Towards Alternative Precepts
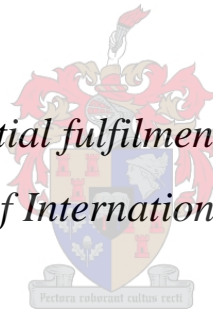# of Statehood in Africa

The role of traditional authorities in reconstituting governance and state in Somaliland

by

Louise Wiuff Moe

Submitted in partial fulfilment for the degree of
Master of International Studies

at

Stellenbosch University

Department of Political Science

Faculty of Arts and Social Sciences

Supervisor: Prof. Scarlett Cornelissen

March 2009

Declaration

I, the undersigned, hereby declare that the work contained in this thesis is my own original work and that I have not previously in its entirety or in part, submitted it at any university for a degree.

Louise Wiuff Moe

_____

Signature

Louise Wiuff Moe

_____

Name in full

1st Nov 2008

Acknowledgements

Abstract

In recent years it has become increasingly evident that the idea of the state as a universal (Western) type of governance structure, i.e. a set of bureaucratic institutions headed by a central government with the capacity and interest to govern all of its territory, is incongruent with realities on the ground, particularly within the African continent. The 1990s has been a critical period in the evolution of African statehood, during which old strategies of state control have broken down. While this has given rise to a debate on the 'failure' of African statehood, it has also led to attempts to revise and expand theories and concepts of statehood and set off a search for more indigenous and empirically viable alternatives to the state as it was devised by the European colonizers. This thesis aims at contributing to the debate on the challenges and potentials of contemporary African statehood by investigating the case of de facto statehood in Somaliland emerging on the backdrop of state failure in Somalia.

The collapse of the de jure state of the Republic of Somalia in 1991 provided an opportunity for Somaliland to fundamentally redefine the pillars of statehood and governance. This entailed the combining of modern institution building with traditional practices of governance, to in this way bolster the capacity and legitimacy of the new de facto state in the north of what is formally recognized as Somalia. Drawing on the analytical framework of 'mediated state' provided by Ken Menkhaus, this thesis explores Somaliland's self-reliant path to state formation as well as the governance structures which underpin its contemporary statehood.

Particular attention is given to the role of traditional authorities as driving forces behind state formation and as a means of complementing the under-capacitated state institutions. The study thus relates to the debate on the resurgence of traditional leadership in Africa. The resurgence of traditional leadership within governance is a tendency which is part of a broader development of the reconfiguration of the state in Africa since the early 1990s – a tendency which introduces new possibilities, as well as new risks, in terms of reconstituting new viable governance structures.

The study concludes that Somaliland's approach to state formation demonstrates an impressive indigenous alternative to externally driven top-down attempts to revive centralized statehood, and that the case also challenges the perception that the breakdown of old strategies of state control necessarily leads to generalized anarchy.

The study, however, also points out some risks involved in the exercise of the state and the traditional authorities 'converting' different forms of power between different realms of governance, and concludes that collaboration between the state and traditional authorities does not *per se* counteract undemocratic governance practices. On this basis the study suggests that the new ambiguous roles of traditional authorities within governance in Africa merit more academic attention.

Opsomming

Oor die afgelope jare het dit al hoe duideliker begin word dat die idee dat die staat 'n universeel (Westerse) gedaante moet aanneem, en dat dit moet bestaan uit regeringstrukture soos burokratiese instellings wat gelei word deur 'n sentrale regering met beide die kapasiteit en belange om oor sy volle gebied te regeer, nie strook met die realiteit nie, veral nie in die Afrika-vasteland nie. Die dekade van die 1990s was 'n kritiese tydperk in die evolusie van Afrika staatskap. Gedurende hierdie dekade het ou strategieë van staatsbeheer verkrummel. Enersyds het hierdie gebeure 'n debat oor 'staatsmislukking' (of 'state failure') ontlok. Andersyds het dit egter ook gelei na meer doelgerigte pogings om bestaande teorieë en konsepte oor die staat te wysig en uit te brei, waardeur die soeke na inheemse en empiries sterker alternatiewe tot die deur Europees-ontwikkelde staat, sentraal staan. Hierdie tesis poog om 'n bydrae te lewer tot die debat oor die uitdagings en moontlikhede van hedendaagse staatskap in Afrika, deur middel van 'n indringende ondersoek na die geval van Somaliland – 'n gebied waar de facto staatskap ontwikkel het uit die staatsmislukking van Somalië.

Die verkrummeling van de jure staatskap in die Republiek van Somalië in 1999 het geleentheid aan Somaliland gebied om grondig die pilare van staatskap en regeerkunde te herskryf. Dit is bereik deur 'n proses waar moderne instellings, gepaardgaande met die volhouding van tradisionele regeerpraktyke, tot stand gebring is. Dit het groter kapasiteit en legitimiteit verleen aan die de facto staat wat in die noordelike gebied van die amptelik erkende Somalilë is. Deur te steun op die analitiese raamwerk van Ken Menkhaus se 'gemedieërde staat' (of 'mediated state'), probeer hierdie tesis Somaliland se pad van onafhanklike staatsbou na te spoor, en om die regeringstrukture waaruit dit bestaan, te ontleed.

Daar word veral aandag geskenk aan die rol wat tradisionele leierskap in staatsbou vertolk, en hoe dit onderontwikkelde staatinstellings komplementeer. As sulks is hierdie tesis 'n verlenging van die nuwe debat oor die herlewing van tradisionele leierskap in Afrika. Die heropkoms van tradisionele leierskap en die rol wat dit in regering speel, is deel van 'n wyer ontwikkeling waarvolgens die staat in Afrika sedert die 1990s herkonfigureer word. Dit is 'n tendens wat nuwe

moontlikhede, sowel as nuwe risiko's vir die ontwikkeling van nuwe, lewensvatbare regeerstrukture bied.

Die studie kom tot die slotsom dat Somaliland se benadering tot staatsbou, 'n indrukwekkende inheemse alternatief tot staatsontwikkeling is. Dit troef prosesse waarvolgens gesentraliseerde staatsinstellings deur buite rolspelers afgedwing word. Die geval daag ook persepsies uit dat die verkrummeling van ou strategieë van staatsbeheer noodgedwonge na algemene anargie lei.

Die tesis lig egter ook die risiko's uit wanneer die staat en die tradisionele gesagte verskillende vorme van mag 'omskep' tussen verskillende omgewings van regering. Dit kom tot die slotsom dat samewerking tussen die staat en tradisionele leiers op sigself nie ondemokratiese regeerpraktyke teenwerk nie. Op grond hiervan, stel die tesis voor dat die nuwe, dubbelsinnige rol wat tradisionele leiers oënskynlik toenemend in Afrika-regering vertolk, groter akademiese aftrek moet kry.

Table of Contents

List of Figures

List of Appendices

List of Abbreviations and Acronyms

APD, Academy for Peace and Development

DRC, Danish Refugee Council

IDP, Internally Displaced Person

ICG, International Crisis Group

IMF, International Monetary Fund

SNM, Somali National Movement (Somaliland)

UN, United Nations

UNDP, United Nations Development Programme

UNHCR, United Nations High Commissioner for Refugees

WSP, War-Torn Societies Project

Chapter 1
Introduction

1.1. Background and rationale

In recent years, attempts to revise and expand theories and concepts of statehood have increased as it has become gradually clearer that the idea of the state as a universal (Western) type of governance structure, i.e. as a set of bureaucratic institutions headed by a central government with the capacity and interest to govern all of its territory, functioning in a similar manner worldwide, is based on assumptions which in many cases are utterly incongruent with realities on the ground (Clapham 2000; Clapham 2001; Herbst 1996). In particular, the principle of sovereignty – as the legal idea of an undivided right and ability of a central state to govern a given territory – is being increasingly challenged (Agnew 2005; Spears 2003; Herbst 1996; Lawson & Rotchild 2005). Along these lines, some scholars and observers of African politics have occasionally suggested that the crisis of a high number of weak and 'failed' states in Africa, may in fact be the first sign of a new post-colonial order emerging, where more flexible, possibly more empirically viable, but also more complex systems of governance will develop, and new forms of statehood may replace the colonially designed model of juridical statehood (Menkhaus 2006; Von Trotha 1996; Hagman & Peclard 2007; Villalon 1998; Lawson & Rotchild 2005). It has further been argued that in order to allow for the development of viable alternatives to the imposed Westphalian state model – which has largely 'failed' in Africa – the international community needs to be prepared to allow for innovative ambitions and 'experimentation' (Herbst 1996; Clapham 2001).

In other words, the increasing disparity between the reality of a high number of disintegrating states in Africa and the legal ideal of strong sovereign statehood has widened the political space for debating and experimenting with alternatives to this ideal.

As a case of functional but unrecognized de facto statehood, following an internally developed approach to statehood where the right to govern had to be

'earned' from within and governance is undertaken in concordance with indigenous structures of authority, Somaliland[1] represents one such alternative.

Since its unilateral declaration of independence in 1991, Somaliland has been in an on-going process of reconstituting the main pillars of statehood, and has at present come much closer than Somalia, in featuring what Clapham (1996) describes as 'a positive idea of state' encompassing "assumptions, identities and traditions, which shape its behaviour and at the same time confer on its government such legitimacy as it possesses" (Clapham 1996:45, also see Jhazbhay 2007; Bryden 2003; Bradbury 2008; Hoehne & Hagmann 2007; Spears 2003). Yet, governance arrangements in Somaliland – both governmental institutions and the undertaking of core governance functions – differ from conventional state-governance, in terms of the nature of sovereignty and political authority. Sovereignty is exercised through hybrid institutions and horizontal networks rather than from a strong centre, and the right to govern has in the process of state formation been continuously negotiated and mediated with local bases of traditional authority. The case of Somaliland thus offers an opportunity to gain insight into the effectiveness and characteristics of a culturally rooted recipe to post-war state formation, and on "the implications this approach holds for prioritising reconciliation between indigenous culture and traditions and modernity in achieving relative stability" (Jhazbhay 2007:316).

Since the traditional authorities are known to have played a great role in reconstituting and maintaining peace and security (Hoehne 2006; Bradbury 2008; Jhazbhay 2007; Menkhaus 2000; Menkhaus 2007), Somaliland can be seen as a case of the resurgence of traditional leadership coinciding with the wave of democratization sweeping over sub-Saharan Africa since the mid 1990s (Buur & Kyed 2007). Buur & Kyed (2007) warn that when studying this phenomenon, it is important to be aware, that perceiving these authorities as representatives for 'the communities' is not unproblematic, since it runs the risk of concealing differences and individual interests (Buur & Kyed 2007; Mamdani 1996). By assuming the pre-existence of homogenous 'traditional' societies, the exercise of incorporating traditional leaders into national governance can be justified on the grounds that these leaders are representing the 'common will' of collectively defined individuals

---

[1] For maps of Somaliland and data of the country see appendices 2 and 5.

(Mamdani 1996). These 'problematic' aspects of traditional leadership will be addressed as part of the analysis in the present thesis.

The recent formal recognition of traditional leaders taking part in governance (and in this way bolstering the state) is often a matter of states delegating a role to them "in the names of decentralization, democracy, and development within the wider context of political liberalization" (Buur & Kyed 2007). In Somaliland, however, the central role of the traditional authorities in shaping the governance arrangements can, as will be shown, be traced back to the particular historical trajectories leading to the declaration of independence in 1991. The traditional authorities have, in other words, been part and parcel of constituting state in Somaliland from the very beginning (Jhazbhay 2007; Bradbury 2008; WSP 2005; Hoehne 2006).

Herbst (1996) is amongst the scholars who have suggested that understanding what was lost at the time the territorial nation-state was imposed on Africa might offer a basis for developing and appreciating "a more indigenous alternative to the nation-state as theorized, designed and imposed by the Europeans". Importantly however, he also notes that "this is not to engage in misty-eyed nostalgia that somehow political formations developed hundreds of years ago can be replicated today" (Herbst 1996:127). The case of Somaliland illustrates both points, in that the governance arrangements merge traditional practices with modern institution building and reflect a form of 'shared' sovereignty.

The case thus provides for an empirical study of some of the merits and demerits of an alternative to a conventional Westphalian state model. Given this, this thesis sets out to analyze what the main features of this form of apparently idiosyncratic statehood in Somaliland are, and what factors underpin it. The study draws on the framework of 'mediated' state, which is rooted in pre-modern Europe but has been 'revived' and expanded by Ken Menkhaus (2005; 2006; 2006a) with the purpose of developing some analytical tools to investigate the relations between weak central states and the 'informal' structures of governance functioning in their hinterlands.

While this study mainly focuses on Somaliland since its birth as a de facto state, contextualizing the case historically and theoretically is also an important part of the overall research objective.

1.2. Research question

What has been the nature of state building and statehood in post-conflict Somaliland from 1991 until present and, in particular, what has been the role of the traditional authorities in this process?

More specifically the thesis aims at:
- contextualizing the case of statehood in Somaliland theoretically and conceptually within the broader debate on statehood in Africa;
- providing a historical analysis of the process through which Somaliland became a separate political unit, in order to further an understanding of the background developments which have shaped the context in which state formation subsequently took place and a new set of governance structures now function;
- identifying key characteristics of the different phases of state formation in Somaliland; and
- analyzing and discussing the pros and cons of the formal as well as informal involvement of the traditional authorities in undertaking key governance functions as part of contemporary Somaliland statehood.

1.3. Literature review

The process of state formation in Somaliland has developed largely unnoticed – to the extent that Somaliland has been described as 'Africa's best kept secret' (Jhazbhay 2003) – since international attention has focused on reviving a central state in Somalia 'proper'. However, the pattern of international disinterest has provoked some academic responses, putting forward the argument that Somaliland's quest for recognition deserves at the least some serious attention (ICG 2006; Jhazbhay 2007; Jhazbhay 2003; Spears 2003; Bradbury 2008).

A small but growing body of literature discussing the question of recognition of Somaliland has developed (see for example Spears 2003; Spears 2004; Jhazbhay 2007; Jhazbhay 2003; Bryden 2003; Kibble 2007; IRIN 2007; ICG 2006; Samatar & Samatar 2006). Some of the issues related to this question – which has naturally received substantial attention within the literature on Somaliland – are: whether or not Somaliland's claim of independence is a case of secession or of withdrawal from

unsuccessful unification[2]; whether recognition of Somaliland would be perceived as setting a precedent for other cases wishing for independence and; the irony involved in recognizing a state which only exists on paper (Somalia) while ignoring a state which has existed for more than a decade and demonstrated a substantial degree of empirical statehood (Somaliland).

These overlapping issues all relate to a broader debate on continuity and change in the structure and functioning of the international system. Until the end of the 1980s domestic governance and politics were little exposed to international scrutiny since the global power structures have favoured, and generally still favour, the maintenance of colonial frontiers. That is, states have been defined in terms of the territorial principle, whereas two other important pillars of state, namely government (who should control the state) and policy (what the state should do), have been rendered largely irrelevant from an international perspective (Clapham 1996).

Naturally, a great part of the debate for and against Somaliland's case for recognition also centres around the territorial principle: referring, on the one hand, to Somaliland's five days of recognized independent statehood in 1961 (ICG 2006; Bryden 2003) and, on the other hand, to the inviolability of Somalia's right of sovereignty within its territory (Samatar & Samatar 2006).

Indeed, the Somaliland case of de facto but unrecognized statehood emerging within a de jure, though fundamentally collapsed state, illustrates that sovereignty – as a principle of territorial defined legitimacy – is still as difficult to acquire as it is to lose (Hill 2003). Moreover, the issue of recognition is also important in terms of how it affects internal dynamics of Somaliland – an issue which deserves much more attention (Jhazbhay 2007). On the one hand, lack of external recognition has implications for the Somaliland state's capacity to execute governance and provide services, and in this sense, its unrecognized status implies a lesser degree of sovereignty (Jhazbhay 2007; IRIN 2007). On the other hand, however, the struggle for recognition has been a unifying as well as disciplining factor for Somaliland – the state has a strong incentive to show the international community that it is capable of

---

[2] During the colonial era Somaliland was a British protectorate, whereas the south of Somalia was an Italian colony. Between the 26th of June and the 1st of July 1960 Somaliland was a sovereign and independent state, before it united with Somalia and became part of the Somali Republic (see also chapter three).

governing its territory (Jhazbhay 2007). Moreover, the lack of external agendas in terms of how to approach state formation has made it possible for Somaliland to develop on its own terms and merge 'modern' political institutions with culturally specific and traditional modes of authority (Bradbury 2008). It is this latter dimension – i.e. the specificity of Somaliland's internal foundations for statehood – that is the focus in this thesis. This dimension concerning what *kind* of alternative Somaliland provides to the conventional statehood has been somewhat overshadowed by the debate for and against recognition (Kibble 2007; Bryden 2003). The aim of this thesis is not to determine whether the state in Somaliland can qualify as a conventional sovereign state but to investigate the way in which it functions as an alternative to this convention.

The thesis thus takes as point of departure a definition of states as empirical manifestations of power relations, existing in various forms reflecting the culture and social forces that they incorporate (Bradbury 2008; Boone 1998). It can also be seen as part of the literature reassessing some important aspects of the role of state in Africa – notably those of human security, rule of law and conflict management/prevention – by focusing on relations between state and local traditional authorities.

Somaliland was (re)born in the early 1990s, which has been labelled an 'era of crisis' in the history of African statehood: an era in which old strategies of governance and structures of power broke down, internal foundations and dynamics of statehood came under increasing scrutiny and pressures for change increased. The variety in responses to this crisis revealed substantial internal divergence between different African states and regions in terms of capacity to redefine relationships of power and accountability, and to develop new strategies to maintain stability. Indeed the patterns of reconfiguration[3] of state-society relations have turned out to be more complex and contradictory than what was suggested by optimistic democratization scenarios (Boone 1998).

It became apparent that in many cases the post-colonial state had failed to produce any deeper socio-cultural transformations or consent, which in many cases led to "nominal nation-states with, by and large, weak national identities" and

---

[3] The concept of reconfiguration used in this thesis is borrowed from Boone (1998) and refers to new kinds of social mobilization and new patterns of state-society dynamics (Boone 1998:130).

situations of "break-downs in governance, with civil war and chronic unrest threatening the cohesion of many an African state. The 'failed' and 'collapsed' state syndrome has emerged from many such situations, of which Somalia has become a prime example" (Jhazbhay 2007:44). In a similar vein it has been argued that at least part of the explanation behind the continuous failure of reviving a state in Somalia appears to be the disconnection between the process of state and government formation, on the one hand, and the values, identities and needs in the Somali society on the other (Logan 2002).

However the case of Somaliland and to a lesser extent Puntland and other less extensive sub-national administrations in Somali inhabited regions have given rise to the argument that Somalia "is not merely a repository of lessons learned on how not to pursue state building" (Menkhaus 2006a:74) but is also in some respects at the forefront of developing more 'organic' modes of public law and order, driven by alliances of traditional authorities, civic groups, business people and diaspora. That is, the record of repeated failure of 'top-down' efforts to revive a central government in Somalia should not conceal the significant successes of governance building based on local resources and authorities within the territory (Menkhaus 2006a; Logan 2000), and adding up to de facto statehood in the case of Somaliland.

Simons (1998) makes it clear that local political structures in the Somali context reflect historically deep-rooted and indigenously grounded systems of authority and, in line with Hoehne & Hagman (2007) and Menkhaus (2005; 2006; 2006a), points to the fact that Somalis in the context of state failure have proven highly capable of crafting micro level mechanisms of security and governance. Simons (1998) also however, fundamentally questions whether any form of state structure has a future in the Somali context. The present study, while acknowledging that a conventional model of a strong central state imposed from without has proved unsuited in the Somali case, looks into the potential of the alternative form of statehood (as it has emerged in Somaliland) driven by Somalis and experimenting with fusing rather than juxtaposing 'traditional' local authority and 'modern' national governance. As argued by Clapham (2000) statehood might not be such an 'all or nothing condition' as International Relations theory often assumes it to be, since there is no clear line between, on the one hand, the well-known Westphalian state model (and the comforting system of state to state relations) and, on the other hand, the uneasy sphere

of stateless anarchy. In a similar vein Lawson & Rotchild (2005) and Agnew (2005) challenge the conventional notions of sovereignty. While the latter emphasizes the fact that political authority is not necessarily territorially bound, the former argue that statehood and sovereignty are 'in flux' in Africa, and that "international, subregional, national and local experimentation in response to the erosion of sovereignty and statehood may well take African countries in different directions". "Clearly", they continue, "Africans are reconsidering sovereignty. They have begun moving away from colonially designed juridical statehood to fashion empirical formulas that respond to the messiness of their current realities" (Lawson & Rotchild 2005:235).

Whether experiments of new flexible approaches to governance – of which Somaliland provides an example – will provide effective responses to state weakness remains to be seen.

1.4. Significance of the study

This thesis aims at analyzing state formation and contemporary empirical statehood and governance arrangements in Somaliland and, in particular, investigates the significance of local agency and local systems of governance as a means of supplementing still fragile and under-capacitated state institutions in a context where the state has never been the source of legitimacy before.

The study draws on and argues along similar lines as an emerging body of literature that questions the conventional notion of sovereignty on empirical grounds, and devotes attention to alternative, more flexible and pragmatic approaches to statehood in Africa. The study is inspired, in particular, by the understanding that state-society transactions and exchanges significantly influence state capacity (Boone 1998; Menkhaus 2006). While internal dynamics differ from case to case and while this thesis looks into one single case only, the framework of 'mediated state' (see below) provides a basis for setting the parameters[4] for comparison of the specific case with other cases – and importantly, to be clear about the limitations of comparison.

Drawing on 'interactive' approaches (Chazan et al. 1998) – in particular that of 'mediated state' – the thesis attempts to move beyond the conception of 'failed states' and instead investigates empirically potentials of governance building and statehood.

---

[4] *Interest but lack of capacity* to govern on the part of the state as well as the presence of 'acceptable' and strong local actors (Menkhaus 2006) – see section on 'analytical framework'.

Explaining the crisis of African statehood in the language of 'state failure' implies a risk of simplifying what is at stake, since the notion of 'failed state' tends to implicitly assume that all states are supposed to function more or less the same way – an assumption which leaves little room for experimenting with more context-sensitive approaches.

Somaliland emerged on the backdrop of 'state failure' and thus empirically illustrates the point suggested by Vilallon (1998), that the crisis of African statehood is not merely a matter of breakdown of old strategies of state control, but also can be seen as a critical juncture opening up new possibilities for reconfiguration of state arrangements and power relations, which may result in new political systems succeeding better in attaining popular legitimacy.

From a regional perspective the case provides for an exploration of alternative governance arrangements in the Somali region, where conventional forms of statehood have repeatedly failed.

In sum, on the basis of the case of Somaliland, the study investigates some of the pros and cons of a pragmatic and alternative approach to state formation and governance, which does not perceive local and organically emerged 'informal' governance as antithetical to state building. The study thus seeks to contribute to the debate on how to understand and promote state and governance in a period during which political systems, as well as societal structures and identities, are under rapid development.

1.5. Analytical framework

'Mediated state' suggests itself as an alternative approach to governance building, and accounts for the empirical cases in which "central governments with very limited power rely on a diverse range of local authorities to execute core functions of government and 'mediate' relations between local communities and the state" (Menkhaus 2006:6). While Menkhaus primarily describes already established states reaching out to local informal sources of authority, the present study includes as an important part of its analysis the process in which a state came about and the role of the traditional authorities – a category of authority which is at the heart of Somali culture – in this process. The study does not use 'mediated state' as a theory in the

strict sense, but rather as a framework for understanding some aspects of the way in which governance is organized in Somaliland.

By recognizing the importance of state but not insisting on the exclusivity of its role, the framework provided by Menkhaus is useful for analyzing governance capacity in an empirical manner – as is the aim of this study.

Based on field work in Somalia, Sudan, Kenya and the Democratic Republic of Congo, Ken Menkhaus has revived and elaborated this analytical framework aiming at exploring and explaining "the relationships between weak central governments and the non-state policies that can arise in their hinterlands" (Menkhaus 2006:1). This ambition is in line with recent revisionism of the 'failed state literature' within political science, advocating increased attention to internal dynamics and local agency of weak states, and a move away from exclusively focusing on conventional institutional capacity (Bøås & Jennings 2005; Hagman & Hoehne 2007).

While political scientists have produced substantial and impressive analysis of the causes and nature of state failure, as well as of the challenges of rebuilding states in post-conflict areas, limited attention has been given to local agency and structures of governance functioning outside the reach of the state. However, increasing evidence from various cases in Africa shows that communities living outside the reach of the state are capable of developing local non-institutionalized systems of governance, which can provide impressive levels of security and predictability. Often these systems combine elements of tradition, religion and contemporary forms of risk management (Menkhaus 2005; 2006; 2006a; 2007).

Importantly, the significance (from a state building perspective) of such localized systems of governance and security arrangements depends on the particular manifestation of state. Menkhaus centres his analysis of state and governance around the two concepts of interest (willingness) and capacity. Under very specific conditions – namely when the state has developed a real interest to govern its territory but does not have the means to do so – the localized and 'informal' systems of governance can serve as building blocks for enhancing governance.

