

THE SOMALI CLAN SYSTEM: A ROAD MAP TO POLITICAL STABILITY IN
SOMALIA

by

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CHAPTER I

INTRODUCTION

Thesis Statement and Research Questions

The central thesis statement this paper maintains is: Somalia's 'state failure' has been falsely attributed to clanism; rather its failure is a function of the post colonial state's arrangement in terms of a federal system incompatible with the Somali clan system. Clanism in Somalia is perceived as a nuanced form of the general African phenomenon of tribalism which is essential to many of Africa's political disputes. Much of the literature on Somalia emphasizes the primordial identity founded by membership to the Somali clan system (Lewis, 1961; 1995; 2002; Mohamed, 2007; Elmi, 2010; Adam, 1995). The perceived centrality of clanism to Somali culture has led to suggest its culpability in Somalia's "state failure" (e.g. Luling, 2015). Jones holds that "it is widely accepted that the 'failure' and 'collapse' of the Somali state rests on two key factors: a history of bad leadership, with a particular focus on the individual figure of Siyaad Barre; and the Somali culture characterized by clanism."¹ The lack of sovereign power for a period exceeding two decades has been attributed at one level or another to the Somali clan structure. The thesis maintains that Somalia's continuous lack of a functional state is due to the implications an overarching Hobbesian sovereign holds for the Somali clan structure. In order to accommodate the sovereignty requirements of the Somali clan families, government must undertake a confederal arrangement.

¹ Branwen Gruffydd Jones, "The Global Political Economy of Social Crisis: Towards a Critique of the 'failed State' Ideology," *Review of Political Economy* 15, no. 2 (May 2008): 185.

The proposed thesis will investigate the root causes of ‘state failure’ that have come to be synonymous with Somalia. To this end, the author will examine the key propositions put forward by scholarly research on the subject, namely the attribution of Somalia’s failed state status to clanism. The overarching research question guiding this thesis is: Does clanism foster ‘state failure’ in Somalia? A sound analytical approach to such a question requires an equally sound analysis of a set of secondary questions necessary to unravel the inquiry at hand: What implications does clanism hold for the currently adopted centralized government model in Somalia? What type of government would best suit the Somali clan structure? How does clanism operate in areas associated with relative peace and security such as northern Somalia? And likewise, how does clanism operate in areas associated with an abysmal peace record such as southern and central Somalia? The claims put forth are in direct opposition to the vast majority of the literature that delves into this subject. The warrants legitimating such a stance appeal to Somalis stern observance of a primordial clan identity, as well as the mechanisms embedded in Somali clanism capable of resolving conflicts and promoting cooperation at both the intra clan and inter clan level.

The term clanism henceforth refers to the political ideology engendered by the Somali clan system. It is based on two principles, kinship ties acquired through lineage and social contracts which are publically negotiated by the Somali clan families. The thesis maintains that Somalia’s political theme is shaped by Somalis allegiance to the clan system which imbues a need to preserve clans hegemony at the inter clan level relations. The use of the term federal state henceforth denotes a government system in which the central state is considerably strong, however, shares powers with the sub-

divisional governments. Its constitutional arrangement specifies the prerogatives retained by the central government versus the comprising state governments. Federal states retain the right to act on the constituent governments including their citizens. The use of the term confederal state henceforth will refer to a governing arrangement in which the central national state is less ambitious and much weaker in comparison. The comprising regional governments are considerably autonomous. The central state retains the right to act on the comprising regional governments; however, has no authority to take action against the citizenry. A unitary state system will refer to governments where the central state authority is absolute. Its comprising units can exercise powers only delegated by the central state.

Overview of Constitutive Chapters

First I will examine the argument calling for the adoption of a confederal state system in Somalia. This argument aims to ascertain why a federal state system such as the one currently in place is not compatible to a Somalia reverberating with clanism. The Somali clan system will frustrate any efforts aiming at centralizing political power within the purview of a federal government. I will then illustrate how a less ambitious confederal state arrangement could harness clanism and engender cooperation and lasting peace among Somalis. A critique of the literature on Somalia will provide the synthesis to reject the notion that clanism as such is responsible for its protracted failures. I will argue that deviation from clan tenets has led to circumscribing Somalia to the abysmal state it has come to be. To this end, I will provide an analysis of the historical context influencing 'state failure' in Somalia. I will demonstrate that Somalia's failures can be reversed by adhering to traditional structures which historically functioned to preserve

and stabilize Somalia's social mosaic. I will provide an analysis of the Somali clan system that legitimates its ability to promote cooperation at inter clan and intra clan levels of relations. I will then examine regions in Somalia that succeeded in the formation of relatively functional regional governments by virtue of empowering traditional clan structures. These chapters shall resemble an ensemble harmonizing notes justifying the premise: a thriving clan system has the capacity to promote peace in Somalia.

