) to form the Somali Republic, four parties (the Somali Youth League, the United Somali Party, the Somali National League, and Hisbiga Digileiyo Mirifle) formed a coalition to transform the country from a colonised territory to a democratic republic. It was a union pressed for by the public. However, this democratic experiment gradually came to an end. Many Somalis welcomed the 1969 coup and the revolutionary military regime. It was not until the early 1980s that popular discontent began to rise considerably in Somaliland with the dictatorial regime

of Siyad Barre. The democratic culture that had been cultivated since independence in 1960 gradually eroded. The eruption of civil war, starting in 1980s and escalating in 1988, culminated in the collapse of the Somali state in 1991.

Following the collapse of the Somali Republic in 1991, Somaliland began its efforts to rebuild and consolidate power and establish democratic systems in the hopes of gaining international recognition. Since 2002, there has been growing international interest and increased donor funding and advocacy for Somaliland's democratisation process. Firm support has been given to strengthening Somaliland's resilience and capacity as a functioning democracy. While the international community has provided considerable support to the democratisation process – particularly with assistance for elections and institution capacity-building – Somaliland has always mobilised continued good will and finances for moving ahead with such processes. Additionally, Somaliland held a constitutional referendum, 2002 and 2003 election without the support of the international community.

Growing momentum and interest in Somaliland's democratisation process has resulted in the usage of an expanding vocabulary of democratisation by political and non-governmental sectors, evident in political speeches and media reports. Local NGOs have also progressively started to use these terms, without necessarily a clear understanding of what type of democracy Somaliland or the donor community has in mind.

What has been the outcome of all the emphasis on democratisation? Somaliland has held five successful elections since the first democratic elections in



2002. This trend will likely continue, as will significant electoral delays. It is now clear that the upcoming presidential and parliamentary elections, originally slated for 26 June 2015, will be significantly delayed. It is hoped that such a delay will usher in more substantive structural and electoral reforms.

Along with strengthening democratic processes, decentralisation and social reconciliation are key issues that need to be addressed in order to achieve lasting peace and stability in Somaliland. Many Somalilanders identify decentralisation and democratic local governance, as well as an equitable distribution of resources and capacities, as vital to a sustainable peace. Such devolved, representative democracy is firmly stipulated in the constitution.

Local elections held in 2002 marked the initial step in Somaliland's decentralisation process. These elections made it possible for the public to exercise their right to choose their local leaders. The constitution provided the relevant legal framework and steps toward devolving political power and authority to local governments. The elected councils, who assumed the leadership of the local government authorities, were given wide latitude to make vital decisions in their communities. However, notable progress has been slow. Local government authorities have been slow to take on the responsibilities delegated to them, in part because of a lack of policy guidance or capacity. Competing demands brought on by decentralisation have brought further confusion.

Over the last decade, APD has played an active and catalytic role in these processes. APD has established relationships with key stakeholders, both governmental and non-governmental; lobbied for change by raising knowledge of key issues and possible solutions; provided policy options and pilot mechanisms derived from needs identified by

stakeholders; and built the capacity of key actors and groups that could affect real change at the grassroots and national level. APD has embedded the processes of state formation and governance in its tailored peacebuilding approach, with the broadest possible engagement of local communities.

While the progress over the last two decades is notable, the challenges to Somaliland's peace and stability, which this report will elucidate, are numerous. During the pillar mapping exercise, competition over limited natural resources (namely pasture, water, and land) was identified as the major issue facing Somaliland. This fragility is largely due to the main livelihoods in Somaliland (pastoralism and agro-pastoralism), which make survival almost completely dependent on climatic conditions and the harnessing of scarce resources. This often results in low-level but deadly conflicts, especially along Somaliland's borders. Violent disputes, internal and external migration, and involuntary displacement are all symptomatic of increasing land-based conflict. Land grabbing, enclosure creation, ownership disputes at boundary zones of clan settlements, and the ongoing transition from traditional land management techniques to more centrally-focused national laws were all cited as key issues.

Fundamental to these conflicts are institutional deficiencies related to land management and conflict resolution. In many cases a lack of records hampers the verification of land claims, and an insufficient legal framework and judicial system pose additional challenges for dealing with disputes. Government involvement can also politicise a conflict and may be seen as corrupting the process. In order to mitigate and prevent disputes, effective conflict resolution mechanisms must be further developed and achieve broad societal acceptance. Land-based conflict is also profoundly connected to issues of deeply-rooted

clan mistrust and a lack of social reconciliation efforts.

While there is much to praise, there is nonetheless still much work to be done. The following chapters will look at the three pillars around which the Academy works – democratisation, decentralisation, and social reconciliation – and will highlight major issues that Somaliland still faces and provide recommendations and lessons learned for best addressing these problems.

2.0 DEMOCRATISATION

In 1991, the people of Somaliland declared the birth of a de facto independent state.¹ The first Grand National Reconciliation Conference held in Borama in 1993 laid the foundation for Somaliland's future stability and statehood. The ratification of the national constitution in 2001 through a popular referendum was a key exercise in democratisation. Since then, the young nation has made progress in forming a new polity.

Among Somaliland's achievements to date are:

- A central government with three branches (executive, legislative, and judiciary), including a hybrid bicameral parliamentary system, that provides effective, although somewhat beleaguered, checks and balances;
- Devolution of powers from the centre to regional and district levels;
- Five elections – presidential, parliamentary, and local council – that have led to smooth and peaceful transfers of political power.

2.1 SOMALILAND'S FIRST ELECTION CYCLE

The ratification of a national constitution in 2001 paved the way for Somaliland's first multi-party elections, the 2002 local council elections. Six political associations formed in preparation for these elections. Since the constitution clearly stipulates that only three political parties can legally exist in the country at any time, the election also served as a screening mechanism for political parties. The three associations that earned the most votes were awarded exclusive legitimacy as the political parties to contend elections for the subsequent ten years. The rationale behind such a three-party restriction was to forestall the proliferation of a large number of clan-based parties and encourage cross-clan parties.

The first political parties recognized as a result of this election were:

- The United People's Democratic Party (UDUB), which was led by then-President Mohamed Ibrahim Egal;
- The Peace, Unity, and Development Party (Kulmiye), headed by current president Ahmed Mohamed Mahamoud (Silanyo);
- The Justice and Welfare Party (UCID), led by Faisal Ali Warabe.

These three parties would contest the following three elections held in subsequent years, and two of them would participate in the 2012 local council elections.

The first presidential election was held in 2003. This election brought incumbent President Dahir Riyale Kahin, representing the UDUB party, to power for another term by a margin of only 80 votes. What was

¹APD, "Decentralisation of Government Institutions", 2002.



most remarkable in this outcome was that despite encouragement from his Kulmiye party to contest his narrow loss, Ahmed Mohamed Silanyo chose to respect the electoral process and accept the result.²

The first parliamentary election, held in 2005, aimed to replace clan-“elected” representatives with popularly elected parliamentarians who – having gone through the rigorous test of a highly charged, multi-party contest – would have greater democratic credentials and a more formalised institutional foundation.

It is important to stress that all three electoral events in the first cycle took place peacefully, something to which Somalilanders point with pride.

2.2 THE SECOND ELECTION CYCLE

Somaliland was due to begin its second election cycle with local council elections in 2007, followed by a second presidential election in 2008. However, these elections were delayed for years, as a result of technical hurdles, legal loopholes, and political machinations.³

The formation of a new National Electoral Commission (NEC) after the mandate of the first one (nominated in 2002) expired on 21 January 2007 was a key source of contention. NEC had the responsibility of attending to the management of the technical side of elections (setting dates, preparing ballot papers, etc.), as well as ensuring that a list of eligible voters was compiled prior to the election. As such, it would have been impossible to hold an election in the absence of a functioning commission.

The president and his ruling party (UDUB), along with the Guurti, did not appear to be in any great hurry to see an election take place, while the opposition parties (Kulmiye and UCID) insisted that the elections should occur as planned. The major stumbling block was the exact composition of the electoral commission – proposed members were vetoed by one political party or another.⁴ The stalemate lasted for more than seven months, and was finally resolved only three months before the local government election was scheduled to take place.

Given these issues, a delay became inevitable. The new NEC and the three political parties agreed that 1 July 2008 should be the new date for the presidential election. Meanwhile, three days before the tenure of the local councillors was to come to an end, the Guurti unilaterally extended the councils’ mandate to 1 July 2008. The eruption of fierce disputes due to an arduous voter registration process provided impetus for the government to postpone the local council elections; and disagreements over the pending presidential election overshadowed the issue of local elections. The Guurti subsequently gave President Riyale a six month extension, postponing the presidential election until 27 September 2009.

Ultimately, the will of the citizenry to consolidate its political gains and to continue the democratisation process, coupled with intense international pressure (and conditional funding), led to a series of last-minute deals, which culminated in the holding of the second presidential election in 2010.

On 26 June 2010, the people of Somaliland went to the polls to elect a new head of state for the second time since independence. The opposition

²Rebecca Richards, *Understanding Statebuilding: Traditional Governance and the Modern State in Somaliland* (England: Ashgate Publishing Limited, 2014).

³APD, *Vote for Peace II*, 2011.

⁴Ibid.

Kulmiye party's candidate, Ahmed Mohamed Silanyo won an election that both local and international observers considered credible. The incumbent, Dahir Riyale Kahin, transferred power peacefully, which is a practice yet to materialise in many developing countries.

On 28 November 2012, Somalilanders went to the polls again to elect their local councillors. More than 2,260 candidates from seven political parties and associations peacefully contested 379 local council seats in nineteen of Somaliland's twenty-three electoral districts. Polling did not take place in the four eastern districts of Taleh, Las-Qoray, Badhan, and Dhahar for security reasons. As with the 2002 vote, the secondary objective of this electoral event was to determine the top three political associations, which would be recognised as the only officially sanctioned political parties for the next ten years.⁵

The 2012 local government vote brought new challenges. First, it involved an electoral system based on an open list of candidates. This meant that even though candidates ran under the umbrellas (and official emblems) of political organisations with which they were affiliated, the parties and associations had little or no control over the process. Rather, the various local communities to which candidates belonged authorised and supervised the selection of candidates and were largely responsible for running campaigns. Theoretically, in an open-list system, anyone can run. The open-list option was used in the 2005 parliamentary election, but in 2012 the field of candidates was much larger, and therefore the potential for error greatly increased.

Second, unlike the preceding three electoral events, which were contested by only three political parties,

seven political associations competed in the 2012 elections – two of the three existing parties, and five new associations that had survived a rigorous selection process. Nine of the fifteen originally registered political associations had already been eliminated.

Finally, there was no national voter registry. The old voter list, which had been used during the 2010 presidential election, was rendered useless in 2011 when Parliament struck down the law that had brought it into being. The main danger brought about by the lack of a voter register was vote-rigging. It was clear long before Election Day that the resultant technical and political complications would cast doubt on the elections' credibility.

2.3 DEMOCRATISATION: AS A PILLAR OF PEACE

The selection of democratisation as one of the key themes of the PoP programme came out of APD's experience carrying out the Dialogue for Peace Programme in Somaliland from 2004 to 2006. During these dialogues, people emphasised how, in addition to protecting Somaliland's hard-won peace and security, strengthening democratisation and moving from a clan-based system of governance to multi-party democracy was essential for ensuring sustainable peace.

In the course of the Dialogue for Peace programme, it became obvious that the most serious threat to Somaliland's stability was low public confidence in the democratisation process. Empty promises of international recognition served to only further dim democracy's lustre in the eyes of the populace. In participants' estimation, Somaliland's democratic

⁵APD, *2012 Local Council Election Report, 2012*.



transition, if not carried out in a cautious and transparent manner, could weaken Somaliland's long-term peace and stability. The Pillars of Peace (PoP) programme launched the democratisation pillar to deal with this challenge, charting a roadmap for best practices while avoiding potential concealed pitfalls. As part of this programming, APD launched a comprehensive awareness-raising campaign to inform the public about basic democratic principles.

APD conducted countrywide research between 2009 and 2010 under PoP Phase I to examine key challenges in the democratisation process. This mapping exercise involved extensive field work, which was carried out in June and July 2009 and in January and February 2010. APD organised 34 FGDs in over 25 locations covering all six regions of Somaliland. In total, over 600 people took part in these FGDs and interviews. Before embarking on these field trips, APD's staff undertook an extensive in-house actor mapping exercise meant to help the pillar teams identify key stakeholders to be interviewed and consulted for each pillar.

2.3.1 NPGM: Reporting back to the community

The National Program Group Meeting (NPGM) marked the launching of PoP I. During this meeting APD presented the key priorities identified during the pillar mapping exercise. Issues included the need to transform and strengthen the capacity of Somaliland's emerging democratic institutions. The stakeholders also considered electoral reform, and in particular the passing of key legislation, to be an important requirement for free, credible, and peaceful elections. Following this group meeting, APD in March 2011 launched the second phase of the PoP I by establishing a SC to assist parliament and NEC

in drafting the electoral legal reforms recommended by the NPGM. This committee, with the assistance of APD, supported the relevant public institutions mandated to reform electoral laws through technical and financial assistance.

Based on the priorities identified in the NPGM, Parliament drafted and approved several laws, including the Regulation of Political Associations and Parties Law (RPAPL Law No: 14/2000). The SC led the legislative drafting process in partnership with the Internal Affairs Sub-Committee of the House of Representatives. The new law had a positive impact on Somaliland's political situation as it adhered to critical democratic principles and registered parties according to strict guidelines. The former law was ambiguous on when and how political associations would be formed, and political actors had different interpretations of the existing regulatory framework.

The constitution of Somaliland did not provide a comprehensive answer to this problem. The new political parties law that resulted from the interventions of the SC and APD helped to resolve this political and legal issue. Parliament also amended the Presidential and Local Elections Law. This amendment was drafted by the Internal Affairs Sub-Committee with the facilitation of the SC. Likewise, an amendment was made to the Presidential and Local Elections Law.⁶

Relevant stakeholders also drafted and approved non-legislative instruments. The political parties and electoral commission drafted and approved codes of conduct for the political parties and the media associations. These non-binding instruments built trust and created an enabling environment for credible and peaceful elections.

⁶These amendments can be found on the Somalilandlaw.com website in English and Somali.

The limited role of women and minorities in Somaliland's democratisation process was another concern. Although women are a potentially powerful voting bloc, there are very few women in public office due to adverse cultural perceptions. The vice chairman, Amal H. Miisaan of the SC, is the adviser to the president on women's affairs. She has been instrumental in lobbying the government to promote greater representation for women in Somaliland's political associations. Putting pressure on the relevant institutions and pushing forward the importance of greater female engagement in politics is an objective of the Pillars of Peace programme.

In 2012, the president nominated a national consultative committee and tasked it to examine the situation and recommend actions to increase women and minority representation in political institutions. The committee recommended that quotas be introduced to ensure both groups' representation. Since then, a number of debates have taken place within the government on the topic of quotas, and several proposals have been submitted to Parliament. However, the Guurti (Somaliland's Upper House) has rejected these proposals, arguing that such representation violates Somaliland's constitution.

The engagement of APD continues to influence policy-makers to strongly consider the issue of women's participation in politics and to take concrete actions to promote it. Progress has been made in parliamentary discourse and civil society more broadly.

The achievements of Pillars of Peace I, highlighted above, provided the foundation for the second phase of the Pillars of Peace programme (PoP II). APD launched this process with a pillar mapping exercise that took place at the end of 2013 – comprising desk research and FGDs and IDIs across the length and

breadth of Somaliland. The following sections outline the findings of this process, and led to validated priorities for action (see preface) which APD will now seek to address.

2.4 CHALLENGES OF THE DEMOCRATISATION PROCESS

2.4.1 Political parties

Somaliland is a new democratic state, and it is still struggling to establish a fully-functioning democratic system devoid of clanism. Following a 'western' style democratic model, Somaliland has shaped its political parties around similar structures and procedures with an emphasis on establishing and building an institutional culture. As one FGD participant, a traditional elder, stated, "Democracy must begin with the political parties, as they are the ones who will lead the country." Political parties, like all other actors in a democracy, must elect their leaders in a democratic manner. They must seek votes based on merit, rather than resorting to clan loyalties. However, clan affiliation – rather than character, vision, or political orientation – continues to serve as the primary criterion for selecting candidates.

Political parties are starting to form an institutional image that reflects political party structures, and official party documents, party constitutions, and internal regulations – however ambiguous some of them might be – demonstrate this transformation. On paper, internal regulations govern the political parties, as well as their procedures for elections and the general structures of the party. Below is a brief overview of political party structures.



Party Structure

In Somaliland, there are three main parties: Kulmiye, which is currently the ruling party, UCID, and Waddani, all of which share similar structures. In theory, the political parties follow democratic procedures and elect people to the various positions available within the party. All political parties have leaders, a general congress, an executive committee, a central committee, regional committees, diaspora committees, and wings for both women and youth.

However, despite these professionally presented organisational structures, internal regulations, and divisions of power, parties still struggle to implement and follow this institutionalised approach to governance. The three main reasons for this struggle provided by people interviewed by APD were the initial party formation, the general preference for a traditional rather than an institutionalised/legal mediation approach to resolving conflicts, and parties' general allegiance to clanism over any ideological platform.