The historical lineage of mediated state is the state in pre-modern Europe. Literature on 'African statehood' frequently draws parallels to state formation in early medieval Europe – in particular the work of Charles Tilly has become a common reference – for example when theorizing on the emergence of warlordism, the

privatization of public resources and the connections between war and state-formation. The particular notion of 'mediated state' has so far been given little attention, however, and due to the messiness and fragmentation of mediated governance arrangements it has been seen mainly as an obstacle to consolidation of state authority. The 'messiness' of the 'mediated state' strategy in early medieval Europe, was reflected in the co-existence of multiple forms of jurisdiction, state rulers brokering deals with a variety of local authorities, and constant negotiation and re-negotiations of power to govern. Therefore, a "hallmark of the mediated state, as it evolved in early modern Europe, was flexibility and pragmatism" (Menkhaus 2006:6).

The advantage of the flexibility and the slow pace of the transformation from the old system where sovereignty was shared and not always well defined, to a system of 'modern states', was that states did not have to undertake all the functions of a modern sovereign state at once. There was, in other words, time to gradually develop the capacity and base of support necessary for relatively viable states, and to do so in concert with the development of societal structures (Herbst 1996:130). Based on these insights of the European experience, and also drawing upon knowledge of modes of governance and authority in pre-colonial Africa, Herbst (1996), in line with Menkhaus, suggests that it may be worthwhile to aim at protecting rather than overcoming flexibility in the current processes of developing new state structures in cases where a Westphalian model has proven unsustainable.

Menkhaus has undertaken a few studies of flexible approaches to governance in East Africa "where Somalis are coupling informal systems of governance and security with formal state structures and authorities" in cases where "the state is unable to exercise full control over its peripheral areas" (Menkhaus 2007:88).

In a study of the Somali-inhabited Wajir region in northern Kenya, Menkhaus (2005) uses the framework of mediated state to analyze the systems of localized governance structures that have developed in this 'borderland region' and to account for the partnerships which have developed between these structures and the central state. This analysis is, to my knowledge, the only elaborated study in which 'mediated state' has been applied as an analytical framework. In an article from 2006 (Menkhaus 2006a) the concept of 'mediated state' is briefly discussed, whereas in another article from the same year Menkhaus (2006) elaborates conceptually on 'mediated state' as a distinct alternative approach to understand state formation, and in this article he also

provides a typology of states around the two core political concepts of capacity and willingness to govern (see elaboration in chapter two). In Menkhaus' contribution in Buur & Kyed (2007) Puntland and some of the eastern parts of Ethiopia are mentioned as other examples with resemblance to 'mediated state', whereas Somaliland (in a brief analysis) is presented as an example of 'hybrid state'. Whereas 'hybrid' state arrangements are characterized by the formal incorporation of traditional leadership within the state structures, 'mediated' state arrangements are characterized by a state relying on local non-state structures of authority to execute core state functions – i.e. the state is giving up some of its sovereignty and monopoly of legitimate violence to non-state actors, but also develops cooperative relations with these structures. Both concepts will be applied in the analysis of this thesis, in order to investigate different aspects of governance in Somaliland.

1.6. Limitations and delimitations

This study focuses on the empirically distinct unit of Somaliland, and is thus a single case study. While focusing on only one case makes it possible to make an in depth analysis, it has the limitation of making comparison and generalization more difficult. While it is possible to generalize from single case studies (Andersen 1999:168) and while the choice of analytical framework in this thesis is motivated by the wish to make cautious generalization possible, generalizations are as a rule more compelling when based on findings and comparison from multiple cases (Thagaard 2004:49). Thus, while Somaliland can provide insight on the pros and cons of an alternative strategy for internally-driven state formation and governance-building, it is implausible that the Somaliland 'recipe' can simply be replicated elsewhere.

Somaliland has as a case in particular received attention on the matter of recognition, since it is this matter which most directly and urgently challenges the norms of the international community (ICG 2006). The issue of recognition is not the focus of the present thesis however. What is analyzed here is the path to state formation and the particular governance arrangements of Somaliland, and what they suggest about alternatives to failed states as well as 'conventional states'. Certainly, however, the unrecognized status of Somaliland influences how governance works in the country and is in this sense an integral dimension of the analysis.

The study focuses on particular aspects of governance, namely provisions of stability, security and rule of law. Since the traditional leaders are key actors behind complementing the state in undertaking these particular governance functions, their role is given primary attention at the expense of the role of other local actors.

While the traditional authorities have been critical in creating a stable environment in which it was possible to initiate the process of state formation in Somaliland, and still are central as the cornerstones for peace and security, they are far from the sole local actors who play a role in terms of governance (something that I in particularly made aware of though group interviews No 4 & 5 (see below)). Apart from the influence of traditional authorities, also religious leaders as well as civic leadership, such as professionals, youth, women, the diaspora and a variety of NGOs, play important roles in maintaining as well as changing the social and political order – mostly cooperating with the traditional authorities, though sometimes 'competing' with them for influence. While acknowledging that a variety of non-state actors are involved in undertaking governance and negotiating the balance between continuity and change in Somaliland, it is beyond the scope and focus of this thesis to account for these multiple sources of influence.

1.7. Methodology

1.7.1. Case study

This case study of Somaliland has been carried out with the use of various methods, including field work. Since the unique recipe for state formation, based on locally grounded knowledge, culture and initiative, was what sparked my interest in Somaliland, I found it essential to visit the country and the people, and had the privilege to be able to do so. Three and a half months of field work in Somaliland has therefore significantly shaped the thesis, even if the analysis is still mainly based on secondary sources in the form of academic articles and books.

Rather than arriving in Somaliland with an existing theory and clearly defined research objectives I engaged in the 'setting' of Somaliland. Based on my observations, interviews and work at a locally based research centre, I gradually developed research questions and started to look for an analytical approach which could give sense to my observations. The research approach was thus largely inductive, and generally had the characteristics typical of case-studies (Babbie &

Mouton 2001): it was qualitative and exploratory in nature; open to a multiplicity of data sources; and flexible in design.

Two of the three typical characteristics motivating the choice of single-case studies, suggested by Yin (1989) are reflected in my choice of Somaliland as a case. Firstly, the case appears to be 'critical' to established theory/knowledge – i.e. useful for 'testing' conventions and established knowledge. Secondly, the case represents something distinctive or 'extreme', for example it represents a new (and understudied) combination of more or less well-known conditions or features (Yin 1989). That is, I presupposed that Somaliland is a critical case in relation to some of the aspects of conventional notions of state and governance. Moreover, whereas governments sharing their sovereignty with local authorities is not something unique for Somaliland, the innovative fusion of modern institution building and traditional authority characterizing the case is distinctive – for example the particular institution of an upper house of Elders is "unique for Africa" (Bradbury 2008).

1.7.2. Field work

An initial concern was to make my stay relatively safe, and at the same time find a way to get as close as possible to the realities and people of Somaliland. On these grounds I applied for an internship position at the Academy for Peace and Development (henceforth 'APD' or 'the Academy') which is a local research institute driven by Somalilanders and based in Somaliland's capital Hargeisa. The Academy accepted my application and the internship ran from mid-January to mid-May 2008.

Since the late 1990s the Academy has been an important actor in bringing together representatives of different sectors of society to identify priorities in the process of rebuilding Somaliland and also currently plays an important role in placing issues of democracy, human rights and 'good governance' on the political and public agenda. Being an intern at the Academy provided me with a good platform from where to gain insight on diverse political issues of Somaliland. First of all because I had the opportunity to discuss my ideas and experiences with my colleagues, and additionally because the Academy helped me to arrange interviews and gain access to different forms of documentation of the process of rebuilding Somaliland. The Academy is known and respected in Somaliland, and my position as an intern there was thus also an advantage in terms of raising my trustworthiness in the eyes of Somalilanders. Moreover, I got to attend a few local workshops on local governance

14

issues and on harmonization of the different law systems. Representing the Academy at these workshops gave me an opportunity to get in contact with different actors involved in governance (on different levels) in Somaliland, and arrange interviews which provided valuable insight.

1.7.3. Interviews

Through my work at the Academy and informal conversations with colleagues and other Somalilanders I met on an informal everyday basis, I became increasingly interested in notions of power and governance in Somaliland. I moreover got the impression – which was supported by secondary sources – that the traditional authorities are central actors in the realm of governance and made it a priority to gain more insight on these particular actors.

I have used some quotations as empirical underpinnings of the analysis in chapters 4 and 5, and I also make a few references to insights from interviews. However, my conversations and interviews first and foremost served the purpose of helping me to choose a focus as well as an analytical framework, and to test and adjust my assumptions and ideas.

Altogether nine individual interviews and five group discussions were conducted. Most of the interviews were planned, but some were conducted ad hoc – i.e. simply by seizing the opportunity as it occurred. The planned interviews were semi-structured, aimed at covering certain themes, but also allowed for the further exploration of themes that emerged from the discussion. The 'thematic approach' (Thagaard 2004:158) – i.e. looking through my transcribed interviews and notes from personal conversations to identify recurrent themes – was used purposefully both to prepare follow-up interviews with key informants and to compare information received from different informants.

During the first month, I did little to guide interviews and conversations in a certain direction, as I was still in the phase of developing research questions and acquiring a background understanding. As I got a better sense of direction in my research, the interviews correspondingly became more focused, as did the selection of informants.

A somewhat alternative method used for conducting group interviews with a group of traditional authorities was to arrange the interviews as part of the chat sessions, which are informal meetings where kinsmen exchange views and

information. This method was particularly useful in providing sufficient time and an informal atmosphere which made it possible to discuss different perspectives openly. My attendance in these meetings was, as a rule, planned which also meant that time and attention were set aside for my questions. One disadvantage of this method is that women rarely attend these meetings which resulted in a gender bias of my data. Moreover, it was often difficult to keep the discussion focused, which on the other hand meant that at times valuable new information 'accidentally' came about.

Yet another opportunity for conducting group discussions occurred as I was invited to give two lectures to a group of postgraduates, as part of a lecture series on governance and leadership in Somaliland, at the African Centre for Social Research, Media and Development, Hargeisa. As these lectures were given during the last period of my stay, I used the opportunity to discuss my research topic and choice of theory with the students – a group of about 15 men and women – from Somaliland, and to get inputs and ideas for adaptations and corrections.

I developed rather close relations to a few of my informants, who also became particularly useful in providing me with insights for the study, and thus belong to the category of key informants (Thagaard 2004). These individuals – informant No 1, and two informants from the group of traditional authorities (group interviews No 1, 2 and 3 – see Appendix 2) – became informants with whom I in particular discussed and 'tested' my ideas and observations. For all three it holds true that they had interest in and knowledge about my topic and were willing to spend substantial amounts of time talking with me. The discussions with these key informants are likely to have influenced my analysis, approach and form of insight significantly. Importantly, however, the conclusions drawn in the present thesis do not necessarily reflect the opinions of my informants.

Due to security issues I spent most of my time in Hargeisa, which is also where all interviews (except one) were conducted, meaning that the rural population is not represented through the interviews. Moreover, the fact that I do not speak Somali complicated the interview situations. As a former British protectorate and given a large diaspora-population many Somalilanders speak English, and translation was provided at workshops as well as in the group interviews. Nevertheless, not being able to conduct interviews in the mother tongue of my informants was a limitation.

For a complete list of informants and specification on the duration and location of the interviews and how contact was established, see Appendix 2.

1.7.4. Secondary sources and 'grey' documents

I have chosen an approach which combines empirical exploration of the current state of affairs with historical and theoretical contextualization. The study draws substantially on secondary sources in the form of academic literature, including literature provided by Somali researchers at APD[5].

The first part (chapters 2 and 3) of the thesis, which accounts for and discusses established research on African statehood and moreover provides an analysis of the historical trajectories of state and governance in Somaliland, relies exclusively on secondary sources. In the last part (chapters 4 and 5) the data collected in the field have shaped the exploration significantly, and pointed to particular issues in the environment. However also in these chapters secondary sources underpin the analysis, since due to the limited numbers of interviews, primary data would not provide a basis for sound evidence in this thesis.

Apart from the interview data and the secondary academic sources the study also – to a limited extent – makes use of documents from NGOs, a workshop memo and other unpublished forms of documentation. These forms of documentation have provided cues of cooperative relationships between different types of actors and intentions of particular governance related projects. It is important to note, however, that due to a strong oral tradition, commitments, agreements and statements are often not written and formally documented, and formal documentation therefore often differs substantially from reality.

Thus, the insights gained from such documents have been 'tested' through interviews and informal discussions, rather than uncritically accepted as facts. References to 'grey' documents are marked with an asterisk (*).

---

[5] In particular *Rebuilding Somaliland* (WSP 2005) which is written by researchers from APD in cooperation with the War-torn Society Project's affiliate in Somaliland, has been an important source of information for this study.

1.8. Outline of chapters

The thesis is structured in a way which combines historical and theoretical analysis with empirical exploration of the current state of affairs, in order to contextualize the case; account for continuities and changes; and to enable an identification of the case that might have more general relevance.

Chapter 2 presents a historical and conceptual review of statehood in Africa, with the purpose of investigating the different discourses of statehood during colonial and post colonial time. The main conclusion to be drawn from this review is that the current crisis of African statehood cannot adequately be investigated within strictly state-centric approaches. The chapter in particular points to the limitations of the framework of the 'failed state'. As an alternative to these approaches the chapter introduces the framework of the 'mediated state' as provided by Ken Menkhaus (2006), which draws attention to new forms of governance entailing critical changes in the nature of sovereignty as well as political authority.

Chapter 3 provides an a account of the historical foundations of governance and political authority in Somaliland, and more specifically looks into what kind of experiences and agency underpinned the process prior to 1991, in which Somaliland developed its wish and basis for becoming a separate political unit. The chapter concludes that the relative marginal position of the north –internationally and vis-à-vis the south- left Somaliland with some 'cultural capital' in the form of relatively intact structures of traditional authorities which were subsequently strengthened and made use of due to the particular political choices of the northern political resistance elite.

Chapter 4 analyses the different phases of state formation in Somaliland since the declaration of independence in 1991 and seeks to identify key characteristics and choices reflected in the Somaliland approach to building up viable structures of governance. The chapter concludes that the success of the complex multi-level reconciliation and state-formation process presents an impressive indigenous alternative to externally driven top-down attempts to revive centralized statehood.

Chapter 5 analyzes the contemporary manifestation of state and governance structures in Somaliland, and discusses the pros and cons of the formal as well as informal involvement of the traditional authorities in undertaking key governance functions. The chapter first and foremost concludes that the 'mediated' and 'hybrid' modes of governance which underpin Somaliland's contemporary statehood have been

18

extremely useful in enhancing de facto governance, and in legitimizing the project of the state. However, the chapter also concludes that there are certain risks involved in the merging of state power and traditional authority, since the involvement of traditional authorities in undertaking core governance functions has the risk of compromising their legitimacy and in some respects conflict with the objectives of creating a constitutional democracy.

The thesis is rounded off with a conclusion in which the wider implications of the findings are discussed.

Chapter 2

A historical and conceptual review
of statehood in Africa

2.1. Introcuction

The purpose of this chapter is to outline the development and some of the theoretical discourses surrounding statehood in Africa during colonial and post colonial times, and to review different approaches to African statehood in general, in order to contextualize the case of de facto statehood in Somaliland.

2.2. Historical review

2.2.1. Colonialism

While colonial rulers in many cases built on the existing structures of authority and governance – and additionally superimposed a new centralized structure – they did so in ways that fundamentally redefined notions of 'tradition' and 'custom'(Chazan et al. 1999; Mamdani 1996) and effectively "transformed the map of Africa" (Clapham1996:30).

The two dominant colonial modes of governance were indirect and direct rule, featuring two different ways in which to organize the relations between the institutions of the state and the institutions of authority outside the realm of state. Direct rule was direct in the sense that populations within a territory were put under direct state authority that would firmly overpower existing local authorities, with the aim of creating uniform conditions and principles within that territory. Indirect rule, on the other hand, was based on utilizing existing local structures of authority, and on this basis decentralize governance – still firmly top-down and controlled by foreign rulers however (Andersen et al.2007; Mamdani 1996; Clapham 1996; Von Trotha 1996). Mamdani (1996) uses the term *decentralized despotism* to describe the latter form of governance, since it involved a process in which the traditional leaders were made exclusively accountable to the colonizers while being freed from any popular constraints or obligations to be locally accountable. Accordingly, participatory structures and institutions traditionally securing a minimum of public discussion and

local checks and balances were during colonial time turned into forums in which decisions would be declared, not discussed.

Naturally, this manipulation of local authorities profoundly undermined their legitimacy and changed the societal power-dynamics (Mamdani 1996).

According to Mamdani (1996) the colonial state can be understood as a bifurcated state, created and legitimized on the basis of constructed dichotomies, the most basic of which is the dichotomy between the 'civilized' and the 'natives'. This differentiation made the colonial state a 'double sided affair' (Mamdani 1996:19), with parallel systems of law: whereas the 'natives' were *subjected* to – i.e. indirectly ruled by – customary law emphasizing collective identities, the settlers (the colons) were *individuals* with personal rights granted through civil law. In other words, the colonial genius was to construct the local individuals as 'natives' needing to "be civilized 'not as individuals but as communities', to be subject[s] to a process that one-sidedly opposed the community to the individual, and thereby encapsulated the individual in a set of relations defined and enforced by the state as communal and customary (…)" (Mamdani 1996:51). This discourse allegedly legitimized itself by the very construction of difference, suggesting that different categories of people need – and even have the 'right' to – different sets of laws. By absorbing and molding the existing sources of authority into a broad strategy of ruling 'the natives', indirect rule was thus an effective means of governance, especially employed by the British colonizers (Mamdani 1996).

It is mportant to note, that cases of colonial rule are historically specific and differed in character and strength in different contexts. One important distinction is that between colonies and protectorates. Whereas the former were territories which experienced foreign settlement, the latter were 'merely' dominated, though not inhabited by the Europeans (Mamdani 1996). The specific impact of colonial rule on the formation of state therefore varies from case to case, also depending on the different strategies applied regarding existing structures of authority, which could either be utilized or undermined.

While Somalia was an Italian colony from 1889 until independence on July 1st 1960, Somaliland was a British protectorate from 1886 until independence on 26th June 1960. Reference to the five days of independence before Somaliland united with Somalia as the Italians handed over sovereignty is central in Somaliland's territorially

based request for recognition (Bryden 2003; Jhazbhay 2003). Moreover, as will be shown in the next chapter, the difference in colonial experiences of Somalia and Somaliland led to different and uneven socio-economic developments, and thereby shaped the post-colonial contexts in which attempts of state formation later was taking place in very different ways in the two regions (Jones 2008; Reno 2003; Spears 2003).

The colonial experience is thus important as a background for understanding the particular manifestation of statehood in Somaliland as well as for understanding the claim of recognition.

2.2.2. Post-colonialism

The process of international recognition of newly independent states taking place from the early 1960s signified critical changes, both in terms of creating a new dynamic of the international system, and in terms of political power and the rules of governance taking new characteristics and dynamics on the national level in African states. The de-colonisation process did not, however, lead to an entire break with the colonial political structures and governance values (Chazan et al. 1999; Chabal 2005; Clapham 2001).

In the early years of independence little international attention was paid to the state organs of the new states. State was perceived as "an arena of sovereignty, of territoriality and perhaps of nation-building, but it was not seen as an interconnected set of institutions with an existence of its own" (Chazan et al.1999:38). The combination of, on the one hand, internal lack of legitimacy and lack of experiences with the 'new rules' of multi-party democracy, and on the other hand, external support of territorial sovereignty irrespective of performance, created a situation of 'letter box sovereignty' in many of the new states. 'Letter box sovereignty' refers to the practice that the international community invited whoever happened to open the invitation as it reached the presidential palace to be the representatives of the given state in international forums, e.g. the United Nations (Clapham 1996).

While sovereignty in many cases therefore was somewhat fictitious, it nevertheless had real consequences in terms of the newly born states being recognized as members of the international community, thus being able to form alliances, participate in international bargains for resources, e.g. development aid and military support and claim the right of protection in case of attack from other states or internal rebellion (Clapham 1996). These foundations of externally imposed statehood are

very different from the foundations of European statehood, which has resulted in different characteristics of European and non-European states. In the former case states defined borders and established their identities with reference to neighbour states and rival states, whereas "non-European states were generally constituted by reference to a core, beyond which the central authority was gradually diluted as it extended into peripheral areas subject to its nominal sovereignty or occasional punitive raids" (Clapham 2000:2).

The early years of independence were characterized by attempts to concentrate power at the political centre, by reorganizing the administrative structures, and the parameters for political action. This implied a consistent undermining of participatory structures and attempts to limit the possibilities for opposition in various ways, the best known being the rapid change from ill-functioning multi-party systems to one-party states (Chazan et al.1999; Chabal 2005). This tendency must be seen on the backdrop that the new set of rules – basically corresponding to the rules of the institutional arrangements of a legal-rational 'modern' state – were devised by the colons just before the right to govern was handed over to African leaders. In this hasty process considerations of whether these arrangements constituted viable and sustainable governance structures for the new states concerned were largely absent. That is, while sovereignty was granted as a result of decolonisation "it was immediately assumed that new states would take on features that had previously characterized sovereignty, most notably unquestioned physical control over the defined territory, but also an administrative presence throughout the country and the allegiance of the population of the idea of the state"(Herbst 1996:121-22). Little attention or interest was paid to whether and how the new states would meet these criteria.

The new leaders, therefore, were confronted with newly envisioned pluralist political institutions imported from the West, while having only the experience of authoritarian colonial rule. In short, they were given a structure, but lacked a power base and the means to legitimize their new status as state authorities (Chazan et al.1999; Herbst 2000).

The mismatch between an alien structure of 'democratic' governance and new leaders with no prior experience of state as a source of legitimacy, combined with

external disinterest in the internal dynamics of states, are all factors behind the development of what is commonly termed the 'neopatrimonial state'.

Neopatrimonialism can be understood as a form of rule, that combines two modes of governance, namely legal-rational bureaucracy and personalized authoritarian rule (Engel & Rye Olsen 2005). Such a state is characterized by centralized authority, personalized patron-client relations between the state authorities and fractions of society and – correspondingly – informal decision making processes regarding the distribution of resources, all thriving within the framework of a supposedly 'modern bureaucracy' (Engel & Rye Olsen 2005; Chazan et al 1999). The reorganization of governance arrangements in the 1960s and 1970s therefore had "dual effects of expanding state structures, while at the same time frequently limiting the effectiveness of these agencies" (Chazan et al 1999:54).

The explanations of the development of neopatrimonialism are many, and differ according to their theoretical foundations. Mamdani (1996) makes a distinction between explanations rooted in a state-centrist tradition and those rooted in a society-centrist tradition. Whereas the former explains neo-patrimonialism as a consequence of a development in which "the state has failed to penetrate society sufficiently and therefore is hostage to it" the latter type of explanations hold that "the society has failed to hold the state accountable and is therefore prey to it" (Mamdani 1996:11). The latter form of explanation can lead to an underestimation of local agency, portraying the population as victims of anarchy or power abuse (Menkhaus 2006), whereas the former seems to be at risk of reducing the concept of political governance to be equal to institutional behaviour of a strong state, and assuming that only a very particular kind of society is compatible to the exercise of political governance. Both assumptions are, as will be shown in the following chapters, defied by the experiences of Somaliland.

Arguing that the development of the neo-patrimonial state was rooted in "the Africanisation of politics", which allegedly took place from the early years of independence and onwards, Chabal (2005:22) falls in the state-centrist category. While he argues that the failure of political scientists to understand politics in Africa is partly caused by a Western analytical convention of assuming a dichotomy between the 'modern' and the 'traditional', he himself tends to implicitly theorize along these lines. For example, when explaining why the imported Western political arrangements

did not produce democracy in Africa, he assumes an inherent difference between *citizens* who are "discrete, autonomous and self-referential individuals who cast their votes according to an overtly political criteria" and *Africans* who "cannot be conceived outside of the community from which (s)he hails" (Chabal 2005:23). Similarly Hyden (2006) characterizes the crisis of African statehood as an inherent tension between modern statehood and African societies. Drawing on the Durkheimian distinction between organic and mechanical forms of solidarity, Hyden (2006) argues that similar distinction – namely that between community and collectivity – is useful in illustrating the traditions and the nature of social organization in Africa, and thereby also useful in explaining why state in Africa is 'problematic' (Hyden 2006). Collectivity refers to a group of autonomous individuals who work together to reach specific objectives, whereas community refers to people who are tied together "by a sense of affective solidarity" (Hyden 2006: 53). In Africa, he argues – referring to anthropological analysis – community prevails and tends to dominate society. "Allegiance in African society was – and continues to be – functionally diffuse and indivisible involving the kind of primordial allegiance to which kinship ties easily lend themselves" (Hyden 2006:68 – with reference to Kopytoff). As illustrated by Mamdani (1996) the notions of Africans being exclusively defined by their 'primordial' allegiance to collective identities such as kinship were basic notions for legitimizing and exercising colonial rule, and these notions, in effect, disqualify 'Africans' as individuals capable of governing their own state.

Looking into the case of Somaliland, the arguments of Hyden have merit insofar as they point to the continuous importance of clan as the main social structure. However, the relative success of the bottom-up state building formula of Somaliland, resulting in a *hybrid* state merging tradition and 'modern' institution building, defy such state-centric approaches as well as the dichotomies, and the static notions of culture and tradition, assumed by their proponents.