Chapter one will provide some of the latest developments in Somalia that led to the United States endorsement of the current federal government under the leadership of president Hassan Sheikh. Then it examines the argument calling for the adoption of a confederal state system in Somalia. This argument aims to ascertain why a federal state system such as the one currently in place is not compatible to a Somalia reverberating with clanism. It argues that clanism is not an intrinsic factor in Somalia's 'state failure', and calls for the empowerment of the traditional clan structures to promote stability throughout Somalia. Thomas Hobbes social contract theory is applied to the Somali context. The chapter suggests that the current lack of a strong sovereign in Somalia defies much of the propositions put forth by the theory. The chapter also applies John Locke's social contract theory. It will juxtapose natural law with the Somali heer contracts and holds that Locke's theory suggests that government must uphold the laws communities consider to be righteous. As such, government must be willing to accommodate clan dogma in Somalia before it can gain acquiescence to its rule.

Chapter two will demonstrate clan distributions in Somalia. This chapter will discuss the genealogies engendered by clanism, and its ability to affect political allegiances on basis of kinship ties. To that end, this chapter will illustrate the traditions,

mannerisms and overall rules that govern the clan system in Somalia. This chapter will account for the manner in which clanism interjects Somali politics under a central state model, and thus, impels politicians to only further their respective clan interests. It seeks to illuminate the mode in which clanism unfolds in Somalia, and specifically why clanism remains antithetical to all centralized governments, including the transitional federal governments following the collapse of the Siyad Barre regime. In support of the central thesis claim, this chapter will analyze the mechanisms embedded in Somali clanism that promotes cooperation and thus solidarity within the clan level. This chapter seeks to expound why the vast majority of scholarly research published on Somalia concerning the effects of clanism is overwhelmingly wrong. It also aims to demonstrate the sheer complexity of the Somali clan system, and thus, the immense difficulties it poses for a centralized government.

The third chapter will investigate the historical context influencing “state failure” in Somalia. It analyzes Somalia’s colonial era to illustrate the origins of state formation. It suggests that the colonial powers were merely interested in a semblance of a Somali state and did not prepare the Somalis for their independence. This chapter will account for the history of conflict in Somalia during the Siyad Barre regime and following its collapse in 1991. On the one hand, this chapter seeks to analyze a set of policies endorsed throughout the Barre regime responsible for politicizing the ordinary clan order. While on the other, it will analyze Somali polities’ appeal to clanism to countervail Barre’s ongoing belligerence. This chapter aims to differentiate between the witnessed insurrections against the Barre regime, and the literature’s formulation of clanism as a breeder for violence in Somalia. This chapter seeks to examine the implications of a

politicized clan system on the Somali public sphere. This chapter will demonstrate that Somali “state failure” can be attributed to the collapse of traditional conflict resolution mechanisms.

Chapter four will analyze Somaliland’s leadership achievements, and will argue that Somalilanders’ actual adherence to clanism enabled their current prosperity. This chapter will make the case that Somaliland’s regional government stands as an example to be replicated throughout Somalia. As a case study it will demonstrate the transformation that Somali society will undergo if sovereignty is shared with regional governments representing genealogically connected clan groups such as the Isaaq in Somaliland. As such this chapter purports that Somali clans represent distinct communities with varying interests, and therefore their social problems can only be best dealt with at the most local level in keeping with the principle of subsidiarity. This calls for the need to decentralize the Somali government, which in effect would allow the solidarity engendered by clanism to promote the wellbeing of Somalis. This chapter will illustrate Somalilanders’ homogenous clan identification, enablement of consensus building, and thus formulating shared interests. This chapter will make the case why a federalist system promoting multiple regional states such as Somaliland will overhaul Somalia. This chapter maintains that endorsing a federalist government in Somalia would advance cognizance of clans’ subsidiarity rights, and therefore contribute to the preservation of Somali dignity.

Recent Developments in Somalia

Much of the literature composed on Somalia pegs it in an intrinsically contradictory disposition to undertake the necessary steps to realize a democratic state.

Somalia has not only been dubbed a ‘failed state’, it is viewed as the most quintessential global form of a ‘failed state’.² Indeed its history of lacking anything that might remotely resemble a functioning government for a period exceeding two decades seems to justify such characterization. Its uniqueness in that sense has relegated it as a prototypical ‘failed state’ case study to be probed by political scientists. The academic impetus in studying the causes of Somalia’s failures as evidenced by the plethora of scholarly works on the east African nation was unfortunately not always accompanied by an equally cognizant and resolute local and international measures to identify and resolve the underlying culprits. The U.S. departure from Somalia subsequent to the Black Hawk Down incident in October 1993, has formulated the international norm of “Stay out of Somalia”.³ In the meantime, Somalia endured a costly hiatus from the international scene and likewise diminished international concern, until the inauguration of organized terror in the form of the jihadist group Al Shabaab, and especially its actions of lending hands to the militant Islamist organization Al Qaeda in 2012.⁴ The Heritage Institute for Policy Studies contends that:

The U.S. was looking into Somalia through the prisms of counter-terrorism and the need to contain and combat al-Qaeda affiliated al-Shabaab fighters. Similarly, the problems of piracy off the Somalia coast as well as the need for a constant international intervention on Somalia’s recurring humanitarian crises made Somalia a constant fixture on U.S. foreign policy.⁵

² Jones, “The Global Political Economy of Social Crisis.