Party formation

"We do not have democracy. We should have started our democratisation process by democratising the political parties in terms of their formation process."

The initial formation of political parties is viewed as an underlying challenge to Somaliland's democratisation. Political parties were formed not based on ideological principles but on individual interests. This can be observed in the registration process. Each party is led by one individual with the support of his or her clan members.

A point repeated by numerous FGD participants was the perception that parties are not public institutions owned by all their members but rather are institutions

owned by the individuals and clans who lead them. As an academic pointed out, "Political parties are formed by individuals and the public does not have any ownership of them. They are owned by those individuals who mobilised to form political parties for their own interests."

As a result, political parties are often not seen as accountable to the people, but only to clans and the clan elders that lead them. As one woman leader of a local organisation noted, when it comes to accountability, "party members do not have a role in party decisions. It seems that the party is only accountable to those individuals running the leadership."

One Kulmiye party member noted that "The party's decisions and leadership are centralised." This centralisation of power is seen as one of the main reasons for conflict within political parties, which is "mostly related to competition over executive committee seats, mainly the seats of the chairman and the deputy chairmen, that is, the party leadership."

Ultimately, internal party politics comes down to competition for power among a select few party personalities. The initial formation of political parties is driven by individuals that see themselves as owning the party.

Another key challenge to the democratisation process is that of resolving political conflicts when they erupt. The formation of political parties requires a comprehensive regulatory framework to prevent internal disputes and provide clear conflict resolution mechanisms. Even though Somaliland's political parties have these regulations in place, there are still major intra-party conflicts. Parties often struggle with the question of whether to mediate these conflicts in accordance with the party's rules and regulations or

through traditional means. The traditional approach – often through the Guurti – has been used to reconcile almost all conflicts in Somaliland, including political conflicts.

“If conflict arises within the party, mediation and arbitration mechanisms based on traditional systems are applied. That is a consensus-based approach. Such an approach does not respect the written laws and is always more inclined toward finding a compromise.”

The result is that priority is not often given to adherence to institutional law and regulations. To the contrary, emphasis is more commonly placed on maintaining clan harmony and reaching a compromise through traditional mediation and negotiation.

In cases where traditional institutions are seen as partial and easily swayed by the executive, this mechanism for solving conflict becomes highly problematic, and can lead to more sustained conflict. In the context of Somaliland, the framework promoted by the democratisation process, which emphasises the use of institutionalised legal regulations, might be one of the reasons behind the intractability of intra-party conflict.

The following short case studies of recent conflicts within the three political parties will contextualise these issues.

Brief case studies of intra-party conflicts

Somaliland politics are based on a multi-party democratic system, as laid out in Article 9 of the Somaliland National Constitution:

Article 9 (Political System): (1) the political system of the Republic of Somaliland shall be

based on Peace, co-operation, democracy and plurality of political parties; (2) The number of political parties in the Republic of Somaliland shall not exceed three.

Based on Clause 2 of this article, Somaliland has three national political parties at any given time. As a result of the 2002 local elections, the first three recognised parties were UDUB, Kulmiye, and UCID. After the 2012 local council elections, Kulmiye and UCID maintained their status as official national parties, while UDUB was replaced by the Waddani party.

Law No.14/2000 determines the procedures for the formation of political parties. The law stipulates that no political party shall be based on regionalism or clannism, which is meant to encourage the formation of inclusive, cross-clan coalitions.

Somaliland's political parties are still not properly institutionalised. This is mainly due to gaps within regulatory frameworks, including both national laws and political party constitutions.

Ali Mohamed Warancade was a colonel in the notorious National Security Services (NSS) during the Siad Barre era. He was Minister of Information during President Egal's government; and Minister of Civil Aviation during the Riyale administration. He later joined the opposition Waddani party and then, a few months later, joined the current ruling Kulmiye party. Mr. Warancade now serves as the Interior Minister.

Jamal Ali Hussein is a Harvard-educated member of the Diaspora who resigned from his high-ranking position at the City Bank in Arusha, Tanzania, just a few weeks before he competed with Mr. Warancade for UDUB's presidential candidate position. After he lost the UDUB case at the Supreme Court, he was eventually nominated as UCID's presidential candidate.

coalition – embarked on a collision course to determine Silanyo's successor. The impact of social

dynamics, such as clan influences and in particular the nature of the political parties as “owned” by specific individuals, have led to widespread disputes within parties that distract from party activities.

As will be seen from the following brief case studies, all major intra-party conflicts have had four similarities. First, party leadership positions (chairpersons and presidential candidates) have been at the root of all these disputes. Second, disputes often arise on the eve of elections or immediately after elections, an already tense period for the country. Third, traditional mediation rather than party governance systems are employed to solve these conflicts, or at least attempt to reach an agreement between all parties. Fourth, as a result of these conflicts, the credibility of the party and its leadership is severely compromised, encouraging party members and supporters to defect and seek alternative political allegiances – often dividing party supporters along clan lines.

The case of UDUB

When the UDUB party lost the 2010 presidential election to Kulmiye, the UDUB chairperson (outgoing President Dahir Riyale Kahin) and his vice-president, Ahmed Yusuf Yasin (also the deputy party chairperson) unofficially agreed to nominate a new candidate for the party in the next presidential election.

At the outset of Somaliland’s 2012 local council elections, conflict over the nomination of the party’s presidential candidate divided UDUB into two wings led by the two old friends.

On one side was Riyale, who supported the candidacy of Ali Mohamed Warancade, and on the other was former vice president Yasin, who supported Jamal Ali Hussein. During the UDUB era, the public perceived

the Gadabursi (President Riyale’s clan), the Isse Muse (sub-clan of both Vice President Ahmed Yusuf Yasin and Jamal Ali Hussein), and the Habar Yonis (Ali Mohamed Warancade’s clan) as the government’s power base coalition.

Faysal Ali Warabe, the founder of UCID, is a Russian-trained civil engineer who was a real estate developer during the Siyad Barre era. During the Somaliland civil war of the mid-1990s, he served as deputy chair of the self-styled Somaliland Reconciliation Forum. As a member of the Diaspora, he usually resides in Helsinki, Finland.

Abdirahman Mohamed Abdillahi (Cirro) earned a Master’s Degree in Business Administration (MBA). Abdullahi served in the Somali Embassy as the first consul in Moscow. He is currently the speaker of the House of Representatives, and the chairperson of, and aspiring presidential candidate for Waddani.

The only criteria for UDUB’s presidential nomination, informally set by members of the central committee during those days, was to deposit US\$200,000 to cover campaign costs into an account to be co-signed by the party chairperson and the potential presidential candidate. This was a violation of party rules and regulations. When internal party conflict resolution initiatives and self-styled traditional mediation efforts failed, this case ended up at the Supreme Court, where Riyale’s wing (in support of Ali Warancade’s candidacy) won. This internal discord led to the UDUB party’s collapse.

It lost its coherence, and consequently failed to submit an application for registration as a political association on time to qualify for the 2012 local council elections.

The case of UCID

It is widely accepted that there was an unofficial

agreement between the UCID chairperson, Faysal Ali Warabe, and House Speaker and Member of UCID's Executive Committee Abdirahman Mohamed Abdullahi (Cirro) that the party chairmanship would be turned over to Cirro after the 2010 presidential election. UCID is seen as a party that belongs to the Garhajis clan, which consists of Warabe's Eidagale clan and Cirro's Habar Yonis clan. This narrow clan base contributed, at least in part, to UCID's 2003 and 2010 presidential election defeats.

After the 2010 loss, and a disagreement between UCID's leaders over the implementation of their unwritten agreement, the party broke into two factions – one led by Warabe and one by his Deputy Chairperson (the late Ahmed Mire Waqaf) and Cirro. This resulted in demonstrations, which sometimes turned violent.

Similar to UDUB, this case ended up at the Supreme Court when traditional mediation failed to resolve the conflict. Mr. Warabe's wing ultimately won the case. As a result of this conflict, UCID lost 27 of its 28 members in the House of Representatives to other political parties.

The major political outcome resulting from UCID's conflict was an amendment to the Political Association Law to mandate the recognition of new political parties every decade. Such a move aimed to prevent political parties from becoming clan vehicles, and encourage cross-party pollination with politicians and legislators moving from one party to another.

The case of Kulmiye

During the Kulmiye party congress in Burao in 2008, then-party chairman Ahmed Mohamed Silanyo and deputy chairperson Muse Bihi Abdi (now the Chairman of Kulmiye), agreed that if the party wins the presidential election, the chairman should hand

over the chairmanship of the party to his deputy. In a sense, this agreement contradicts the party's constitution which speaks of a more democratic selection process. Article 32(1) clearly stipulates, in regard to national elections and party structure, that "Members of the central committee who succeed in elections should keep their positions in the party until the party holds a congress."

President Ahmed Mohamed Mohamud (Silanyo), a UK-educated economist, was Minister of Commerce and Minister of Planning during the Siad Barre era. He is the former chairman of the Somali National Movement (SNM). He served as Minister of Finance of Somaliland during the late President Egal's administration. He is the founder of the Kulmiye party.

Muse Bihi Abdi (Somali: Muuse Biixi Cabdi) (born 1948) is a politician and former military Air force officer. During the 1970s, he joined Somali air forces and served as senior Military officer in Somali Air Force. Muse started his military career as a junior officer in the Somali Air Forces and raised to the rank of Full colonel. In the Mid 80s Muse defected from Siyad Barre' army and joined the Somali National Movement (SNM). After Siyad Bare was toppled Muse joined the political stream in Somaliland and headed the Ministry of Interior. In 2010, he was appointed the Chairmanship of the ruling party" Peace, Unity, and Development Party (Kulmiye) in Somaliland.

Abdiaziz Mohamed Samale is the former Finance Minister. Previously he was a teacher and businessman. He served as First Deputy House Speaker from 2005 to 2011.

When Kulmiye won the 2010 presidential election, President Silanyo handed over the party chairmanship to Bihi under the assumption that Silanyo would not contest the next presidential elections, and that Bihi would be Kulmiye's second presidential candidate. However, in mid-2014, it became acutely apparent that President Silanyo did intend to run again and Bihi's Sacad Muse clan and Silanyo's Habar Jeclo clan – perceived as Kulmiye's main power base.

The conflict not only spanned questions regarding presidential candidacy but also issues regarding the party chairmanship. The former Finance Minister, Mr.



Abdiaziz Samale, who also belongs to Bihi's Sacad Muse clan, announced his candidacy for party chairperson during preparations for the party's 2011 congress. This was seen also by Bihi supporters as a clear violation of the Burao agreement. The dispute has postponed the party's planned congress at least twice. Finally, the conflict was resolved through party mediation, and an agreement was reached that nobody would challenge Bihi for the chairmanship. Bihi was the only candidate during the party congress which was held in mid-2014.

Conflict emerged once again between Bihi and the president in June 2014, related to a disagreement between the two over their respective candidacies for the presidency in the upcoming election. This argument spilled over to the nomination of members of the party executive committee, which would ultimately decide the party's presidential candidate. At this stage, the party chairman, in consultation with his first and second deputy chairman, are tasked with proposing the members of the executive committee.

The executive created an alternative list that was eventually approved by the Guurti. The Guurti reached the following resolutions: first, that both sides should accept the outcomes of the 3rd Party Congress; and second, that the Somaliland constitution allowed the president to run twice as stipulated in Article 88(2):

“Term of Office – No person may hold the office of President for more than two terms; however, any person can run as a candidate within the party's central committee if he fills the criteria for candidacy of the party.”

2.4.2 Clan influence

Another obstacle to the democratisation process,

identified by participants in the pillar mapping exercise, was the salience of clan-based interests in the political system. The clan structure is an integral part of Somali society; its influence reaches all aspects of Somali life. While the clan system has been lauded for its role in resolving local and national conflicts, and mediating the formal responses of the executive – especially when it comes to minority representation – it is also acknowledged as a fundamental obstacle to the democratisation process. As one participant in the FGDs indicated, “The main challenge that democracy faces [in Somaliland] is tribalism.”

Clanship has evidently played a positive role in promoting peace. In Somaliland, the paramount authority bestowed upon traditional elders in peacebuilding and reconciliation processes has succeeded in bringing peace amongst warring groups, and securing and maintaining Somaliland's hard-won stability. The integral role of clans has also permitted the Guurti to remain protected from substantive reform, as other institutions have undergone in the democratisation process. The clan system, although not incompatible with democracy, can be problematic, especially when it undermines the constitution and established legislation.

As the clan system is still deeply embedded in political party institutions. Clan identities are easily mobilised by political party leaders to highlight differences and create widespread divisions. In some cases these differences might be real, but at times they are constructed and instrumentalised during the electoral process in order to achieve political advantage, leaving people disillusioned with democratic elections and disconnected from the process. With government officials keen to exploit clan loyalties, with politicking and coalition formation looking to clan power and numbers to achieve political advantage.

This was captured by one participant in the FGD who expressed, “There is a clanship [problem] in Somaliland and it will only end when the elected government stops using it first, and stops awarding high positions to politicians from the larger clans.

Now even the president appoints people because of their tribe.” As one participant in the FGD observed, “Clanism is a big challenge... especially in the last election. People were selling their votes, but were then not even voting for the candidates who bought their votes, instead voting for [candidates from] their own clans.” Such clan-based politics has polarised the population, dividing it into two camps – government supporters and the opposition – based largely on clan allegiances. The clans of the opposition party leaders are often disadvantaged in power-sharing and the distribution of public resources.

2.4.3 Electoral process

Participants in the pillar mapping exercise were concerned about that status of current preparations for the electoral process. They identified the lack of voter registration, civic awareness/voter education, and knowledge of how the presidential and parliamentary elections will be combined as key issues. Delays in the passing of key electoral laws were seen as the most critical challenges to holding the electoral process in a credible manner.

During the mapping exercise, APD discovered that most participants placed utmost importance on the full realisation of the voter registration process as necessary for proceeding with the upcoming elections. This was taken into consideration when

electoral delays were considered. In the democratic context, voter registration is supposed to ensure that the right to vote is universal, equal, and direct.⁷ Voter registration is a highly complex process for financial, technical, and political reasons. Accurate, transparent, effective, trusted, and accepted voter registration plays a critical role in delivering free, credible, and peaceful elections.⁸

Voter registration fulfils six functions:

- It provides information to assist with election planning and logistics;
- It protects the public's electoral rights;
- It determines eligibility criteria for participation in voting and the electoral districts;
- It prevents election-related fraud;
- It augments the transparency of the electoral process.⁹

Voter registration was not conducted for the 2002, 2003, or 2005 elections in Somaliland due to a lack of resources, political will, and technical capacity. In 2008, Somaliland conducted its first comprehensive voter registration exercise. The absence of essential instruments – a reliable census, demarcation of constituencies, an official birth registry, or national identity cards – posed serious problems for conducting a credible voter registration and negatively impacted the credibility and integrity of the voter registry once created.¹⁰

Multiple registration and voting occurred widely in 2008 without legal consequences. In addition, the level of awareness regarding the voter registration process was very low. Consequently, the registration

⁷Rafael Lopez Pintor and Maria Gratschew, *Voter Registration Turnout Since 1945: A Global Report* (Stockholm: International Institute for Democracy and Electoral Assistance, 2002).

⁸The registration process should have some of the following guiding principles and qualities: integrity; inclusiveness; comprehensiveness; accuracy; accessibility; and sustainability (institutional, financial, technical and technological, and political).

⁹Astrid Evrensel, *Voter Registration in Africa: A Comparative Analysis* (Johannesburg: Electoral Institute for the Sustainability of Democracy in Africa, 2010).

¹⁰APD, *Voter for Peace II*, 2010.

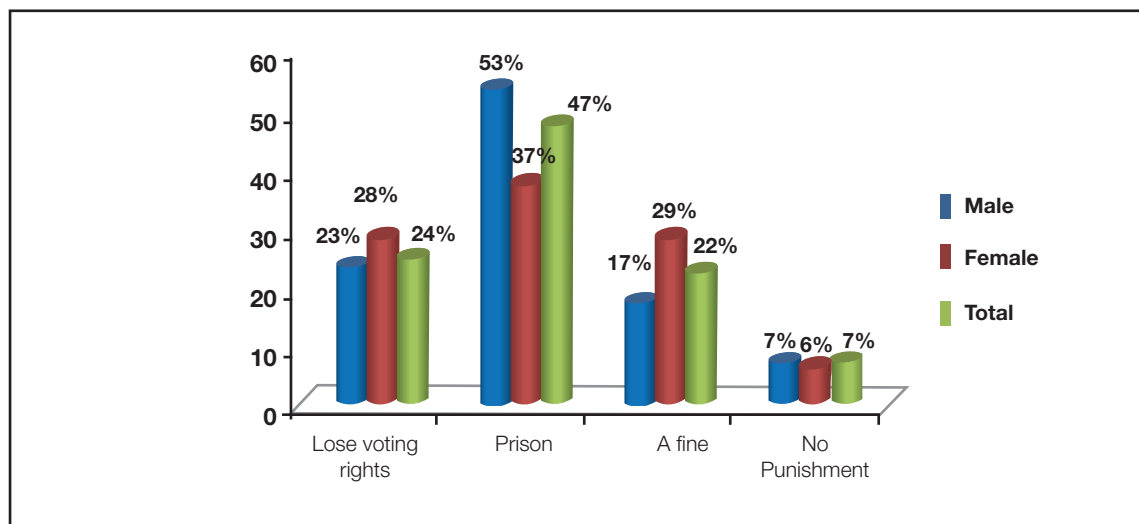
process led to widespread protests. Disagreements over its use postponed the second presidential election. Ultimately, stakeholders agreed that Somaliland would only use this voter register for the 2010 election. It was not used in the 2012 local council elections, and no additional registration process took place. Dissatisfaction resulting from the 2008 voter registration – strongly vocalised by civil society in the post-election period – put substantial pressure on government and parliament to ensure the creation of a transparent and acceptable register before any future election would take place.