Tracing the etymology of the word 'tradition' sheds light on the dynamic and process-oriented characteristics of tradition. The Latin word 'tradere' from which the word tradition is derived, "can be translated as 'pass something [over]' or 'hand something [over]" (Hoehne 2006:3). Thus, the etymology of 'tradition' conceptualizes

it as something connecting the past with the present – a conceptualization adhered to in this study.

In short, one has to move beyond ahistorical explanations and avoid essentialist assumptions about culture, as well as state, in order to further the understanding of the challenges and potentials of African statehood.

Along these lines, Jones (2008) argues that the structural crisis of African states must be analyzed in the context of the history of global political economy and geo-politics, rather than in terms of culture in and of itself. One crucial factor shaping the development of post-colonial statehood in Africa was the geo-politics of the Cold War. According to Clapham (1996) the convention of 'negative sovereignty' – i.e. states formally recognized as sovereign, but unable to execute basic state functions – was applied during the Cold War as part of containment politics. This allowed African states – in their status as 'buffer states'– to get protection and military support from either of the super powers, without any concerns regarding their internal function and legitimacy (Clapham 1996; Herbst 2004). As for Somalia, the military regime of Siad Barre that seized power in 1969 initially aligned with the Soviet Union, but in August 1980 shifted sides to the United States (US). By the middle of the 1980s under the Reagan government, the US had become increasingly willing to ignore internal governance and politics, a fact which Barre greatly benefited from (Jones 2008). Economic mismanagement resulting in national bankruptcy, along with increasing lack of internal legitimacy, meant that Siad Barre was heavily dependent on external resources and support received from the superpowers (Jones 2008; WSP 2005).

Altogether, the dynamics of the Cold War therefore played a crucial role in keeping him in power for two decades. This long period of dictatorship had severe consequences for statehood in Somalia (in general) and – as will be shown in the next chapter – it was an important factor behind the increased desire of the majority of the northern population to obtain independent statehood (in particular).

The economic crisis of post-colonial Somalia is but one example of a general tendency of economic crisis of African states, accelerating the deterioration of neopatrimonialism into what has been termed 'disorder', 'collapse' (Chabal 2005) 'state inversion' (Forrest 1998) and 'state failure' (Herbst 2004).

Neopatrimonial regimes are only 'effective' – i.e. able to deliver to their clients, who in terms 'pay back' by securing regime survival – as long as the state authorities

remain at the core of resource accumulation (Andersen 2007). By the mid-1970s and onwards it became increasingly clear, however, that neopatrimonial governance was not suited to foster – and indeed often directly undermined – economic development, and as the superpowers after 1989 lost their political incentives to support repressive regimes, the state authorities lost their capacity to accumulate and redistribute resources to their clients. The neopatrimonial state was slowly breaking down as it lost its relevance and effectiveness as the core of resource allocation (Chabal 2005; Andersen 2007).

Since the late 1980s and all through the 1990s economic as well as political reforms were imposed on African states, as the global containment logic of the Cold War was replaced by a neo-liberal discourse of promoting democracy, good governance and free markets. This common agenda was accompanied by an increasing concern for human security and development, as well as an emphasis on legitimate and effective state institutions. Moreover, a new nexus was constructed by the West between security and development, based on the perception that 'their' development is important for 'our' security (Andersen et al 2007). Alongside these policy changes and increasing focus on the institutional behaviour of states, a vast amount of literature providing explanations of the 'failure' of African statehood has developed. Recently the debate on 'failed states' was brought to the top of the security agenda of the US and Europe in the aftermath of the attacks on New York and Washington on September 11 2001, since Afghanistan had served as a safe haven for al-Qaeda, while it was planning these attacks. The political debate on 'failed states' since 2001 has therefore been centred around US and Europe security interests. In fact the US has shown significant interest in Somaliland (and in the issue of its recognition, which they however have decided to leave as an issue for the African Union) as a partner in the 'war against terror', in part because Somaliland is one of the few constitutional Muslim democracies, and in part because of the geo-strategic importance of Berbera port (ICG 2006).

The literature on failed states has relevance in the regard that it directs attention to the real problem that many states in the poorer parts of the world do not have the capacity to uphold law and order, to deliver public services and to address developmental problems.

However, the question is to what extent the 'failed state' debate actually furthers our understanding of challenges and potentials of African statehood. Several scholars have pointed to the limited analytical relevance of the concept of 'failed state' (Hoehne and Hagmann 2007; Bøås & Jennings 2005; Jones 2008; Clapham 2000). Some of the major demerits of the concept – they argue – are firstly, its normative and ahistorical foundations: 'failed states' are evaluated against an abstract idea of a prototype advanced Western state, which also underpins the perceptions of how the international system 'ought' to function. However, the category of 'ideal type states' has very little relevance as analytical category for most of East Africa (Menkhaus 2006) and altogether the dichotomy of 'ideal state' vs. 'failed state' – implicitly assumed in the failed state debate – fails to provide any explanations of *for whom* the state is failing and *how it is failing* (Bøås & Jennings 2005). Moreover – though along the same lines – the concept of 'failed state' does not account for the internal differences of the 'failing' states. In short, to categorize a state as 'failing', on the basis of the functioning of its institutions – or its lack of institutions – does not in and of itself lead to a better understanding of the internal complex networks of actors, incentives and power structures. These categorizations tend to lift the cases of state failure out of their historical context. The notions of 'state failure', 'state weakness' or 'state collapse' then become abstract moral labels, rather than theoretical tools for empirical analysis. According to Mamdani (2001:652), the notion of state collapse needs to be specified, since "it is not just any state that is collapsing; it is specifically what remains of the colonial state in Africa that is collapsing". Along similar lines Clapham (2000) and Herbst (1996) suggest that state collapse has been intensified and accelerated by overly ambitious attempts to impose a measure of state control over societies that exceeded what the state was ultimately able to bear.

Some of Herbst's contributions to the debate on state failure – perhaps put most controversially in his article 'Let them fail' (2004) – could be read as 'Darwinist philosophy' overlooking the potentially devastating consequences of allowing internal power struggles to play out and determine what kind of political order will be established, as well as overlooking the danger of opening a Pandora's box of secessionist claims (Joseph in Joseph & Herbst 1997). However, this critique should not overshadow the merit of his main argument, that it is time to allow for the development of alternatives to the (conventional) model of state which is 'failing'. In

his own words, he rejects "the defeatist attitude that either nothing will work in some parts of Africa or that the status quo is the best that can be hoped for" (Herbst 1996:132). Rather, he argues, the international community must help in creating intellectual space for innovative proposals of new viable political orders, develop institutional flexibility in order to be able to engage with alternative political units, allow for internally driven developments of political order, and ultimately, be ready to 'decertify' states which clearly are not at the least minimally functional (Herbst 1996). A break with the sanctity of the status quo should, according to Herbst, first and foremost serve the purpose of making it possible to at least analyze "potential advantages of new states that may be better able to harness the commitment and energies of their people" (Herbst 1996:138). Importantly, the controversial proposal – that the current map of Africa could be redrawn in order to allow units that actually provide order to replace de jure units that do not – is linked to a belief that political alternatives must develop from within Africa, and be based on locally grounded capacities, knowledge and power in order best to meet the needs on ground (Herbst 1996). This study shares the latter belief, but does not explicitly engage in the extensive and important debate on the merits and demerits of allowing (or even supporting) the transformation of the map of Africa.

The most recent debate on 'state failure' is considerably coloured by the event of 9/11. Referring specifically to the post-9/11 debate Bøås and Jennings (2005) argue that the problem of the poor explanatory power of the notion of 'failed state' is related to the bias of investigating state failure mainly as a security threat to Western states, since "after all everyone and everything looks the same when you see only yourself in the mirror" (Bøås & Jennings 2005:388).

One way of enabling analysis of state failure which could further our understanding of African statehood is to look at the internal consequences of state failure. By focusing on the internal and local dynamics of 'state failure', it is possible to develop a better understanding of the human consequences and human agency in terms of the insecure environment the population experiences in the absence of state, and the ways in which they cope with such insecurity. Different coping strategies will have different effects on the relationships among the non-state actors, and between the non-state actors and the state actors. By asking questions about the people and the communities of failing states, it is thus possible to start to understand and analyze the

micro-dynamics that undermine socio-economic development and state accountability, as well as the localized forces that support development and provide protection and survival for the population (Jones 2008 Menkhaus2006; Menkhaus 2006a; Hoehne & Hagman 2007; Bøås and Jennings 2005).

In the case of Somalia the nature and extent of local and informal structures of governance, compensating for the absence of a central state, has varied substantially in the different regions. What is indisputable, however, is that Somalia, known as an ultimate case of state failure, has not been stripped of all organizing structures since the fall of Siad Barre in 1991. Rather, "parallel social economical *(sic)* and political circuits able to provide protection and survival to various segments of the population, as well as to part of the ruling class" (Ciabarri forthcoming) have evolved in the context of statelessness. Not much attention has been given to the fact, that such parallel modes of governance – the mutual interplay of a variety of different authorities, as well as their interaction with the remainder of political structures – in some parts of the region, Somaliland being the prime example, have produced viable forms of political cooperation (Menkhaus 2006; Menkhaus 2007; Ciabarri forthcoming). The de facto statehood of Somaliland, which has received neither international recognition – nor much general attention – ,poses some challenges to the conventional approaches to statehood in Africa, especially to the much debated concepts of sovereignty and governance. First, Somaliland is not formally recognized, and thus lacks one of the most fundamental criteria of statehood. Secondly, Somaliland has followed an unusual path to state formation, in which consensus was favoured over majority rule as a point of departure. This meant that the initial phases of state building were characterized by huge inclusive (with the important exception of women) conferences lasting for several months. This approach had the result that clan representation in a transition phase was favoured over democratic representation (vote through the ballot). Thirdly, at the current stage of democratic consolidation, Somaliland's state arrangements still reflect a clan-based representational formula manifested in the upper house of elders, the Guurti. Moreover, due to lack of resources – which is strongly related to its unrecognized status – as well as lack of full public trust in centralized state structures, local traditional authorities undertake core state functions, and do so most often with the consent and even approval of the state. On this backdrop, Somaliland has been able to develop from a stage of civil war, to a

stage of sustained peace, functioning governance structures including an army and a moderately functioning police-force, as well as some basic (semi) public service-deliveries (Menkhaus2006; WSP 2005).

While it does not conform to the criteria of Westphalian statehood, it would be outright misleading to label Somaliland's de facto statehood as 'failed'. Rather, the case suggests an alternative formula for state building, moving beyond the dichotomies of state versus society, and clanship versus citizenship. In this sense, the case is at the heart of an important current debate. As Chazan et al (1999:68) have put it: "The question of viable constructions of the public arena was, perhaps, more urgent at the end of the fourth decade of African independence than at the beginning of the post colonial era. From this ongoing evaluation may yet emerge a formula for decolonisation of the state".

2.3. Different approaches to statehood in Africa

There has been no clear consensus on how to conceive of state in post-colonial Africa. Descriptive labels vary from weak, fragile and collapsing to powerful, absolutist, and expanding. What has moreover become evident is the diversity of internal structures and dynamics of African states, and the importance of society-level factors in terms of the relative ability to construct new foundations for state and politics. That is, the internal differences of post-colonial states are reflected in the heterogeneity of responses – including variations of disintegration and reconfiguration of state – to the 'crisis' following the end of the Cold War (Boone 1998). While some cases (for example Liberia and Somalia) appear to support the assumption that African statehood is extremely fragile and that territorial integrity as well as regime survival are fully dependent on foreign patronage, many other cases (such as Côte d'Ivoire, Cameroon, Malawi, Zambia, Ghana and Uganda) seem to have survived the post-Cold War transition basing their statehood on deeper and broader empirical foundations than external protection and international law (Boone 1998).

Despite the increasing acknowledgment of contextual difference, three main approaches to African statehood can, according to Chazan et al. (1999), be observed on the theoretical level. Forms of analysis that fall within the first approach, the 'organic' one, share some basic assumptions: that the state is the dominant power structure within a given society; that the state is a unitary actor autonomous from

society; and that the state has some given functions to fulfil. It is difficult to explore the role of non-state actors in governance within this somewhat mechanistic approach. The second approach, the configural one – in line with the organic approach – insists on the predominance of the state, but the two approaches differ in their perception of *how* the state impacts the rest of society. Whereas the organic approach assumes a direct impact of the state on the society, the configural approach views the state's impact as a matter of profoundly structuring the space within which political and social action takes place.

The third approach, termed the 'interactive approach' – while not rejecting insights from the two former – challenges the 'given' centrality of the state, and argues that the social structures are as important to analyze as state structures. Proponents of this approach moreover hold that "it is necessary to look at how transactions between social groups and state institutions are carried out and how these, in turn, alter the nature of public institutions as well as of social formations" (Chazan et al. 1999:41). From this perspective statehood is not viewed merely as a set of institutions functioning on a scale from 'ideal' to 'failing' but rather as outcomes of historical processes and interaction between social and political actors with a variety of interests and power assets. Proponents of this approach acknowledge the state as an important actor, but do not view its role as exclusive or necessarily dominant (Chazan et al.1999).

The approach adopted in this thesis is closest to the interactive approach, since the aim is to investigate state capacities *empirically* in a case of de facto statehood. In other words statehood and governance in Somaliland are in the following explored not by evaluating institutional behaviour (in and of itself) but by looking into the different interests and power relations which have been negotiated in the process of state formation, which profoundly shape the particular manifestation of contemporary de facto statehood in Somaliland.

Menkhaus (2006) provides some analytical concepts to investigate the processes in which localized governance and authority influences, constrains and enables state governance and state formation. The framework of 'mediated state', which underpins the analysis of this thesis, is thus part of an emerging body of literature suggesting alternative, more flexible and pragmatic approaches to investigating empirical manifestations of statehood.

Menkhaus (2006) presents the 'mediated state' as one category in a typology developed around two dimensions of state governance, namely *interest* and *capacity*. While this typology is imprecise and could be developed further – and empirical statehood is unlikely to fit into any *one* of the four categories (Menkhaus 2006) – it illustrates the point that weak states have different relations to their populations. In this sense Menkhaus (2006) goes some way in providing a theoretical framework, which makes comparative analysis possible, even when states are perceived as unique manifestations of power relations, shaped by different history and culture. The typology and the elaboration of the approach of 'mediated state' also provide a basis for investigating the internal foundations of African statehood in more detail – in particular the aspect of the 'reach' or extent of state governance, which as noted by Clapham (2000) in many cases is limited to the centre, rather than exercised throughout the territory of the state.

The first category of the typology is a state which has a central government with both the *capacity and the interest* to govern all of its territory in a manner that promotes the welfare and security of the people. Such a state is labelled the 'ideal type' sovereign state, and as an analytical category it does not have much relevance in Eastern Africa, with the possible exception of Rwanda with its strong central government and limited territory (Menkhaus 2006). The second category is a state, *which has the capacity to govern, but lacks the interest* to do so in a manner that promotes the welfare and security of the people. In these cases the state has the strength to extend itself to areas outside the cities, but rather than promoting rule of law and development, it plays a predatory and repressive role. The kind of power the state has in such cases it based on coercive force, such as military troops and police. The state of Somalia during the rule of Siad Barre belongs to this category. The third category is a state which does not have sufficient economic resources to execute core state functions, but also has no incentives to strengthen state authority. This kind of state, in other words, *lacks interest as well as capacity*, and is by Menkhaus (2006) labelled 'the absent state'. The problem of lack of economic resources is common for many African states, and such lack of capacity is surely an important dimension of why some states do not reach beyond the capital, and in general fail to execute core state functions. But apart from that, the interest factor can also play a role. The fact that the international society through international law has protected African borders,

33

irrespectively of the performance of the state, has an impact on the interest factor (Herbst 2004). If the state from the outset has very little resources, it will have little interest in devoting any of these to poor border areas, if sovereignty is protected from outside in any case. Therefore, as long as anarchy in the border and rural areas does not threaten the regime, it can be a rational strategy for the regime to simply leave these areas ungoverned. This is the case even if this is likely to have negative consequences for the majority of the population in these areas, who will be likely to compensate by developing localized strategies of governance and survival. Lastly, there is a category of states which *does not have the capacity but does have the interest* to govern its territory in a manner that generally serves its people. This is what Menkhaus (2006; 2006a) calls the 'mediated state'.

The pre-condition for the mediated state to occur is that the state authorities have a *real interest to govern*. There can be different reasons for the state authorities to develop such interest. For example strong local constituencies can pressure the state to perform, or external actors can exercise such pressure, and have in recent years increasingly done so. It can also be a matter of a serious threat of local anarchy spreading to the national level and threatening the regime (Menkhaus 2006).

Investigating the factors of interest and capacity in the case of Somaliland, first of all brings the issue of recognition to mind. The aspiration for recognition creates a strong incentive to 'perform' – i.e. secure the rule of law throughout the territory and promote democratic reconstruction of institutions, since unlike the situation of most African states at the time of independence, the prospects for recognition are dependent on the performance of the state (Jhazbhay 2007). Further, due to its unrecognized status, the state of Somaliland – and the process of state formation – has received very little external support, and internal support thus continues to be of crucial importance for the survival of the under-capacitated state. Secondly, the factor of local pressure is also apparent in the Somaliland context. The devastating experiences of state prior to 1991 made the Somalilanders suspicious of the revival of state, and on this basis local authorities have strong incentives to mediate the power of the state, which is also apparent in the concrete state arrangement. Reviving a strong central state was thus not amongst the objectives of Somalilanders in 1991. The local pressure on the state to maintain downward consultation has mainly been exercised through clan lineages however, which cannot be equated with broad public pressure on the state. Thirdly,

because of the clan structure it is necessary to secure peace on the local level in order to have peace on the national level (Gundel 2006; WSP 2005). In other words, in the case of Somaliland local conflict would present a great risk of spillover to the national level (see chapter 4). Thus, capacity to maintain stability on all levels within the territory is critical, but the state does not in itself have this capacity (Gundel 2006; Bradbury 2008; WSP 2005). Lastly, an important criterion for a mediated state to succeed, namely "the presence of reasonably authoritative local actors which the state can accept" who are "relatively committed to peace and good governance" (Menkhaus 2006:8), also appears to be met in the case of Somaliland. Chapter 3 looks into how the particular historical trajectories of Somaliland provide some explanation of why Somaliland in 1991 had the 'social capital' necessary for 'mediated' and 'hybrid' governance arrangements to emerge and work reasonably well.

In sum, while the Somaliland state does not have the capacity to undertake all core state functions (as is done by an 'ideal type state'), nor to overrule or marginalize local non-state actors (as happened during the predatory state of Siad Barre), it does have strong incentives to secure rule of law and 'good governance' within its territory. Somaliland state thus *lacks the capacity* to exercise full control of its peripheral areas, but *has developed the interest* to do so, and is thus characterized by the circumstances under which 'mediated state' according to Menkhaus (2006) can occur.

Parallel informal modes of governance are likely to develop on the local level in most cases where the state is unwilling or unable to govern. However, the way in which such informal systems of governance and authority relate to state authority differs. In the case of a *predatory* state, part of the population may become involved in predatory networks. While this can contribute to keeping a certain regime in power, it cannot be seen as a contribution to state formation. In the case of the *absent* state, local modes of governance may compete – sometimes violently – on a local level while having no connection to national governance. But in the case where the state has the interest, but not the capacity to govern, the local and informal models of governance may become an important component of state formation, or maintenance of state. In the special case of *mediated state*, the sources of authority outside the state structures become linked to state governance in a way that supplement the state in promoting security and rule of law. 'Shared' sovereignty can thus become a way of enhancing governance, especially in a phase where the state does not yet have the

capacity to exercise full sovereign political authority. It is important to note, however, that the nature of such government arrangement is different and more complex than is the case of what is conventionally perceived as national governance. Depending on the context, mediated state arrangements have a number of drawbacks such as inconsistent and non-transparent forms of governance and extra constitutional application of law. However, being a strategy of harmonizing state authority with local structures of governance rather than attempting to displace them, 'mediated state' may in some cases be more realistic and have better chances of success than attempts to establish a state as a supreme central power.

2.3.1. Mediated state – beyond the discussion of conventional state capacity

Menkhaus presents the approach of mediated state mainly as a flexible means – with some notable drawbacks – of increasing *capacity* to govern. This thesis holds that discussing 'mediated' state arrangements – as an imperfect alternative to a central state as well as to anarchy – can also contribute to a discussion of how to understand post-colonial statehood in the first place, and particularly how to theorize about its relations to society. The dimensions of legitimacy and quality of state-society relations are particularly important in this study because of the focus on the role of the traditional authorities, who apart from complementing the state in undertaking core governance functions also have a role as key representatives of cultural and indigenous values.

The often overlapping themes of capacity (what is efficient), legitimacy (what is approved of) and ideology (dominating sets of beliefs and ideas of what governance and state is and should be), are all central to the discussion of alternative approaches to statehood, and what might constitute the basis of such approaches. The paragraphs below provide a brief discussion of mediated state in relation to these themes.

According to Menkhaus, one reason why African states have not to a greater extent experimented with some variants of mediated state is that the ideological project of introducing the modern nation-state in post-colonial Africa "could not accept less than the full range of sovereignty and monopoly of violence" (Menkhaus 2006:7).

According to ideas infused by modernization theories, political development is a process in which traditional institutions are 'overcome' and state emerges as the

paramount authority in post-colonial Africa. According to this perception of political development, traditional institutions including customary law – even if temporarily tolerated in remote areas – are viewed as backward systems to be replaced as rapidly as possible by expanding modern state structures, not as building-blocks in the exercise of state formation (Menkhuas 2006; Dia 1996; Mamdani 1996).

Mamdani illustrates how the customary of African societies was first defended and exploited (as described above) in the phase when the colonial ideology was being consolidated, and then defeated in the name of development by the end of colonialism. That is, external imposition of systems of governance at the time of independence was justified by devaluating internal practices, belief-systems and traditions and framing them as adverse to progress. "In its post war reform phase, colonial strategy cast the customary as antithetical to development. If tradition was backwardness, then development would have to be induced from without, or at least from above" (Mamdani 1996:170). Along the same lines, Grande makes the point that one of the first concerns of the project of 'modern statehood' as it was imposed on East Africa was to defeat the structure of social organization based on decentralized collective identities, and their attendant systems of justice, also in cases where these systems were well-functioning. Centralization of power implied that "all alternative centers producing rules of social conduct – even when tolerated – were considered outside the notion of law and jurisdiction" (Grande 1999:66). Clapham (2000) conceptualizes these sacrifices of identities and forms of organization which were incompatible with the hierarchical form of control that states attempt to impose as 'social costs of statehood'. Thus, importantly, while states have brought with them benefits, they have also brought costs, especially when imposed as hasty as it was the case in most of Africa. The 'costs' of states – i.e. the 'sacrifice' of identities along with political and economic 'costs' – have in the industrialized world been paid such a long ago that it is easily forgotten how heavy such costs often were. This has led to unreasonable high expectations of *what* state – notably a specific 'modern' state – should and could do, and *how* it should do it, in terms of governing societies all over the world. Moreover, such expectations have often left very little room for negotiation of the role of state as envisioned by the population it is supposed to govern, and have generally failed to take the resource bases of the state and social expectations of society into account (Clapham 2000; Herbst 1996).

It is important to keep in mind that in the Somali context, 'informal' localized structures of authorities have a historical record of much greater legitimacy and efficiency in terms of providing security than a central structure of state has. Thus, a strong commitment to peace and rule of law and a wish for security do not automatically translate into support of a central state with an extensive bureaucracy and exclusive sovereignty. It is, in other words, reasonable to suggest that it is the formal state-structure (rather than the localized structures of governance) which needs to prove its worth both in terms of legitimacy and efficiency in the eyes of Somalis.

Lack of capacity (the central concept in the theory of 'meditated state' as presented by Menkhaus) – in the conventional sense, and not least due to lack of recognition – is unquestionably one reason why the Somaliland state is unable to undertake all core state functions and thus forge 'partnerships' with local traditional authorities. In addition to compensating for lack of resources, mediated governance arrangements can also, however, be perceived as a way for the state to gradually come to grips with the social and political problems and realities of the subject population, and in this way earn a basis of popular support. This aspect touches upon the question of legitimacy. That is, the mediated form of governance in combination with hybrid state arrangements incorporating indigenous notions of governance may be better suited to the contemporary social structures and expectations of the Somali society, and allow for a more 'organic' development of state. However, the other side of the coin is that incorporation of traditional authorities into the structures of governance is also likely to have a significant impact on these authorities and transform their role and the way in which they are perceived by the population.

Following an approach of 'mediated state', allegiance and loyalty to local 'informal' systems of authorities and governance are not perceived as antithetical to simultaneous support of a national structure of state. Rather the different level policies are "nested together in a negotiated division of labour" (Menkhaus 2006a:103). Some parallels can be drawn between this approach and the form of revisionism proposed by Herbst (1996), who suggests a break with the convention of Westphalian sovereignty. In some cases, he argues, it is warranted to replace the Westphalian ideal of absolute sovereignty with more pragmatic forms of sovereignty – which does not need to be absolute, nor exclusively territorial – that may be more effective in maintaining the political and social order. In this regard, he proposes, it may prove

fruitful to draw on insights from more decentralized ordering principles and modes of governance as it functioned before the imposition of 'modern' statehood (Herbst 1996). This argument may have relevance in a Somali context where a sovereign state has never been the source of legitimacy, where localism has remained a basic cultural trait, and where a large part of the population is nomadic and thus not territorially bound.