³ “The U.S. Recognition of Somalia: Implications and the Way Forward.” The HERITAGE INSTITUTE. March 2013. <http://www.heritageinstitute.org/>. (Accessed February 28, 2015).

⁴ Letter Dated 27 June 2012 from the Members of the Monitoring Group on Somalia and Eritrea Addressed to the Security Council Committee Pursuant to Resolutions 751 (1992) and 1907 (2007) concerning Somalia and Eritrea. June 27, 2012. <http://www.un.org/>. (Accessed May 02, 2015).

⁵ “The U.S. Recognition of Somalia: Implications and the Way Forward”, 1-4.

The United States' endorsement of the current Somali president Hassan Sheikh's government in January 2013 is an attempt to further such aims. Following the expenditure of millions of tax payers' dollars on the African peacekeeping mission in Somalia, the United States delivered on its policy objectives to deal a devastating blow to Al Qaeda operatives in the Horn of Africa, and equally signaled its continual commitment and resourcefulness in quelling Al Qaeda's inclinations to expand.⁶ However, above all the said endorsement underscores an astute political calculus to countervail the Turks strategic and strong presence on the ground, as well as the Chinese and European oil interests in the region.⁷ On the other hand, the U.S. policy to endorse a government exhibiting insufficient territorial control, and similarly lacking a competent security apparatus to protect its own presidential palace and officials, often being subject to armed assaults and assassinations, seems to capture the dissonance that often marks international relations. The United States' recalcitrant stance to effect the implementation of the repeatedly failed model of centralized government in Somalia is counterproductive.

Is Clanism an Intrinsic Factor for 'State Failure'?

Rotberg ties 'state failure' to government's inability to command acquiescence to its rule. He holds that nation-states fail because "their governments lose legitimacy and, in the eyes and hearts of a growing plurality of its citizens, the nation-state itself becomes illegitimate".⁸ He describes the conditions confronting failed states as follows:

⁶ "The U.S. Recognition of Somalia: Implications and the Way Forward", 1-4.

⁷ Ibid.

⁸ Robert I. Rotberg, "The New Nature of Nation-state Failure." *The Washington Quarterly* no. 3 (2002): 85.

Tense, deeply conflicted, dangerous, and bitterly contested by warring factions. In most failed states, government troops battle armed revolts led by one or more rivals. Official authorities in a failed state sometimes face two or more insurgencies, varieties of civil unrest, differing degrees of communal discontent, and a plethora of dissent directed at the state and at groups within the state.⁹

However, the mere condition of violence does not necessitate state failure. “Failure for a nation-state looms when violence cascades into all-out internal war, when standards of living massively deteriorate, when the infrastructure of ordinary life decays, and when the greed of rulers overwhelms their responsibilities to better their people and their surroundings”.¹⁰

The aforementioned conditions that characterize “state failure” result in governments dishonoring their duties to deliver essential political goods such as “security, education, health services, economic opportunity, environmental surveillance, a legal framework of order and a judicial system to administer it, and fundamental infrastructural requirements such as roads and communications facilities”.¹¹

Bates holds that “state failure” transforms the state “into an instrument of predation”.¹² The state deteriorates into an entity preying on the citizenry.

When states fail, those with power employ it to extract resources from those without power. The latter flock to those who offer them security, albeit often for a price: the obligation to contribute to their new political community, in some cases by bearing arms. Political predation from the top is thus accompanied by the militarization of civic society below. The state no longer possesses a monopoly on the use of force, and society is plunged into political disorder.¹³

⁹ Robert I. Rotberg, "The New Nature, 85.

¹⁰ *Ibid.*, 86.

¹¹ *Ibid.*, 87.

¹² Robert H. Bates, "State Failure." *Annual Review of Political Science* 11 (June 2008): 2.

¹³ *Ibid.*, 9

Bates concludes that “factors that best predict state failure are political, not economic”.¹⁴ He maintains that present attempts to conceptualize the political origins of state collapse are “presently constrained”¹⁵ due to its reliance on ““formalistic measure,” i.e., measures that capture the structure of political institutions.”¹⁶ Bates thus, warns against the literature’s conflation of “state failure” with factors not causative of the condition of failure. The examination of factors thought to predict state failure must be informed by “systematic information regarding the strategic properties of the national political game”.¹⁷ Luling corroborates Bates propositions when she states, “Somalia reminds us to distinguish between the underlying causes of state collapse, and the fault lines along which the collapse occurs. These do not need to be regional, linguistic, religious or ‘ethnic’.”¹⁸ Sub-national variations concerning the nature of political disorder must figure prominently in understanding respective political origins of state failure. This thesis examines Somali “state failure” on its own terms, and contemplates the extent to which clanism contributes to the nature of its political disorders.