Mindful of this, the participants in the pillar mapping exercise stressed the need to have a credible voter registration ahead of the upcoming elections. Some of the participants requested a full assessment of the 2008 voter registration process, including its key technical and political malfunctions, before commencing the new initiative. Most of the interviewed participants believed a voter register was the most fundamental element to holding credible

elections; this was reinforced in part because of their negative experience with previous voter registration process. As one FGD participant pointed out, “Voter registration ensures the right of all eligible voters to participate in the affairs of their government and is one of the cornerstones of democracy.”¹¹ According to another FGD participant, “Without a credible voter registration, multiple voting will happen and the credibility of the election will be lost.”

As one political candidate indicated, “I was elected through unfair means. My supporters voted multiple times for me and that is why I was elected.”¹² This experience of multiple registration resulting in multiple voting at election time has left people feeling that there should be some kind of punishment for those who register more than once. A NEC field study conducted from 22-23 June 2014 in two districts of Somaliland – Hargeisa and Baki – captured these findings following interviews with participants to test new technology to be used in the upcoming voter registration. APD was invited to participate in the field

Figure 1: What kind of punishment should those who register more than once be given?



¹¹Focus group discussion, Berbera, October 2013.

¹²Public workshop, Sheikh district

study to raise awareness and to conduct a survey gauging participants' perceptions of the registration process.

Findings from interviews with participants from both districts and across genders indicated a strong sentiment that people who register more than once should be punished. Ninety percent of interviewees supported this concept. However, people had varied responses as to what kind of punishment should be given to these individuals, as can be seen in Figure 1. When respondents were asked what kind of punishment they felt people who registered more than once should receive, the first choice for men and women in both districts was a prison sentence. The second strongest sentiment among men was that individuals should lose their voting rights, but the second strongest preference among women respondents was for a fine and a loss of voting rights. It was clearly visible that respondents felt strongly that people registering more than once had committed a crime and needed to be punished.¹³

2.4.4 Civic education

Informed citizens are an essential part of any democratic system. In order for the system to function, citizens and politicians must be well-educated on the ideals, values, and principles of democracy in order to participate in an open, democratic system. One of the main problems any new democratic society faces is ensuring that all citizens are well-informed and truly understand the democratic system.

According to a youth who participated in an FGD in Ainabo District, "Democracy is a system of the

people, by the people, for the people. This means that the people are expected to play an active and informed role in their government." An uninformed constituency creates a dangerous situation whereby voters are forced to rely on traditional Somali methods, as opposed to democratic ones, and are vulnerable to political mobilisation (to violence) along these reinforced clan lines. Having an inadequately informed populace on matters pertaining to the electoral or democratisation process risks creating a hostile environment, where election results can have a deeply polarising effect.

This shows the importance of emphasising civic education, which helps citizens to understand and embrace the power they have as participants in democracy, and to exercise their rights as taxpayers and voters. This process takes time. Somaliland is on the right track, but in order to keep moving forward, the government and the people must actively seek to evaluate, reform, and improve the system, employing lessons learned to inform practices and the reform agenda.

2.4.5 Electoral Processes

Parliamentary and presidential elections

As Somaliland prepares for its next set of elections, effective political leadership will be extremely important. Presidential and parliamentary elections will be held simultaneously. Since 2002, Somaliland's elections have always been held separately. Parliamentary elections in particular are long overdue. A parliamentary election was supposed to take place in 2010, but has twice been postponed. It is hoped that combined presidential and parliamentary elections

¹³APD, *Voter Registration Report, 2014*.



will be more cost effective than conducting separate elections, and will also help reduce the election fatigue of conducting three separate elections in each 5 year electoral cycle. Elections are not only expensive but risk distracting attention away from the more critical development and reform issues facing Somaliland. Nevertheless, a combined election also poses considerable challenges. First, a well-designed regulatory framework is essential, but the laws that govern presidential and parliamentary elections still remain incomplete. There is a need to formulate a comprehensive legal framework that can regulate both elections simultaneously with the least amount of confusion and redundancy. Second, the two electoral systems are different, with the parliamentary elections using a proportional representation system and the presidential election using a majoritarian system. Third, NEC has limited institutional capacity to hold two elections at the same time.

In April 2015, NEC announced a year-long electoral delay to allow for the full realisation of the voter registration process, and to ensure that the technical, financial, and political challenges inherent in holding a combined election will be managed. Combined presidential and parliamentary elections will be technically more challenging than separate elections, requiring a longer voting time than a single electoral event. In combined elections, each voter has to identify the correct party and candidate on two separate ballot papers, correctly marking these papers, and placing them in their respective ballot boxes.

This is a particular concern for the large number of illiterate voters. The tabulation of election results at polling stations will take longer as each of the two ballot papers will be separately counted, tabulated,

and verified. Disputed ballot papers in each electoral event will also need to be separately adjudicated. The likelihood that the announcement of results will be delayed needs to be adequately communicated to the public to lessen the risk of heightened tensions surrounding the electoral period.

At the local level, the two separate processes of tabulating and consolidating election results in each electoral district and electoral region will include adjudicating disputed ballot papers that were not resolved at the polling stations and addressing all election-related complaints submitted to the district and regional electoral offices. At the national level, only presidential election results from the six electoral regions will need to be consolidated, as parliamentary election results will be announced at the regional level.

Legal Reform

Somaliland has successfully held five elections since 2002 despite considerable legal and technical challenges. The June 2010 presidential election and the 2012 local council elections marked extraordinary success stories not only for Somaliland, but also the Somali region and the Horn of Africa as a whole. However, Somaliland needs to address inherent gaps in its electoral institutions and legislation. The current legal framework is weak, incomplete, and largely incoherent, and still-nascent institutions, namely the judiciary and political party system, require particular attention and assistance. Some increasingly urgent aspects need to be resolved ahead of the already-delayed parliamentary elections.¹⁴ Gaps and loopholes in the electoral legal framework are already visible from the political turmoil in the lead up to the elections. The suspension of the Voter Registration Law No.37/2008 and the cancellation of the earlier

¹⁴APD, Democracy in Somaliland: *Challenges and Opportunities* (Hargeisa: APD and Interpeace, 2014).

voter list by an act of parliament have further widened loopholes in the electoral laws. New laws now require Somaliland to complete a new, more reliable voter register before elections can be held.¹⁵

In response to the need for the Parliament to review, revise, and amend the current electoral laws, APD organised a consultative workshop which brought together key stakeholders, including the National Electoral Commission (NEC), the three national political parties (Kulmiye, UCID, and Waddani), the government (Ministry of Interior), the Parliament (Sub-Committee of Internal Affairs of the House of Representatives and the Guurti), civil society umbrella organizations (SONYO, SONSAF, and NAGAAD), and one international stakeholder, the International Republican Institute (IRI), all of which are involved in electoral law reform. The main objective of the workshop was for key stakeholders to decide upon a means to address electoral law reform, as well as to prioritise the electoral laws that needed to be addressed first.

The following electoral laws were identified as needing to be amended prior to the 2015 elections. The list also shows how the task force has prioritised the laws.

- Voter Registration Law
- Presidential Elections Law
- House of Representatives Elections Law
- National Electoral Commission Law (which is embedded in the Presidential Elections Law)
- Women's Quota Law
- Electoral Offences Law
- Guurti Elections Law

Not unsurprisingly, the stakeholders gave first priority

to the revision of the voter registration law. A task force was selected from among the participants in this meeting.

This task force was assigned to draft a voter registration law to be submitted to the House of Representatives for its endorsement. On 18 June 2014, the task force sent the revisions to the Internal Affairs and Defence Sub-Committee of the House of Representatives to analyse and discuss. However, this draft law was rejected by the House of Representatives, which insisted that the law should first be taken to the Council of Ministers, who should debate the law and then pass it to the House of Representatives. The draft law was passed to the Council of Ministers in July, and after a long delay a draft was returned to Parliament with revisions. The most controversial of these revisions was a new article that stated that the voter registration would only begin after the civil registration was completed.



Participants in APD's public forum

This revised law presented to the parliament began a heated dispute between the government and the opposition parties. The government argued that it was not possible to conduct voter registration (VR) without first ensuring that a civil registration (CR)

¹⁵Terms of Reference, Somaliland Voter Registration Field Study, p 1.



process takes place, so as to ensure that those registering are actually Somaliland citizens. The opposition parties disagreed, and argued that the government had already had a year to conduct a CR and had failed to do so. Moreover, they argued that previous agreements between the government, the opposition parties, and the international community had made it clear that the CR was a gradual process to be conducted over a longer period of time (falling under the mandate of the Minister of Interior (MOI)) and should not hinder the separate VR process (which would be overseen by NEC in coordination with donors). Rather, it was concluded that the two registration processes should be conducted through a “dual track process.”

There ensued a long battle of words and newspaper headlines, with little face-to-face dialogue. The resultant confusion, opposition parties have argued, was an effort by the government to delay elections in an attempt to extend their term in office. These allegations and counter-claims resulted in an impasse over the voter registration law. APD intervened and mediated behind the scenes, quickly introducing a lobbying strategy to restart dialogue between the disputing parties in an attempt to cool rising tensions and to find a resolution to push forward the election process. In order to ensure the government maintained ongoing commitment to good governance practices and honoured past agreements, including the dual track process for the civil and voter registration processes, APD formed a civil society coalition to pressure the government on the issue. APD called for a meeting to brief civil society on the dual track process and to facilitate the formation of a uniform civil society position on the issue. APD led civil society in a dialogue with President Silanyo, to clearly express their stance and to remind the government to abide

by its agreements.

APD facilitated closed-door meetings between civil society organisations and the three national political parties to address disagreements between the government and the opposition parties. Two separate meetings were conducted, one with the ruling party and another with the opposition parties. All three political parties committed to supporting civil society in their recommendations, which would be expressed in a position paper produced after both meetings. This paper made it clear that civil society organisations “fully support the...parallel processes of registration, each led by its mandated institution – voter registration by NEC and civil registration by MOI.”¹⁶

To further ensure consensus was reached among all parties, APD helped the three political parties and the government evaluate the tenets and mandates of the Civil and Voter Registration Law. After many negotiations and discussions, APD worked with the three political parties and the government to agree on a dual-track process, acceptable to all parties. These meetings succeeded in further strengthening the legal framework, as well as improving dialogue between various parties, creating a more harmonious political environment.

The scale of required electoral legal reform is considerable, and the formulation of these laws must be properly coordinated among key stakeholders of the electoral process to ensure that a comprehensive legal framework is in place prior to the next elections. Ideally, the reform process should aim to harmonise Somaliland’s electoral laws, and create a regulatory framework that is free from ambiguity, inconsistency, deficiency, and contradictions.

¹⁶Civil Society Policy Position on Voter Registration process, April 2014.

Seat allocation, constituency demarcation, and electoral formulas

A country's electoral system is crucial to its political stability, and to the effectiveness and efficiency of its democratic institutions. There are two main electoral systems: First Past the Post (FPTP) and Proportional Representation (PR). Somaliland, as a new emerging democracy, has adopted the latter. PR is a widely used system, seen as one of the fairest electoral models because of its formula for seat allocation. The main underlying principle is that every vote deserves to be counted and each political party should be represented in the legislature and in local councils in proportion to its strength amongst the electorate.¹⁷

Seat allocation, constituency demarcation, and electoral formulas are inter-related concepts. Seats cannot be allocated if there are no proportionally determined constituencies, and electoral formulas cannot be applied in the absence of the other two concepts. Therefore, it is very important that the determination of seats in a constituency should be guided by a well-designed seat allocation system.

Such a system is not fully in place in Somaliland. In the 2005 parliamentary election, the key stakeholders agreed that Somaliland would use the seat allocation formula from the February 1960 parliamentary election (based on the number of seats won per region). However, this was an ad hoc, short-term solution, and the issue of constituency demarcation remains unresolved. Some stakeholders are satisfied with the application of the 1960 formula, but others want a new formula based on the number of votes in each region. A sustainable institutionalised solution needs to be found before the parliamentary election.

Inclusive politics: political participation of women and minorities

It is important for women to have an equal opportunity for representation and visibility within the political system. There have been ongoing debates in Somaliland, particularly among women themselves, as to what level of participation women should have in politics and what mechanisms should be used to secure this representation.

Some women argue that if women want to participate in politics, they should be brought forth by the support of other women, not through special protections like a quota system. This was repeatedly voiced by many women and men in APD's NPGM forum. Other women at the meeting argued that since it is unlikely to happen more organically due to cultural norms, a quota system is necessary to facilitate equal access to the political arena. Given the importance of women's involvement in the political sphere, special attention needs to be paid to how this can be achieved and how it can best be locally-owned. It is imperative that the strategies used are sensitive to Somaliland's religious and cultural context. The Guurti has allegedly been the biggest obstacle to implementing a quota.

Minorities suffer from a cycle of discrimination and exclusion from national, political, and social life in Somaliland with limited access to political power and social services. Adequate representation of minority groups in politics, leadership, and decision-making processes is an important factor in breaking this cycle of inequity and establishing a properly just, democratic, and peaceful society. It also helps to lessen the weight of often disproportionate levels of poverty and other impediments to the full enjoyment

¹⁷L. Van Eck, SE Visagie, and HC de Kock, "Fairness of seat allocation methods in proportional representation," *Operations Research Society of South Africa* 21, no. 2 (November 4, 2005): 93-110.



of civil, cultural, economic, political, and social rights.¹⁸ Properly promoting stability, peace, and integration ensures meaningful and informed participation by minorities, especially in matters that directly affect them.¹⁹

For a government to be truly representative and therefore democratic it must account for the rights of all groups, not just the dominant majority. Including minority groups into the political arena can enhance the prospect of democratic development, and removing divisive aspects within society which enable individuals to work as citizens of the country rather than as members of their specific ethnic groups.²⁰

Since Somaliland's inception, complaints of major clan dominance and minority underrepresentation in the executive and legislative branches have been acute. In Somaliland, minority clan members are adversely affected as political parties remain primarily clan vehicles. As an unidentified interviewee from Burco expressed, "People discriminate against those of us from a 'low caste' and we don't get equal opportunities. All discrimination is wrong and you don't have to put up with it. If you feel you're being discriminated against, you should do something about it."

A participant in the FGD from Odeweyne stated that, "'Low caste' people are all over the place in Somaliland and yet we don't get our rights from the parliament. You are discriminated against for being from a different clan." An unidentified respondent from Caynabo said that "The 'low caste' clans have

a lot of problems. First of all, they are not confident enough to run on their own, so instead they vote for others. Society itself won't encourage them to do that. I recommend that those clans reach for and search for their rights."

Some minority groups see political inclusion – being able to fully participate in politics and governance and being represented in important decision-making processes – as a necessary precursor to social and economic equality. Responsibility for the inclusion of minority groups in political processes belongs to both sides.

The onus is not just on the minority groups themselves to advocate for their rights and exercise them at every opportunity, but also on the majority group to open up space for minority voices to be heard.²¹ Little concerted effort has been made by the government to ensure minority representation, especially for the eastern border areas. The inclusion of minorities in government has to be a joint initiative to succeed. Majority groups must not stay quiet on the issue of minority inclusion, as apathy can be just as damning as outright discrimination.

3.0 DECENTRALISATION

The Somaliland Constitution, ratified in a referendum in 2001, laid the foundation for devolving powers from the centre to the local level. This was followed by practical steps aimed at institutionalising the decentralised governance structure. The 2002 local election was a landmark event in the process of decentralising authority,

¹⁸OHCHR, *United Nations Forum on Minority Issues: Compilation of Recommendations of the First Four Sessions, 2008-2011*, http://www.ohchr.org/Documents/HRBodies/HRCouncil/MinorityIssues/Forum_On_Minority_Pub_en_low.pdf.

¹⁹See footnote 15.

²⁰*World Movement for Democracy, 2004, What's Being Done on...Enhancing the Political Participation of Minority Peoples*, <http://www.wmd.org/resources/whats-being-done/political-participation-minority-peoples>.

²¹See footnote 17.

creating local governments whose core constituted elected councils. Prior to the local elections, local governments consisted of appointed mayors and secretaries. Yet, even with the local elections, the process suffered from poor implementation due, at least in part, to a lack of needed political will and bureaucratic inertia.