Whether mediated governance arrangements in fact generate legitimacy, and whether such arrangement can be seen as a contribution to effective state building – or merely as an alternative way of enhancing governance – must be evaluated from case to case.

2.4. Concluding remarks

The Western model of multi-party democracy hastily implemented as part of the de-colonisation process was in many African countries rather short-lived, since the basis for maintaining this model was weak on the backdrop of the colonial experiences of unaccountable and exploitative governance. Moreover, and importantly, the geo-politics of the Cold War created incentives to rely on foreign patronage and neopatrimonial networks rather than internal legitimacy. However, as shown, the 1990s represented a period of crisis and extensive pressure for change, in which the old strategies of power and governance based on colonial inheritance and Cold War politics broke down – in some cases with the fundamental disintegration of state structures as a consequence.

This crisis sparked a debate about the 'failure' of African states to function as they are 'supposed' to – a debate which became linked to the fear that such 'failure' would pose a security threat to the West. It also gave rise, however, to revisionism based on an acknowledgment of the need to rethink what could constitute viable pillars of statehood and governance in Africa in the future.

It has, in short, become increasingly clear that the externally imposed state model which African leaders inherited at the time of independence simply, in many cases, cannot be maintained, and the question of what may constitute viable constructions of governance in Africa has assumed renewed urgency. In this sense, the period in which Somaliland was (re)born as a state has been critical in the evolution of statehood and politics in Africa.

This critical era has also exposed the not insignificant internal differences of states, which have produced diverse patterns of disintegration as well as reconfiguration, and thus pointed to considerable challenges, as well as new potentials, for the future of African statehood.

On this matter Somalia presents an extreme example in that the consequences of state collapse have been highly diverse *within* the state: in the north the state collapse provided an opportunity to build up a new state around entirely new principles whereas in the south a pattern of disintegration has persisted despite numerous attempts to revive the de jure state.

In the following chapter the historical background of these diverse responses to state failure in Somalia will be analyzed, with the aim of developing a better understanding of the foundations of the alternative form of statehood that Somaliland represents.

Chapter 3

The historical foundations of statehood in Somaliland

3.1. Introduction

Since 1991 Somaliland has been a de facto state within a de jure state; a political unit emerging out of the recognized though fundamentally disintegrated state of Somalia. But what is the background for the declaration of independence which made Somaliland a de facto separate political unit and what are the historical trajectories behind the particular path to state formation in Somaliland?

Looking into the emergence and nature of new forms of political systems and governance structures in Africa, Villalon (1998) drawing on Colliere (1991) and Krasner (1984), argues that the choices and strategies embarked on in the attempts to restructure governance and state in the critical period of the 1990s, must be understood as constrained and shaped by past choices, or as put by Colliere "they arise from and are embedded in antecedent conditions" (Villalon 1998; Colliere in Villalon 1998:6).

This chapter provides a historical account of the processes prior to 1991 through which Somalilanders developed the desire and social basis to separate from the south and establish their own set of state arrangements based on indigenous notions of authority and governance arrangements. The chapter aims at analyzing what role history has played in terms of setting the parameters for the choices and strategies available in the process of state formation, as well as in terms of shaping the contemporary governance arrangements in Somaliland.

Tracing the characteristics of governance and authority in Somaliland back in history, the chapter starts out with a brief account of the basic traditional practices of governance which characterized Somalia already before the imposition of the state, and then goes on to analyze the experiences of – and reactions to – state and governance during the colonial and the post-colonial periods.

3.2. Traditional mechanisms for regulating social interaction – governance practices developed in a stateless society

The pre-colonial stateless society was a rather egalitarian one, in which social relations on the group level as well as individual level were managed through the *xeer*. The xeer constitutes Somali customary law, and in combination with Islam prevented disintegration of the lineage system (Samatar 1992). The xeer is also referred to as a social contract; a contract democratically negotiated and agreed upon usually on a bilateral basis between diya-paying groups. Thus, "it binds people of the same treaty (xeer) together, and defines their collective responsibility in external relations with other groups" (Gundel 2006:8). The diya-paying group is the most stable lineage entity, more loosely connected to higher levels of lineage, the highest of which are conventionally known to be the six clan-families Raxanweyn, Darood, Hawiye, Isaaq, Digil and Dir (Bradbury 2008) (see also Appendix 4). As part of xeer the diya-paying groups are bound to pay or receive blood compensation in cases of crime or murder (Menkhaus 2000; Gundel 2006). Samatar (1992) argues that "What gave the xeer staying power in the absence of centralized coercive machinery was the voluntarism associated with the absolute necessity of relying on one's labor/livestock rather than exploiting others" (Samatar 1992:631). The egalitarian characteristic of pre-colonial stateless Somali society can thus, according to Samatar, not be explained with reference to 'inherent characteristics' of Somali tradition, but rather by the fact that no group had sufficient resources to be able to dominate and exploit other groups.

From a political science perspective it may yield understanding to compare the xeer to international law or to international 'regimes', since in both cases there is "no political force with the punitive capacity to enforce these accords" but nevertheless "there are negative consequences for actors who choose to violate the code of conduct" (Menkhaus 2000:186). That is, the xeer – as is the case for international law – adds predictability and increases the incentives for cooperation in a society where centralized authority is absent. The xeer is formulated and agreed upon in consultative assemblies of traditional authorities called *shir*, in which the traditional authorities play key roles as negotiators, arbitrators and decision makers. There are different categories of traditional authorities, the two most common and active being the Suldaan and the Aqil. The former functions as the head of the clan at the level of the clan-family, and is as an institution older than the Aqil system. The Aqil system is a

hybrid rather than purely traditional system of governance, through which the British exercised 'indirect rule'. In contemporary Somaliland the Aqils are the category of traditional authorities most actively and directly involved (as mediators, peacemakers, judges) in the everyday life of Somalilanders (Gundel 2006).

While shir can be translated as simply a meeting of traditional authorities, *shir beeleed* is a regular clan conference, attended also by non-titled kinsmen. It was, as will be shown in the next chapter, a series of shir beeleeds that laid the foundation for state formation in Somaliland.

The lengthy shir meetings, serving as decision-making forums and for settlement of conflicts, are typically held in the midst of the communities and can be attended by all adult males (Menkhaus 2000). While the shir is known as a highly consultative and democratic process – in the most basic sense of the word – the exclusion of women is a significant undemocratic characteristic.

To sum up: the diya-paying groups can be understood as the basic social structure; the application of xeer (customary law) is what maintains and reproduces that structure; and this application is undertaken by the traditional authorities who are the main representatives of the diya-paying groups who also undertake mediation and reconciliation in conflict situations (Menkhaus 2000; Gundel 2006; Renders 2006).

3.3. Colonisation – the first experiences of centralized governance

With colonisation in the late 19th century Somalis were for the first time subordinated to a central state, ruled by the Italians in the south and the British in the north which led to a shift of the locus of power and politics. While politics in traditional Somali society was taking place on the community level, during colonialism politics and power were transferred to the urban administrative centres.

Importantly, the colonial experiences of the north and the south, becoming a British protectorate and an Italian colony, respectively, differ in important respects (Spears 2003; Jhazbhay 2007; Reno 2003). Since the main interests of the British in Somaliland was to secure food supply – Somali mutton – for their military garrison in Aden, and to prevent other colonial powers from taking control, the British pursued a strategy of minimal economic and political interference[6] (WSP 2005; Reno 2003; Spears 2003). To the extent that the British colonizers did exercise authority over the

---

[6] In 1955 around 200 senior officials ran the entire protectorate (Reno 2003)

rural population (the vast majority of the population) they did so through the Aqils (Bradbury 2008; Reno 2003). This method of indirect rule created some degree of 'decentralized despotism' (Mamdani 1996) since some of the Aqils became intermediaries between the colonizers and the communities (WSP 2005). However, by and large British Somaliland, similarly to for example southern Sudan, belonged to the 'no-government category' (Prunier in Spears 2003) or what Menkhaus (2006) terms 'absent state' – i.e. unwilling and unable to project its authority beyond the capital.

In sum, accounts of the colonial experience of Somaliland suggest that while the British left the territory economically underdeveloped and marginalized, they also left the traditional structures – which later became the basis for peace building and state formation – largely intact (Lewis 2000; Spears 2003). As put by Prunier, during colonial time Somaliland "suffered only from 'benign neglect'" (Prunier in Spears 2003:93).

Quite differently, the Italians pursued a strategy of direct rule, and accordingly imported a whole new political system to southern Somalia, with centralized economic planning, state appropriation and substantial support for big enterprises. The colonizers followed a strategy of uprooting local producers to force them to integrate with the increasingly centralized national economy. As for the cultural sphere, Somali practices, values and language were perceived as inferior and something to be 'overcome' in order to 'modernize' the society (Jhazbhay 2007; Reno 2003).

3.4. The post-colonial state(s) – from dysfunctional democracy to military dictatorship

By the time of independence Somalia was expected to be one of the countries in Africa with the best chance of consolidating peace and statehood, due to its homogenous population in terms of ethnicity, language, culture and traditions (Spears 2003). However, the economic and political reorganization of Somali society during the era of colonialism had strengthened lines of inclusion and exclusion, and as in most countries which have been under colonial rule, the colonial legacy laid the structural foundation of the post-colonial state – a state which became the source of immense suffering for the Somalis (Doornbos & Markakis 1994).

The nationalist movements and parties emerging in the 1950s both in the north and south increasingly pushed for independence, which finally was granted by the British on the 26th of July 1960, and five days later, on the 1st of June, by the Italians. The 1st of June was also the day when the two territories united into the new 'Somali republic'. Pan-Somali sentiments were relatively high in the north, and by some the unification was seen as the first step towards a 'Greater Somalia' also including the Somali-inhabited areas in Ethiopia, Djibouti and Kenya – an ambition which never materialized (WSP 2005; Spears 2003). The five days in which Somaliland was independent and received recognition from some 35 states, counting some of the permanent five of the UN Security Council, are of great importance for the currently unrecognized republic (Jhazbhay 2003). According to Somalilanders, and people who sympathize with their quest for international recognition, the period of independence, however short, "is what sets Somaliland apart from the type of 'secessionists' abhorred by the African Union and from the various clan-based 'lands' that have mushroomed in southern Somalia since the collapse of the central government" (Bryden 2003:2).

While the small political elite in Somaliland, developed during the British protectorate in the dawn of independence, favoured unification and 'sold' this preference to the population with the use of nationalist rhetoric, the new Somali Republic was only a few months old when northern dissatisfaction with the merger started to rise (Bryden 2003; WSP 2005; Ahmed 1999). There was a perception in the north that it was being politically underrepresented, and the hasty merger of the two different systems of administration left little room for articulation of northern interests and did little to address the British legacy of severe economic underdevelopment in the north (Ahmed 1999). The northern dissatisfaction with the union became evident when the new joint constitution was sent to referendum in June 1961, and firmly disapproved by the regions of the former British Somaliland. However, as the majority of the republic consisted of southerners, the vote in total approved of the constitution (WSP 2005).

The first independent regime in Somalia – ill-equipped to create and implement a viable developmental strategy – took over a country with a frail economy, an imposed system of multi-party politics and increasing competition for resources among the different groups in the population. In this process, the north suffered

further economic decline and the discontent with the south increased (Bryden 2003; WSP 2005).

The failure of the new regime to improve traditional sectors of livestock and agriculture and to create a new domestic basis for accumulation perpetuated a mismatch between the needs on ground and the incentive structures produced by the state and the market (Samatar 2006). This development resulted in the state being the main source of funds as well as the main bone of contention. "It was the competition among the elite for these resources that ultimately led to the degeneration of the major political parties and the demise of parliamentary governance"(Samatar 1992:633). The process of disintegration of the political system into clan-based competition – described as clanism by Samatar, who emphasizes the difference between that and traditional kinship (Samatar 1992) – was reflected by the increase in parties and candidates: at the election in 1964 there were 24 parties staging out 793 candidates (for a number of 123 parliamentary seats), while in 1969 these numbers had increased to 62 and 1002 (Samatar 1992).

The high level of disintegration, corruption and increasing 'clanism', made a bloodless military coup possible. The 1969 coup initiated the more than 20 years' dictatorship of General Mohamed Siyad Barre, which gradually worsened the situation for Somalis in general (Samatar 2006) and in particular marginalized – and in the end massacred – the population of the north (Spear 2003; Ciabarri forthcoming). As Barre seized power the constitution was immediately suspended, the National Assembly was dissolved, political parties and professional associations were prohibited, 'clanism' was officially outlawed while unofficially manipulated (Omaar 1992), and the state became increasingly centralized – ending up as the sole center of power and resources. Soon the state had become a direct *counterforce* to development (Omaar 1992; Samatar 1992; Samatar 2006; Webersik 2004). To consolidate his power, Barre pursued a divide and rule strategy using the military and the state to support certain groups and exclude others (Webersik 2004). For a period a coalition of the three clans Marehan, Ogaden and Dhulbahante (all from the Darod clan family) rose to political hegemony (Menkhaus 2000).

The best chance for many young men to find relief from poverty was to go to the city and become members of the centralized networks of the regime. As part of his political strategy, Barre armed many of these young men, who – freed from the social

46

customary ties of their communities – proved especially effective as means of predation or even as regular fighters (Reno 2003). This led to a situation in which an urban minority exploited a rural majority (the nomads and farmers); competition for centralized resources became increasingly 'tribalized' and the repression of opposition increasingly violent (Webersvik 2004; Samatar 1992). Traditional kinship and customary law were, through a process of centralization of resources and power, separated and subsequently replaced by increasingly unregulated and 'tribalized' competition (Doornbos & Markakis 1994; Samatar 1992). As argued by Samatar, "The most important lesson to be learned from the present tragedy [in Somalia] is the recognition that Somali society has been torn apart because blood-ties without the xeer have been manipulated by the elite in order to gain or retain access to unearned resources" (Samatar 1992:640). Whereas adaptation to the centralization of the predatory state in the south led to disintegration of the social structures, the development in the north took a somewhat different turn.

Politically, militarily and economically marginalized and geographically located far away from the economical hub of Mogadishu, the clans from the north had little chance of effectively tapping into the state resources and were largely excluded from the patron-client networks of Barre (Reno 2003).

On this basis the northern political elite adopted a strategy of resisting rather than adapting to the state (Doornbos & Markakis 1994; Simons 1998; Reno 2003) – a development which created a significant measure of social cohesion in terms of alliances and networks developing outside the reach of Barre (Reno 2003).

Simultaneously the marginalization of the northern clans (in particular the Isaaq and Dir) markedly worsened, and became increasingly violent in its expression, especially from the late 1970s onwards. In the aftermath of the Ogaden war in 1977-78 – a war in which Barre reclaimed the Somali Ogaden region in Ethiopia, but was defeated – the social relations between the Ogaden clan and the clans in the northwest underwent serious changes. The number of Somali Ogaden refugees fleeing the fighting made Somalia host to the greatest refugee population in Africa, amounting to over half a million (WSP 2005), and a substantial part of these refugees were settled by the government in Somalia's north-eastern region (Bradbury 2001; WSP 2005; Webersik 2004). Consequently, the Isaaq and the Dir, the dominating clans in this region, became further marginalized, as the Ogaden refugees were strongly favoured

by the government with jobs, educational opportunities and land (Omaar 1992:323). That is, the Ogaden refugees were "brought into direct competition with the local Dir and Isaq residents, who were already poorly served in the delivery of state services" (Lewis 2004:502) and some were subsequently armed by the regime to repress northern resistance (Bradbury 2001).

The Ogaden war and its aftermath is widely regarded as a watershed in the history of Somalia, symbolizing the beginning of rapid disintegration of the state as well as society (WSP 2005; Bradbury 2008).

In the 1970s Somalia had been allied with the Soviet Union, but as Barre attacked Ethiopia and reclaimed Ogaden, the Soviet Union withdrew its support. Consequently, Somalia shifted allies from the Soviet Union to the US, and became the recipient of huge amounts of development aid attached to conditionalities of economic liberalization. Additionally, by the second half of the 1970s the growing dissatisfaction with Barre's regime had made it increasingly difficult to rule through manipulating clan-lineages. Altogether Barre gradually lost political as well as economic control, and thus increasingly relied on violent oppression rather than strategic manipulation (Bradbury 2001). This resulted in the formation of armed opposition, the first being the Somali Salvation Democratic Front (SSDF) in 1978. In the same year the Fourth Brigade – also named Afaraad – evolved as a fighting unit consisting of Isaaq opposition later joining the ranks of the Somali National Movement (SNM) (Bryden 2003). The SSDF was followed by the formation of the SNM, and in the late 1980s by the United Somali Congress (USC) mainly based on the Hawiye clan, and the Somali Patriotic Movement (SPM) mainly based on the Ogaden clan (WSP 2005; Davies 1994).

3.5. Northern resistance and the end of Barre's regime

The SNM was formed in 1981 in London – drawing together groups of individuals from within Somalia as well as from Saudi Arabia and Great Britain – and came to play a crucial role not only in the defeat of Barre but also in the formation of state in Somaliland (Jhazbhay 2007; Bryden 2003; Davies 1994). The movement was regionally based and mainly, though not exclusively, represented the Somalis

belonging to the Isaaq clan-family[7]. Not receiving any substantial external funding and excluded from access to state resources the SNM became highly dependent on cooperation with the traditional authorities who had remained strong in the north and thus proved particularly invaluable as driving forces behind the mobilization of support for the resistance amongst the northern Somali community in general and amongst the northern business community and diaspora in particular (Reno 2003; Jhazbhay 2007; Bradbury 2008; Prunier 1994).

Moreover, this alliance gave these authorities substantial control over the movement's economy as well as its politics (Jhazbhay 2007; Reno 2003; Bradbury 2008; Prunier 1994). Ultimately "the SNM functioned not as a guerilla 'front' distinct from the population but rather as an armed expression of the Isaaq people" (Prunier 1994:62). The choice of the SNM to ally with the traditional authorities must be seen on the backdrop of the particular conditions under which the SNM operated. Weinstein (2005) has made the argument that under conditions where a movement has access to economic endowments, the leaders can recruit on the basis of short-term rewards, which often leads to these movements being overflowed with opportunistic joiners who lacks commitment to the long term goals of the movement. In resource scarce environments like Somaliland, on the other hand, leaders of opposition movements are more likely to attract supporters by appealing to social ties, and in this way make credible promises of long-term rewards, which will follow from victory (Weinstein 2005)[8], exactly as was the case of the SNM, who, as we shall see also came to share their power with the traditional authorities as they constituted the first government in 1991.

According to Prunier (1994:62) the strong connections between SNM and the northern Somali society in general and the traditional authorities in particular had both its pros and cons. On the positive side were characteristics such as a high level of democracy in decision-making processes as well as a good understanding of the needs

---

[7] Other non-Isaaq clans and sub-clans represented in the SNM's founding included the Dir clans from the south in former Italian Somalia, individual members of the Gadabursi clan groups, and the Warsangeli and Dhulbahante clans (Jhazbhay 2007).

[8] Weinstein suggests that these patterns of 'rebel mobilization' are much like the patterns resulting from a so-called 'resource curse' which can undermine the accountability of states in resource rich environments.

and grievances on ground. Amongst the disadvantages were the tendencies of disorganization and lack of discipline (Prunier 1994).

However, as the struggle against Barre dramatically intensified by the late 1980s, the movement rapidly organized and expanded (Bryden 2003). In 1988 Ethiopia's President Mengistu made an agreement of convenience with Barre to stop supporting opposition movements operating from within their country, launching cross-border attack on the other country. The SNM subsequently moved their bases to within Somalia, and by surprise captured Burao and Hargeisa (Davies 1994; WSP 2005). Barre reacted to these surprise offences with an indiscriminate bombing of Hargeisa, literally turning the city into ruins (see pictures in Appendix 5), with a brutality that served as a trigger of overnight mobilization of unconditional large-scale support of the SNM (Bryden 2003; Bradbury 2001). As a response to this mass mobilization the SNM and the traditional leaders constituted a council of elders (a national Guurti[9]) which organized and made more effective the latter's support and counselling of the central committee of SNM. It is this council which later became the Upper House of Parliament in the hybrid government structures of Somaliland (see chapters 4 and 5).

The attack in 1988 became a collective memory of the Somalis in the north, furthering the 'psychological gulf' between them and the south and counting as one important factor behind the northerners' wish for independence (Spears 2003). Moreover, it dramatically intensified the conflict between the opposition and the government, and resulted in the withdrawal of external support for Barre, who eventually in 1991 was forced to flee the country (WSP 2005).

3.6. Concluding remarks

While Somaliland used to be – and legally still is – a part of Somalia, it has, as shown above, its own history, which may help to understand the nature of its contemporary state and governance structures.

The above analysis of the historical developments in Somalia suggests that differences (between north and south) in terms of relative position in the processes of centralization and 'modernization' starting in the colonial era, may go some way in

---

[9] The concept of Guurti traditionally refers to the highest political council of titled as well as non-titled elders in pastoral Somali society (Jhazbhay 2007).

explaining why localism and indigenous capacities later became the building-blocks of state in Somaliland, while violent competition along clan lines became an intrinsic part of the disintegration in the South.

One particular characteristic of Somaliland throughout colonial as well as post-colonial history as analyzed above, is its relatively marginal position vis-à-vis the south as well as internationally.

During colonial time, Somaliland was no more than a peripheral protectorate within the British imperial empire. The disinterest on the part of the British rulers in re-organizing and investing in Somaliland led to severe underdevelopment compared to the south, but the 'side-effect' of this minimal external interference, was that the traditional structures were left largely intact – opposite to the south where these structures were profoundly undermined by the Italians, who perceived them as a threat to modern state authority (Doornbos & Markakis 1994; Reno 2003; WSP 2005; Jhazbhay 2007).

As for the post-colonial developments, the nature of disintegration of the Somali state and society, particularly from the 1970s and 1980s produced a different pattern of distribution of social control over violence in the north than in the regions around the capital of Mogadishu. As shown, the factor of marginality appears to also have played a role in shaping the nature of northern resistance-alliances, which developed in a way that effectively revived the decentralized and horizontal power of traditional authorities (Jhazbhay 2007; Bradbury 2008; Ahmed 1999; Reno 2003). This 'soft power' was first used as one of the means of challenging a centralized predatory state, and subsequently provided the basis for building up a new state on entirely new principles, as will be shown in the following chapter.

In sum, historical developments – and not least the marginal position of the north in these developments – left Somaliland with some cultural capital, which was strengthened and made use of due to the particular political choices of the northern political resistance elite.

Additionally, the above analysis of the historical developments, and the different dynamics in the north and the south, lends credence to the argument that culture (kinship) cannot serve as a causal explanation of violent conflict or disintegration, but rather must be perceived as a factor which under different

conditions assumes different forms and expressions[10] (Doornbos & Markakis 1994; Samatar 1992, 2006; Besteman 1998; Turton 1997) – an argument which is also substantiated by the subsequent chapters.

The historical developments and alliances described in this chapter have been important in shaping the subsequent processes during which culture and tradition, as will be shown in the subsequent chapters, became an integral part of the Somaliland recipe of state- formation as well as of undertaking core governance functions.

---

[10] For further insight on this debate, see the argument between Samatar (1992), Besteman (1998) and Lewis (2004). The two former subscribe to a constructivist approach, and they both criticize Lewis for using a traditionalist approach in analyzing Somalia, and thereby implicitly understanding clanship in primordial terms, and holding that the source of conflict is inherent in the Somali culture. Lewis (2004) on the other hand, criticizes Besteman and Samatar for making an artificial and unjustified distinction between pre-colonial and post-colonial clanism and for making misleading conclusions of the degree to which clan can be seen as a construct.

Chapter 4
The re-birth of Somaliland – negotiating statehood

4.1. Introduction

Since 1991 there have been several state building processes simultaneously taking place within the borders of what is recognized as Somalia. After the state collapse in 1991 the international community – in accordance with the principle of territorial integrity – insisted on continuous mediation and negotiation in the south, aimed at reviving a central state. In this process "standard diplomatic procedures were justified on the grounds that traditional Somali assemblies were unwieldy and far too time consuming, often lasting months rather than days or weeks" (Menkhaus 2000:192). Unfortunately, this contributed to produce a situation in which traditional leadership was marginalized while faction leaders learned to perfection how to play the diplomatic game of the international community, and in this way gain access to the resources and aid channelled to the state, without having an actual interest in creating peace and national stability. Each UN led reconciliation conference was commemorated as a diplomatic breakthrough, but repeatedly failed in the phase of implementation (Menkhaus 2000; Bradbury 2008; Hagmann & Terlinden 2005). On these grounds, international diplomacy has been criticized for contributing to "faking a government in Somalia" and simultaneously failing to learn from – or at the least acknowledge – the bottom-up reconciliation and state formation process in Somaliland, which did not aim at simply reviving the state but fundamentally reformulating its basis (Hagmann & Terlinden 2005; Ciabarri forthcoming; Jhazbhay 2007; Jhazbhay 2003).