Redeeming Somalia’s monumental ‘state failure’ calls for a well founded account of its constituent clans’ modus operandi. As part and parcel of Somalia’s political culture, any scholarly pursuit to ascertain the root causes of its unenviable failures must not ignore clanism’s influence on Somali politics. Clanism as it were stands as a normative

¹⁴ Robert H. Bates, "State Failure.", 10.

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ Virginia Luling, “Come Back Somalia? Questioning a Collapsed State.” *Third World Quarterly* 18, no.2 (June 1997): 287.

system situating Somalis within society, and has championed the facilitation of services that its failed state ceased to deliver for decades.¹⁹ Clanism earns its due acknowledgment by virtue of occupying the vacuum created by successively weak and undersupplied Somali governments. Clanism thus supplants domains organized government would otherwise oversee. In a sense, clanism has functioned as an informal governing mechanism within Somali society both before and after the civil war. As such this project seeks to investigate clanism as a political system satisfying Somali needs, rather than conveniently dismissing it or condemning it as the primary cause of political instability. I examine clanism from an appreciative lens, recognizing its rather impressive permeation of Somali society.

The protracted civil wars ensuing Siad Barre's regime, characteristic of clan based militias vying to attain political ascendancy may have misrepresented clanism's apparent role; rendering it as divisive and thus implicating its inherent culpability.²⁰ However proponents of this view fail to account for an obvious question: why is Somalia's political climate so conducive to resorting to the extreme measure of armed struggle rather than accessing conventional political channels (which the international community sought to promote in the form of numerous peace keeping missions aimed at bringing Somalis to the round table²¹) to revive the Somali central government? This suggested analytical deficiency is in many ways made possible by the inability to

¹⁹ Joakim Gundel and Ahmed A. Dharbaxo, *The Predicament of the 'Oday' Report*. Nairobi: Danish Refugee Council (2006): 12.

²⁰ Andrew Tulumell, "Rethinking Somalia's "Clanism"" *The Harvard Human Rights Journal* 6 (1993): 230-234.

²¹ Noel Anderson, "Peacekeepers Fighting a Counterinsurgency Campaign: A Net Assessment of the African Union Mission in Somalia." *Studies in Conflict & Terrorism* 37, no.11 (2014): 936-958.

appreciate the alternative Somalis sought to mitigate with their own blood. Resorting to armed struggle though an extreme measure stands as the only means available to Somalis determined to realize their respective clans' political self determination. Often clanism has been scapegoated by mistaken scholarly efforts unable to conceive a thriving Somali clan system's capacity to promote peace in Somalia. But this is a parochial and incomplete analysis. This project is an attempt to fill a gap in conceptualizing the Somali clan system's proper mode of operation.

Instituting a functional state in Somalia is largely dependent on incentives appealing to Somalis that are capable of realizing desperately needed political organization. The prospect of autonomous clan rule is perhaps the most viable incentive for Somali polities. Somali clans require assurances that government will present a more viable alternative to organize their social endeavors. This is predicated on viewing government as cohesive to their specific social mosaic, which will in turn usher Somalis into the civic realm. Somalis are first and foremost subjects to a primordial identity defined by the clan system and the moral imperatives derived from it. Citizenship conceived in this realm acquires a different character, and is inherently distinct from citizenship derived from allegiance to a constitutional order. Somalis preeminent allegiance lies with law of the clan. A law based on the single premise of advancing the good of the clan to the detriment of others if necessary. Such being the milieu underlying Somali polities, politics is bound to serve its propagation.

Hobbes Social Contract Theory as Applied to Somalia

Hobbes warns of statelessness on basis of the chaos associated with a hypothetical state of nature.²² Hobbes equates this state of nature to a state of war between each individual. In this state of affairs individuals are not bound by any laws or authority, each exercises their own judgment concerning what constitutes evil or good. Conflict is a defining character of this state of war. Hobbes basis the requirement for sovereign power on the need to solve the problem of conflict generated by individuals exercising their own conflicting private judgment. Sovereign power is suppose to put an end to the state of war. To achieve sovereign power it is necessary to forfeit private judgment for public judgment in order to resolve controversies. This requires that individuals relinquish their private rights to a sovereign representing the public. The nature of sovereign power proposed by Hobbes is absolute and indivisible.