As a result, throughout the decade following the 2002 election, local authorities suffered from weak human resource and administrative capacity, which resulted in perceived diminished legitimacy and authority. During the pillar mapping exercise, the general public voiced their disappointment with the weak performance of their elected local representatives. Explanations for the deficiencies ranged from elected officials' lack of prior experience and proper educational qualifications to graft and bureaucratic bungling. Following the 2002 elections, it became clear that the vast majority of new local councillors lacked the managerial skills and experience required for running the complicated business of a typical local government. Without rigorous capacity building most of these new councillors were not well-positioned to promote change.

Between 2002 and 2012, various attempts to hold new local council elections were made, to no avail. Delays resulted largely from political and technical complications. On 28 November 2012, almost exactly ten years after the first local vote, the people of Somaliland went to the polls to elect the second generation of local councillors in post-conflict Somaliland.

The hope was that, equipped with experience, the electorate would vote for mature, well-educated, conscientious candidates whose readiness for the job was ensured through a rigorous, pre-election screening and vetting process.

Two important factors indicated otherwise:

1. An amendment made to Electoral Law #20 in 2011 lowered the minimum age of local council candidates from 35 to 25 years, opening up new political space for young candidates with little or no prior experience;
2. The direct election of candidates rather than through party listing triggered increased competition among constituent clans.

Another challenge that decentralisation continues to face is that it intensifies clannist politicking, multiplying the opportunities for clan-based political conflict to erupt. Such political conflict, previously confined to national processes, has now been partially devolved to the local level.

Despite these concerns, over the course of the past twelve years, one of the most critical achievements in the decentralisation process has been power-sharing among elected council members from different political parties. Most of the elected council members feel that they do not have any problems working peacefully with elected council members from different political parties. Besides political pluralism at the local level, the decentralisation process has given the local communities the tendency to focus on local autonomy that allows for greater interaction between local government authorities and the constituent communities. Through different programmes, APD has supported the promotion of active citizenship and civic awareness for local communities so as to raise awareness of their civic rights and obligations. Generally, since the first local elections in 2002, constituent communities have gained some degree of responsibility over local development issues, even though there are many gaps that still need to be addressed.



3.1 DECENTRALISATION PROCESS IN SOMALILAND

The involvement of APD and Interpeace in supporting the decentralisation process in Somaliland goes back to 2003 after the first generation of local councillors took office. In January 2009, APD and Interpeace launched the Pillars of Peace I programme (PoP I). In addition to democratisation, this new programme featured two additional thematic areas: decentralisation and social reconciliation. Building on both long involvement and experience with Somaliland's stakeholders, decentralisation was identified as an important element to Somaliland's peace- and state-building process. During three years of implementation (2010-2012), the decentralisation pillar achieved the following results:

- Formulation of a decentralisation policy;
- Enhancement of democratic processes and promotion of civic leadership at the local level;
- Enhanced public understanding of the decentralisation process;
- Cultivation of public support to the decentralisation process;
- Building local accountability;
- Capacity-building for traditional elders;
- Promotion of concrete inclusion for women and minority representation in local council in the second local elections.

The premise behind decentralisation is to improve the provision of basic public services and resource allocation, and enhance government transparency through the creation of accountable administrations at the local level. Decentralisation would also bring the administration closer to the people and give citizens the necessary influence and buy-in to influence decision-making and improve inter-clan trust and national harmony. The potential advantages

of decentralisation are seen in both democratic and developmental terms as it brings the government closer to the people, providing greater public oversight and influence on local public affairs, with local government perceived as more inclusive and responsive to local needs. However, experience so far indicates that the anticipated benefits have not yet been fully realised and that progress has been slow.

An important step in the decentralisation process was the appointment of the Vice-President of Somaliland to be the champion of decentralisation. In this capacity, the Vice-President provides the necessary high-level political support to the implementation of Somaliland's decentralisation agenda. Soon after the appointment, the formulation of the decentralisation policy started – a process that was recently concluded with the adoption of a national decentralisation policy for Somaliland in August 2014.

3.2 DECENTRALISATION: AS A PILLAR OF PEACE

As an initial activity of the PoP II programme, the APD team carried out a national pillar mapping exercise in the last quarter of 2013. The exercise highlighted the continued importance of decentralisation for peace- and statebuilding in Somaliland and elucidated citizen perceptions' regarding key issues facing decentralisation in Somaliland.

3.3 ISSUE AND CHALLENGES

Throughout the mapping exercise, discussions with different stakeholders (involved in the decentralisation process) generated a list of key challenges currently impeding the full realisation of decentralisation in Somaliland.

3.3.1 Council-constituent relations

According to stakeholders, consultations between the local councils and the public were at best insufficient, at worst non-existent. Participants estimated that the lack of effective communication between the elected councils and their constituents was one of the main reasons for inefficacy. The basic idea is that by bringing representatives closer to the people, decentralisation leads to more accountable governance and more effective, targeted service provision. So while standard arguments about the benefits of decentralisation focus on increasing effective service delivery, government transparency and accountability, it became evident that there is still room for improvement before the promise of decentralisation is fully realised.

Minimal civic education on decentralisation, and the lack of direct sensitisation by the councils, has not encouraged community buy-in or active participation from the public. Some members of the public have become disillusioned with their councillors, whom they regard as ineffective and disengaged. This is often the case because the local council candidates, eager to gain votes, make election promises unaware of their own responsibilities and capacities as councillors. Once the election is held, the interplay between electorate and candidate comes diminishes and other routines take over; and the local councillors no longer feel obliged to maintain communication between the electorate and candidates. This attitude of councillors was commented on by one of the activists in the FGD. In her estimation, "During the local elections, the council candidates were close with their communities, in an attempt to earn optimum support from the clan constituents, but once the candidate won the council position they never looked back to their electorate or engaged the public through the media."

According to some local council members, the public perception – that local councillors prioritise personal ahead of community needs – has led to widespread mistrust of councillors. A councillor expressed his personal feeling, "I think the local council members find it difficult to understand people's perceptions. Viewed from my own experience, there are at least two main reasons: firstly, citizens do not trust that local councils will not respond to their demands unless they have vested interest. And secondly, people are not curious to understand the agenda and what is going on in the council's office, so the relationship is blurred." Thus, councillors feel at a loss as to how to effectively communicate with constituents.

3.3.2 Public Participation

Successful participatory processes require the existence of certain preconditions, such as: basic awareness of rights (including the right to participate), capacity to mobilise and act collectively, and the ability to communicate with government representatives. However, the ability of the Somaliland public to engage with councillors is evidently constrained by lack of awareness of their own civic rights. Many FGD participants showed a good understanding of the theoretical benefits of decentralisation. Yet, the problem lies in translating theory to practice – in how the mode of communication is to be facilitated, and what Somalilanders can hope to gain from participating in local politics. A woman of the civil society in Borama said the following, "The poor relations between the public and the council-led local government can be attributed to Local Government Authority's failure to reach out to the local communities and give them their role in local governance."

In order to realise popular participation, it is necessary to build trust among constituent communities, that their interests will indeed be represented and acted



upon by their elected representatives. So, further work, time and resources are needed to develop the environment conducive for effective participation beyond just voting.

Across Somaliland, the level of community participation in the activities of the council is generally low. During consultations with representatives from different councils, it became clear that the local councils' interactions with the community were negligible or non-existent. While some local councillors claim to be open to the public and responsive to its suggestions, most councillors encourage little participation from their constituents – unaware of their responsibility to engage and represent. In the few areas (Borama and Gebiley) where public meetings were reported, those members of the public who attended were preselected by the councils and did not pose any questions to challenge the activities of the council. Given the lack of council's propensity to reach out to local constituents, local communities feel that decentralisation has not yet had any palpable impact or benefit. As one member of a local women's organisation said, "The elected councils do not truly represent devolution of power to lower tiers of government, it only created chaos in the local government. The councillors do not understand that they took an oath of office to serve all the constituent communities equally. Instead they feel indebted or bonded to their clan elders who might have helped them find their way to the council seats."

3.3.3 Public access to information

It appears that improved public access to information could empower local communities to seek out participation in local government affairs. Since decentralisation was adopted in Somaliland, public

access to information and people's participation in local governmental affairs has improved, but only marginally. Information flows from local councils to citizens is mostly one-way. Meanwhile, citizens' curiosity in their local governments remains weak. Generally, information sharing mostly occurs through informal processes of word of mouth and discussions within local communities. However, rumours spread easily, sometimes fuelling miscommunication between local councils and communities which can be counterproductive to the aim of local government. Public dialogue between leaders and citizens is not yet in the form of regular and honest exchange or consultation; instead suspicion and mistrust, and in some cases fear, dictate constituent-council relations. Moreover, neighbourhood committees that were supposed to be venues for information sharing between the public and the local governments have not been successfully implemented.

Although FGD participants in the consultations shared the view that local councils have limited capacity in addressing all problems facing local communities, they purported that enhanced honesty about the council's capacity would help build public confidence in the elected local councils. The participants in the FGDs were also keen on the importance of direct contact between local legislators and citizens. However, the FGD participants were divided on what type of relationship councils should have with its citizens. This was expressed by a clan elder in Burao who highlighted the importance of council-constituent relationship "The elected council was supposed to advance decentralisation, but they do not feel accountable to the local communities at large, the public do not feel that they have authority over the councils."

3.3.4 Community identity

In Somaliland, weak community cohesion can be attributed to a political culture characterised by mistrust and fragmentation. Local communities are unable to balance clan loyalties against the need to measure the impartiality, accountability, and transparency of elected councillors. One important pre-requisite for public participation is to transform mistrust between communities into peaceful coexistence – so as to convert indifference towards public affairs into positive engagement.

In addition, the absence of a common vision and purpose of a community role in decentralisation process has had a negative impact on the citizens' understanding of their rights and obligations, and what they should expect from their elected leaders. Often when local councillors consider the idea of accountability or responsibility, it is largely in relation to their own clans. Even though the large majority of clan members are unlikely to derive any benefit from having a clan member in political office, there is a collective sense of pride in knowing that fact, and there is always an expectation that he or she will protect the interest of the clan. This is illustrated in a comment by a member of neighbourhood committee in Hargeisa, "The local community is fragmented as individuals; they have not been sensitised about the importance of collective identity and the sense of ownership is also missing from the local communities."

3.3.5 Accountability

Accountability is a fundamental building block for democratic governance at all levels. Accountability enables citizens to monitor their elected leaders and, ultimately, to use their votes to reward those

who perform and punish those who do not deliver on their promises. In Somaliland, accountability and transparency are generally weak, and citizens are unaware of their rights and obligations. This weak sense of accountability is based on a political behaviour defined by traditional channels of political participation where clan is the primary collective identity.

It is rare in Somali political culture that power holders are forced to account for their use of authority. Power holders do not expect to be asked, and ordinary people do not easily force power holders to answer for their actions. This culture is a serious impediment to the promotion of democratic decentralisation. According to consultations with stakeholders, accountability mechanisms remain relatively opaque. Local councils and people may not well understand the concept of accountability in a democratic and decentralised system of governance due to the strong legacy of top-down relationship. The low revenue base and the dependency on periodic central government transfers have tied elected councils to upward accountability instead of to tax-payers among the local public.

However, it seems that with the promotion democratic decentralisation, enhanced accountability and reciprocity in the relationship between elected councils and the local communities is slowly emerging. This will likely alter a traditional political order in which local government authorities feel only checked from the top. The local communities now acknowledge that local elections need to be matched with increased opportunity for direct participation. As was noted by a university student in Gebiley, "a precondition for accountability is an interaction, a two-way exchange between those demanding accountability and those being held accountable. The local communities



Community members watching a film screening during the mapping exercise by the APD MAVU team



Women representatives participating in a focus group discussion



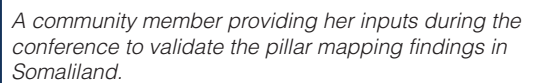
APD's AVU team member recording an elder providing his input during the conference to validate the pillar mapping findings in Somaliland



A focus group discussion during the social reconciliation pillar mapping exercise



APD utilised films to spur discussions in the focus group discussions





should understand that they have the right to demand answer from elected officials.”

To build a good relationship between elected council and constituent communities, each party has to understand its role and obligations to the other party. Currently, the lack of clear understanding of the mandate of the local councils on the part of the constituent community creates confusion and distorts the relationship between the two entities. This is, in part, due to the process through which councils are brought to power, namely through clan support rather than through a merit-based process, often with little or no attention focused on the capabilities or political agenda of the candidates. As a result, neither political candidates nor the public know against which agenda and promises political candidates can be held accountable to after being elected. Some councillors feel that the only people they are accountable to are their clan members who brought them to power. This was illustrated by a councillor in Berbera who said, “I do not care about accountability relationship with the general public, my clan community voted me into office, I am in no way liable to the public if I want re-election my clan is still there.”

So even though local councillors are obliged to be impartial, councillors are often inclined to give priority to helping members of their clan rather than treating everyone equally. As the accessibility to council leadership is often difficult, people prefer to meet councillors as individuals rather than in a wider community dialogue. One possible explanation is that given the political culture of Somaliland, public officials are more likely to be approached as patrons – someone with whom they have a kin relationship. This was expressed by a woman activist in Borama, who described how councillors do not understand the responsibilities of their positions, how they must represent the interest of all people in the local

community, not just a select few.

Thus, the conflict of interest between clan allegiance and the political mandate of local governments constrains local councillors from enhancing accountability and promoting broad-based local legitimacy.

3.3.6 Transparency

Accountability is fundamentally interlinked to transparency – the extent to which the public has access to information about local governments’ revenue sources, use of funds, and activities. Generally, the participants in the FGDs acknowledged that the lack of awareness or information about local council activities severely hinders government accountability. According to participants’ responses, there are various reasons why local communities are unaware about funding sources and confused about the financial procedures of the local governments. On the one hand, the local governments do not inform the public about the sources of funding as the budget is strictly confidential to local government authorities. On the other hand, it is estimated that local communities lack the necessary interest and curiosity. Furthermore, there is no legal framework that guarantees public access to information. As one civic activist in Erigavo indicated, in an effort to emphasise the importance of information in order to monitor local councils – “Unless the public is given the opportunities to be knowledgeable about what is going at the local government and how much of the resources are there for the public expenditure, they can hardly monitor the performance of the local councils.”

3.3.7 Council capacities

Many councillors in the FGDs expressed frustration

about constituents' unrealistic expectations or misperceptions about what councillors are capable of providing. In broad terms, elected officials' limited knowledge and experience of governance impedes their ability to successfully carry out the role for which they were elected. Most of the elected officials lack the necessary administrative experience and management skills to successfully run a local government. The majority of elected council members covered in this research, particularly those in the eastern regions of Somaliland are not adequately qualified. Many have only a primary school education, or no formal education at all which makes it difficult for them to understand and refer to the applicable laws and regulations of local governance and communicate effectively with local constituents. There is an initiative by the UN Joint Programme on Local Governance (JPLG) to build the leadership and administrative skills of the elected officials, but this programme is so far limited to seven out of the 17 districts, with Sool and Sanaag left out due to limited access and prevailing insecurity.

Although the Regions and Districts Law (No. 23) stipulates that elected local councils are supposed to have the authority to collect local revenue, there are gaps within the existing law. These deficiencies hamper local councils from fulfilling their duties as mandated. There is little collaboration between local government authorities and tax payers in tax collection. Despite the evident local councillors' failure to convince the public of the importance of paying taxes, the local councillors simply attribute the weak revenue collection to public prejudice against the taxation system instead of reflecting on the quality of service delivery. In spite of these limitations, the incumbent elected local councillors view decentralisation as influential in creating local political competition and pluralism. According to one elected councillor, "The good thing about decentralisation reform is that there

are many political parties in local elections competing with each other for positions, forcing them to be more accountable and more committed to the people."

However, what both the councillors and other participants in the various FGDs agreed on is that elected councillors do not have enough power to generate revenues and be responsive to the people's needs for services and infrastructure. Many councillors blame the central government for withholding the power to generate local revenue – keeping revenue centralised in Hargeisa – which, in effect, incapacitates local governments to better respond to the demands of their voters. The local councillors generally stated that the best way to manage citizens' complaints when their election promises have not been fulfilled is to explain and to be honest about why they have been unresponsive. Yet, lack of communication was still highlighted as a key gap in constituent-council relations. Some councillors in the FGDs indicated that there was little motivation to fulfil promises, as they could safely depend on clan support for future elections. However, other council members disagreed, and were more responsive to local complaints, and understood that they had to be receptive to constituents' complaints when promises were unfulfilled.

Many local council members also hold the view that local communities are outcome and material-oriented and uninterested in engaging in wider discussions on issues of transparency and accountability unless the resulting actions will be of direct benefit. Some councillors complained that the public often ask for assistance that falls outside a legislator's responsibilities such as requests for employment or direct financial assistance. So while this perception gap is hard to close (in part, due to lack of capacity to respond to constituents' needs), local councillors are not taking the necessary communicative steps to



bridge the gap between reality and expectations. In other words, the most effective way to ensure that citizens understand what their council can do for them is to allow the constituent communities to voice their demands to local councils and be answered in a sincere way.

3.3.8 Citizens' conception of council capacity

Participants in the FGDs and in some of the individual interviews expressed mixed views on the existing capacities of the elected councils. Generally, people believed local council members were well-aware of the situation in the districts and not operating blindly. Some indicated that misinformation or lack of community consultation was deliberate. On the other hand, other participants blamed the constituent communities for not seeking information on their civic rights that would give them the opportunity to participate in local government affairs. As one citizen in Burao said "Most of the local council members were born and grew up here in the district. They know the situations and people well. However, it depends on their capacity whether they help us or not. Most local council members channel information and work closely with their clan communities."