On the one hand, it can be argued that the international community missed an opportunity to build on the consensus reached in Somaliland to reinforce and promote 'good governance'. On the other hand, however, it can also be argued that the lack of any substantial aid has been advantageous for Somaliland, since it enabled local processes of governance building to develop on their own terms, without the interference of external agendas (Bradbury 2008).

The first part of this chapter gives an account of the national shir beleeds which constituted the forums for negotiating the national political system and the

constitutional arrangements. The second part of the chapter attends to the importance of the local efforts of the traditional authorities in reconstituting stability, and discusses their significance within the process of state formation.

4.2. Phases of state formation – national clan conferences and transition politics

Against the backdrop of the fundamental erosion of state legitimacy and political disintegration during the rule of Barre, state building in Somaliland was starting from scratch, by identifying and negotiating common interest of the people and translating it into basic principles for governance (Battera 2004).

Within a month after the defeat of Barre in January 1991 the SNM convened the first of many clan conferences aimed at peace and reconciliation: the Shirka Walaalaynta Beelaha Waqooyi (the brotherhood conference of northern clans). This first conference held in Berbera (see Appendix 3. for a map of Somaliland) was aimed at addressing the grievances and mistrust between clans resulting from the civil war, and signalling politics of reconciliation – i.e. publicly committing to abstain from any revenge against former pro-Barre clans. At the Berbera conference the participants – prominent traditional authorities from the different northern clans – agreed to convene a greater and more inclusive national clan conference, the Shirweynaha Beelaha Waqooyi (Grand conference of Northern Clans), in Burco between 27th April and 18th May (WSP 2005; Ahmed 1999). The Burco conference culminated in the declaration of Somaliland's independence on the 18th of May 1991. A decision unilaterally declared – though based on popular pressure – by the traditional leadership of the north together with the SNM liberation elite. Moreover it was agreed at the conference that the SNM central committee should function as a two-year transitional government, with Cabdiraxmaan Axmad Cali (also called 'Tuur') – the incumbent chair of the SNM – as president (Jhazbhay 2007; WSP 2005). Importantly however, broad representation of all northern clans was given priority, and the Isaaq-based SNM central committee thus turned into a more inclusive transitional administration (Ahmed 1999).

The new SNM administration was faced with the task of constructing a government from the ground, with very few resources, and no external support. Moreover, as noted by a former general in the SNM "SNM was a liberation

movement, not a political party. We had not prepared to make up a government"
(interview with a former general in the SNM, Hargeisa, 02.05.08). While the Burco
conference was critical in terms of creating peace between the Isaaq clan and other
clans in Somaliland, especially the Dir in the north and the Harti in the east, it had not
addressed the grievances between Isaaq sub clans and therefore internal conflicts
between different fractions of SNM – which had been suppressed out of necessity
during the fight against Barre – broke out. After a little less than two years with the
Tur-administration, sporadic fighting between Isaaq sub-clans was ongoing,
demobilization and reintegration of the militia had largely failed, and new irregular
militias had taken up weapons – easily accessible in the aftermath of the civil war –
and engaged in predatory activities. Although the national Guurti (the council of
elders which – as shown in previous chapter – had been critical for mobilizing
resistance against Barre) was not an institutionalized part of the state structures at the
time the SNM administration took over, the council remained highly influential. This
was especially the case as it became increasingly clear that local grievances if left
unaddressed, would have spill over effects strong enough to undermine the national
process of state formation (Bradbury 2001; WSP 2005). Peace and stability became
the main objectives from the early phases of state formation and president Tur
increasingly relied on the Guurti's capacity rather than on the SNM's political
programme (Renders 2006). This was not as such a contradiction, however, since the
political programme (from 1982) envisioned a system of governance firmly rooted in
Somali traditions and based on a form of 'national xeer', an idea that foreshadowed
the national charter (adopted in 1993, see below), which became the main pillar of
political stability of Somaliland for almost a decade (Bryden 2003).

At a peace conference in Sheikh in 1992 the Guurti settled a large scale intra-
Isaaq conflict concerning the port of Berbera – a port which is an important source of
tax revenues. These mediation efforts were led mainly by traditional authorities from
the Gadabursi clan, since they were perceived as a neutral third party by the
combating Isaaq subclans. The Guurti was at this conference expanded from being
mainly Isaaq-based, to incorporating all northern clans. It was this more inclusive
national Guurti council which was formalized as part of the system of governance at
the Boroma national conference opening in January 1993 (Bradbury 2008).

The Grand National Clan Conference of Boroma dealt with matters of structure of governance and the formula of power sharing, and laid the groundwork for the peaceful transfer of power from the SNM to a civil administration based on clan representation. The conference was largely financed by the communities of Somaliland and an estimated 2000 people in total – including 150 voting delegates of traditional authorities – attended. Altogether the conference has been described as a true watershed in the history of the formation of the Somaliland state (Logan 2000; Bradbury 2001; Menkhaus 2000; WSP 2005). The most important outcomes were:

- The adoption of a national charter defining a hybrid system of governance based on a bicameral legislature carving out an explicit role in the upper house for traditional authorities;
- The formulation and adoption of a peace charter which "elaborated a code of conduct for the people of Somaliland, in accordance with their traditions and Islamic values" (Bradbury 2008:98). The charter was spelling out the responsibilities of the elders for settling conflicts, and required all communities to make an oath to refrain from attacking any other clans. Altogether, the charter thus provided a 'national xeer', aimed at restoring the relationships between the northern clans and also providing the foundation for law and order (Menkhaus 2000; Bradbury 2008).
- The nomination of a new president, Mohamed Haji Ibrahim Egal, and vice-president Daahir Rayaale Kahiin (Menkhaus 2000; WSP 2005; Bradbury 2008).

As Menkhaus notes "By any standard, this was an impressive accomplishment for a traditional peacemaking mechanism facing entirely new types of political challenges" (Menkhaus 2000:189). The system of governance, known as the *beel* system (clan-based system) agreed upon at the Boroma conference was based on the recognition of kinship as the basic mechanism for organizing social relations. Under the beel system both the House of Guurti and the House of Parliament, selected by the Guurti at the Boroma conference, were based on the principle that distribution of political seats should balance the centre with the periphery (Battera 2004:11) – i.e. secure national representation of all clans. "In essence, government became a power-sharing coalition of Somaliland's main clans, integrating tradition and modernity in one holistic

governance framework; a framework for fostering 'popular participation' in governance or participatory governance, which might best define the essence of 'democracy' without the encumbrance of a 'Western' connotation" (Jhazbhay 2007:70).

According to Lawson and Rotchild (2005) the choices available for African authorities on how to deal with societal pressures and potentially centrifugal forces can roughly be divided into two categories, of either an integral approach or a pluralistic approach. The integral approach combines unitary government with individual rights, and favours centralization of power as a means to contain identity-group conflict. This approach resists power-sharing formulas which are seen as undesirable constraints on the government's ability to govern effectively. The pluralistic approach, on the other hand, "resolve the problem of balanced participation by group representatives in key government institutions" (Lawson & Rotchild 2005:230). Examples of such power-sharing systems can be found for example in Burundi and the Democratic Republic of Congo. Pluralistic institutions can take many forms and often also include inclusive decision making mechanisms. The beel system of Somaliland (from 1993-1997) clearly reflected the pluralistic approach, which is also an approach that has general appeal to actors working with conflict management (Lawson & Rotchild 2005).

The last national scale conference in Somaliland in 1997 turned out to be yet another crucial event in the process of state formation. However, whereas the Burao as well as the Boroma conferences had been locally funded and led by the traditional authorities from the respective clans, the Hargeysa conference – although framed as a shir beleed (clan conference) – was funded and controlled by the government, and has been widely criticised for being biased towards the incumbent state authorities, who offered inducements such as salaries in exchange for the support of prominent traditional authorities – a strategy similar to what the British used to practice (WSP 2005; Renders 2006).

Nevertheless, the conference was yet another critical event in terms of state building, since peace was finally concluded and the groundwork was laid for a constitution which spelled out the steps for a transition from a clan-based system to a multi-party system (Renders 2006). The proposal of the constitution; to start a transition from the beel system to a restricted multiparty democracy, caused vigorous

debate in Somaliland (interview with Somali political analyst, Hargeisa, 17.04.08). The beel system had been crucial in restoring law and order in Somaliland and securing participation in governance and state formation by all clans, and had thus proved far more legitimate and viable than previous Western-style political systems.

However, the disadvantages – so the proponents of discarding the beel system argued – were that professionalism and effectiveness were undermined and the fact that the system had an inherent risk of encouraging the pursuit of narrow interests along clan lines at the expense of national interests and unity (WSP 2005). Thus, while the system had been critical in establishing peace and in gaining broad support for the institution of the state, it was less suitable as a framework for developing political programmes. Moreover, the necessity of transition also became linked to the pursuit of recognition, since Somaliland was perceived as having better chances of becoming formally recognized if adopting a political system conforming to a greater extent to common expectations of what state is or 'ought' to be (Renders 2006:417) . The argument that change was needed in order to strengthen the case for recognition was voiced in particular by President Egal (Renders 2006:417). This reasoning – that adaptation to a constitutional democracy could advance the case for recognition – is rational. Drawing up new constitutions has become an integral part of democratization efforts in Africa, and the 'constitutional politics model' has – especially during the 'third wave of democratization' – appealed to many African countries when trying to demonstrate their ability to adhere to standards of 'good governance'. That is, the constitutional model of politics "posits that the focus of state reconstitution should be the formulation of a governance multiplex that emphasises adherence to the rules of the 'democratic game'" (Agbese & Kieh 2007:16).

Moreover, IRIN (2007) along with Bradbury et al. (2001) have stressed that the impetus to implement the new constitution, which also explicated the commitment to independence, must been seen as a measure of resisting the pressure to unite with the south which increased after the formation of the Puntland administration in 1998[11]

---

[11] Puntland constitutionally commits itself to be part of an anticipated federal state of Somalia, and moreover, with reference to clan-distribution, lays claim on Sool and Sanaag. Sool and Sanaaq fall within the territory of the former British Somaliland, and representatives from these areas also participated in the establishment and affirmation of Somaliland independence. In the period between 1991 and 1998 Somaliland enjoyed significant support in these areas. However, over time many inhabitants in these regions have come to identify more with Puntland and with the commitment to a unified Somalia (Bradbury 2008; ICG 2006).

and the establishment of the Transitional Federal Government in 2000 (Bradbury 2008; IRIN 2007).

In 2001 the final draft of the new constitution was sent to referendum. The referendum was the first time in 30 years that people had the chance to cast a democratic vote (Bradbury 2008) and it was crucial in terms of affirming the popular aspiration for independence, and in securing that the particular 'idea of the state' – framed in the constitution – was 'owned' by the population. Although there is doubt about the exact turnout, a clear and significant majority of the population endorsed the constitution, thereby declaring their commitment to independence as well as to the transition from the clan-based system to a restricted multiparty democracy[12] (Bradbury 2008). Accordingly, the political system which was based on a formula of power-sharing along clan-lines was replaced with a system in which the head of state as well as the legislature and the district councils are not selected by clan representatives at grand shir beeleeds, but elected through the ballot. The institution of the Guurti remained in place, and the political system in Somaliland thus still reflects cultural values and practices while simultaneously comprising plural democracy (Jhazbhay 2007).

When President Egal died during a private visit in South Africa in May 2002 the Vice-President Daahir Rayaale Kahiin was in accordance with the constitution, without delay or objections, sworn in as Egal's successor (WSP 2005). Notably, Rayaale is from the Gadabursi clan and thus does not belong to the majority Isaaq population. This event has therefore been perceived as the first 'test' of the actual commitment to the constitutional law (ICG 2006).

Since the adoption of the constitution Somaliland has successfully completed three rounds of elections: local council elections in 2002, the first presidential election in 2003, and finally parliamentary elections (only for the lower House of Representatives) in 2005 (Bradbury 2008). The next rounds of local and presidential elections are set for 2009.

The national conferences, dealing with the consolidation of the political system and national peace which have been described in this section and which are rather well documented (APD 2006; WSP 2005; Bradbury 2008; Jhazbhay 2007) represent

---

[12] Borrowing from the Nigerian model Somaliland has limited its number of official parties to three (ICG 2006).

only one level of the process of state formation in Somaliland. Less visible, but not less important for state formation are the local processes of re-establishing order and dealing with civil issues. Importantly, peace and stability were not re-established *because of* the revival of state, rather peace and stability were promoted locally and became a *precondition* for state (Personal conversation with Somali political analyst, Hargeisa, 03.04.08). The following section looks into the significance of the local processes underpinning the national events described above.

4.3. The synergy between local peace and national reconstruction – a bottom-up approach

Numerous localized negotiations between traditional leaders from different clans, settling grievances and hostilities from the civil war, not least in the rural areas and border regions, paved the way for the lengthy and inclusive clan conferences described above, which set Somaliland on the road to state formation (see a listing of some of the conferences between 1991 and 1996 in appendix 1). Only major conferences are documented and included in the list). Thus, without the local capacities – in the form of the xeer and the legitimacy and strength of the local traditional authorities – state formation would not have been possible (WSP 2005; APD 2006; Ahmed 1999).

The SNM government which was the strongest power by the time independence was declared – but which had no external support and no army – was aware that the cooperation with and acknowledgment of not only the national Guurti, but also the local traditional authorities in the peripheral areas was the only way to create an environment in which state formation would be possible. Moreover, the fact that the success of the SNM in ousting Barre and gaining the support of the population depended on the traditional leaders made it seem natural to cooperate also in driving the process of state formation (Gundel 2006). As explained by a former SNM general: "The elders were the spearhead of making peace, nationally and locally. That also means that they were the spearhead of making state. We told them the truth: we want to establish a government here, and if we fight each other that will not be possible. We had to make peace with the past in order to face the country which was totally destroyed" (interview No 5).

The rather complex bottom-up approach – driven by a synergy between local reconciliation processes and national shir beleeds – proved quite successful in gradually broadening the arena for political consensus and acceptance of the birth of the state, and was also critical in responding to the mistrust of governance institutions since it secured extensive participation – also by the clans outside the centre – in the decision-making process (APD 2006; Lewis 2005; Bradbury 2008).

The importance of controlling violence and reaching consensus on the local level as a precondition for reaching power-sharing agreements on the national level was summed up by a Somali political analyst as follows: "Every clan had to accept the rebirth of Somaliland, and to accept Somaliland they had to deal with the 'next door' clan, to address all the grievances and to exchange xeer. Only then could we start to agree on how to build a state. The local and regional conferences were handling conflicts of certain areas, and these conflicts would otherwise have destabilized the whole situation. What I am saying is that there would not have been any state for Somaliland if we had not insisted that all stakeholders must be brought onboard. Therefore I think it is accurate to describe Somaliland state as a consensus state" (interview with Somali political analyst, Hargeisa, 17.04.08).

In short, the series of local peace conferences – dealing with civil issues such as restoring cooperative relations to facilitate commerce, negotiating access to grazing, reopening of roads, returning stolen property and reducing life stock raids – were critical as the basis for containing violence and making the national process of state-formation possible (Bradbury 2008).

Apart from the inter clan conflicts, the problem of militarization is yet another issue which illustrates the significance of local traditional capacities complementing the state actors. The ongoing process of demobilisation has been an important part of state formation, both because it has brought stability and because the militias became integrated into a national army (an important feature of statehood). The demobilisation process was systematized by the Boroma peace-charter, which spelled out a national security framework of agreements and mechanisms for disarmament, assigning a prior role to the traditional authorities in assuring the handing over of weapons (Bradbury 2008). The success of the traditional leaders in convincing young militia-men from their respective clans to agree to this demonstrates the vigour of 'soft' power in Somaliland:

"In Somaliland the traditional leaders are respected. Even if the elders did not have weapons, the militias obeyed their demands (…) Therefore the state cooperated with the traditional leaders to get the militias to integrate in the army. That is what happened. If this institution or mechanism of traditional leaders had not been in place, Somaliland would not have had peace now" (group interview with traditional authorities, Hargeisa, 05.03.08).

It is important to note that the power of the local traditional authorities is largely based on their embeddedness in society, and their close relations to the local communities. As a Somali historian told me: "Every traditional leader went to see the militias of his clan and told them to lay down their arms. These militias they were part of families, so their parents and grandparents supported the traditional leaders in putting pressure on them. All these people pushed them to accept a government, and choose between putting down their arms altogether or join the national army. They said to them [the militias] that if they wanted to have a real country and a real state they would have to accept the rule of law and a government (…)" (interview with Somali historian, Hargeisa, 17.04.08).

This strength of family-based loyalties and regulating customary mechanisms stands in stark contrast to the south, where traditional leaders in the aftermath of the state collapse have unsuccessfully attempted to negotiate with young militia-men operating far away from their home community in a vacuum of social constraints (Reno 2003).

Moreover, the wish to have a 'real state' or 'to get their country back' was mentioned by several of my informants as an incentive for most Somalilanders to commit to peace, which has made it easier for the traditional authorities to succeed in their efforts to create stability and pave the way to state formation (interview with Political analyst, Hargeisa, 17.04.08; No 1; interview with Somali historian, Hargeisa, 17.04.08; group interview with traditional authorities, Hargeisa, 28.03.08).

While the main contribution of the local traditional authorities to state formation has been to promote peace and security, they have also engaged in mobilizing financial support for the process, not entirely from a domestic basis. In the absence of external funding and support, the defensive measures that local businessmen, traditional leaders and members of the diaspora had developed during the exploitative rule of Barre, proved important as tools for organizing and strengthening

Somaliland's relations with the global economy. The traditional leaders acted as key intermediaries in mobilizing and facilitating the participation of the diaspora and the Somaliland business elite in the process of state formation. Thus, apart from securing reconciliation they also played a key role for example in ensuring transactions from the diaspora through clan-based credit systems – systems that had functioned outside the reach of Barre (Reno 2003).

4.4. Concluding remarks

In contrast to more 'conventional' – often externally led – state building processes, the approach to state formation in Somaliland did not follow a fixed development plan or a time-bound project-framework. Rather the process was negotiated by a range of stakeholders with different interests and capacities, and involved a blend of traditional conflict resolution, cultural events and Western-style institution building.

The approach of pursuing a 'thin' government, initially based on power-sharing along clan lines with only a minimum of authority and functions, while prioritizing local processes of reconciliation driven by the traditional authorities, helped avoid turning the process of state formation into a zero-sum conflict-producing exercise.

Another conclusion to be drawn from the analysis of Somaliland's path to state formation is that the country had substantial 'cultural capital' – i.e. the traditional structures which had remained strong – and that this proved crucial for its ability to recover from civil war, and to build up a state around entirely new principles.

An equally important factor (apart from the fact that local capacity 'was there'), is that the strongest power in Somaliland by the time of the self-declared independence chose, arguably out of necessity, to make use of this 'capital'. That is, the fact that the traditional leaders were empowered by the SNM who allowed them to play an important role in state formation in a context largely free of competing authorities, such as charismatic leaders or warlords, was crucial for the success of controlling violence and building state institutions.

Using the framework of 'mediated state' (Menkhaus 2006) to explain the particular approach of Somaliland, certain characteristics of the context in which the state was born become apparent: a strong interest to secure restoration of peace and governance; a lack of capacity to govern on the part of national power holders; and

the existence of local actors with substantial authority and commitment to enhancing governance in ways acceptable to the national power holders.

Clearly, the first government, the SNM administration, fundamentally lacked the capacity to reconstitute governance and stability within the territory of Somaliland, while at the same time, their interest to do so was strong, because of the awareness that regional or local conflict would have derailed the fragile process of state formation and because of the strong aspiration for international recognition, which was shared by the great majority of the population. Under these circumstances local traditional authorities as well as the national Guurti became crucial in enhancing governance capacity.

It appears, as also argued by Bradbury (2008), that the complex local reconciliation processes, which proved crucial in making state formation possible, were allowed to succeed only due to the absence of 'effective' central government. As put by Somaliland's incumbent foreign minister: "We were very vulnerable, when we were nurturing this complex reconciliation and restoration process, but we did it on our own terms, and we knew that you cannot build a house starting from the roof" (interview with the foreign minister of Somaliland, Addis Ababa16.03.08).

If state building is viewed as a means of enhancing governance rather than an exercise of strengthening state capacity for its own sake, then the possibility that 'mediated state' can promote the former by bypassing the latter poses a challenge to standard approaches to state building and statehood, which have a tendency to conflate reviving conventional state capacity with the promotion of good governance (Menkhaus 2006).

While the traditional authorities, as shown in this chapter, were critical driving forces in the early process of state formation, they have also subsequently obtained more permanent, yet ambiguous, roles in governance as the state has acquired an established structure[13]. The next chapter investigates their roles as 'partners' to the state.

---

[13] The process of state formation is not complete, but the main structures of the state are in place. Especially the Boroma conference in 1993 was, as shown, crucial in this regard.

Chapter 5

An alternative model of statehood and sovereignty – governance arrangements in contemporary Somaliland

5.1. Introduction

From being driving forces behind peace and reconciliation processes and demobilization, traditional authorities have subsequently become part of the everyday functioning of the state of Somaliland, participating in 'high politics' as paid members of the parliament and being involved in undertaking governance functions such as policing and application of law on the local level. In other words, flexible governance arrangements, characterized by the state and traditional authorities cooperating in undertaking core government functions, exist on a continuum from official over semi-official to non-official, and frequently overlap (Renders 2006; Gundel 2006; Reno 2003). The fact that the state administration "ex post facto accepted partly legalized power positions that had developed during the time of civil war" (Hoehne 2006:17) sets Somaliland apart from those African states where partial powers have been delegated to traditional leaders in order to meet recent donor discourses of democratization and decentralization (Buur & Kyed 2007). As shown, the Somaliland state has from the time of its making, relied on traditional leadership as its foundation. This does not imply, however, that the roles of traditional leadership and the basis for its authority have remained unchanged. Moreover, as will be shown, the merging of state governance and traditional leadership does not *per se* promote bottom-up participation (Buur & Kyed 2007).

In Somaliland, the connection between traditional authorities being driving forces in the process of reconstituting stability and state structures (as shown in previous chapter) and their role as part of the state that resulted from this process, is most explicitly reflected in the existence of the house of Guurti in 1993 – i.e. a formal state-institution consisting of paid members, who used to be 'informal' locally grounded traditional authorities. Due to their institutionalized role and constitutional powers, the members of the House of Guurti count as regular state actors, and this

governance arrangement – formally incorporating traditional authorities into the parliament – is in the following described as 'hybrid' governance.

Like many other African countries Somaliland faces the problem of exercising territorial control under conditions of weak state capacity. On the local level, especially outside the urban centres where the state is unable to project its power, traditional authorities routinely undertake governance functions conventionally perceived as part of the state's responsibilities (Bradbury 2008; Renders 2006; Gundel 2006). In the absence of a strong state monopoly on organizing legitimate violence, cooperative relations have developed between the local 'informal' governance arrangements and the state, implying a shared form of sovereignty and horizontally organized governance. These arrangements are in the following described as 'mediated' governance.

The aim of this chapter is to discuss the pros and cons of the different alternative governance arrangements which rely on traditional authority structures, and analyze how these forms of governance function in practice as well as how they impact the nature of the state as well as the notion of traditional authority. The following two sections focus firstly on the hybrid state arrangements of Somaliland – i.e. the formal incorporation of traditional authorities into the national state structures, and secondly on the 'mediated' semi-official and unofficial governance partnerships between state authorities and the local traditional authorities.

5.2. Hybrid state arrangements – the experiment of Western form and traditional substance

The structure of government in Somaliland combines a US-style executive president with a UK-style bicameral parliament. The structure consists of three branches: The executive branch comprising the president, who nominates his cabinet of ministers, which must also be approved by the parliament; the legislative branch consisting of an upper House of Elders (Golaha Guurtida, commonly referred to as the House of Guurti or simply 'the Guurti') and a lower House of Representatives (Golaha Wakiilada); and a judiciary (WSP 2005).

Figure 2. Structure of Somaliland's government .
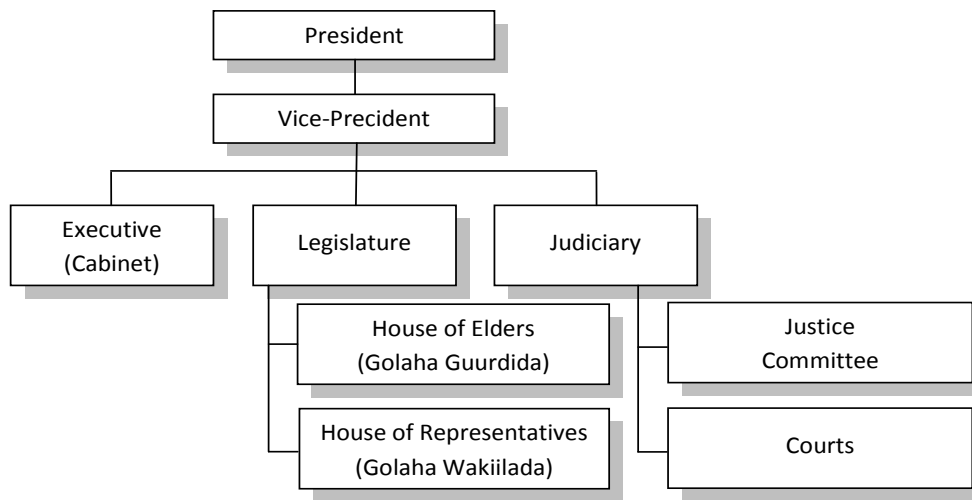
Source: (Bradbury 2008:221).