Somalia has arguably endured a virtual state of nature; oscillating between seriously weak to full fledged collapsed state since its independence in 1960. The enduring character of the lack of strong sovereign in Somalia renders Somalia in a condition similar to the anarchy of the state of war. Sovereignty has been nominally attributed to numerous Somali governments including the current federal government. However, Somalia as a society continues to operate as a pre-political society. The threats emanating from the Hobbesian state of nature do not provide a compelling reason for Somalis to extend absolute dominion to a centralized sovereign state, especially after the devastations they witnessed on the hands of a centralized government in the form of the Siad Barre's regime. A strong sovereign state has hindered Somalia rather than

²² Thomas Hobbes and Richard Tuck. *Leviathan*. Cambridge: Cambridge University press, 1991

promoting peace. Instead of forestalling the state of war as Hobbes suggests, it has instigated a state of affairs proximal to the state of war. Instead of mitigating the likelihood for violent death, it has functioned as an instrument for predation. As such, Hobbesian analysis concerning the reasons why society requires sovereign power is not consistent with the Somali case. The Somali case suggests that sovereignty lies with the respective clan families. Individuals surrender their rights to clan elders and not to a strong sovereign. To achieve the preservation and social peace which Hobbes suggests as the purpose of sovereign power, clan sovereignty must shape any arrangements concerning sovereign power in Somalia.

Despite the lack of an overarching state, contemporary Somali communities such as Somaliland and Puntland enjoy peaceful conditions enviable to those in southern Somalia.²³ In many ways a federal government represents for Somalis a perpetual state of nature, under which clan hegemony will be relinquished to satisfy what is considered to be a central state's 'legitimate' sovereignty requirements. The antagonism presented by these two competing forces is at the core of Somali state failure. The rootedness of the clan system in Somalia suggests its accommodation. It stands in the collective good of Somali clans to organize government in manner favorable to autonomous clan rule. This particular good is one justified on basis of allegiance to a clan system that demands supremacy of clan political decision making at the inter-clan level.²⁴ As such extending clans self rule can remedy the failures that have come to be synonymous with Somalia.

²³ Gundel, *The Predicament of the 'Oday'* Report, 1-85.

²⁴ I.M. Lewis, *A Modern History of the Somali: Revised, Updated & Expanded*. Oxford: James Currey, 2002, 11.

Constructing a government aligned with existing traditional structures will achieve gravely needed legitimacy in the eyes of the Somali clans.

The current lack of a strong sovereign in Somalia defies much of the propositions put forth by Hobbesian social contract theory. Even the heyday of the Barre presidency; government did not entirely control Somali geographical territories. The government apparatus would have been characterized as weak or underdeveloped but above all extremely deficient in extending its coercive right over the entirety of the populace.²⁵ The Somali traditional structures such as the heer contracts²⁶ and the clan elders managed to contain such a society where one's ability to access codified processes to seek just outcomes were increasingly limited to areas in the immediate control of the sovereign.²⁷ Even then such arrangements tended to be corrupt and patronages were above the rule of law. With more than one third of Somalis inhabiting the Somali hinterlands, the traditional dispute resolution mechanisms stood as an ever more reliable choice to redress their disputes.²⁸ Though these traditional structures were entrenched in Somali society before the Barre regime; their promise during the Barre regime and following his ouster has ingrained them in Somali society. The clan system which presents the scaffolding supporting the arrangements made possible by the traditional institutions has acquired further legitimacy. Thus the social contracts comprising the heer gained further legitimacy in spite of the prolonged absence of an absolute sovereign.

²⁵ I.M. Lewis, *A Pastoral Democracy: A Study of Pastoralism and Politics among the Northern Somali of the Horn of Africa*. London: Published for International African Institute By Oxford University Press. 1961.

²⁶ These are contractual agreements entered into at every level of clan segmentation. A full analysis of the implications of these treaties is provided in pages 18 & 27 -31.

²⁷ Gundel, *The Predicament of the Oday*, 4.

²⁸ Ibid., 16-40.

The Somali clan system can be analogized as an incumbent politician with absolute popular support, whose likelihood for his defeat is only conceivable, should he voluntarily withdraw from the electoral process. Clanism however cannot be sidelined nor jettisoned from Somali politics. Here a phrase made popular by Francis Fukuyama's work *The End Of History And The Last Man*, can be applied. Clanism's protracted influence over Somali politics for long decades represents the end of Somali history as such: that is, the end point of Somalis ideological evolution. Clanism must be appropriately institutionalized in any final type of regime that Somalia may undergo. The Somali traditional structures thrive today in many parts of Somalia and along with it thrives the clan system which makes its practice possible. On the other hand, Somali politics do seem to agree with Hobbes concerning the single point suggesting the righteousness of the mighty. The fact that Somalis voluntarily surrender their rights and freedoms to clan leaders presupposes their consensus not just that the clan system is the mightiest force capable of protecting their rights but likewise that it is the most righteous. Their primordial identity as members of a clan imbues a need to ensure the survivability of their respective clan authority. Hence, Somali clans insist that government must be represented by their specific clan cadres. This is only achievable when clans are afforded autonomous rule under a weak central government, thereby placing much power within the purview of clan-dominated regional governments.