Citizens expressed concerns about the level of education of local councillors. It was seen as an important issue since education plays a crucial role in enabling local council members to perform effectively, make plans and analyse laws and regulations. As some people noted in the discussions, people expect local council members to initiate development activities in the districts without people explicitly asking for them. As one participant pointed out, "The local council's capacity depends on the educational capacity of each council member. I know nearly all of the local council members in this district. Some of them are

illiterate, while some only know how to read and write, which is a bit of a constraint on them in analysing the laws and policies for community development. I agree they can learn by doing and gain experience at the same time, but with this limited education they cannot initiate new ideas for development."

3.3.9 Councils' understanding of role

Both the FGD and IDIs revealed high expectations on local governments, which when confronted with inexperience, incapacity and a lack of understanding of their roles and responsibilities create a strained relationship between local communities and government. Prior to the local elections in 2012, the candidates had misconceptions about what councillorships entailed in terms of remuneration, relative influence in comparison to the central government and overall mandate.

As candidates, councillors expected to have significant influence over decision-making processes in the local government. In reality, however, the decisions are predominantly confined to the executive body of the local government (mayor, deputy-mayor and the executive secretary). Thus, the realisation that other councillors were relatively powerless led to considerable frustration especially for those who had committed large amounts of financial resources to the election, or had given up decent jobs in the anticipation of better life. As a countermeasure, the mayor often forges alliances with as many councillors as he/she can to counter opposition. A member of Borama council staff has explained such intra-council conflict "as premised on the council's preconception of their roles. All the councillors besides the leadership (mayor and the deputy mayor) converge in the mayor's office and try to involve whatever decision is trying to make in that day."

It was clear from FGDs with stakeholders that local council candidates envisage equal benefits for all councillors. With the exception of the leadership (the mayor and deputy mayor), all other councillors in the districts interviewed expressed a sense of frustration in serving as councillors under the current mandate.

Consultations with councillors also revealed that, prior to election, they were not well-aware of their primary role as elected leaders to serve the public. Their preconception was often that the councillor position offers prestige, as well as financial rewards. It was also clear from the discussions that many councillors were not aware of the roles and responsibilities bestowed by the Districts and Regions Law (No. 23). The councillors were also confused about the functions of the council as a collective body and the responsibilities of the individual councillor independent of the collective. In the words of one councillor, "We had misunderstood our roles as legislators and instead we thought we would all undertake new administrative positions in the local government authorities."

In a country that is undergoing significant transformation towards more democratic and decentralised governance, citizens expect that locally-elected officials are better placed to respond rapidly to local needs in terms of material output and that they are more likely to be aware of local situation than officials appointed by, and resident in, the central government. However, councillors have, thus far, failed to live up to these expectations, weakening the relationship between elected representatives and citizens. As a result, some members of the local communities disillusioned with their elected councillors see them merely as an extension of central government at the local level.

One of the critical roles of decentralisation is building effective local democracy by equipping elected local

authorities with sufficient and meaningful means to effectively represent their constituent communities. In Somaliland, the determining factor of success relates to how demands are posed and how consistent they are with the ability of elected councillors to deliver. Yet, most of the councillors in the FGDs expressed either a lack of willingness or capacity to respond to local needs and expectations. They justified deficiency in responsiveness with their lack of capacity and resources, as few or no resources are allocated from central government to support local government, and that revenue collection at the local level is insufficient to support the local government.

Local councillors' responsiveness to their electors' demands depends, among other things, on consolidating their efforts in solving pressing local issues. Consultations with some of the mayors and council members showed that they are confident and understand the community context well, especially in terms of citizens' living conditions and the grievances and demands of local communities. While they underlined the need to increase resource allocation and local-ownership of revenue collection, as key to enhancing local councils' responsive, those councillors interviewed did not indicate an interest in looking into other factors that would increase responsiveness, such as the ability of local councils to attract funding and projects from different sources, and their ability to mobilise people for the development of the community. It became evident from the discussions that the perceived primary obstacles to the local council members' ability to increase responsiveness in promoting development is the low revenue backing from central government and lack of people's awareness on the limitations of local government. As a councillor explained, "We know the situation well enough, but we lack the funding to make all the demands happen. We cannot just stay quiet without responding to their wishes; we must explain



to them the reason for not being able to respond. Otherwise people will be angry with us and will not vote for us in the next council election. We cannot keep our promises to them. We just keep proposing their demands to non-governmental organisations in the district.” Enhanced civic education for both councillors and constituencies is required to promote increased consultation and communication between both parties.

3.3.10 Factionalism and inter-council conflicts

Competition between clans does not stop at the official announcement of the local council election results. Faced with a new elected leadership, clan representatives seek new alliances to further their interests as newly elected councillors. Clan elders become instrumental in trying to consolidate the prominence of their clan in the local government.

If one clan or sub-clan does not secure single majority, it seeks the coalition of another clan to secure the position of mayor and with it the leadership of the council. Sometimes securing the mayoral position obliges reciprocated support of the coalition for the position of deputy mayor.

The positions of council leadership (mayor and deputy mayor) are often contested between majority clans in the area. Adherence to basic democratic principles is often undermined by clan interests and politics; and receptiveness towards transparency and accountability often goes missing. With few outlets for impartial dispute resolution, the process often creates deep rifts between the losers and the winners of the council leadership that continues to exert influence over conflict dynamics in different ways. Intra-council conflict is likely triggered by the following factors:

Clan spirit

In the political culture of Somaliland, clan or sub-clan majority in electoral districts is directly related to political power in a given district. Once elected, councillors feel indebted to clan supporters who mobilise votes for the councillors during the local elections (and are firmly reminded of this privilege by clan leaders); as a result, councillors often see their position (as owned by the clan, not the government) as a means to mobilise state resources and capacity to push forward positions visible at the local government authorities by pushing forward personal clan and personal interest. The competing clan-inspired interests spark conflict between the district's leadership and its council.

Inexperience

Most of the participants in the consultative mapping exercise agreed that councillors often lack prior administrative experience, or the necessary educational background and understanding of the local needs. As a result, they often fail to properly understand the legal frameworks guiding the work of local governments and how it translates to local dynamics, which in turn results in disagreements between communities and councillors on roles and responsibilities.

3.3.11 Personalised power by the mayor

The mayor stands out as a leader in the eyes of the council, the media and the public; and he uses that recognition to garner considerable local support. Some councillors see the mayor as divisive in fuelling conflict rather than as unifying elected officials in the council. Lack of communication and strained relationships between the mayor and his councillors characterized intra-council conflict dynamics. In

many districts, when people talk about council authority, they are often only referring to the mayor. This is because, in most cases, the mayor possesses all decision-making power. This gives the impression that the mayor often acts unilaterally, not delegating functional authority to the local council.

Some participants in the FGDs pointed out how the personality of a leader is critical to the way that power is exercised. In their estimation, the mayor should be neutral and make a concerted effort to open up space for dialogue with local communities, facilitating a cordial relationship within the local council and between the local council and the community.

These participants further stated that given the mayor's relationship with the council, public and media, the mayor is best placed to raise issues or problems for consideration, promote awareness of important concerns and seek understanding across the district.

However, some participants felt that the discord between the mayor and the council – stemming from intra-council power wrangling – prevents the mayor from fulfilling this role, and alienates some council members whose support is needed in achieving goals for local development. As one school principal said, “A good leader is needed. He or she must be very patient with all of the challenges and withstand all the problems that eventually occur. Leaders should avoid being corrupt, too greedy and arrogant. This society lacks face-to-face interaction, especially between authorities and the people. Good leadership depends on the personality of the leaders. If you are soft and nice, people will feel comfortable living with you.” During consultations, it was evident that some people recognised changes in the structure and efficacy of district leadership since the local council elections

in 2002, in particular towards less authoritarian and more participatory bottom-up approaches.

Although the majority of FGD participants agreed that having councillors from different political parties was good for checks and balances of power, participants expressed mixed feelings about whether local communities actually feel more comfortable with elected mayors, rather than appointed ones. This perception is driven, at least in part, by a strong mistrust that any elected councillor – not of their clan – would protect their interests.

The public also expressed its concerns on the leadership styles of the mayors. Representatives from civil society in the FGDs held a common view that the mayor does not provide leadership responsive to elected councillors or supportive of their exercise of democratic control, but instead pitch the district councillors against each other to elevate their own position. As one resident in Burao expressed, “The mayor always tries to secure the support of simple majority of the local councils, when he misses out the support of the council he tries to reshuffle the council through clan allegiances.”

Currently the power of the mayor is under constant challenge from other elected council members who seek to profit from the mayor's failure to act as a team player. One of the primary complaints was the absence of power sharing, as was noted by one of the councillors: “The power the mayor possesses is in administration and other important services. It seems that he does not share it with other elected councillors from different political parties. No clear responsibility is given to other councillors. All power rests with him. This is not decentralised democracy because the boss always controls everything.”



In separate interviews with mayors, it was evident that they understood the importance of being a guide and of promoting interaction between the councillors and the mayor. As one mayor said, “The mayor has unique potential to expand the level of understanding and improve coordination among the stakeholders in the local governance process.” Despite all these misunderstandings and mistrust, mayors expressed optimism that working relationships between the council and the mayor will improve over time.

However, a complaint that mayors expressed was that councillors instead of trying to work out their differences with the council leadership, often aired their grievances in public, making reconciliation and constructive engagement more difficult, pushing the mayor into defensive position.

3.3.12 Limited powers conferred to local councils

While some participants understand why power is not properly devolved to elected councils – and the constraints that make them unable to exercise power properly – constituent communities are still deeply confused about how much, and what sort of, power has actually been devolved to the local councils. A local political activist explained: “Personally, I see that the council lacks devolution of power from the central government. Perhaps it is too early to make such an assumption on the evolution of local administrative reforms. However, to make local councils work effectively, power must be devolved to them according to the law. Another challenge for local councils is the capacity of local council members. They need to have sufficient capacity to articulate laws and think creatively for the sake of the community.”

People agree that local councils are mandated to take

over local governance issues. During consultations, some local councillors purported that the biggest challenge they face in the decentralisation process is not only the lack of capacity to carry out their responsibilities, but the lack of power to implement their job responsibly or preside over certain key issues. This was most evident in relation to disputes and conflict resolution at the local level – particularly in relation to land-based conflicts. For instance, local governments do not have a formal mandate to deal with pressing local issues, like dismantling illegal enclosures which threaten the livelihood of pastoralist communities particularly in the western, Awdal region of Somaliland. Local government does not have enough police to enforce laws.

A group of councillors in one FGD collectively argued, that the main “constraint we are facing is lack of real power to implement our job as the elected councillors. Formal courts do not exist in some districts and districts councils which would have been the only legitimate governance institutions to which citizens turn for conflict resolution.

Due to this vacuum many cases are submitted to the local council office, and people need councillors to get involved in solving the problems, but we do not have formal authority to solve the conflicts. Because of this delinquency conflicts accumulate every month, making people view elected local councils as unresponsive and popular participation becomes less.”

A large percentage of elected council members feel that they do not have power as stipulated in the relevant legal frameworks. There are two types of power that elected council urgently need in order to be responsive and accountable to voters: Power to generate local revenues (taxes) and power to protect

common grazing lands from illegal land grabbers in rural districts. Delegation of these two important powers has yet to happen – held up by different institutions of the central government. Generally, the decentralisation policy states natural resources will be considered a common asset of all people, regardless of the location or value of the natural resources, and will be utilised for the benefits of all citizens of Somaliland.

Some elected members complained that still after almost twelve years since the inception of the decentralisation process, the only real power delegated to elected councils consists of routine administration and related activities that do not deal with major local development activities. In Erigavo a councillor gave the following statement, “The central government is withholding power from the local government, if decision making is allowed at the local level, the final decision still rests with the regional office of the ministry, resulting in potential for conflict among the constituent communities.”

Local councillors feel that the powers conferred to them do not match with the expectations of the local communities. They share the view that the decentralisation process has brought local government services closer to local communities, but there are still gaps in the powers of local elected councils to be fully responsive to the needs of the local constituents. A councillor in one FGD described, “Decentralisation up until now is getting better in terms of power sharing among councillors from different political parties [and, to a certain extent, from the national government to the local level]. Power is important for elected local council members to be responsible and accountable to people. In general,

councillors share the feeling that they do not have power they are supposed to have in carrying out their duties.”

Councillors in the rural districts are much more explicit about their inability to protect pastoral resources of the districts – particularly reflecting the councillors’ frustration with lack of authority or mandate particularly on security related issues. This problem is evident in Ainabo and Balligubadle where severe land grabbing is ongoing, and where local councillors complain about the lack of sufficient police to settle land-based conflicts. In these areas, councillors blamed the central government for intentionally depriving local government of the security forces necessary to maintain law and order in their constituency. This was expressed by a councillor in Ainabo, “The central government is not sincere in implementing decentralisation process. The current problems in the districts are lack of police force to deal with tax evasion, charcoal burning and illegal enclosures. If the central government is true to the decentralisation it will deploy sufficient police force.”

A Balligubadle councillor reinforced this viewpoint – “Illegal enclosures cover most of the pastoral areas of the district; it is a threat to the livelihood of the constituent communities. The dismantling of these enclosures is beyond the local council capacity, because the required police force to enforce our decision is not at our disposal.”

From the above information, one could conclude that local councillors do not believe they are given the necessary resources to fulfil their mandate and respond to their constituencies’ needs, and ensure security for their constituents.



3.3.13 Further marginalisation of peripheral areas

The elected district councils are to represent all the communities in the district – both urban and rural. However, when the councillors take office, they often focus their attention on the district capital – urban areas – not on the less accessible rural populations. In service delivery, the residents of the district capital are often privileged over rural communities. In essence, district councils often function as town councils – concentrating their activities in the main town of the district. As a result, rural villages often feel betrayed by the local council which they voted to represent their interests at the district level. Thus, the discord between local communities and councillors is even more pronounced in rural villages.

The principal local government law, the Regions and Districts Law (No. 23) stipulates that the lowest rung of the decentralisation process in Somaliland is the village committee which is to be appointed by the district council. But eleven years since the inception of the decentralisation process, much remains to be done. During local elections, candidates for the local council positions lobby for votes, making generous election promises to the rural villages. However, once they take office they often abandon the causes of the rural communities.

3.3.14 Proliferation of political districts

Since the inception of multiparty competitive politics in Somaliland, the decentralised system of governance has been dominated by central-level political machinations – undermining decentralisation's promise for expanding local democracy, bottom-up governance and efficient service delivery. The decentralisation process in Somaliland is particularly

vulnerable to undue political influence exercised for short-term gains. A good example of this kind of political expediency trumping good governance is the formation of new regions and districts. This has led to a proliferation of economically unviable districts. As a result of limited local revenue capacity at the district level Somaliland runs the risk of excessive decentralisation. This contributes to the lowering of real economic growth. The new districts are about four times in number to those existing before and were hence considered legitimate districts. The ratification of these new districts has not yet taken place, but any attempt to reverse their nomination as real districts would in all probability cause a political backlash against the incumbent administration. To accommodate temporarily the ambitions of the constituencies of these districts, the Ministry of Finance has allocated a monthly grant for each of these political districts that could otherwise be injected into local development for the legitimate districts.

3.3.15 Structural deficiencies in the decentralisation process

The decentralisation process has been going on in Somaliland for more than a decade. Yet, in practice, promises of decentralisation still focuses on structural, as opposed to functional, changes in the sub-national system of governance. During the field research of the mapping exercise some of the local councils raised concerns regarding the structural deficiencies relating to difference between their de facto ability and the powers conferred to them by the constitution and the existing legal framework for decentralisation. The national decentralisation policy approved in August 2014 is set to address some of the deficiencies noted in this chapter. For instance, within the implementation process of the policy, a

border commission with the mandate of demarcating the administrative borders between the districts is to be appointed.

The policy also entails mechanisms to reach out to rural villages by establishing villages committees representing the lowest tier of decentralised system of governance. Meanwhile, the decentralisation policy will serve as a foundation for the focus of the decentralisation pillar.

3.3.16 The role of civil society

In order to strengthen the decentralisation process, local elections need to be complimented by increased opportunities for broader civic participation. If the public is enabled to influence decision-making processes and gain access to information, the likelihood of the public seeking accountability from its leaders is increased. This can be achieved, in part, through a more robust civil society. Strengthening accountability and transparency requires the emergence of a civil society that is capable of engaging effectively with local governments and representing the disadvantaged.

Local NGOs are concentrated in the major cities; thus, rural areas are underserved by both local and international NGOs. Somaliland civil society suffers from a range of constraints – including perceptions that civil society is deeply politicised and corrupted by the executive. Lack of accountability and adequate transparency measures, a tendency toward vague and ambiguous mandates and low impact of activities are additional concerns voiced by participants. The sector is also poorly regulated and co-ordinated by Somaliland authorities, implying there is little co-operation and partnership between government and CSOs. Another argument put forward by participants

for civil society incapacity is a persisting “culture of silence” preventing people from voicing their concerns, and hindering more widespread open democratic debate.