A significant characteristic of the state arrangements of Somaliland, given the House of Guurti, is that the organizing principle of clan operates within a 'conventional' political framework. Accordingly, the state has been described as a "dynamic hybrid of Western form and traditional substance" (APD 1999).

As noted (see chapter 3) the origin of the national Guurti lies in the support of the SNM's fight against Barre by the traditional authorities, who in 1988 established a permanent council of clan elders in order to effectively mobilize the population. As also shown (see previous chapter), the Guurti council subsequently played a significant role as mediators in the peace process which paved the way for state formation, and was formally institutionalized at the Boroma Shir beleed in 1993. The house of Guurti is since its institutionalization at the Boroma conference in 1993, the most high-profile and explicit form of formal involvement of traditional authorities in state governance, and it is, as a political institution, unique in Africa (Bradbury 2008).

After its institutionalization the Guurti – consisting of representatives of all northern clans – became the highest state organ until 1997 when the transitional constitution was adopted. In this period, from 1993 to 1997, the responsibilities of the Guurti were: to protect national security by mediating conflicts; to take the initiative to convene decision-making assemblies (shir beleeds) in the event that the government departments would fail to live up to their responsibilities; and to protect religious and cultural values (WSP 2005; Bradbury 2008).

With the introduction of the provisional constitution the Guurti was granted new political powers, specified in article 61, the most important of which are: to enact laws on religion, culture, tradition and peace; to review and endorse the laws passed by the lower house (except budgetary laws); and to supervise as well as monitor the government (Hoehne 2007).

While the revival of the 'soft' power of traditional authorities has been a broader tendency in several African countries during the 'second wave of democratization' in the 1990s (Buur & Kyed 2007), the extent to which the traditional authorities have become an integrated part of statehood on the national level makes the case of Somaliland special (Bradbury 2008).

Being widely credited as the basis for reconciliation in the early 1990s, as well as being at the heart of the consensual, clan-based power-sharing model of governance which constitutes Somaliland's political system (WSP 2005; Bradbury 2008; Jhazbhay 2007; Battera 2004), the Guurti is perceived as one of the main pillars of statehood in Somaliland (Bradbury 2008; Jhazbhay 2007). Moreover, the choice of letting the new state structure of Somaliland reflect a recognition of clan-identity and acknowledgment of traditional mechanisms for peace and security, was by many viewed as an antidote to Barre's rule, which officially outlawed 'tribalism' and marginalized the traditional leaders (interview with Somali political analyst, Hargeisa, 17.04.08; interview with Somali anthropologist, Hargeisa, 09.05.08; see also Menkhaus 2000).

The model of state structures of Somaliland, incorporating traditional authorities within a framework of 'modern' institutionalism, has been highlighted as an example providing insights on how to circumvent a structural disconnect between values, norms and expectations of the society and governance arrangements of the state (Logan 2002). Structural disconnection between formal 'transplanted' governance structures and indigenous modes of governance is, according to Dia (1996), at the root of the crisis of African statehood, and also characterizes the particular case of political disintegration of southern Somalia. Indeed the viability of the alternative form of government arrangements in Somaliland stands in stark contrast to the disintegration in the south, and through the early period of state- formation also succeeded in adding more legitimacy to the de facto state than what many of its conventional de jure neighbouring states hold (Hagmann & Hoehne 2007).

However, over time the legitimacy of the members of the Guurti has become compromised as they have become increasingly involved in state politics. Therefore, it is not enough to account for the fact that the traditional authorities are part of the state arrangements; one must also ask whether the people they supposedly represent approve of that role (Hoehne 2002006). As argued by Buur & Kyed (2007) simply assuming that the traditional authorities are representing the common will of self-contained communities would leave "little scope for the development of an autonomous public space" (Buur & Kyed 2007; see also Mamdani 1996).

5.2.1. Limitations and risks of hybrid state arrangements

The institutionalized responsibilities of traditional authorities within the realm of 'high politics' in contemporary Somaliland differ substantially from the localized roles of traditional authorities in pre-colonial and early colonial time, when their authority depended on their ability to satisfy the needs of their own clan or sub-clan. The role and responsibilities of traditional leaders have developed and changed from dealing with matters within and between smaller local communities to engaging in local as well as national peace-making, and lastly to significantly shaping national politics and law making. This process appears to have gradually compromised the role of the Guurti members as actors who are embedded in society and negotiate the interests of their respective clans or members of their clan (Hoehne 2006).

Since the mid-1990s popular dissatisfaction with the politization of the Guurti has gradually grown, and the council is currently being criticized for being accountable to political actors rather than to their local constituencies. As such, their mandate of authority is increasingly being questioned (interview with Somali political analyst, Hargeisa, 17.04.08; group interview with traditional leaders, Hargeisa, 15.04.08; personal conversation with university graduates, Hargeisa, 05.05.08).

As noted by a local Aqil: "What made them strong in the beginning was that they were trusted a lot, the Guurti. They were trusted more than the government and more than the parliament. But now after some time, things have changed, and it has not been easy for them to keep this trust (…) It was clear that they were *from* the communities in the beginning. But they lost the link. What they want now is the political position and they have it" (group interview with traditional leaders, Hargeisa,15.04.08).

Two issues have become especially contentious: Firstly, the lack of local participation in appointing the members in House of Guurti has led to accusations of the council being undemocratic and elitist. The Guurti members were originally appointed by their clan, but as the older members have died their sons have taken over, and many seats in the house are thus currently held by individuals who have inherited the position rather than being appointed. This has become a highly controversial issue, creating widespread popular dissatisfaction (WSP 2005; group interview with traditional leaders, Hargeisa, 15.04.08; group interview with university graduates, Hargeisa, 09.05.08). As argued by a Somali student, "The fact that their [contemporary members of Guurti] fathers were respected does not mean that they are respected. It is not like that" (from group interview with university graduates, Hargeisa, 09.05.08). Such popular sentiments illustrate that traditional authorities in Somaliland cannot legitimize their execution of power in the eyes of the population simply with reference to inheritance or other historical mechanisms of selection, as is sometimes implicitly assumed when 'traditional' structures are portrayed as the antithesis to 'modern' individualized democracies (Gundel 2006).

Secondly, the Guurti is being criticized for lacking independence from the executive branch of government (WSP 2005; Bradbury 2008). This is particularly problematic since it paralyzes the law-making of the democratically elected lower house[14], and facilitates power abuse on the part of the executive (personal conversation with Somali political analyst, Hargeisa, 02.05.08). A recent incident provides an illustration: in April 10th 2008 the Guurti announced that they had made the decision to extend the term of the president for one year. This effectively suspended the deadline for presidential elections, and set a new one which neither had the approval of the democratically elected House of Parliament nor that of the majority of the population. This threw Somaliland into one of its greatest political crises, also leading to small-scale violent demonstrations in Hargeisa. However, after approximately a month of intense negotiations, facilitated by a range of different 'trusted' actors from within the political, traditional and NGO sectors, a compromise between the initial election date and the date put forward by the Guurti was reached, and presidential elections are now scheduled for mid-march 2009 (Walls 2008). While

---

[14] As noted the Guurti have the mandate to review the laws passed by the lower house and decide whether or not to endorse them.

Somaliland, as has been the case in other previous crises, reached a solution at the eleventh hour before a serious conflict, this recent episode nevertheless illustrates the degree of politization of the Guurti. It has, in other words, over time become apparent in Somaliland that the incorporation of traditional authorities into the state structures does not necessarily enhance democracy or downwards consultation (Buur & Kyed 2007).

However, when asked if Somaliland at this stage would do better without the institution of the Guurti altogether, even those of my informants most critical of the way in which it currently functions argued that the Guurti as an institution is important, and that what is needed is not dismissal but reform – i.e. restricting the function of the Guurti to act only as a mechanism for conflict prevention (interview with Somali political analyst, Hargeisa, 17.04.08; group interview with traditional leaders, Hargiesa, 15.04.08; interview with Somali anthropologist, 09.05.08). Thus, while the incumbent Guurti members and their increasing involvement in 'high politics' are widely criticized, the institution of an upper house of elders appears to still enjoy broad support.

The referendum in 2001 demonstrated Somalilanders' commitment to transform their political system from a clan-based system to a constitutional democracy. Moreover, it has become increasingly apparent that visionary and professional political leadership is needed in this phase of Somaliland's transition (interview with Somali political analyst, Hargeisa, 17.04.08; interview with Somali historian, 17.04.08; see also Bryden 2003).This, however, does not necessarily make the Guurti – as an institution – superfluous. The argument was made by a Somali political analyst (personal conversation, Hargeisa, 28.04.08) that allowing the clan-factor to be reflected in a national institution is a means of 'containing' this factor and in this way creating a space for politics beyond clan in the rest of the political system. This approach to transition politics thus holds that explicit acknowledgement of clan as an important structuring principle – i.e. channelling and accommodating the 'clan-factor' through a concrete institution – is needed in order to make the transition to, and consolidation of, multi-party democracy possible in Somaliland.

In sum, the incorporation of the most respected source of authority into the state arrangements increased the trust of the population in the state – in a context where the state had never been the source of legitimacy – and decreased the fractional

competition for power and resources (Menkhaus 2007). However, while the institutionalization of traditional authorities within the state structures initially *added* legitimacy to the structure of state, it has over time also *compromised* the legitimacy of these authorities by decreasing downwards consultation and accountability. This also implies that currently the Guurti functions in a way which does not appear to add legitimacy or capacity to the state. The exercise of the state and traditional authorities 'converting' (Buur & Kyed 2007) different forms of powers between different realms is, in short, far from unproblematic.

5.3. Mediated governance arrangements

The description of mediated state as a state in which the government relies on local authorities to carry out some core governance functions "and 'mediate' relations between local communities and the state"(Menkhaus 2006:12) bears marked resemblance to contemporary everyday forms of local governance in Somaliland. As noted by the APD, which has been intensively involved in the process of reconstituting governance in Somaliland: "Policy, procedure and even the law are obliged to be extraordinarily flexible, as they accommodate the social and political forces at work" (APD 1999).

Similar to the case of the Wajir district in northern Kenya, used by Menkhaus as an illustration of 'mediated state in practice' (2005), the 'informal' traditional authorities operating on the local level largely have the approval of the Somaliland government to relatively autonomously take action on matters usually regarded as core state functions such as policing and application of law. While this is a revision of basic principles of state sovereignty (Menkhaus 2006) and also implies some serious problems (elaborated below) with regard to Somaliland's aspiration as a constitutional democracy, it has enhanced the level of stability and rule of law and has thus been a means of reconstituting governance beyond the capital (Kibble 2007; Menkhaus 2007).

5.3.1. The involvement of traditional authorities in judicial practice

Rooted in the studies of state formation in early modern Europe the concept of mediated state describes a situation in which monarchs with weak powers had to pursue a strategy of making deals with local actors, sometimes contesting the power of the monarch. Similarly to the case of Somaliland "a hallmark of the mediated state

as it evolved in Europe was flexibility and pragmatism" (Menkhaus 2006) reflected, for example, by the coexistence of multiple legal codes and overlapping jurisdictions (Menkhaus 2006).

Due to a severely under-capacitated and weak judicial system the application of law is one realm of governance in which the state of Somaliland relies heavily on the capacity of traditional authorities who take care of the bulk – approximately 80 % (Gundel 2006:46) – of disputes and criminal cases outside the formal court system through the application of the xeer – sometimes contradicting the constitutional legal code (Battera & Campo 2001; APD 2002). The reasonably high level of security and rule of law in Somaliland is, in other words, "less a reflection of a strong police and judiciary and more a reflection of strong civil and traditional practices (…)" (Kibble 2007).

As in the rest of Somalia the judicial system was entirely destroyed during the civil war, and as a transitional measure the Somaliland constitution stipulates that pre-1991 laws, which do not contradict Shari'a law[15] and individual rights and freedoms, guaranteed by the constitution, remain valid until the new laws have been promulgated. "In reality, however, the application of diverse legal codes continues, and interpretation of the laws remains ad hoc, non-uniform and highly subjective" (APD 2002:3).

The judiciary has been established as a three-tier system comprising a supreme court, appeal courts, and regional and district courts. However, due to its lack of independence from the executive the formal courts have a reputation of being corrupted (Le Sage 2005; APD 2002). Additionally, there have not been sufficient resources to reform and develop the externally imposed system of codified laws. Also legal education is quite new in Somaliland as compared to central and southern Somalia where it has been more widespread (*memo 2008). Against this backdrop, the application of the codified laws is often ineffective and ill-suited to address some of the contemporary forms of crimes and disputes (interview with Somali professor in

---

[15] The constitution – adapted as provisional constitution in 1997 and ratified by public referendum in 2001 – specifies that Shari'a is the basis for all laws of the nation (article 5.2). While application of law which contradicts with Shari'a thus is unconstitutional, the constitution also guarantees individual rights and fundamental freedoms (APD), which makes Somaliland one of a few Islamic constitutional democracies (ICG 2006).

law, Hargeisa, 25.04.08; group interview with traditional authorities, Hargeisa, 28.03.08). Therefore, the traditional system of xeer is, in general, perceived as both more effective and legitimate than the formal courts (interview with Somali professor in law, Hargeisa, 25.04.08; Gundel 2006).

Even the business people often choose to consult the traditional system rather than the formal court system (Gundel 2006), and it is therefore not only 'traditional' forms of conflict which give the traditional system relevance. In disputes about issues on which the traditional authorities lack knowledge – for example business or technological matters – they at times call in people with specialized knowledge to clarify details (Gundel 2006). A local Aqil explained: "The Aqils are in a position to use the resources, skills and knowledge from the communities. It is easy for us to call in a technical consultant, and therefore the traditional system is often effective also in disputes of a modern character. In fact the name 'traditional' gives a wrong impression. It is simply about using the resources and knowledge we have here" (group interview with traditional leaders, Hargeisa, 15.04.08).

While business people in the cities can choose between the traditional system and the city courts, in the rural areas such choice is rare. Lack of skilled judges means that in the rural areas the formal judiciary is either weak or entirely absent, leaving traditional authorities and religious leaders as the only actors to address disputes (APD 2002).

It is common practice that the Aqils, with the help of local people, are in charge of arresting the suspect (of for example homicide). If suspects refuse to hand themselves over the police force can be called in to undertake the arrest. Subsequently the Aqils lead the procedure of traditional justice, apply the xeer, and ensure that agreements of diya compensation are reached (Gundel 2006).

According to Gundel (2006) it is first and foremost the threat of retaliation that prevents the diya-paying groups from disregarding the xeer. That is, the sanctions that underlie negotiations are those of conflict escalation, feud and force. Government intervention is only a weak deterrent to the continuation of bloodshed, and from a security perspective this is a major reason why modern governance is unable to stand alone.

Along these lines the head of the APD outpost in Burao explained "The government may be brought in to stop the fighting, but the government cannot do the

negotiations, because they are not neutral. An important thing is that at the onset of the negotiation, each party has to make an oral pledge that they will abide by the ruling of the neutral group that has been given the task of negotiating". As I asked what would happen if one of the parties would not accept the ruling, he answered: "It will not be the case if they have made the oath. They will have to accept it…else it will be a very bad omen for that particular clan, and they know it will affect them, so they want to abide" (interview with the head of the Burao outpost of APD, Hargeisa, 20.03.08).

In some cases the formal courts subsequently register – and thereby 'formalize' – the decisions made by the traditional leaders. Thus, the local traditional structures of authority and the structures of state governance complement and strengthen each other in many respects (group interview with traditional authorities, Hargeisa, 28.03.08; see also Gundel 2006; Menkhaus 2007). This implies new forms of power, different from modern bureaucratic authority, but also different from strictly traditional authority.

While states which are 'effective' in the conventional sense usually aim at overcoming such parallel authorities rather than partnering with them, the 'shared' form of sovereignty as a means of governing people rather than territory, and doing so through culturally rooted institutions, has proven rather effective in terms of securing rule of law beyond the urban centres in Somaliland. Clearly, the flexibility of the xeer appears to be one reason why the xeer and the institution of traditional authority have remained strong as a means of regulating social conduct. As noted by Grande (1999), specific systems of governance cannot be expected to perform the same function independently of the socio-economic context in which they work (Grande 1999). It should, in other words, be of little surprise that the xeer and the institution of traditional authorities are not easily inter-changeable with the mechanisms of legal formalism and state sanctions. Pointing to the mismatch between territorially bound systems of governance, and the nomadic culture of a large part of the population in Somaliland, provides but one illustration of practical character (*memo 2008). As noted by a Somali political analyst: "We are nomadic people, we are moving. It is difficult to have police forces constantly moving around to the nomadic people, or courts moving around. Therefore, the traditional leaders are needed. They have to contribute" (interview with political analyst, Hargeisa, 17.04.08).

This comment reflects a perception that the traditional structures are an integral part of governance and a source of effective authority. A redefinition of sovereignty which would allow for shared and less territorially bound practices of sovereignty – resembling pre-colonial notions of sovereignty – is according to Herbst (1996) an option which deserves attention since it may have potential in providing a better basis for effective governance in some cases of statehood where the 'modern' conception of absolute and territorial sovereignty has become increasingly 'fictitious' (Herbst 1996). However, depending on how in practice traditional authorities are linked to state power and how they interact with other local players, their roles as being part of shared and horizontal networks of governance could either reproduce undemocratic governance with some resemblance to indirect rule, or oppositely, open a space for local participation. As will be discussed in the last section of this chapter the case of Somaliland provides ambiguous insights on this matter.

5.3.2. Traditional authorities as mediating actors – the case of community policing in Burao and Hargeisa

The role of the local traditional leaders in Somaliland is not limited to the realm of applying justice. On a broad scale the 'informal' traditional leaders function as interlocutors between the state and the population, and play a role in "sustaining the effort of the state to satisfy the requests of the periphery when these [are] not fully satisfied by the 'official' representatives'" (Battera 2004:7). Such mediating positions at times contribute to enhance the legitimacy of the state by strengthening its relation to the population and turning governance into a matter of decentralized cooperation – as has been the case for recent initiatives of community policing (*DRC 2006) [16]. As shown in the third chapter, the centralizing logic of state introduced in colonial times and subsequently promoted by Barre, had detrimental effects on the society in Somalia. While the role and responsibilities of the government are still being negotiated in contemporary Somaliland, the general determination to make a radical

---

[16] The Danish Refugee Council (DRC) has supported the project with modest finances and has on the basis of interviews with key actors and beneficiaries, as well as document reviews, evaluated the project 16 months after its initiation (DRC 2006). The promotion of human security and local ownership fits well into current donor discourses and community policing has on these grounds received external support in many African countries (Buur & Kyed 2008).

break with the past centralized and predatory form of governance is strong and shared (Logan 2000; WSP 2005). This was confirmed by a Somali political analyst, "There is no absolute central state power here. People remember what happened under Siad Barre, and they don't want to go back to that again. They don't allow the government or people from the state to overpower them again" (interview with political analyst, Hargeisa, 17.04.08).

One institution that earned the deep mistrust of the population was the state police. As a measure to counteract this mistrust and simultaneously strengthen law and order, the initiatives of community policing have shown potential. In Burao and Hargeisa local Aqils have initiated large-scale community policing, which have brought together a variety of community representatives counting traditional authorities along with youth, women and business people, as well as government actors from the police and the judiciary. "The purpose of forming CBP [Community Based Policing] was primarily to enhance the cooperation between the police, judiciary, civic leaders and traditional leaders (…) so as to achieve greater success in crime prevention and improve security" (*DRC 2006:12). The particular role of the traditional authorities was to mediate between these different actors, so as to address mutual mistrust and subsequently to reach an understanding of common interest (*DRC 2006; group interview with traditional authorities, Hargeisa,15.04.08). According to DRC (2006)* the project, which is fully implemented in Burao largely succeeded in enhancing security for the benefit of families, as well as for the business community, and also significantly improved the relationship between the society and the police.

In the current implementation of the community policing initiative in Hargeisa, particular attention is given to improving the relationship between IDPs and the police, since being internally displaced this group of people lack the protection of their clan and are often met with mistrust by the host communities. They are therefore particularly in need of the protection of the state (group interview with traditional leaders, Hargeisa, 15.04.08).

Often local businessmen are also supportive of initiatives that enhance stability and security. Due to their interests in a stable environment it is not rare that these actors financially shore up the work of state-community alliances in the security sector (group interview traditional leaders, Hargeisa, 15.04.08).

77

This way of enhancing security and rule of law points to the merit of a contextual understanding of capacity – i.e. capacity to work with the local realities through a 'networked' form of authority – based on the understanding of communities as homogenous groups with internal differences.

To sum up, in some respects the traditional authorities have bolstered the legitimacy of state actors, and generally the state's reliance on the traditional authorities on matters of security and judiciary practice is critical in securing stability beyond the capital. Practices of territorial control are, in other words, characterized by a merging of different forms of power complementing each other. However, the effects of these governance arrangements are, as we shall see, ambiguous. The following section discusses the not insignificant shortcomings of 'mediated' governance arrangements in Somaliland.

5.3.3. Risks and shortcomings of 'mediated state' – reproduction of repressive power?

Firstly, the multiplicity of legal systems creates confusion and inconsistency in Somaliland. On this matter the APD critically argues that the "co-existence of parallel legal systems is equivalent to lawlessness (sharci darro), since no uniform standard of law applies. An individual cannot be sure of which law will apply in a given situation, or (in certain situations) even whether he or she has broken a law" (APD 2002:5).

Secondly, a concern raised by Menkhaus (2005 & 2006) regarding mediated governance is the risk that informal local mechanisms succeed to the extent that it impedes on state building. The question is, in other words, if local 'coping mechanisms' could work so well and reduce the cost of governance so effectively that the incentives for improving formal national governances and institution building disappear. Indeed, improvements are needed in Somaliland, for example in terms of provisions of legal education and official examinations; requirements of university certificates of all those holding positions within the judicial systems; and importantly, facilitation of the access to justice for the rural population (*memo 2008). As for the latter, it is common that people in the rural areas, and in particular women, are not aware of their right to take a case to the formal courts – a right which thus in many cases is only a right on paper (interview with a staff-member of local human rights NGO, Hargeisa, 21.03.08).

Drawing on Mamdani (1996) it is reasonable to suggest that a parallel system, where customary law is perceived as a sufficient and effective way of providing justice for the rural population while the urban population is in the position to choose between different legal systems, would effectively reduce the rural constituency into dependent collectively defined subjects.

The third – related – concern, which also applies to the case of Somaliland, is that the way in which the traditional authorities undertake judicial functions at times impedes on the project of a democratic constitutional state (Menkhaus 2006; Buur & Kyed 2007). More specifically, there are cases where customary law simply overrules rather than complements the state, and does so in ways which run counter to the civil rights and liberties guaranteed in the constitution. If, for example, a perpetrator has been brought before the formal court and found guilty of a charge, the case is sometimes subsequently – or even simultaneously – solved outside the court, and if an agreement is reached the case is closed and the charges are dropped. The verdict in these cases often privileges collective responsibility over individual rights and especially women tend to be disadvantageously treated in such cases (interview with a staff-member of local human rights NGO, Hargeisa, 21.03.08; see also APD 2002; Le Sage 2005). The law enforcement officers of the state cannot, however, prevent the release of the perpetrator (APD 2002; Renders 2006). A considerable limitation of 'mediated' governance arrangements is thus that allowing customary law to operate beyond the constitutional laws can lead to erosion of principles of civil liberties and human rights and thus ultimately conflict with the pursuit of constitutional democracy – to which Somalilanders proved their commitment in the referendum in 2001. This lends some credence to the modernist scepticism vis-à-vis traditional authorities – highlighting the risk of antidemocratic tendencies following the recognition of these authorities as part of key governance mechanisms (Buur & Kyed 2007).

There are several initiatives – which involve several international agencies as well as local actors and which are based on the assumption that the xeer continues to fulfill important functions – aimed at bringing the practice of the xeer into accord with human rights by gradually influencing the actors who apply the law (*memo 2008;*Haqsoor 2008). Also, the harmonization of the different law systems is a

central priority for the Somaliland – and receives substantial external support from different international agencies such as the UNDP[17] (*memo 2008).

The projects which have so far been most successful in their attempts to circumvent the shortcomings of the customary system, and minimizing the inconsistencies between that and the formal system, are carried out with the direct involvement of traditional leaders (Gundel 2006;*minutes 2006;*memo 2008).

In order for the customary system to complement rather than impede on Somaliland's project of being a democratic state, the current efforts to make this system more transparent and in accord with the rights granted by the constitution are of utmost importance.

It appears that there is scope and a considerable degree of willingness to make improvements in the realm of law and application of justice. On this matter the popular commitment to independence plays in as a disciplining factor, since promoting human rights and ensuring equality before the law are important aspects of promoting democracy, and thus an important aspect of Somaliland's attempt to qualify for recognition (interview with a staff-member of local human rights NGO, Hargeisa, 21.03.08; *memo 2008).

5.4. Concluding remarks

Overall, the incorporation of traditional authorities – directly as well as indirectly – into the state and governance structures has been linked to gaining control over the population and the territory in Somaliland.