The central thesis challenges the argument that Somali 'state failure' rests on the clan system. Rather clanism may well be a mechanism to combat 'state failure' in the context of Somalia. Moreover with the institution of a confederal system recognizing clanism may well provide the necessary space to recover political stability. This means

that effective governance must respect clan subsidiarity rights by way of institutionalizing clanism. This also implies that centralized forms of governance which have already failed should be avoided as a solution to Somalia's current condition. Relocating centers of power and authority to regional governments capable of delivering the requisite political goods to their clan constituents is a viable option. This thesis rejects Hobbesian prescriptions concerning the general necessity of an overarching sovereign. Instead of placing unparalleled power in the hands of the state, here, the state is subordinated to clanism. The state must develop the stamina to adopt a laissez-faire approach concerning any political affairs directly impacting clans' welfare. In this sense, a confederal state in Somalia assumes the functions of a regulative agent countervailing any interference on clans self rule aspirations. This requires an intentional relinquishing of matters beyond maintenance of peace, international trade, foreign diplomacy and any other domains negotiated for by the comprising regional governments. Hence, the confederacy called for in Somalia represents an effective repudiation of a sovereign's need to consolidate power in a traditional bureaucratic fashion. Its success rests not only on the degree of freedom legitimate clan leadership is afforded but likewise on the degree of support it extends to each regional government. However, its real aptitude for success is founded on the restrictions enabled by a confederation, namely, its prohibitive nature to act on clan members. A confederal system will extend autonomy to each comprising regional government; the central state can only act on the constitutive governments and not their constituencies. This feature is paramount for a Somalia recovering from a protracted civil war in which the state facilitated massacres on basis of clan affiliation. Indeed, the witnessed intransigence on part of Somali clan families not to restore a

central state model in the aftermath of the civil war is made possible by a shared conception that an absolute sovereign will be the object of manipulation by the clans. Even the least politically savvy among Somalis realize the nature of this problem.

Federal State Model Incompatibility with the Clan System

The political cleavages prompted by the Somali clan system are marked by each clan's rigid claims to sovereignty. As such, Somalia constitutes a deeply divided society. Lijphart contends that in deeply divided societies "the interests and demands of communal groups can be accommodated only by the establishment of power sharing."²⁹ He also contends that deep divisions such as those founded by membership to the Somali clan system "present a major obstacle to democratization in the twenty-first century."³⁰ Success in remedying issues confronting divided societies concerning democracy is also dependent on achieving group autonomy.³¹ Applying Lijphart's analysis to the Somali case necessitates that each clan family be allowed to participate in "political decision making, especially at the executive level."³² The Somali clans must also be extended the authority to run their own internal affairs as they see fit.³³ Lijphart holds that the most appropriate constitutional design for a society such as Somalia to be federalism. "For divided societies with geographically concentrated communal groups, a federal system is undoubtedly an excellent way to provide autonomy." Although Lijphart identifies a

²⁹ Arend Lijphart, "Constitutional Design for Divided Societies." *Journal Of Democracy* no. 2 (2004): 96.

³⁰ *Ibid.*, 97.

³¹ *Ibid.*

³² *Ibid.*

³³ *Ibid.*

specific form of government to resolve the political disputes confronting divided societies, he qualifies his stance by stating “the relative success of a power sharing system is contingent upon the mechanisms devised to yield the broad representation that constitutes its core.”³⁴ As such, if federalism fails to provide such mechanisms it must not be emulated. Lijphart’s analysis holds serious implications for Somalia which has relied on federal arrangements for power sharing that have failed repeatedly. Somalia should avoid this particular form of government as a solution for its political divisions, precisely because it is not compatible with the Somali clan system.

A federal state model represents a zero-sum game to any clans that may not be effectively represented within the executive. Though a prima facie cynical representation of Somali politics, it has nevertheless been an organizing norm for much of contemporary Somali politics. Although, unitary state systems such as those represented by the majority of western democracies seek to devise policies catering to the largest number of voters, in Somalia, the central state albeit historically and comparatively much weaker has sought policies serving selected clans, and outright perilous to those on the peripheries. Atrocious acts were carried out by representative heads of government appealing to institutions consolidating power within their purview. As such the Somali experience in federal governance can be said to have prompted an in-group out-group sort of dynamics, in which certain clans, those to which government attributed allegiance to were given preferential treatment, and thus policies were devised for their betterment. While the out-group clans historically, viewed as antagonistic towards the leader’s patrilineal clan origins, were drastically marginalized and weakened, because the leader viewed them as a real threat to his particular clan’s continual political ascendancy. This attempt to

³⁴ Lijphart, “Constitutional Design, 99.

conceptualize the dynamics clanism holds for any central federal government type organization in Somalia vindicating much of the propositions put forth by the leader-member exchange theory, and likewise explains why Somalia remained as a failed state subsequent to Barre's departure.