Poverty is also a key factor for the lack of participation from the majority of the population. People who are preoccupied with covering their basic needs are less inclined to participate and organise themselves in collective civil society activities. A representative from local NGO provided his vision on the role of civil society in the following statement: “An effort to increase the depth of democratic decentralisation should be made through the interaction of civil society organisations, such as NGOs and CBOs, with the elected councils. Good interaction between NGOs and the elected councils would improve the accountability, responsiveness and capacity of councillors.”

Clan elders and traditional and religious leaders are perceived by a vast majority of the population, especially in rural areas, to be the main source of governance. They have primary responsibility for land management and dispute settlement, co-existing with Shari’a and secular courts, to provide justice. Considering their privileged position and power, many of these cultural leaders are therefore hesitant to lend their support to the establishment of new councils, or to mobilisation of communities to take a more active role in enhancing local governance measures. Some religious groups have emerged as providers of relief, education and justice. Some CSOs have provided an avenue for women to participate in public life; others are a platform for advocacy on human rights and gender issues. However, civil society's capacity to leverage a positive influence on political leaders is rather limited, especially at the local level where the intervention of these actors is needed the most. This is



a result of inexperience and limited knowledge about broader political contexts; the general lack of effective intervention strategies and limited capacity to conduct civic education activities at the grassroots level are additional challenges. These deficiencies contribute to undermining citizens' opportunities for understanding the principles of democratic governance, particularly with respect to decentralisation.

3.3.17 Cooperation among CSOs

Apart from a few bigger organisations that have a larger trans-regional presence, most of the local NGOs carry out activities only within Somaliland proper; civil society's capacity to operate in the eastern borderlands is particularly weak. In assessing the levels of cooperation among CSOs and local governments, and the perceived importance of cooperation, the following aspects are noteworthy:

- A lack of formal and informal information-sharing among CSOs leads to overlapping or badly-coordinated projects. A major factor which limits information-sharing is competition (for funds) and mistrust among CSO representatives;
- The majority of CSOs and most of the available funds are steered by donor policies and, thus, driven by interests that are not locally-owned;
- Activities in rural areas are constrained by logistical factors – lack of mobility for staff to make field visits – and the poor communication facilities of CSOs and beneficiaries;
- Coordination is restricted by the limited human and financial capacities of the CSOs, with only a few permanent staff and considerable done by volunteers. Only the few international NGOs have permanent offices with modern office infrastructure;
- The various CSOs have differing management

structures and cultures, and operate in different thematic areas.

All CSO representatives acknowledge that better coordination is very important in rendering civil society more effective and efficient. Yet, it seems unrealistic to expect voluntary overall coordination or even the formation of an umbrella body at the regional level, given the competing interests of CSOs and the present fragmentation and small number of CSOs in the various thematic areas.

3.3.18 Cooperation between CSOs and local governments

Both parties acknowledge that cooperation has improved, but that a lot of work still remains to be done. Until recently, local governments had limited human resources and no financial means of supporting or contracting services from CSOs. However, this situation may change with increasing fiscal decentralisation and local democratisation. It is projected that growing democratic culture will pave the way for increased cooperation between CSOs and local governments, but CSOs' role in the decentralisation process has yet to be fully realised. The decentralisation process agenda-setting and decision-making as mainly been driven from the centre with an eye to donor interests; the aim is to devolve power and financial resources to local governments, but progress remains slow. Making CSO staff and management more professional could help them gain credibility as viable partners. This would require a more stringent application of good governance principles within civil society.

To overcome the great mistrust between the local governments and civil society it is essential to improve cooperation via new measures such as through cooperative policies or by thematic alliances.

Further strengthening of CSOs via selective fostering of human capacities and measures to achieve greater financial independence from foreign donors will be vital to improve effectiveness, sustainability and good governance within these organizations.

Despite these consistent challenges, the status of CSOs has improved in Somaliland in recent years and their influence has been felt more actively in the past few years; yet, bolstered trust between civil society and local governments is required. Civil society is still extremely sceptical of local politicians, which reflects a lack of general will on the part of local councillors to change their attitudes towards civil society. As a businessman in Hargeisa recommended, "Both CSOs and LGAs need to understand each other's roles. They need to map common interest that support local development and provide a framework for investment in social and economic areas (e.g. public sanitation and care of marginalized groups)."

3.3.19 The influence and needs of CSOs

Needs and priorities of CSOs differ according to the age of the respective organisation. CSOs older than five years expressed the following priorities in upgrading their professional skills as:

a) fundraising; b) media communication; and c) project management. The younger organizations see the need for: a) financial management; b) local community buy-in; and c) fundraising. Most CSOs also see a need to upgrade their skills in special areas (e.g. proposal writing and networking). Some older organisations see no need for further training. They highlighted that value added by new training and workshops will decrease if no new funding mechanisms for specific projects or core CSO funds can be developed.

The main concern for the majority of CSOs is the sustainability of their financial sources and how dependency on foreign donors can be reduced. Given the high poverty levels still prevailing in the regions of Somaliland and the absence of big enterprises, there is only limited scope for replacing foreign donations with local finance in the coming years.

It is likely that LGAs and central ministries will have to contribute significant sums in future through subsidies, financial support or project/programme-related grants to the provision of clearly specified public services. Such support or procurement would have to be based on a transparent legislative mechanism at the national level.

4.0 SOCIAL RECONCILIATION PILLAR

4.1 SOCIAL RECONCILIATION: AS A PILLAR OF PEACE

The Social Reconciliation Pillar (SRP) is based in Burao, the second largest city in Somaliland, and the capital of Togdheer region. It is responsible for improving social reconciliation and harmony through participatory conflict management aimed to resolve current conflict and prevent the outbreak of future conflict. The SRP contributes to the formation of reconciliation processes that help to strengthen and maintain peace and tranquillity within Somaliland, and provide Somaliland society with the necessary mechanisms to deal with conflict in non-violent ways.

In the first phase of the Pillars of Peace (PoP) programme the SRP played an instrumental role in facilitating the development and passage of the Somaliland police law, which creates an enabling



environment for effective policing governed by an agreed-upon legal framework. Following a participatory consultative process – facilitated by the SRP and its steering committee – there was a concerted effort from the SRP team, and members of the concerned parliamentary committee, to foster a process that would lead to ratification of the law. Roadblocks along the way at times resulted in fierce debates within the government, as well as among society. Despite these challenges, the bill was eventually passed by parliament and signed by the president, making it a working legal document.

4.1.1 Current challenges to peace

The two major drivers of conflict in Somaliland – as identified by participants in the pillar mapping exercise – related to conflict over scarce natural resources (including land) and a perceived inability of the government to effectively manage or mediate these conflicts.

Land conflict:

FGD participants repeatedly emphasised conflicts over land as a major recurrent problem in their respective communities. Land grabbing, formation of enclosures, ownership disputes at boundary zones of clan settlements and a transition away from traditional land management techniques were all cited as key issues.

Institutional challenges:

Several factors were identified as contributing to the perceived inability of the government to consistently solve these conflicts. For one thing, the government often lacks the expertise or know-how to mediate such land-based conflicts. An insufficient legal framework – and ambiguity over the mandate of traditional versus political institutions in conflict mediation – poses an additional challenge for dealing with inter or intra-

communal disputes. Government involvement can also politicise a conflict, as its interests, or perceived interests, may be seen as corrupting the process. In addition, the government may simply just lack the means to adequately mediate in accordance with legal procedure. For instance, the lack of firm records or evidence hampers the ability of the government to verify land claims.

Other challenges identified by the mapping included:

Unequal distribution of political power:

Government resources are not perceived to benefit all clans equally. This generates discontent and leads to clan-based competition which causes tension in the political system and wider society.

Natural resource-based conflict:

Large scale charcoal production relies on taking huge areas of forest, a provocative measure which in itself can lead to conflict. Environmental degradation caused by charcoal production strains livelihoods and can also contribute to conflict over large swathes of territory. Petroleum exploration can also lead to violent confrontation between clans who are vying for a stake or control of the land being explored.

Proliferation of districts and regions:

Creation of new districts or regions is a way for clans to consolidate power, which creates another arena for conflict, particularly when boundaries are not well-defined or understood by local communities.

The judiciary:

Misconducts of justice are often contributing

factors to conflict. The judiciary faces many challenges, including inadequate skills and resources, demonstrations of clan-based favoritism and a lack of coherence or interface between itself and traditional justice mechanisms.

Deterioration of social cohesion:

According to available statistical data (UNDP settlement survey), one quarter of settlements in Somaliland experience at least one major peace threatening dispute annually, which is approximately one peace threatening dispute each day in Somaliland.²² In order to mitigate and prevent disputes, effective conflict resolution mechanisms must be further developed to achieve broad societal acceptance.

The research conducted by APD highlighted the gaps and challenges of simultaneously implementing modern, as well as traditional conflict resolution mechanisms, in Somaliland. Mediation efforts have historically been the domain of traditional leaders. Yet, the political sphere has clearly impinged on custom, with government officials now taking lead roles in mediation efforts.

4.2 LAND-BASED DISPUTES

The large majority of inhabitants in Somaliland are either pastoralist or agro-pastoralist; thus, the survival of their livelihoods is almost completely dependent on land preservation, climatic conditions and their ability to use and manage human/environmental relations in a way that preserves the

environment and secures its use by all. The causes for existing land-based disputes in urban and rural areas are frequently different in nature, and need to be addressed in targeted manners. In urban areas, disputes arise over individual land ownership, while rural land disputes usually occur over communal land at the borders between clan territories.

During the pillar mapping exercise FGD participants heavily emphasised the issue of land-based conflict in general and their observation of its steady increase within Somaliland in particular. Deeply-rooted in feelings of marginalisation and clan mistrust, land-based disputes in Somaliland are increasingly seen as indicative of an ailing society, and pose one of the major obstacles to the achievement of lasting social reconciliation. Violent conflicts, migration and involuntary displacement are all symptomatic of increasing land-based conflicts involving direct confrontations over access to key natural resources such as land and water.

4.2.1 Urban land disputes

The issue of land-grabbing within urban areas tends to ignite confrontation between clans, intra-clan families, individuals, and government. The breakdown of the central government of Somalia in the beginning of 1991, and the power vacuum that ensued, created an enabling environment for extensive looting and chaos. It led to widespread land-grabbing in urban areas, where private and public land was seized by individuals and. During this era, the communally-owned land in and around urban centres, including government owned buildings and land plots, were looted and resold. During this time, land became

²²UNDP Settlement Survey data analysed by Somaliland Ministry of Planning- Criteria Based RDP Prioritization, Development Research Paper presented by Ahmed Diriye during the Somaliland Reconstruction and Development Plan (RDP) Midterm Review held at Ambassador Hotel, Hargeisa, Somaliland, February, 2010.



the most profitable industry in Somaliland. As a result, murkiness regarding land ownership – lack of title deeds and high numbers of squatters – has perpetuated land disputes. Conflict over public/private land continues. The following four cases, as heard during the discussions, illustrate the range of actors and issues involved in urban land disputes:

Case 1: A land dispute between the Somaliland military and members of a family over land occupied by a military base in Hargeisa caused armed clashes between the army and the clan-based armed group, which ended in the death of four, including three army members. The arrested members of the clan-based armed group received the death sentence.

Case 2: The Ministry of Health and Hargeisa Local Government notified families to vacate a building/housing compound (occupied during 1990s) in order to renovate it to become Hargeisa Children's Hospital; there was one casualty as the civilians clashed with police.

Case 3: A number of citizens lost their lives in a land dispute between the government and civilians near Burao airport. The land for the airport had since been settled by civilians; when the government began to retake the land and build a demarcation fence, squatters took up arms against the government, resulting in several deaths.

Case 4: Currently, there is a land dispute between the Somaliland government and the owners of the land around the Hargeisa International Airport; the owners of the farms at the south of the airport claim this as communal land, inherited from their ancestors.

The government has faced considerable challenges in re-taking control of government-owned buildings and land-plots in Hargeisa (while it continues to sell off others). Typically in such cases, the government will provide monetary compensation or an alternative home or building in a new location, but if this does not work, then force is often used. Local governments are also frequently involved in such disputes and litigations over plots of urban land.

Although land enclosures (Ceshiimo in Somali) are typically associated with rural areas, they also exist in major cities (including in Hargeisa, Burao, Berbera and Borama). Enclosures are created when people fence and claim ownership of large swathes of land for animal grazing or commercial purposes, often public land fenced off for private means. According to one FGD participant, both central and local governments issue licenses for fencing (often for 15 km or more) to individuals, mostly members of the Diaspora and business communities, making public land private. Additionally, land disputes are further fuelled by individuals forging ownership documents. According to one participant, "It is common practice for individuals to grab land and forge illegal documentation claiming it as their own. The local government authorities often do not ensure the legality of the documentation, and in some cases corroborate and condone the illegal occupation of land for financial gain."²³

4.2.2 Rural land disputes

Competition over scarce resources is a major source of conflict in rural areas. Illegal charcoal production, unsustainable water well creation and enclosures exemplify this problem.

Charcoal production:

Clans, particularly those that reside in Sanaag,

²³APD interview, *traditional elder, Saahil, March 2013*.

use armed violence to secure large areas of forestland to be burned to make charcoal. This can lead to an escalation of land grabbing, and consequently to clan conflict.

Well creation:

Digging a well is a way of claiming ownership over a piece of land; since other clans need permission to use the well they can interpret the construction of a well as a provocation.

Enclosures:

The fencing of public land for private use means that it is no longer available as a common resource. Given that land is so critical for Somaliland livelihoods, this practice inevitably causes tension and often leads to conflict. (See below section for more detail).

All of these issues present a zero-sum situation where one clan will clearly benefit at the expense of the other. Bigger clans usually win in these situations because they have more resources to mobilise and ability to enforce their claims. In addition to environmental degradation, such land-based conflicts and competition over increasingly scarce resources put considerable strain on livelihoods. The Kalshaale conflict is a case study that illustrates how rural land disputes can escalate into long-term conflict:

4.2.3 Enclosures and land grabbing

According to FGD participants, enclosures are a major source of land disputes. In many cases, the creation of new settlements (through the use of enclosures) is decided by clan consensus and typically occurs without any sort of prior authorisation from government or consultation with other local communities.

The Kalshaale conflict erupted after three cemented underground water wells were dug by one clan, the Habar Jeclo (Solomadow sub-clan) in a grazing area between Buhoodle and Qorilugud. The Dhulbahante clan (namely, the Ahmed Garad sub-clan) contested the water wells claiming the grazing land as their own. Skirmishes ensued between the two clans, leading to military intervention by the Somaliland government to restore security in the Buhoodle region.

An FGD participant sheds light on the magnitude of this issue, stating that: "In the Sanaag region, clans are in a competition to enclose or fence as much land as possible for farmlands, grazing and strategic water points. These lands are being privatised all over the region by sub-clans without the authorisation of government or other clans in the area. This often results in conflicts at clan boundary areas, and ceasefires are almost always brokered, but the ownership claims are usually left standing."²⁴

In a few cases, FGD participants emphasised how enclosures were personal property because they secured them through their own efforts, building the fences themselves or with the help of family and friends. Creating and maintaining an enclosure requires an investment in time and money, and thus increases the feeling of ownership. Participants also highlighted their inter-familial obligations towards enclosures, which tend to be used by a whole 'Raas' – the lowest level of clan grouping, that of a sub-sub clan. All members of that 'Raas' will have access to and an obligation to protect the enclosure.

Land grabbing to create enclosures is a major source of conflict and enclosure owners often contest encroachment towards their enclosures. Creation of enclosures occurs for both agricultural

²⁴APD focus group discussion, youth participant, Sanaag, March 2014.



and pastoral reasons, and can cause conflict both when two groups want to use the same land for a similar purpose (eg. cultivation) or when two groups want to use it for different purposes (eg. cultivation vs. grazing).

Various conflict issues related to enclosures were highlighted by FGD participants:

Stray animals:

When stray animals jump into enclosures, the owner of the enclosure may kill or maim the animal, which can result in violent confrontations between the owner of the enclosure and the owner of the livestock. This violence can escalate into inter-familial or inter-clan conflict.

Canals:

Enclosure owners may squabble over the placement of canals between enclosures, and these disputes can flare into wider conflicts.

Unclear boundaries:

Enclosures are not created based on a plan, and therefore have no sketches depicting their defined boundaries. They also have no legal standing, and thus are easily disputed.

There was a particular emphasis placed on the lack of governance and regulatory frameworks, which create an environment conducive to abuse of public as well as communal land:

“Enclosures occur within communities which share grazing land, natural resources, and water. The absence of effective government policies and laws make it difficult to ascertain boundaries.”²⁵

“Examples of our communities sharing land, natural resources, grazing and water are numerous. However, the enclosed space occurs, because of an absence of law which clarifies the tenure a community will share natural resources, water, and grazing land area.”²⁶

“The lack of land management systems is the root cause of the problem; individuals take advantage of that, and show no regard for customary or statutory law. Instead of individuals contesting the unlawful enclosures, the government should clearly differentiate what is public and private land.”²⁷

4.2.4 Proliferation of Districts and Regions

Another factor which contributes to recurrent conflict is the proliferation of newly created regions and districts – based primarily on clan interests – which negatively affect the unity and trust of society. Since 2008 there has been an increase in the number of regions from six to fourteen. The former government, led by Dahir Rayale Kahin, announced many new regions and districts. Recently, this practice has also been used by the administration of President Silanyo to introduce the Xaysimo (Taleh) region (formerly part of Sool).