The under-capacitated and unrecognized state of Somaliland has had to define and expand its domain of governance in concert with the development of the cultural practices and the social structures, rather than simply claim this domain (with reference to what 'conventionally' is the sovereign domain of the state). The governance strategy of negotiating and mediating its power with the traditional

---

[17] Somaliland's relative stability has encouraged pragmatic inventiveness, on the part of the United Nations Development Programme (UNDP), pursuing a development strategy which also benefits Somaliland's process of state formation. Thus, despite the fact that the UN sticks to its position of non-recognition, it has found a way of engaging with Somaliland, by channelling substantial support to the country through the Economic Development and Poverty Reduction strategy 2004-2006 with reference to the "Poverty Reduction Strategy for North West Somalia" (Jhazbhay 2007)

authorities has provided an alternative to delegating a level of sovereign control to the state that it would not realistically have been able to exercise, and has also in some respects bolstered the legitimacy of the state.

However, the answers to the questions of how the hybrid and mediated governance arrangements function in practice, and whether the way they function promotes local participation and democracy or rather risk reproducing centralized and suppressive forms of governance and power, are ambiguous.

As for the hybrid government arrangements, one conclusion to be drawn is that the inclusion of traditional authorities into the state structures does not per se produce democracy and grass-root participation. The 'experiment' of an Upper House of traditional authorities illustrates that institutionalization of traditional leadership within the state structures is linked to processes of redefining and transforming both the structures of state and the basis of traditional authority. In other words, state recognition of traditional authorities does not, as also emphasized by Buur & Kyed (2007:20), simply institutionalize and fix "two discrete entities or inherently distinctive domains of authority".

Whereas the Guurti was critical in shaping and legitimizing the particular project of state in Somaliland, and also promoted local participation in governance and state formation in the early history of the de facto state, their role has gradually been reshaped by their status as state actors. More specifically, their involvement in 'high politics' has over time tended to re-produce centralist tendencies rather than challenging them, which has also severely compromised their legitimacy as traditional authorities. It appears, therefore, that it is time for Somalilanders to re-evaluate the particular role and mandate of the Guurti.

As for 'mediated' governance arrangements – i.e. the involvement of 'informal' local traditional authorities – the pragmatism and flexibility of these arrangements has made it possible to make extensive use of local traditional resources and in this way de facto enhance governance. It is at the same time also a sign of lack of state capacity to organize governance and power directly, and this approach thus implies a revision of the notion of state sovereignty. Moreover, it involves a risk of non-transparent and unconstitutional forms of governance, especially within the sphere of judicial practice. The 'mediated' governance arrangements thus illustrate that state policies are currently not entirely consistent: policies to democratize by guaranteeing civil rights

are pursued alongside acceptance of customary law also when it runs counter to such rights.

Altogether, the case of Somaliland illustrates that traditional authority is a living institution and its role in how power is organized is by no means given. The challenge of working out a formula for how traditional practices of authority can successfully co-exist with, and complement, formal state governance is an important part of Somaliland's further consolidation as a state.

Chapter 6
Conclusion

6.1. Introduction

The purpose of this thesis has been to contribute to the debate on how to understand potentials and challenges of contemporary statehood in Africa by analyzing the empirical case of de facto statehood in Somaliland. More specifically the thesis aimed at exploring the nature of state building and statehood in post-conflict Somaliland from 1991 until present, particularly focusing on the role of the traditional authorities.

Somaliland was chosen as a case due to its seemingly impressive achievements as an alternative form of statehood emerging in a critical period of the evolution of African statehood: in 1991 the country was a war-torn society, and stability was re-established on the backdrop of lack of recognition, implying lack of ability to formally form diplomatic relations, and holding a status as 'unqualified' for loans from international agencies such as the World Bank and IMF. Nevertheless, not many states in its neighbourhood compare with the achievements of Somaliland in terms of peace and stability (Bryden 2003). Moreover, these achievements were reached through an alternative formula for state building and statehood, where sovereignty and power is exercised horizontally and in cooperation with traditional authorities. This is a formula significantly differing from state models that privilege centralized bureaucracy and clear distinctions between public and private activity (Reno 2003).

Altogether, Somaliland thus appeared to challenge some of the basic precepts of statehood and at the same time, the case provided for a study of the significance of local agency and traditional structures of authority constituting the basis for reestablishment of governance on the backdrop of state failure. Given this, the study set out to explore the potentials, as well as limitations, of traditional authorities as actors contributing to the establishment of statehood and subsequently supplementing the still weak and under-capacitated state of Somaliland in its transition to constitutional democracy.

The analysis has in particular drawn on the analytical framework of 'mediated state' as revived and expanded by Menkhaus (2006a; 2006; 2005). 'Mediated state' was chosen as the main framework because it provides a basis for understanding

governance in less state-centric terms; pays due attention to local capacities and agency and; structures the analysis around the factors of interest and capacity, which set some minimum parameters for the possibilities of generalization.

Moreover, the thesis has been significantly shaped by three and a half months of fieldwork in Somaliland, primarily in the capital of Hargeisa.

While the thesis first and foremost set out to analyse the case of Somaliland as it emerged as a de facto state from 1991, historical and theoretical contextualization of the case provided the point of departure for the analysis.

6.2. Review of findings

Looking into the historical trajectories of Somaliland made it apparent how past developments, power figurations and alliances in the north have played a role in setting the stage for Somaliland's declaration of independence and its distinct path to state formation. More specifically, it was argued that the conditions following from the marginal position which has characterized Somaliland through history, dating back to the colonial era, allowed the traditional structures to remain strong, thus providing Somaliland with the social raw material and locally grounded capacity that laid the foundation for a new political order after the fall of Barre.

The particularity of Somaliland can partly be explained by the dynamic combination of plural elements, counting the business elite; the diaspora; a population which had developed a wish to separate from the south; and especially the traditional authorities along with the military fraction of the SNM. In the absence of external funding, and not being in the position to access centralized state resources, the SNM was firmly dependent on popular support (domestically and from the diaspora), and chose to engage in an alliance with the traditional leadership of the north in order to mobilize this support. This choice came to shape the way in which power and governance were structured in the subsequent development of Somaliland, as the alliance remained strong also after the fall of Barre, and became the driving force behind directing Somaliland on its path to state formation.

A finding which holds true for the process of state formation, as well as for the functioning of the contemporary state, is that the combination of the existence of local and traditional capacities and authority on the one hand, and the willingness and interest of the national power elite to build on – rather than defeat – these authority

84

structures on the other hand, appears to be a critical factor behind the relative success of establishing peace and stability within the territory.

The nature of state formation in Somaliland starting from 1991 was characterized by a synergy of local processes of reconciliation and national shir beleeds serving as forums for negotiating the main pillars of the new state.

In the local as well as the national processes, Somalilanders relied on cultural and traditional practices of Somali society as the basis for reaching consensus. The traditional authorities thus performed their classical function as mediators between conflicting groups, and were critical for the process of demobilization, the restoration of inter-clan relations as well as for ensuring a consensus-based clan-balanced political system, which recognized kinship as a basic principle structuring social organization.

The Boroma shir beleed in 1993 is particularly noteworthy as the outcomes of this conference gave substance to Somaliland as a de facto state: it established the political system merging 'modern' Western institutions with 'traditional' authority; it produced a security framework based on a 'national xeer' (Bradbury 2008); and it facilitated the power transfer from the SNM administration to a civilian government based on clan-representation. While Somaliland did not initially embrace a Western-style state model the adoption of the constitution in 2001 paved the way for a restricted multiparty system, while the hybrid parliamentary structures were maintained.

The internally driven processes of state formation and reconciliation challenge the image of 'failed states' as environments of generalized anarchy and social regression. The case also suggests that the success of reconstituting peace and political order on the backdrop of civil war may not be as dependent on external involvement as is oftentimes assumed. Especially when compared to the years of costly but unsuccessful top-down attempts to establish a central state in the south, Somaliland indicates, as also noted by (Logan 2000), that a Somali-led rebuilding process starting from below – however slow, prone to set-backs, and complex it may appear – may in fact provide the best possible (or only) foundations for successful reconstruction of governance in the Somali context.

Moreover, and importantly, in the context of post-conflict Somaliland, peace and reconciliation took place in the absence of a state and as a precondition for state-

formation, which suggests that insisting on immediate revival of a central state may not always be the most viable approach to post-conflict reconstruction.

As the state of Somaliland acquired an established set of structures, the role of traditional authorities remained strong but changed in some important respects. From negotiating peace the traditional authorities have become involved in undertaking core governance functions, and are thus important 'partners' for an under-capacitated state which allows sovereignty to be undertaken through horizontal networks rather than from a strong centre. The way in which the structures of traditional authority currently relate to the state in Somaliland, is mainly complementary and characterized by cooperation. Whereas 'hybrid' governance arrangements have been an explicit component of state formation, and were also crucial in legitimizing the project of state at its birth, the function of 'mediated' governance arrangements is more debateable from a state building perspective. These forms of arrangements implies less central state sovereignty and control (and thus do not as such strengthen the state), but have provided greater stability and lower crime rates than what the state could have achieved on its own (and have thus enhanced governance).

A main finding of the study, and in particular of the analysis of the alternative governance arrangements of Somaliland, is that the roles played by the traditional authorities in undertaking core governance functions are extremely ambiguous, and that the conversion of power between these actors and the state, transforms the basis of legitimacy and authority for both.

The flexibility of hybrid and mediated governance arrangements has enhanced governance capacity in terms of adapting the exercise of governance to the practices and culture of the society. While not conforming to conventional precepts of state, these governance arrangements have, in other words, been adapted to the circumstances under which they function, and drawing on Somali traditions they have also done much to legitimize the project of state. However, in contemporary Somaliland there are signs that traditional authorities, under the conditions of lack of state capacity to secure constitutionally granted rights and democratic practice, also have become involved in reproducing centralized power and compromising individual rights. The increasing critique of the national Guurti House indicates that it can be difficult for traditional authorities who become involved in 'high politics' to maintain

their downward accountability and legitimacy – a fact which points to some limitations of the innovative potential of 'hybrid state arrangements'.

The 'mediated' governance arrangements described in this study provide an alternative to overly ambitious attempts to impose a measure of state control which is above the actual capacity of the state – a tendency which according to Clapham (2000) has hastened state collapse in Africa. Apart from these advantages in terms of capacity, the mediating roles of the traditional authorities have also in some respects added legitimacy to and acceptance of the state.

One of the serious disadvantages, however, is that the practice of allowing customary law to be applied beyond the constitution compromises state sovereignty, as well as civil liberties, individual rights and transparency of governance. Also, the strength and adaptability of the xeer does not cancel the problems of lack of independence of the judiciary and the deficiency of professional skills within this realm of governance.

The process of consolidating the state is far from complete, and in this continuous process a major challenge for Somaliland will be how to retain the traditions of consensus and negotiation which underpin its statehood, while avoiding that 'tradition' – as a means of supplementing a weak state – becomes an obstacle for its pursuit of democracy.

6.3. Alternative precepts of statehood and the involvement of traditional leadership – Somaliland and beyond

As noted in chapter 2, the global power structures characterizing post-colonial time did not generate many incentives for African governments to govern their hinterlands or establish governance structures which would secure accountability vis-à-vis their populations (Herbst 1996; Clapham 2000). However, transformations of the international system have recently become a key source of pressure for change, as the forces which used to maintain 'letterbox' sovereignty have either weakened or entirely evaporated (Villalon 1998). With the 'crisis' of African statehood following from the new post-Cold War realities, when external support became tied to conditionalities and the internal dynamics of African states became subjected to international scrutiny, the interest to undertake de facto governance has increased. However, the capacity to undertake the full range of sovereignty and monopolize the

legitimate use of violence is in many cases absent. As a case in which a weak and under-capacitated government has a strong interest to ensure substantial territorial control and stability in order to demonstrate its effectiveness to the international community, including donors, Somaliland is thus not unique. Recent international developments have, in other words, on a broad scale generated incentives for considering viable alternative strategies of governance.

As for the particular alternative provided by 'mediated state', such arrangements are likely to vary significantly, depending on the particular interests and strength of local actors and the power-figurations characterizing the particular context. The model of 'mediated state' may indeed in some cases work as nothing more than 'the best of bad options' (Menkhaus 2006) – i.e. not a choice of policy but the *only* possibility to regain stability.

The emerging body of literature on the topic of the resurgence of traditional authorities within governance addresses one particular tendency which is part of a broader development of reconfiguration of the state in Africa since the early 1990s. This tendency merits more attention, since the new ambiguous roles of traditional authorities in a number of African states represent an important aspect of the developments in contemporary African statehood, and of the discourses surrounding these developments.

The resurgence of traditional authorities has been explained in different ways, for example: as a reaction – or coping mechanism – to state failure; as a tendency currently promoted because traditional leadership fits into donor discourses of democratic liberalization which emphasize local participation, empowerment of communities and decentralization; and alternatively as an 'African path' to state-formation promoting "a specifically African form of democracy and nationhood, no longer exclusively building on the philosophy of Western Enlightenment and socialism" (Buur & Kyed 2007:8).

While the case of Somaliland does substantiate the point that people within 'failing states' are not powerless victims, but agents who are likely to develop ways of coping with their insecure environments, the local traditional systems of governance and security in the country are much more than 'coping mechanisms'. Rather, what can be witnessed in Somaliland is an alternative approach to governance – so far, more effective and legitimate than any externally imposed attempts to govern in a

Somali context. Viewing the resurgence of traditional leadership as 'coping' runs the risk of underestimating its potential of contributing to developing more viable and culturally rooted alternatives to conventional state models.

Another perception, presented for example by Chabal and Daloz (1999), which also relates to the 'failed state' debate, is that traditional authorities fill a power vacuum left by weak or absent states. According to this idea the incorporation of traditional authorities into governance is portrayed as a matter of the state acknowledging and allying with forces which it cannot do away with (Buur & Kyed 2007). Again, this view may misrepresent at least some cases. This study suggests that the state does not necessarily view traditional authorities as competitors to be co-opted – indeed in the particular case of Somaliland they acted as driving forces in creating the very foundations of the state.

The explanation that the resurgence of traditional authorities promotes a specifically African form of governance and democracy is particularly interesting in the case of Somaliland. Certainly the case illustrates the potential of incorporating indigenous practices and values into the structures of governance, as a means of avoiding a disconnect between the state and the values and norms of society. On the other hand, the case also points to some risks involved in the exercise of the state and the traditional authorities 'converting' different forms of power between different realms of governance.

The debate on African politics and governance, as it revolved around the arguments of a modernist position calling for civil liberties and human rights and a communitarian position in defence of culture (Mamdani 1996), captures a dilemma which became apparent in this study, and which has immediate relevance to the question of traditional leadership as part of state governance, and the different debates surrounding this question. According to Mamdani (1996) the solution to this theoretical as well as practical impasse "does not lie in choosing a side and defending an entrenched position", but rather in "sublating both, through a double move which simultaneously critiques and affirms" (Mamdani 1996:3).

While this thesis portrays Somaliland as an impressive example of how the social and cultural bases of authority can be rendered visible in the event of state collapse, and even become building blocks for a new political order, it does not provide unambiguous answers to what the implications are of traditional authorities

being involved in undertaking core governance functions. This study as well as other country-specific case studies (Buur & Kyed 2007), clearly suggests that there is a need to further investigate the potentials as well as limitations of traditional authorities being recognized as partners to African states as a part of the evolution of post-colonial politics on the continent. In line with Buur & Kyed (2007) it is the belief of this study that such investigation requires empirical studies of how traditional authorities are drawn into the process of developing new strategies of governance and territorial control, how it affects the way in which power is organized, and what this means for other actors.

6.4. Current situation in Somaliland and concluding remarks

The traditional authorities which have been the focus of this study make up but one of the categories of strong local agency in Somaliland, which are at the root of Somaliland's self-reliant path to recovery and state consolidation. The restoration of peace and stability was an overarching objective at the time Somaliland was reborn, but as these needs have largely been met, a political space has opened for other non-state actors to become increasingly influential in the continuous development of Somaliland statehood. In addition to the traditional leaders, also civic leadership, such as professionals, youth, women and a variety of NGOs, along with the diaspora are all important actors in negotiating and maintaining the current social and political order. Along with the development of a dynamic socio-political environment the wish to move ahead from a phase of being a peaceful political unit fighting for its right to exist as 'a state', to a phase of defining 'what kind of state' it wants to be, has grown ever stronger (Bryden 2003). While Somalilanders have demonstrated their ability to succeed in reconstituting peace and the basic foundations for a new state on their own terms and without external support, and thus have "made a virtue of necessity for self-reliance" (Jhazbhay 2007:107), the prospects of consolidating Somaliland's statehood is not, however, entirely up to internal agency. It is clear that the political realities of international marginalization severely impedes on the continuous process of enhancing governance. Foreign investors are hesitant to invest as long as Somaliland is not a de jure state. Moreover, not being qualified to receive direct bilateral assistance or aid from international financial institutions, the prospect for Somaliland of consolidating itself as a state that provides the basic services for the population,

remain bleak. However, despite the lack of formal diplomatic recognition Somaliland has received substantial de facto acceptance, reflected by, for example, low-key bilateral relations with the African Union and IGAD, an Ethiopian trade office in Hargeisa, UN aid programmes, and substantial diplomatic interest in the elections which were congratulated as being amongst the freest and fairest in the region (Bradbury 2008).

In sum, the current phase of the development of Somaliland appears to be a phase in which the negotiations of the pillars of statehood continue as intensive as ever – externally in terms of recognition diplomacy as well as internally in terms of a proliferating and diverse political constituency. It remains to be seen whether the foundations for statehood are solid enough to maintain the impressive achievements already made and to continue to make use of indigenous knowledge as a vibrant resource, while also embracing and fostering new social and political ambitions. As put by a Somali historian (interview, Hargeisa, 17.04.08): "Enlightened and thoughtful leaders and parties with visions will be important if we are to move forward from where we are at now. This whole process in Somaliland can actually be seen as an experiment on how to build up a good state which can embrace both modern politics and traditional values, and as an experiment it is still going on, it is not finalized yet".

References

1. References

Academy for Peace and Development. 1999. "A self-portrait of Somaliland: Rebuilding from the ruins", *APD/WSP Report*. Hargeisa: Academy for Peace and Development.

Academy for Peace and Development. 2006. *A Vote for Peace (Doorashada Golaha Baarlamanka).* A documentary film on the three most important Somaliland peace processes from 1991 until 1993. 38 min., Somali and English Versions (see www.apd-somaliland.org).

Academy for Peace and Development, Somaliland - APD 2002. *The Judicial System in Somaliland*. Workshop Report. Hargeisa: APD.

Agbese, P.O. & Kieh, G.K. 2007. *Reconstituting the state in Africa*. New York: Palgrave Macmillan.

Agnew, J. 2005. "Sovereignty Regimes: Territoriality and State Authority" in *Contemporary World Politics Annals of the Association of American Geographers*, 95(2):437-461.

Ahmed, I. 1999. "Understanding Conflict in Somalia and Somaliland" in Adedeji, A.(ed), *Comprehending and Mastering African Conflicts*. London: Zed Books: 236-257.

Andersen, L.,Møller, B & Stepputat, F. 2007. "Introduction: Security Arrangements in Fragile States" in Andersen, L. Møller, B & Stepputat, F.,(eds),*Fragile States and Insecure People, Violence, Security and Statehood in the Twenty-First Century*. New York: Palgrave Macmillan: 3-21.

Andersen, L. 2007. "What to Do? The Dilemmas of International Engagement in Fragile States" in Andersen, L. Møller, B & Stepputat, F.,(eds),*Fragile States and Insecure People, Violence, Security and Statehood in the Twenty-First Century*. New York: Palgrave Macmillan: 21-47.

Andersen, I. 1999. *Den Skinbarlige Virkelighed – Om valg af samfundsvidenskabelige metoder.* København: Samfundslitteratur.

Babbie, E. & Mouton, B. 2001. *The practice of social research*. South African ed., Cape Town: Oxford University Press.

Battera, F. 2004. "State- & democracy-building in Sub-Saharan Africa: the case of Somaliland - a comparative perspective" in *Global Jurist Frontiers* 4(1):1-23.

Battera, F.& Campo, A. 2001. "The evolution and integration of Different Legal systems in the Horn of Africa: the Case of Somaliland" in *Global Jurist Topics* 1(1): 1-39.

Besteman, C. 1998. "Primordialist Blinders. A Reply to I.M. Lewis" in *Cultural Anthropology* 13(1): 109-120.

Bøås, M and Jennings, K.M. 2005. "Insecurity and Development: The Rhetoric of the 'Failed State'" in *The European Journal of Development Research* 17(3): 385-395.

Boone, C. 1998. "Empirical Statehood' and Reconfigurations of Political Order" in Villalon, L. A. & Huxtable. P. A.(eds) *The African State at a Critical Juncture, Between Disintegration and Reconfiguration*. Boulder: Lynne Rienner Publishers: 129-143.

Bradbury, M. *Somaliland 2001*. CIIR Country Report. London: The Catholic Institute for International Relations (CIIR).

Bradbury, M. 2008. *Becoming Somaliland*. London: Progression.

Bradbury,M.,Menkhaus,M. 2001. *Human Development Report Somalia 2001*. Nairobi: United Nations Development Program (UNDP).

Bryden, M. 1999. "New hope for Somalia? The building Block Approach" in *Review of African political Economy* 26(79): 134-140.

Bryden, M. 2003. "The Banana Test: Is Somaliland Ready for Recognition?" in *Les Annales d'Ethiopie* vol. 19 (April 2003): 1-24.

Buur,L. & Kyed, H.M. 2007.*State recognition and democratization in Sub-Saharan Africa. A New Dawn for Traditional Authorities?*. New York: Palgrave Macmillan.

Chabal 2005 "Power in Africa Reconsidered" in Engel, U. & Rye Olsen, G.(eds.),*The African Exception*, Aldershot & Burlington: Ashgate: 17-33

Chabal, P. & Daloz, J.1999. *Africa Works: Disorder as a Political Instrument*. Oxford: James Currey.

Chazan, N.,Lewis, P.,Mortimer, R.A., Rotchild, D., Stedman, S.J. 1999. *Politics and Society in Contemporary Africa*, 3rd Ed. Boulder: Lynne Rienner Publsihers.

Ciabarri, L.(Forthcoming) "No representation without redistribution: Somaliland plural authorities, the search for a state and the 2005 parliamentary elections". Chapter prepared for: Forthcoming. Bellagamba, A., Klute, G.,(eds), *Beside the State. Emerging forms of power in Contemporary Africa*. Leiden: Brill.

Clapham, C. 1996. *Africa and the International System. The Politics of State Survival.* Cambridge: Cambridge University Press.

Clapham, C. 2000. "Failed States and Non-States in the Modern International Order". Paper delivered on *Failed States III: Globalization and the Failed State*, Florence, Italy April 7-10, 2000.

Dia, M. 1996. *Africa's Management in the 1990s and Beyond: Reconciling Indigenous and Transplanted Institutions*. Washington DC: the World Bank.

Doornbos, M & Markakis, J. 1994. "Society and state in crisis: What went wrong in Somalia?" in Salih, M.A.M. & Wohlgemuth, L.,(eds), *Crisis Management and the Politics of Reconciliation in Somalia*. Uppsala: Nordiska Afrikainstitutet.

Engel, U. & Rye Olsen, G.2005. "Introduction. The African Exception: conceptual notes on governance in Africa in the new millennium" in Engel, U. & Rye Olsen, G.,(eds), *The African Exception* Aldershot & Burlington: Ashgate: 1-14.

Englebert, P. 1997. "The Contemporary African State: Neither State nor African" in *Third World Quarterly* 18(4): 767-775.

Forrest, J. B. 1998. "State Inversion and Nonstate Politics" in Villalon, L. A. & Huxtable. P. A., (eds), *The African State at a Critical Juncture, Between Disintegration and Reconfiguration*. Boulder: Lynne Rienner Publishers: 45-57.

Grande, E. 1999. "Alternative Dispute Resolution, Africa and the Structure of Law and Power: The Horn in Context", in *Journal of African Law*. 43(1): 63-70.

Gundel, J. 2006. *The Predicament of 'Oday'*. Report for Danish Refugee Council & Novib / Oxfam (Nivember 2006). Nairobi: Oxfam.

Hagman, T. & Peclard, D. 2007. *Negotiated Statehood in Africa: propositions for an alternative approach to state and political authority*. Draft Introduction for AEGIS European Conference on African Studies. Panel 44. African Studies Centre. Leiden, July 12. 2007.

Hagman, T. & Terlinden, U. 2005. "Faking a Government for Somalia: International Diplomacy Supports Fictious Peace Processes" in *Sub-Saharan Informer*, July 29 2005.

Herbst, J. 1996. "Responding to failure in Africa" in *International Security* 21(3): 120-144.

Herbst, J. 2004. "Let them fail" in Rotberg, R., (ed), *When States Fail: Causes and Consequences*. Princeton: Princeton University Press: 302-318.

Hill, C. 2003. *The Changing Politics of Foreign Policy*. Houndmills, Basingstoke: Palgrave: 1-71.

Hoehne, M. V. 2007. "From Pastoral Politics to State Politics: Traditional Authorities in Northern Somalia" in Buur, L. & Kyed, M.,(eds), *State Recognition and Democratization in Sub-Saharan Africa*. New York: Palgrave Macmillan.