A central state system has been tantamount to servitude for the vast majority of clans not endeared to the executive. Clans not representing any real threat to government, nor harboring any separatist agendas were nevertheless marginalized by the state. Government did not promote the collective good of its citizenry, and political goods were devised and delivered on basis of clan affiliation. The ideational climate precipitated by the Barre regime has effectively rendered reestablishing of any central state model ineffective. Therefore, initiatives to establish a sovereign state have continued to falter for several decades, because it has been empirically validated as a system not compatible to the Somali clan system at best and malevolent to good governance at worst. The prevailing political climate in Somalia does not bode well for federal options precisely because they threaten clan autonomy. A federal state model in Somalia is bound to subordinate one sector of the Somali populace over another. Federal models have functioned solely as a vehicle to consolidate power; and then quickly and rather easily devolved into oligarchy serving the aims of a subset of the population. As such, any efforts aiming at state building in Somalia must take note of these special circumstances that stand to thwart the attainment of a functional central government serving the masses. A good starting point would be to accept clanism as a defining characteristic of Somali life, shaping its political culture, and resisting centralized policy formulation.

The proposed confederal state will acquire its legitimacy to rule albeit in a limited fashion, when it follows its proper role as the custodian of traditional Somali clanism. Such government will face the challenge of cultivating unprecedented levels of clan altruism perhaps unbeknownst to large numbers of its current ruling elite strata. However, given its narrow reach, by virtue of regional governments directly overseeing their clan affairs, this confederate state will be solely responsible for affairs of national magnitude. This form of decentralized governance will entice regional governments to work towards the betterment of their constituent clans social conditions, while the central government's role will be limited. The regional states would retain considerable sovereignty over their own affairs. This division of labor will diffuse the tensions clanism holds for governance in Somalia. Somalis of all clan orientation would be afforded considerable self determination; limiting the central government's capacity to intervene with the realization of policies serving to specific clans. On the other hand, the weaker central government characteristic of a confederacy is coordinative in nature, and lacks the capacity to either appoint or control clan leadership. In this sense, a confederal state accentuates clanism where it is most needed at the regional state level, while diffusing its effects on matters of national interest. In the scheme of a confederal state, the need for its centralized administrative body is to cultivate an altruistic stance towards clan related matters. In large democracies a selfless stance is counterintuitive to party needs to win elections or function as a part of a ruling coalition. By contrast confederal state's representatives are not subject to party politics; their terms must be intentionally shortened to inculcate a tradition of legacy building compelling the achievement of much progress within their limited tenure.

The central thesis calls for a Somali state conscious of the citizenry's perpetual observance of their traditions in the form of clanism. Given that Somaliland stand as a region where traditional structures are currently observed and respected, an investigation into the implications of such governance approach is warranted. This region constitutes lively exemplar of the mode traditional norms of clanism that are capable of revamping Somalia at large. Somaliland stands as segment of Somali society where conscious adherence to clanism has produced tremendous stability leading to the erection of legitimate regional governments.³⁵ Albeit this region faces serious challenges in providing the necessary political goods to its constituents, the fact that regional governments have been instituted is in itself a milestone in great contrast to a Somalia reverberating with chronic failure. Clan dogma has tempered structural failures in Somaliland.³⁶ The current de facto institutionalization of traditional structures suggests the potential positive forces existing in the clan system. In Somaliland government promotes an atmosphere of clan autonomy. The egalitarian nature of the clan system allows all men even the poorest amongst them to voice their opinion in clan meetings aimed at constructing policy. Hence, the replication of regional governments such as that currently adopted in Somaliland is capable of taming the Somali popular mind to achieve more stability and prosperity.

John Locke Social Contract Theory as Applied to Somalia

Understanding why traditional clan structures stand as a rational choice for Somalis requires placing the inquiry within a wider theoretical framework. Locke's

³⁵ Gundel, *The Predicament of the Oday*, 16-18.

³⁶ Ibid.

version of social contract theory is particularly of value in conceiving why Somalis would welcome a confederal government arrangement. Locke's proposed state of nature is distinct from that contemplated by Hobbes. According to Locke the state of nature precedes the state of war. Individuals in the state of nature are blinded by self love, which leads to its devolvement into a state of war. Self love thus leads to individuals who behave in ways giving rise to a truly awful state of war that place one's life, body, health and property in jeopardy. This ensuing state of war is perpetual until a society is formed. Locke holds that the law of nature is equally binding on individuals whether they were in the state of war or the state of nature. Locke suggests that man sought to exit this state of war and resort to organized governance due to perceived inconveniencies and insecurities concerning one's property including their property in their own selves.³⁷ Thus, according to Locke men decided to end this state of liberty to attain a functioning justice system including an executive body that oversees its implementation.

Today, in many parts of Somalia binding laws in the form of the heer contracts exist and more importantly retain the stature of just recourse to punish criminality.³⁸ Clan appointed judges pronounce judgments and the public is expected to obey their rulings. Therefore, Somalis within their clan families do enjoy a level of security that preserves their property rights rendering them quite divergent in comparison to the communities Locke envisaged. This opposes the reasons Locke contemplated to analyze why members of society sacrifice their individual freedom in exchange for state protection. This is not to say that Somalia would not benefit from government. Locke's determining factor to

³⁷ Gundel, *The Predicament of the Oday*, 116-119.