The new drawing of regional boundaries seems not to be based on a prospective region’s ability to raise revenues and be self-sufficient, but to appease clan demands. The creation of new regions is seen as a way of generating jobs and increasing political seats, resources and prestige – consolidating the power of a clan. Clan control over land is also a major motivating factor when it comes to the formation of new districts and regions, and disputed boundaries of these new

²⁵ADP interview, *regional Informant, Sanaag, November 2013.*

²⁶APD interview, *employee of Tesla Logistics, Togdheer, May 2014.*

²⁷APD focus group discussion, *youth participant, Hargeisa, April 2014.*

entities can also underlie and exacerbate quarrels over water and fertile land.

Furthermore, districts are often left in limbo since they do not know to which region they belong. This makes it hard to exert authority over issues like tax collection or landownership. People are reluctant to pay taxes when they are not certain which authority exercises power in their district/region. This has caused competition over collecting less formal “taxes/tolls” at checkpoints in certain areas.

4.2.5 Institutional challenges

The government has had a particularly difficult time presiding over land disputes, in part due to institutional weakness, and due also to a diffusion of responsibility (assuming that traditional actors would deliberate). It has at times directly exacerbated land disputes, for instance by issuing duplicate land tenures. During the mapping exercise, FGD participants pointed to the inadequacy, corruption and unfriendliness of the government institutions which deal with land management, conflict resolution or adjudication over land-based issues. An FGD participant questioned the government's inability to control land or the resulting conflict, saying, “Firstly, what does the government control? Government is supposed to control land and people, but land is no longer in the hands of government, therefore it cannot govern over land issues. Actually, the government manages land only theoretically, through the law, whether in towns or in rural areas.”²⁸

Several factors were identified as contributing to the perceived government inability to consistently

solve these conflicts. For one thing, a lack of records hampers the verification of land claims, and an insufficient legal framework poses additional challenges to issues of mandate. The absence of certain oversight committees (or land administrations) and deficiencies in certain existing ministries and systems of land governance (for instance, a judiciary unable to preside over land disputes) poses additional obstacles. It is also estimated that civil society – as well as the opposition – have not played the desired role in lobbying for greater oversight and accountability when it comes to land issues – making it difficult to formulate strategic mechanisms to mitigate conflicts arising out of land disputes.

Land grabbing was a repeated concern in the FGDs. The government lacks the institutional capacity to assert its prerogative or to intervene effectively and definitively. This can be seen in the comment of a traditional elder from the Sanaag region: “Enclosures are a major problem in the Sanaag region, mainly because the management of public land has disappeared since the fall of Siad Barre's administration, and the judiciary is powerless to adjudicate on the matter.”²⁹

Government involvement can also further politicise a conflict. Historically, land issues were solely the domain of traditional elders; however, recent developments have seen the creation of hybrid government institutions such as the House of Elders (Guurti) – made up of elders that are well-versed in Somali customs and the Islamic Shari'a – that has a constitutional mandate to intervene in peace threatening situations. The Guurti usually mobilises to mediate disputes in co-ordination with the executive

²⁸APD interview, *traditional elder, Maroodi-Jeex, March 2013.*

²⁹APD interview, *traditional chief, Sanaag, November 2013.*



(eg. cabinet ministers); yet, the individuals chosen to represent both branches of government often hail from the clans entrenched in the dispute. In such cases, the fact that these representatives are not disinterested has a negative effect on their ability to mediate and deliver a decision acceptable to all parties.

4.3 DISPUTES OVER NATURAL RESOURCES

Issues related to water, charcoal production and petroleum exploitation were identified by the pillar mapping research as common flashpoints for conflict, consequently posing a threat to Somaliland's peace and stability.

4.3.1 Water and pasture disputes

According to the Somaliland National Development Plan,³⁰ the people of Somaliland determined livestock and water as their developmental priority. Therefore, the scarcity of water and the gradual environmental degradation, which decreases grazing land and pasture, will remain a major cause of conflict in Somaliland, specifically in rural areas. In recent years, limited rainfall and water scarcity has resulted in an increase in clashes.

One of the main economic resources in Somaliland is livestock; however, periodic droughts and water scarcity has threatened grazing land, leading to conflicts between pastoral groups, and between pastoralists and agro-pastoralists. The latter is

increasing as pastoralists, in search of good grazing land and water, encroach upon cultivated agro-pastoralist land. An FGD participant from the Sanaag region stated: "The issues that arise here quickly turn into clan disputes, which warrant the government to intervene over miniscule issues such as two clans which are disputing ownership of grass."³¹

A major factor that contributes to conflict over water and pasture is the violation of customary law for water and grazing. Such a violation occurs when land – that has been traditionally designated for grazing – is used for wells, or when communal land is turned into a new village by a clan without the agreement of neighbouring clans. If one party wants to build a well in a grazing area, this essentially makes it a settlement. Yet, building wells without prior consultation would break customary law (xeer) on how clans share natural resources.

4.3.2 Charcoal production and export

In the last two decades, charcoal production has intensified and continues to destroy Somaliland's fragile environment. The Somaliland government has banned the export of charcoal; however, due to challenges with implementation, this ban has not succeeded in effectively halting exportation. The Somaliland Ministry of Environment and Rural Development has on numerous occasions expressed concern over the steady increase of charcoal production and usage, and the link to recent droughts and the desertification of Somaliland's terrain.³² The massive destruction of trees will have profound environmental consequences for nomadic families,

³⁰<http://www.longlivesomaliland.com/Draft%20Somaliland%20National%20Development%20Plan.pdf>.

³¹APD interview, a member of civil society, Sanaag, November 2013.

³²http://sabahonline.com/en_GB/articles/hoa/articles/features/2012/12/06/feature-02.

who have shown deep concern about the diminishing trees and vegetation. This has led to recurrent conflicts between nomadic communities and charcoal traders. Moreover, the continued use of charcoal has negative impacts on the health of the majority female users.

Increasing poverty, coupled with rapidly growing demand for charcoal from Saudi Arabia and the Gulf States has made the export of charcoal a growing means of livelihood, especially for unemployed young men. The steady demand for charcoal by Gulf States has led charcoal traders to arm local nomads to gain control over the charcoal industry, leading to sporadic armed clashes. According to an FGD participant, “Charcoal traders have amassed significant wealth which they invest in attaining weapons to arm local youth groups. On a weekly basis they destroy more than a thousand trees in this district; and are a major issue in the entire region.”³³

4.3.3 Petroleum exploitation disputes

Small oil exploration companies have been looking to Somaliland with interest, and several of these (Genel, Ophir Energy, Prime Resources, Asante Oil and DNO) have signed agreements with the Ministry of Energy and Minerals. Genel Energy became the first company since the 1980s to commence exploration activities within Somaliland. They signed exploration firms, such as Tesla and Olive Group, to carry out activities on its behalf, and these firms began operations in the Ainabo district in late 2012. However, one year later operations were halted prematurely, without an official statement by the exploration firms or Genel. Security concerns were later cited by the firm, although it was estimated political and legislative ambiguity regarding concession rights were also a key factor.

The pillar mapping exercise also revealed additional challenges in the initial stages of petroleum exploration which sheds light on the withdrawal. A local employee working in War-Idad village mentioned some of the challenges experienced in the course of exploration activities: “The exploration companies stationed in eastern Somaliland evacuated the exploration site prematurely, due to numerous issues – security concerns, discontent within the local community, and a lack of government engagement beyond the initial stage. It seemed as if the government did not conclude the required preliminary groundwork to begin oil exploration.”³⁴ Oil exploration kick-started a competition among local businessmen to secure service contracts with the exploration firms, which further exacerbated longstanding tensions between sub-clan groups in the War-Idad area. Easy access to arms provided further fuel to the fire.

Rising local discontent – regarding the lack of transparency and co-ordination between the government and the petroleum exploration companies, and lack of communication between the government and local communities – coupled with the lack of security provisions to safeguard petroleum exploration sites, led the company to leave in 2013. As an FGD participant stated, “The government and the petroleum exploration firms did not publicise the nature of their agreement, all we were told is that petroleum exploration will be conducted.”³⁵ A general sentiment reiterated by participants in the course of the pillar mapping exercise was the desire for more information, and transparency from the government. Because of the lack of information from the government, groups opposing exploration activities were more easily able to misinform local community and derail exploration process. A youth

³³ADP interview, *regional Informant, Sanaag, November 2013.*

³⁴APD interview, *employee of Tesla Logistics, Togdheer, May 2014.*

³⁵APD *focus group discussion*, youth participant, Hargeisa, April 2014.



FGD participant in the Togdheer region expressed resentment over the employment recruitment methods used by the government and exploration companies: “The youth population within Somaliland are confused and want to know why employment opportunities were not publicised in the media, and we deserve an explanation.”³⁶

Due to misunderstandings and mistrust, clan militias have clashed with security forces in the War-Idad area. An FGD participant elaborates: “Traditional elders in War-Idad voiced grievances over the number of employees from the local community, and environment degradation caused by the exploration activities. The exploration firm (Tesla) was not able to meet the demand of the elders, which led to an attack on a Tesla owned vehicle (shots fired).”³⁷ Since there is no natural resource law or regulatory framework, such disputes have stalemated with little action from the government. The government hopes that with the creation of the Oil Protection Unit (OPU), the companies will return and recommence operations; however, further safeguards are needed to protect local communities. Natural resources such as mineral wealth have the potential to provide significant sustainable employment opportunities in conflict-affected settings, but only if managed effectively. Otherwise they can simply become additional flashpoints for conflict.

4.4 POLITICAL REPRESENTATION AND SOCIAL COHESION

In terms of political reconciliation, the pillar mapping exercise identified unequal power-sharing in government institutions and the deterioration of social

cohesion as major challenges to peace and security. In Somaliland, clan interests play a vital role in the political arena, and Somaliland’s type of democracy is sometimes referred to as a “clan-ocracy”. This means that members of government are often elected or appointed based on clan affiliation – through a careful strategy of maintaining clan balance – that brings political competition and power-sharing back to the clan level. An upset to this balance, if a clan feels unrepresented or that it is not receiving its fair share of the pie, can lead to considerable political turmoil. The need to accommodate more clans has caused the cabinet of the current administration to expand from 24 to 47 ministers.

Yet, such a political system based on clan-based accession weakens the social fabric of the polity and the trust among clans; government resources – and government control of contracts, purchases and employment – are often perceived as benefiting one clan over another. This also occurs at the regional level, with officials lobbying for the interests of their individual clans and frequently making hiring decisions that benefit their clan.

Clan representation (or underrepresentation) was frequently mentioned by FGD participants; the perception is that the nation’s key political seats – as well as the largest companies – are mostly occupied by members of the largest clan in Somaliland, the Isaaq. This is seen as disadvantaging other major clans, those aligned with the opposition, or those residing in the non-Isaaq border areas (particularly the clans inhabiting Sanaag and Sool). In Sool and southern Togdheer, conflict has been particularly fierce. A traditional elder who hails from the Sool region stressed the need to commence political

³⁶APD focus group discussion, a youth participant, Guled Ali, Togdheer, May.2014.

³⁷APD interview, member of the business community, Togdheer, May.2014.

dialogue to strengthen national unity, stating: "I would like to reiterate to the government of Somaliland and all concerned groups that honest and consensus based dialogue is needed to solve the current political stalemate which persists in my region."³⁸

However, desire for greater political representation and more equitable power-sharing was not limited to the eastern regions. A traditional elder from Awdal stated: "The Awdal community which I represent is of the opinion that government seats are not allocated fairly amongst the clans in Somaliland."³⁹ Somaliland's society requires a wider political reconciliation process in which all the stakeholders concur on a power sharing arrangement that assures consensus and representation of all communities and societal groups, including those who have been traditionally marginalised, such as the Gabooye, youth and women.

Inequality in public institutions also deeply affects the private sphere as individual clans seek to establish an income base and support themselves in order to mitigate against unequal opportunities caused by government decisions. This leads to the creation of private businesses, mosques, educational institutions, money remittance agencies and related financial firms along clan lines. For instance, in Burao, different football teams have been established for separate clans; and some NGOs only serve those affiliated with a particular clan. This serves to reinforce an environment of clan mistrust and hostility. An FGD participant stated, "Tribalism has become part and parcel of politics; this is why it has gotten worse. Today tribalism is in the market, in our households; it has worsened and reached peak heights."⁴⁰

4.4.1 Social Cohesion in Burao

While social cohesion is an issue across Somaliland, it is particularly problematic in Burao. For the reasons outlined below, and due to the location of the APD satellite office there, Burao is currently a particular focus for social cohesion programming.

Since the disintegration of the old union with Somalia and Somaliland's declaration of independence in 1991, the city has sought to recover from the effects of the shattering civil conflict. Like Hargeisa and Berbera, Burao was a major battlefield and a large majority of the population either escaped to Ethiopia or was internally displaced. Following what was supposed to be a genuine reconciliation process following the landmark Burao Conference in 1991, the returnee population embarked on the process of re-building their city; small, private enterprises came into being, and corporate development grew. Over the past fifteen years or so, a large number of private residences and commercial blocks have been either repaired or constructed from scratch. And business is booming again, with merchandise coming in from as far away as Mogadishu and Bosasso. But the symptoms of division are clear. The two dominant Habar Yonis and Habar Jeclo sub-clans generally live in separate neighbourhoods, and they have parallel service delivery arrangements and infrastructures. Even the educational system has not been immune to clan-based segregation. The children of each community are sent to separate schools; and the teachers are recruited accordingly. Such divisive clan politics is only reinforced by the continuous flow into the town of migrants from small towns or rural areas; more often than not, the new arrivals, most of whom are illiterate or barely literate, are card-carrying clan

³⁸APD interview, *traditional leader, Sool, February 2013.*

³⁹APD interview, *traditional leader, Awdal, March 2013.*

⁴⁰APD interview, *traditional leader, Awdal, February 2013.*



loyalists.

Thus, the socio-political harmony of Burao, once seen as a melting pot of clan cohesion and, has diminished considerably. Whereas it was previously inhabited by representatives of many of the major clans of Somali people, especially the Isaaq and the Darood, it has now become a parochial, almost exclusively Isaaq-centric city. It is home to the four Isaaq sub-clans – the Habar Jeclo, the Habar Yonis, the Arab, and the Isse Muse – as well as a community of Gabooye. Yet, conflict is mainly determined by elite political power competition between the Habar Jeclo and the Habar Yonis. As one FGD participant indicated, “Because of political and clan allegiances during the civil war, Burao and the Togdheer region as a whole was left deeply divided. Prior to the civil war Buuhoodle was a district in the region, and its inhabitants (Dhulbahante clan) were part and parcel of the region and its capital Burao.”⁴¹

Successive administrations concentrated their efforts on enhancing administrative capacity, with little concerted effort towards grassroots reconciliation movements. The Habar Jeclo/Habar Yonis/Habar Awal rivalry, that predates the civil war, has been aggravated by a lack of a unifying, post-civil-war national horizon. Burao, like Erigavo up north in Sanaag, remains deeply divided. A FGD participant elucidated political tensions in Burao, stating: “All three political party presidential candidates (Kulmiye, UCID and Wadani) in the up-coming 2015 elections are individuals from the Burao district; tensions will definitely be high, because of perceptions of subsequent marginalisation if one or the other win the election.”⁴² All these factors – not to mention, natural

resource exploration in the east – will make the effort of establishing clan cohesion an uphill battle.

4.5 TRADITIONAL CONFLICT RESOLUTION MECHANISMS

While the traditional system is able to resolve many conflicts and acts as the backbone of peace and stability, recurrent low-level but deadly conflict is nevertheless a major issue facing Somaliland society. The traditional mechanisms cannot always cope, and authority is increasingly challenged by political elites and religious authorities. In some cases, traditional elders themselves can contribute to the revenge cycle by failing to prosecute perpetrators or offering a lesser punishment (in order to maintain peace). In addition, not all clans are equally protected by the traditional system.

4.5.1 External challenges to traditional conflict resolution

Traditionally when conflicts erupt, elders and religious leaders solve their respective differences using traditional mechanisms of conflict management and resolution (xeer which brings together elements of sharia and customary law). Elders from the two disputing parties accept mediation, in which they choose a mediator from a neutral party.

In the case of a land/resource dispute, the mediator would evaluate the evidence and historical facts, such as the timeframe each party established property on the disputed land, and pronounce a decision. This approach is dependent upon all clans supporting

⁴¹APD interview, a member of the business community, Togdheer, September 2014.

⁴²APD interview, elder, Togdheer, September 2014.

the involved warring parties in solving their conflict. However, the mediation process is quite fragile: "In the case of violent clashes between clans, sultans, politicians and many other people who have little knowledge of the circumstances and the mechanisms of mediation are dispatched to intervene. The intervention works and stops the violence but these mediators are always impatient and never bring about a lasting solution."⁴³ Thus, while such mediation may de-escalate conflict in the short-term, it often does not address the underlying conflict drivers that will continue to perpetuate conflict in the long-term.