Höehne, M.V. 2006. *Traditional Authorities in Northern Somalia: Transformation of positions and powers*. Working paper No.82. Halle/Saale: Max Planck Institute for Social Anthropology.

Hoehne & Hagman 2007, "Failed state or failed debate? Multiple Somali political orders within and beyond the nation-state" in *Politorbis* 42 (1): 20-27.

Hyden, G. 2006. *African Politics in Comparative Perspective*. New York: Cambridge University Press.

International Crisis Group.2003.*Somaliland: Democratization and its discontents*. Africa Report No.66. Nairobi/Brussels: ICG.

International Crisis Group. 2006. *Somaliland: Time for African Union Leadership*. Africa Report No.110. Nairobi/Brussels: ICG.

Jhazbhay, I. 2007. *Somaliland: Post-war Nation-Building and International Relations, 1991-2006*. Ph.D. Thesis. International Relations. University of the Witwatersrand, Johannesburg, South Africa.

Jhazbhay, I. 2003. "Africa's best kept secret, a challenge to the international community?" in *African Security Review* 12(4): 77-82.

Jones, B. J. 2008. "The Global Economy of Social Crisis: Towards a Critique of the 'Failed State' Ideology" in *Review of Political Economy* 15(2): 180-205.

Joseph, R. &, Herbst, J. 1997 "Responding to State Failure in Africa" in *International Security* 22(2): 175-184.

Kibble, S. 2007. *Somalia/ Somaliland: Territory, State and Nation*. Paper presented at a lecture at Kings College, London, February 13. 2007.

Lawson, L. & Rothschild, D. 2005. "Sovereignty Reconsidered" in *Current History* 104(682): 228-235.

Le Sage, A.2005. *Stateless Justice in Somalia Formal and Informal Rule of Law Initiatives.* Centre for Humanitarian Dialogue Report (July 2005). Geneva: Centre for Humanitarian Dialogue.

Lewis 2002 [1965] *A Modern History of the Somalis*. 4th ed. Oxford/Hargeisa/Athens. Ohio: James Currey/Btec books/Ohio university Press.

Lewis, I.M. 2004. "Visible and Invisible Differences. The Somali Paradox" in *Africa* 74(4): 389-515.

Lewis, I.M. 2005. *Lessons from Somaliland: appropriate technology for 'Peace processes'*. Paper presented by Professor I. M. Lewis at the Conference of the Somaliland Societies in Europe (SSE).1-2 September 2005. The Royal Institute of International Affairs. London.

Logan, C. 2000. *Overcoming the State-Society Disconnect in the Former Somalia: Putting Somali Political and Economic Resources at the Root of Reconstruction*. Paper prepared for USAID/REDSO (September 2000).Washington/Nairobi: USAID/REDSO.

Logan, C.J. 2002. *Rebuilding Somali political systems: Growing new roots in indigenous realities, or merely reconstructing the past?*. Ph.D. Thesis. Fletcher School of Law and Diplomacy. Tufts University.

Mamdani, M. 1996. *Citizen and Subject, Contemporary Africa and the Legacy of Late Colonialism*. Princeton: Princeton University Press.

Menkhaus, K. 2000. "Traditional Conflict Management in Contemporary Somalia" in Zartman, W.I.,(ed), *Traditional Cures for Modern Conflict: African Conflict 'Medicine'*. Boulder: Lynne Rienner Publishers.

Menkhaus, K.2005. *Kenya-Somalia Border Conflict Analysis*. Report produced for USAID/REDSO (August 2005). Washington/Nairobi: USAID/REDSO.

Menkhaus, K. 2006. *Governance in the Hinterlands of Africa's Weak States: Towards a Theory of the Mediated State*. Paper presented at the annual meeting of the American Political Science Association, Philadelphia. August 31. 2006.

Menkhaus, K. 2006a. "Governance Without Government in Somalia. Spoilers, State Building and the Politics of Coping" in *International Security* 31(3): 74-106.

Menkhaus, K. 2007 "Local Security Systems in Somali East Africa" in Andersen, L.,Møller, B & Stepputat, F.,(eds), *Fragile States and Insecure People, Violence, Security and Statehood in the Twenty-First Century*. New York: Palgrave Macmillan: 67-99.

Omaar, R. 1992. "Somalia: At War with Itself" in *Current History* 91(565): 230-235.

Prunier, G. 1994. "Somaliland: The Birth of a New Country?" in Gurdon, C.,(ed), *The Horn of Africa*. London: UCL Press.

Renders, M. 2006. *Traditional Leaders and Institutions in the Building of the Muslim Republic of Somaliland*. Ph.D. Thesis. University of Gent.

Reno, W. 2003. *Somalia and Survival in the Shadow of the Global Economy*. Queen Elizabeth House Working Paper No.100 (February 2003). Chicago: Northwestern University.

Samatar, A.I. 1992. "Destruction of State and Society in Somalia: Beyond the Tribal Convention" in *Journal of Modern African Studies* 30(4): 625-641.

Samatar, A.I. 2006. "Somalia's Post-conflict Economy: A Political Economy Approach." Paper presented at the NC Forum – HB Foundation Conference. Nairobi, August 7-12.

Samatar, A. & Samatar, A.I .2006. "The International Crisis Group Report on 'Somaliland': Advocay not Impartial Analysis" in *Bildhaan. An International Journal of Somali Studies* 6(1): 25-49.

Simons, A. 1998. "Somalia: The Structure of Dissolution" in Villalon, L. A. & Huxtable. P. A., (eds), *The African State at a Critical Juncture, Between Disintegration and Reconfiguration*. London: Lynne Rienner Publishers. 57-75.

Simons, A. Simons, A. 1997. "Democratization and ethnic conflict: the kin connection" in *Nations and Nationalism* 3(2): 273-289.

Spears, I. 2003. "Reflections on Somaliland and Africa's Territorial Order" in *Review of African Political Economy* 30(95): 89-98.

Spears, I. 2004. "Debating Secession and the Recognition of New States in Africa" in *African Security Review* 13(2): 35-48.

Thagaard, T. 2004. *Systematik og indlevelse: En indføring i kvalitativ metode*. København: Akademisk forlag.

Turton, D. 1997. "War and Ethnicity: Global Connections and Local Violence in North East Africa and Former Yugoslavia" in *Oxford Development Studies* 25(1): 77-94

Von Trotha, T. 1996. "From Administration to Civil Chieftaincy. Some Problems and Prospects of African Chieftaincy" in *Journal of Legal Pluralism and Unofficial Law*. 37-38:79-102.

Villalon, L.A. 1998. "The African State at the Twentieth Century: Parameters of the Critical Juncture" in Villalon, L. A. & Huxtable. P. A., (eds), *The African State at a Critical Juncture, Between Disintegration and Reconfiguration.* London: Lynne Rienner Publishers: 3-27.

Webersik, C. 2004. "Differences that matter: the Struggle of the Marginalized in Somalia" in *Africa* 74(4): 516-533.

Weinstein, J. M. 2005. "Resources and the information problem in rebel recruitment" in *Journal of Conflict Resolution* 49(4): 598-624

WSP International Somali Programme 2005. *Rebuilding Somaliland, Issues and Possibilities*. Eritrea: The Red Sea Press Inc.

Yin, R. K. 1989. *Case Study Research*. London: Sage

2. Grey documents

Danish Refuge Council (DRC). 2006. *Report of the Evaluation of Community Based Policing Project (CBP)in Somaliland*. Conducted by Muragu, M.E. and Coalition for Peace in Africa (COPA). Hargeisa: DRC.

Haqsoor for Peace, Human Rights & Environment Protection. 2003. *Organizational Profile*. Hargeisa. (Funded by the DRC).

Memo 2008. Produced for APD on *National Conference*: *Developing a National Strategy for Justice and Law in Somaliland*. Hosted by UNDP. Hargeisa. Hotel Ambassador March 3-4. 2008.

Minutes on the *Somaliland Traditional Leaders Conference 2006* (Conference on amendments of the customary laws), Funded by DRC, UNDP, UNHCR. Subsequently implemented by Haqsoor.

3. Internet sources

Clapham, C. 2001."Rethinking African States" in *African Security Review* 10(3), *http://www.iss.co.za/Pubs/ASR/10No3/clapham.html*. (Accessed 03.10.08).

Davies, J.L. 1994. "The Liberation movements of Somalia", Civic Webs Virtual Library .August 27. *http://www.civicwebs.com* (Accessed 05.07.08).

IRIN 2007. "Somalia: IRIN Special – A question of recognition. Part 1 and 2". United Nations Office for the Coordination of Humanitarian Affairs – Integrated Regional Information Networks(IRIN). *http://www.somaliawatch.org/archivemay01/010711401.htm* (Accessed 15.09.08)

Walls, M. 2008. "Somaliland's Political Landscape: Crisis Averted (Again)". Progression Newsletter. *http://www.progressio.org.uk* (Accessed 10.08.08)

Appendix 1

Major reconciliation conferences in Somaliland.

Clans	Location	Duration	Name of meeting
National	Berbera	15-27.2.1991	The Brotherhood Conference of Northern Clans
National	Burco	27.4.-18.5.1991	The Grand Conference of Northern Clans
Dhulbahante, Habar Jeclo	Yagoori	2.1991	
Warsangali, Habar Yoonis	Yube	18.6.1991	Yube I
Habar Yoonis, Warsangali	Yube	6-9.10.1991	Yube II
Habar Yoonis, Habar Jeclo, Dhulbahante	Oog	30.10.1991	
Warsangali, Habar Jeclo	Ceel-Qoxele	10.5.1991	
Gadabuursi, Isaaq (Habar Awal)	Boorame	17-19.2.1991	Guul Alla
Baha Samaroon, Jibriil Abokar	Boorame	17-19.8.1992	
Reer Nur, Jibriil Abokar	Boorame	20-22.8.1992	
Habar Aval, Gadabuursi	Haargeysa	9-11.9.1996	
Dhulbahante, Habar Jeclo	Kulal / Awrboogays	1-22.6.1992	
Habar Jeclo, Warsangali, Gahayle	Shinbiraale	16-22.8.1992	
Dhulbahante, Habar Jeclo	Xudun	1.9.1992	
Habar Yoonis, Warsangali	Jiidali	5-9.11.1992	
Habar Jeclo, Dhulbahante, Warsangali, Gahayle	Garadag	23.11.-1.12.1993	
Regional (clans of Sanaag region)	Ceeriagaabo	08-10.1993	Sanaag Grand Peace and Reconsiclliation Conference
Gadabuursi, Issa	Geerisa		
Habar Yoonis, Ciisa Musa	Sheikh	28.10.-8.11.1992	Tawfiiq
Dhulbahante, Habar Yoonis	Dararweyne	2.1.-5.2.1993	Khaatumo
Warsangali, Habar Yoonis	Jiidali	6-9.10.1992	
Habar Yoonis, Ciisa Musa	Haargeysa	4.10.1992	
National	Boorame	24.1.- 5.1993	Allaa Mahadleh
Ciidagale, other Hargeisa clans, Guurti	Xarshin	1995	
Ciidagale, Peace committee	Kaam-Abokor	1995	
Habar Yoonis, Habar Jeclo	Gaashamo	1996	
Habar Yoonis, Habar Jeclo	Baalidhaaye	1996	
Habar Yoonis, Habar Jeclo	Duruqsi	1996	
Habar Yoonis, Habar Jeclo	Beer	1996	
Reer Nur, Jibriil Abokar	Gabilay	26.5.-1.6.1996	

Source: (WSP 2005:64)

Appendix 2

Table of individual interviews and group interviews

Individual interviews		
Interview	**Specification**	**Time, duration, location**
1	Political analyst (Somali) and researcher on the Horn of Africa. He has been actively involved in the process of reconciliation and state formation in Somaliland as a former staff member of APD. He subsequently held a political position in Somaliland for one year. He currently works as an independent researcher on democratization and governance issues (Associate researcher with the Centre for Refugee Studies, York University, Toronto, Canada; and Director of Social Research and Development Institute, Hargeisa, Somaliland). We shared office.	April 17th 1:30 Hargeisa
2	Head of the Burao outpost of APD. He is directly involved in peace and reconciliation initiatives in the area around Burao. The interview was spontaneous arranged during an unexpectedly visit.	March 20th 0:35 Hargeisa
3	The foreign minister of Somaliland The interview was arranged through a contact of mine.	March 16th 1:15 Addis Ababa
4	The director at the African Centre for Social Research, Media and Development in Hargeisa. Journalist and anthropologist. Currently in charge of a lecture series on leadership and governance for postgraduate students in Somaliland. The meeting was arranged through a friend and colleague of mine who had attended the lectures.	May 9th 0:30 Hargeisa
5	Former General in the Somali National Movement, and one of the founders of the political party Kulmiye (currently one of the two opposition parties in Somaliland). The interview was arranged through APD.	May 2nd 1:30 Hargeisa
6	Linguist, historian and author on Somali culture, customs and language. The interview was arranged through a friend.	April 17th 1:20 Hargeisa
7	Professor and lecturer in law at the University of Hargeisa. The interview was arranged through the APD.	April 25th 0:40 Hargeisa
8	Chair of a local NGO focusing on youth and human rights. The NGO was involved in the reconstruction of Somaliland from the very beginning. The contact was established during the national conference 'Developing a National Strategy for Justice and Law in Somaliland'.	April 11th 1:10 Hargeisa
9	A staff member of a local NGO focusing on women's rights. The contact was established during the national conference 'Developing a National Strategy for Justice and Law in Somaliland'.	March 21st 0:40 Hargeisa

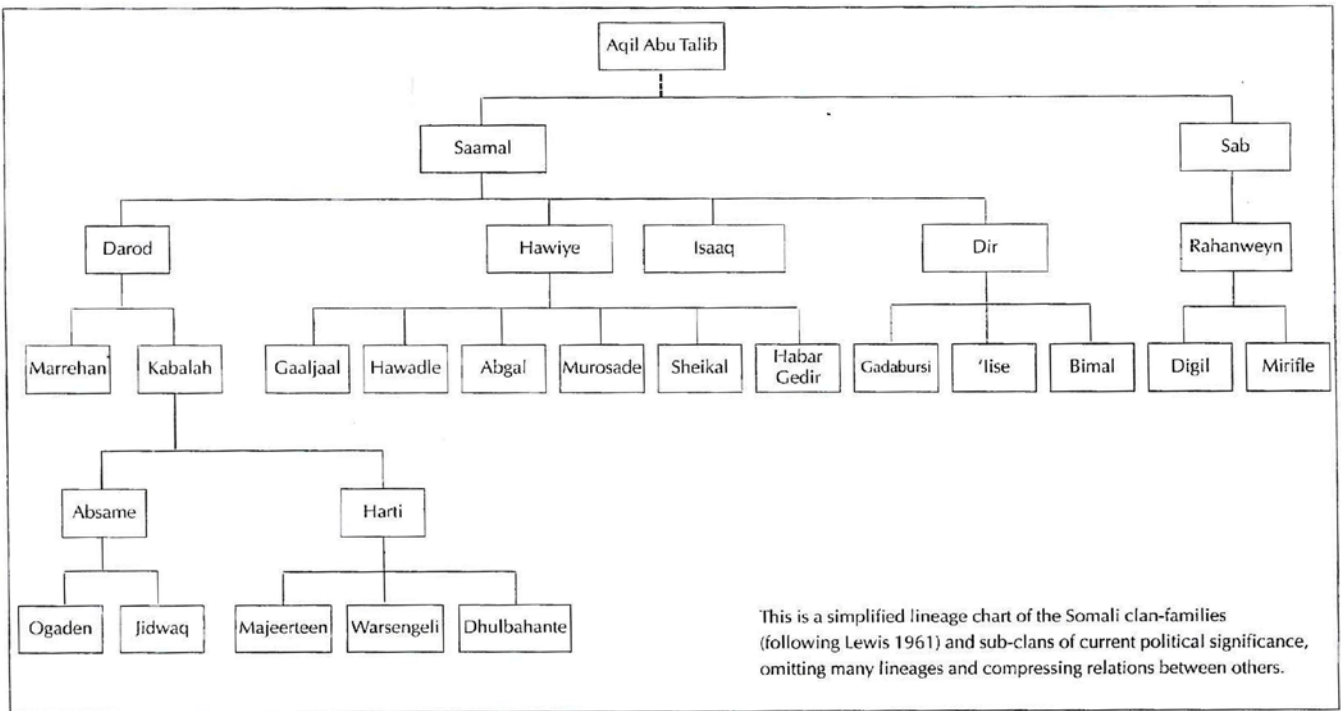| Group interviews		
Interview	**Specification**	**Time duration and location**
10,11, 12	Interviews with a group of traditional authorities Three lengthy group meetings, arranged as interviews during chat sessions. The meetings took place at an NGO run by local Aqils who work to promote human rights and security by working through (as well as transforming) the traditional structures of governance and law. The two men chairing the NGO were my main informants, and present at all three discussions, which additionally included from two to four other men. The fact that we met several times, and that the nature of these meetings was lengthy and 'informal', made it possible to follow up on certain themes and discuss in depth. I was introduced by a colleague from APD.	1. March 5th 0:30 2. March 28th 2:00 3. April 17th 2:30 Hargeisa
13,14	Two conversational lectures at the African Centre for Social Research, Media and Development attended by a group of about 15 graduates – men and women – of Hargeisa and Amoud universities. Out of 75 minutes 40 minutes were set aside for discussion in class, structured around questions I had sent by e-mail beforehand. This provided me with the opportunity to discuss and get input on my choice of analytical framework and focus. I was introduced by a colleague from APD.	4. April 11th 1:15 5. May 9th 1:15 Hageisa

Appendix 3

Maps of Somaliland
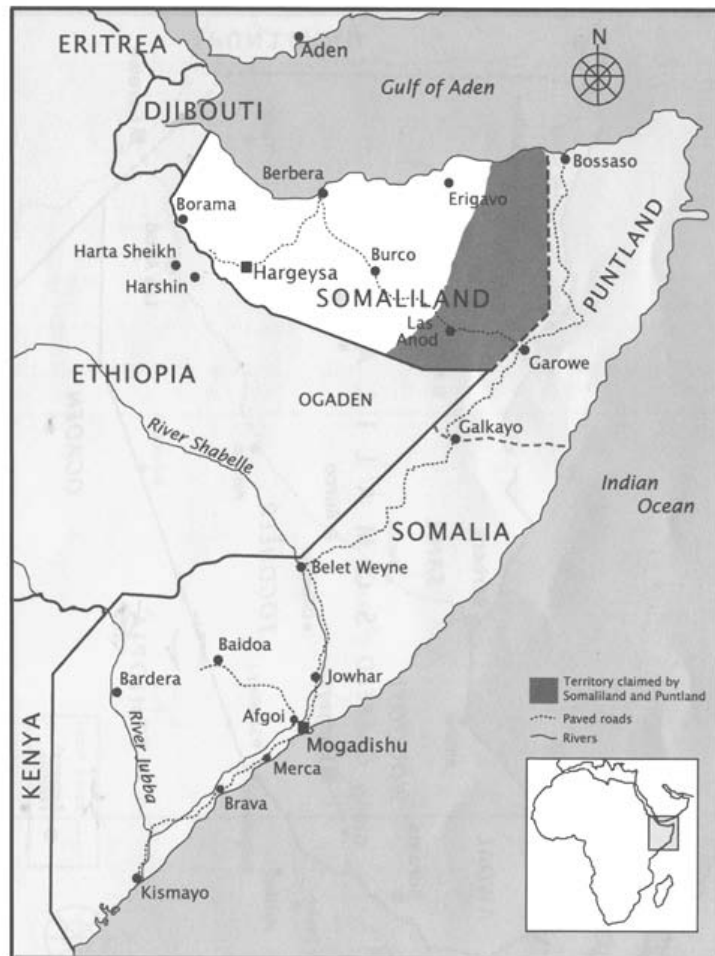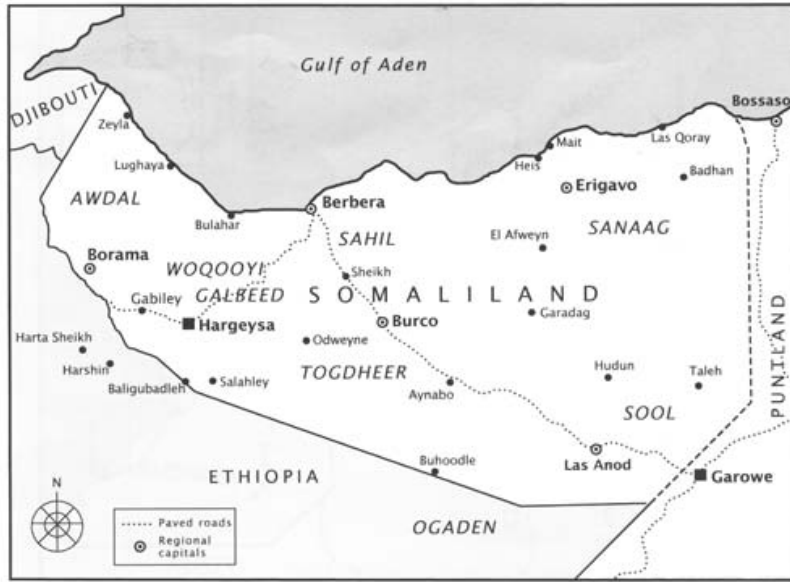
Source: (Bradbury 2008)

Appendix 4

Clan Structure


```
                          ┌──────────────┐
                          │ Aqil Abu Talib│
                          └──────┬───────┘
                 ┌───────────────┴────────────────────────────┐
            ┌────────┐                                    ┌────────┐
            │ Saamal │                                    │  Sab   │
            └───┬────┘                                    └───┬────┘
   ┌────────────┼──────────────┬─────────────────┐           │
┌──────┐   ┌────────┐    ┌───────┐          ┌─────┐    ┌───────────┐
│Darod │   │ Hawiye │    │ Isaaq │          │ Dir │    │ Rahanweyn │
└──┬───┘   └───┬────┘    └───────┘          └──┬──┘    └─────┬─────┘
```

Marrehan | Kabalah   Gaaljaal | Hawadle | Abgal | Murosade | Sheikal | Habar Gedir   Gadabursi | 'Iise | Bimal   Digil | Mirifle

Absame   Harti

Ogaden | Jidwaq   Majeerteen | Warsengeli | Dhulbahante

This is a simplified lineage chart of the Somali clan-families (following Lewis 1961) and sub-clans of current political significance, omitting many lineages and compressing relations between others.

Source: (Bradbury 2008)

Appendix 5

Photos of Hargeisa

Photo from 1991. Source: informant No 5, presentation "Challenges of Security Sector Reform and DDR"

Personal photo from 2008

Appendix 6

Demographics and country data of Somaliland

Somaliland comprises the territory of the former British Somaliland and covers an area of 137,600 square kilometres, with a northern littoral of 850 kilometres (Source: WSP 2005).

Due to Somaliland's unrecognized status, its recent history of war, migration and displacement, as well as nomadic culture, it is not possible to estimate the size of the population with any accuracy. In 1997 the Ministry of National Planning and Coordination estimated the population at three million people. About 55% are thought to be nomadic. The urban population has risen rapidly, and was in 2002 estimated to be between 748,000 and 1.2 million.

Specific indices of Somaliland's human developments are hard to find, since Somalia remains the reference for international agencies. The human development indices for Somalia are very low: an average life expectancy at forty-seven years; infant mortality rate of 224 (per 1,000 live births), maternal mortality rate of 1,600 (per 100,000); literacy just over 19% amongst adults but as low as 7 % for women in the rural areas; average per capita income equivalent to just US$226. The little data that exist on Somaliland indicates higher living standards: Infant mortality at 113 (per 1,000 live births); a higher per capita income in most regions, with a rate of US$350 in the wealthiest region around Hargeisa. Moreover, the number of primary schools has more than doubled between 1995 and 2003, and data from UNICEF in 2000 indicates that the proportion of children attending primary school may be as high as 88%. Yet some data on health is less optimistic: the maternal mortality rate is equal to that of Somalia and there is severe malnutrition in areas of drought and economic hardship (in 2001 a nutritional survey found about 16, 3 % to suffer from acute malnutrition). Government and aid agencies lack a policy on how to address these matters (Source Bradbury 2008:160-63).

Somaliland has a very small economy and revenue base amounting to only between US$20 and US$30 million a year. The government revenue comes mainly from custom tariff (accounting for 85 % of government revenue in 2002, 30 % of which coming from export tariffs, mainly livestock).

With very small levels of foreign aid (Somaliland did not benefit much from the high levels of aid to Somalia in the 1970s and 1980s) and an embargo on livestock exports, Somaliland has, nevertheless, formed a system of basic public administration, rebuilt its security structures, its public and private infrastructure, and absorbed hundreds of thousands of returnees, as well as held three elections. A major part of the reconstruction work has been financed locally, through diaspora remittances and trade networks. While the low levels of public revenue and the very limited control of the state over sources of livelihood (in particular remittances) have decreased the contest over the state, the prospects of consolidating the Somaliland state as a state which can provide basic social services and infrastructure, remain daunting in the absence of recognition. De jure statelessness discourages foreign investment, and generally makes international finance inaccessible (Source: Bradbury 2008:253-255).