During consultations, FGD participants repeatedly mentioned the politicisation of conflict resolution processes amongst feuding clans as an impediment to justice and long-term conflict prevention. For instance: "Because of clan politics, government officials sent to mediate amongst warring clans are welcomed with suspicion, tainting the reconciliation processes. Usually the clan with more political influence at that juncture uses government links and power to consolidate their interests. Perceptions and mistrust affect every stage of peace processes."⁴⁴

Furthermore, such instances of localised violence (urban or rural) are often used by political elites to generate or bolster support, which can serve to exacerbate discord. An FGD participant sheds light on the politicisation of the Bali Diriye conflict in the Togdheer region: "Mediating the Bali Diriye conflict has proven to be a strenuous task because it has transitioned from a local issue to a national matter. Opposition parties have used the conflict as a campaign tool to discredit the government, and have played a role in undermining the peace processes

which include the mobilisation of two government committees made up of ministers and the house of elders (Guurti)."

The application of conflict management mechanisms also depends on the support and acceptance of local law enforcement authorities, as they often play a critical role in apprehending persons involved in these mediation processes. However, the law enforcement authorities are in a sense subservient to the traditional conflict resolution mechanisms, as the instructions on who to arrest in these cases are given by traditional elders. It became apparent that the mapping participants placed different levels of confidence in the police force, as well as in the justice systems. Some asserted that lack of trust in the police leads to vigilantism. Others commended the work of the police, but articulated concerns over the number and quality of the police force.

4.5.2 Challenges within the traditional conflict resolution system

A specific factor in the recurrence of conflicts is the practice of revenge killing which occurs when the traditional conflict resolution mechanism breaks down, and when quick solutions are prioritised ahead of long-term reconciliation efforts. According to the tradition, the perpetrator of a crime has to demonstrate an expression of good-will, which typically occurs through monetary payments, assumption of responsibility for the murder and expression of determination (by the clan) to apprehend the perpetrator of the crime. With the aforementioned expressions in place, the victim/clan rejects its intended action of vengeance,

⁴³APD interview, *elder, Sahil, April 2014.*

⁴⁴APD interview, *a member of the business community, Togdheer, September 2014.*



halting the revenge cycle. However, if anything goes wrong with this process, the victim/clan may seek redress by killing a member of the opposing clan, thereby continuing the revenge cycle and creating an environment conducive for ongoing conflict.

In some instances, the traditional elders may facilitate the escape of the criminals by instructing their clan to prevent the assailants from being apprehended. They do this in a bid for the other party to accept compensation instead of carrying out the death penalty (qisaas). An FGD participant stated; “The traditional elders must refrain from actively assisting the perpetrators of revenge killings. In order to address the issue we need to behave ethically and be impartial to the reconciliation, rather than causing further killings by aggravating the circumstances.”⁴⁵

Moreover, minority clans like the Gabooye reiterated the difficulty they face in collecting the compensation price attached to the customary diya (financial compensation paid to the family/clan of a victim). The dilemma here is that some large clans can raise diya-payments within a short period of time, while others struggle with it for extended periods, depending on their financial capability. This implies that larger and financially-advantaged clan members are encouraged by the clan system to commit crimes without fear of being punished in accordance with the magnitude of the crime, thus contravening the ‘rule of law’ and encouraging impunity. For example, in the Sanaag region, nine murders committed against the minority clan Gahayle have not been addressed by the dominant clan, Muse Ismail. An FGD participant stated: “We are marginalised in all areas, which includes economics. We need assistance from all stakeholders, there are many diya-payment

processes which we must pay forthwith, however we cannot collect the funds like the larger clans.”⁴⁶ Because minority clans struggle to pay the diya, they are especially vulnerable to revenge killings.

4.5.3 Women’s role in social reconciliation

Recent scholarship has recognised the role women can play in conflict resolution and peace-building, especially in ensuring best practices in clan engagement or conflict resolution.⁴⁷

While often not directly involved in violent conflict/crime, women and children are the most adversely affected by war/persistent conflict, and mobilising women to engage in the security and justice sectors has proven influential – for instance organising rallies and mass demonstrations to persuade men to lay down their arms in the midst of urban warfare. In Somaliland, women play a unique mediating role – often being able to connect to both sides in a conflict, at least in part, through the widespread practice of cross-clan marriages.

Yet, Somaliland is a highly patriarchal society with rigidly assigned gender roles, and therefore women face great difficulties in establishing a clearly-defined role in conflict resolution or mediation. In particular, traditional leaders are very reluctant to accept women’s intervention in the domain of customary diya processes, and even view the mobilisation of women’s groups as contrary to customary law. As an FGD participant stated; “Traditional leaders openly ignore our request to be incorporated in reconciliation processes in a bid to serve their own egos. Women’s

⁴⁵APD interview, poet, Togdheer, February 2014.

⁴⁶APD interview, traditional elder, Togdheer, March 2014.

⁴⁷N. Heyzer, “Women, war and peace: mobilizing for security and justice in the 21st century,” in *Human Rights, Peace and Justice in Africa: A Reader*, edited by Heyns, C. & K. Stefiszyn (Cape Town: Pretoria University Law Press, 2006), pg. 346.

organizations are not deterred, however, as we still contribute as much as possible.”⁴⁸

The cultural barriers which impede a more inclusive participatory approach to conflict resolution include the fact that traditional elders see the assumption of women to this role as purely donor-driven and not well rooted in the local context. Thus, such strategies used to heighten women's involvement may have adverse consequences, and may push women further away from any potential role they might have played. Ensuring that this does not happen is vitally important and will need close attention so that Somaliland continues in its progress towards achieving equity for all citizens and lasting peace and cohesion.

4.6 THE JUDICIARY

The many challenges facing the judiciary in Somaliland are both structural and procedural; the lack of judicial independence and accountability and the lack of coherence between the different legal systems employed in Somaliland are key concerns. The courts do not escape the influence of clan-based nepotism and are plagued by the same limiting factors as other government bodies; lack of skilled personnel, inadequate budget allocation, and lack of institutional transparency are abiding problems. Discontent over the perceived lack of independence of the Somaliland judiciary was raised repeatedly by numerous participants. This issue is twofold and centres upon the independence of the Somaliland judiciary as a branch of the state and the independence of judicial officers to carry out their constitutionally protected duty without fear or favour.

4.6.1 Institutional challenges

The judiciary is the most neglected and under-funded branch of state, which is, at least in part, driven by an overreliance on the Guurti as the ultimate authority in matters pertaining to conflict resolution. The Parliament has not yet enacted a law to articulate the proper status of the judicial officers as specified by Article 98 of the constitution. Salaries and allowances of the judicial officers are still lower than that of other high ranking executive and legislative officials. In addition, high ranking judicial officers are not afforded security guards, which leave judges and prosecutors vulnerable to attacks and harassment, and thus less willing to take decisions that may be controversial. Many regional and district courts also do not possess security guards assigned to protect their security.

The Constitution accords the President the power to appoint and discharge the Chief Justice and the Supreme Court judges; this reliance on the executive as the final determinant on judicial composition presents a major obstacle towards realising an independent judiciary. An FGD participant further elaborated on the uneven constitutional powers accorded to the executive by stating – “The President has the power to appoint and discharge six of the members of the Judicial Commission, which is the highest organ of the judiciary. This factor greatly diminishes the operational independence of the judiciary.”⁴⁹

The lack of transparent appointment and recruitment processes – often leading to the selection of unqualified candidates – was also a major concern highlighted by the pillar mapping exercise. The

⁴⁸APD interview, woman, Togdheer, February 2014.

⁴⁹APD interview, legal advocate, Maroodi-Jeex, November 2014



majority of judges also do not possess university degrees or the institutional experience to effectively carry out their professional mandate. Many judges are former court clerks, unqualified lawyers, teachers from Shari'a schools or individuals with a Shari'a law educational background. As one FGD participant highlighted – "A clear, transparent and consistent process of appointments needs to be developed by the Judicial Commission. This will prevent the appointment of judicial officers based on their clan or other bias."⁵⁰

The Judicial Commission recently enacted a code of conduct for judges and prosecutors in an attempt to curb groundless dismissals and increase judicial accountability. This should be followed and enforced properly in disciplining judiciary officers. In the estimation of one FGD participant, "The dismissal of the judges should be in accordance with the code of conduct and disciplinary rules and it should be based on their personal performance records. Previously the Judicial Commission did not accord accused judges the right of defence against allegations."⁵¹

The judiciary also faces administrative and financial challenges which diminish its independence. With the exception of the Supreme Court, all other courts come under the administration of the Ministry of Justice. It has the power to hire court staff and clerks, manage the budgets of the courts and pay the salaries of the judges and other staff. Yet, court premises are often neglected and resources are very scarce. It is the responsibility of the Ministry of Justice to fundraise or provide a sufficient budget to rebuild the courts, but these resources are not being allocated. According to an FGD participant, "The Judiciary does not possess

the capacity to effectively perform its role. The other two branches of government manage their budget freely."⁵²

The lack of accountability within the judicial branch is a major impediment towards realising justice and the rule of law within Somaliland. This will not be improved unless unethical practices within the public administration, such as bias, nepotism and tribalism are eradicated. To do this light must be shed on the inner workings of the judicial system, but currently accountability and transparency mechanisms are lacking. For instance, the judicial branch of government does not formally conduct annual performance evaluations. An FGD participant stated: "Much of the judiciary business is conducted behind the closed door; there should be annual reports from all the main institutions of the judicial system. These include the annual reports from the Supreme Court, annual reports from all courts, annual report from the Judicial Commission and annual reports from the Office of the Attorney General. The Judicial Commission and Chief Justice in particular should appear before the parliament by delivering speeches and reports or to answer any questions relating to the exercise of their constitutional powers."⁵³

The Togdheer Chief Justice emphasised the need to strengthen judicial checks and balance to ensure judicial officials demonstrate impartiality, stating – "The matter is a frequent issue the Courts face in a bid to safeguard judicial impartiality and institutional credibility, which serves the purpose of protecting society from the dangers of clan biases which may be harboured by judicial officials. Our main goal is to ensure justice is served and that judges hand down

⁵⁰APD interview, *legal clerk, Maroodi-Jeex, November 2014.*

⁵¹APD interview, *regional judge, Togdheer, September 2014.*

⁵²APD interview, *regional judge, Togdheer, September 2014.*

⁵³APD interview, *legal advocate, Maroodi-Jeex, November 2014.*

decisions which are not influenced by personal and financial motivations.”⁵⁴

4.6.2 Legal plurality

A harmonious codified legal system has not been successfully created by Somaliland or any other Somali government to date. The prevailing legal system combines elements of customary law, Shari'a law and national law, as developed by the government and overseen by the judiciary. Somaliland can be described as a nation with a 'chaotic' legal system, which gives too much leeway to the defending parties in a dispute, and is prone to subjective interpretation.

As the Chief Justice of the Togdheer Region stated, “One cannot rely purely on juridical precedence to bring about a settlement. One should maintain a balance between the Articles of the Law and the society's norms and traditions.”⁵⁵ Yet, on the operational level, judicial officers are not well-versed in the various legal systems, and defer to quick solutions. Legal plurality has caused parties in dispute to often pursue legal proceedings which cater to their individual interests to the detriment of justice.

Customary law is informal, but is still often preferred, as it offers a relatively acceptable and quick proceeding; formal adjudication, on the other hand, is seen by many Somalis as alien, costly and lengthy. This factor has contributed to the prevailing view that it is in the best interest of parties to handle matters informally through customary (xeer) law. Many cases do not even make it to trial, as the clans intervene to settle the cases internally – this is particularly evident for those cases pertaining to domestic violence or

rape. While perhaps acceptable for the majority of the population, certain groups are disadvantaged by traditional justice mechanisms – namely women and minorities. Any compensation received by the offending party is usually divided among the male clan members.

A specific issue in which customary law meshes uneasily with the formal judiciary is that of homicide cases in which the death penalty is pronounced. The convicted individual is placed on death row for a prolonged period pending appeals and a request for pardon from the President. During this lengthy period, the parties often come to an agreement where the victim's family agrees to accept diya-payment. Once the diya-payment is paid, the court simply receives a petition from the victim's family exonerating the convict of all crimes. The court does not supervise the diya-payment and does not provide prior approval, yet the petition received acts as adequate documentation for releasing the prisoner.

⁵⁴APD interview, regional judge, Togdheer, February 2014.

⁵⁵APD interview, regional judge, Togdheer, February 2014.



5.0 CONCLUSION

The findings of the mapping exercise, as detailed above, sought to highlight the main issues and obstacles to the ongoing democratisation, decentralisation and social reconciliation processes in Somaliland. Stakeholders reflected on these three main pillars, and prioritised the various challenges (highlighted during the initial pillar mapping exercise) that required immediate attention, suggesting actionable and more sustainable solutions for addressing conflict in Somaliland.

Participants highlighted numerous ongoing challenges that Somaliland continues to face, despite its successes and progress so far, not least in holding five elections since 2002. For politically fragile states like Somaliland, still in the initial stages of democratisation, elections continue to signal confusion, tension, and possible conflict. This has been true for Somaliland, where gaps and contradictions in the legal and social framework often become more apparent right before elections, resulting in uncertainty and disputes.

At present, it is evident that the upcoming presidential and parliamentary elections will be significantly delayed – whether through a Guurti-mandated decision, or through the general consensus of the government and political parties. The initial delay approved by the National Electoral Commission – to hold the elections in June 2016 – was granted, in large part, because of the significant technical and political hurdles to approving the Voter Registration Law and implementing the voter registration process, but also to more general logistical complications of holding both electoral processes simultaneously.

Overall though, of utmost importance to Somaliland, is ensuring credible, free and fair, and peaceful elections. It is estimated that the delay will allow for key improvements to the electoral system. However, in order to achieve this there is an urgent need to undertake broad civic education initiatives aimed

at improving public understanding of democratic processes in Somaliland, now even more pressing given the recent approval of the Voter Registration Law. This law introduces penalties for those who abuse the electoral process. Given that this is the first time penalties have been issued for voting-related crimes, it is important that both politicians and the public are aware of the possible consequences of misconduct.

Another important issue is the need for broad-based dialogue on the issue of the parliamentary seat allocation. Many parliamentarians may be keen to avoid passing any law that could see them deposed. Soon the parliamentary law will be revisited, reviewed, and revised by various stakeholders; it is a good time to start considering opening up the conversation about seat allocation. However, due to the sensitivity of this topic it should be approached carefully and inclusively.

Tackling these issues now will have a long-lasting positive impact on Somaliland's democratic trajectory. However, certain deep-rooted obstacles will require more extended attention. While Somaliland owes much of its peace and stability to the traditional clan-based mode of reconciliation and peace-building, this traditional system has entrenched clan interests within the political infrastructure of Somaliland. Clan interests continue to dictate politics (shaping the formation of political parties), leading to widespread political disputes along clan lines. The perceived inequity of seat allocation at the executive and local level – with Isaaq sub-clans dominating regional and district level positions – was frequently mentioned by participants in the mapping exercise, as weakening the social fabric and trust among clans.

Good governance is necessary at all levels, and close attention must be paid to facilitate the successful decentralisation of power. APD is currently supporting



the implementation of the new decentralisation policy that aims to address the structural loopholes of the Districts and Regions Law No.23 – specifically, clarifying issues pertaining to local revenue and resource allocation from the central government to local government. However, certain obstacles still remain. The predominance of clan-based politics promotes clan representation at the expense of merit in the local council; elected officials’ limited knowledge of their own roles and responsibility and experience of public work limits their capacity to carry out their mandate. Yet, perhaps more critical, is the need to enhance communication between central and local governments, and between local councils and their citizens. Accountability is generally weak and citizens are unaware of their rights and government obligations; miscommunication is rampant.

Moreover, there is a need for a clearer and more comprehensive framework for addressing internal disputes through clear conflict resolution mechanisms. Currently, there are numerous challenges to social reconciliation and conflict management – issues based on weak local government capacity, the lack of legal safeguards and the fact that the traditional system is unable to provide acceptable and effective mediation. Natural resource-based disputes (specifically land disputes) were noted as the predominant threats to

peace in Somaliland. These conflicts are often driven by competition over scarce natural resources and need to be addressed urgently as they pose major obstacles to Somaliland’s achievement of a lasting peace. The lack of trust in the judiciary, and its general inability to adjudicate private and public matters in an efficient and timely manner, often leads individuals or groups to take the law into their own hands. A recurrent theme throughout the pillar mapping exercise was the fact that there is inadequate protection of the ‘rule of law’. Somalilanders feel injustice at all levels of society – in politics, as well as in local disputes.

Despite the challenges that exist, the opportunities are numerous. The popular commitment to Somaliland, and its success as a functioning and peaceful state, will certainly mobilise people around addressing these issues. What is needed is coordinated mobilisation. Thus, particular support is needed to bolster civil society, and give them the independence and mandate they need to effectively mobilise local communities behind civic action and change. The challenge now is for the population – with direction from civil society – to unite in an effort to hold the government to account, reform conflict resolution mechanisms (to be more equitable) and depolarise the salience of clan identities in conflict.

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