³⁸ *Ibid.*, 57.

resort to civil authority is the need to observe the morals provided by natural laws. According to Locke this is the law that community considers to be righteous. Somali heers and natural laws represent two sides of the same coin. Both represent rules for binding moral behavior. The heer are laws negotiated for by the clans to secure the lives, welfare and properties of their constituent members. The heer contract's genesis in a pre-political Somalia renders it as a primary source for what Somalis perceive to be just. This is a body of law that enjoys tremendous juridical character. Since their independence in 1960 Somalis continued to observe their traditional treaties despite the establishment of court systems and civil laws.³⁹ As Locke holds, man decided to exit the state of nature to effectively uphold a set of laws collectively perceived to be righteous. Thus, the upholding of the indigenous laws that communities seek to preserve must lead acquiescence to government rule. In Somalia, the clan system which is the repository of the laws Somali communities hold as just has not been accommodated by the state. This is one reason Somalis have resisted the reinstatement of a federal government system since the collapse of the Siad Barre regime. The proposed regional governments in Somalia can succeed in carrying out their delegated functions only when traditional structures inform their institutional design. Clanism must be the leading coefficient of any political equation aimed at formulating policy in Somalia.

³⁹Gundel, *The Predicament of the Oday*, 4-13.

CHAPTER II

THE SOMALI CLAN SYSTEM

Kinship

The Somali segmentary clan system is based on two principles kinship and social contract. Mohamed defines these two aspects of the Somali clan system as follows: “The kinship system is based on blood relation, but the ties that bind blood relatives are grounded on social contract –on a public system of rules publically negotiated”.¹ Kinship is derived from belonging to a particular Somali clan. It is founded upon a segmentary lineage system that allows Somalis to trace their descent to common ancestors. This segmentary system is based on five major Somali clan-families. Those are Darood, Dir, Digile and Mirifle, Hawiye and Isaaq. As a matter of taxonomy Lewis divides these clan-families into “clan, sub-clan, primary lineage, and dia-paying group as divisions of decreasing size and to some extent of different characteristics”.² According to this classificatory schema, the clan-family stands as the upper limit of clanship³. This is the highest point of political cleavage. On the political affiliations engendered by Somali genealogy Lewis holds, “Since politics are in principle a function of genealogical proximity, genealogical distance- the number of ancestors counted apart; as Somalis say-

¹ Jama Mohamed, “Kinship and Contract in Somali Politics”. *Africa: Journal of the International African Institute* 77, no. 02 (2007): 226.

² I.M. Lewis, *A Pastoral Democracy: A Study of Pastoralism and Politics among the Northern Somali of the Horn of Africa*. London: Published for International African Institute By Oxford University Press. 1961, 4.

³ *Ibid.*, 4.

defines the political relations of one man or group with another”.⁴ As such, descent from the Darood clan-family for example provides the stance through which the Darood bargain their political affairs with the other clan-families. When there is enmity between these clan-families, “members of one clan-family have a strong identity of purpose against those of another”.⁵ Thus the supremacy associated to clan interests can compel Somalis to adopt whatever action viewed to be in the interest of their clan-family even if such action is detrimental to the others. This rigid loyalty to their respective clan-family shapes the relationships between Somali individuals and tethers their identity solely to their particular clan-family. In this sense, citizenship is not based on duties and responsibilities that come with being a citizen of Somalia but on basis of belonging to a particular clan-family. Members of a particular clan family show pride in their membership of it and conserve and cherish the genealogies which record their affiliation.⁶

Agnatic and Affinal Ties

The clan-family is further classified into constituent clans. Each Somali clan-family branches into several clans depending on size. The clan “frequently acts as a corporate political unit”.⁷ The clan represents the interior boundaries within a clan-family; it is the mechanism through which Somalis can further distinguish one another under their clan-family umbrella. Lewis differentiates the clan from other lineage units on

⁴ Lewis, *A Pastoral Democracy*, 134.

⁵ *Ibid.*, 4.

⁶ *Ibid.*

⁷ *Ibid.*

basis of their “territorial exclusiveness”.⁸ However, given that clans regularly traverse along a very general area of land, “it cannot be said that the clan is always a clear-cut geographical unit”.⁹ For instance, the Darood clan-family is divided into five clans: Yusuf, Lel-Kase, Harti, Absame and Sade.¹⁰ The Harti clan is further divided into four sub-clans: Majeerteen, Warsangeli, Dhulbahante, and Dashishe.¹¹ In this sense, the Dhulbahante trace their ancestry to Harti, who is also a common ancestor for each of the Majeerteen, Warsangeli and Dashishe. Each of these four sub-clans occupies general areas in Somalia historically known to be inhabited by the Darood clan-family. However, their proliferation scatters them over large swaths of land. This dispersal does not detract them from cultivating a strong corporate identity derived from their common Harti agnatic descent.¹² Harti is then an ancestor shared by all the Harti sub clans, he is held as their sub clans’ founding father. Tracing ancestry to Harti is based on patrilineal descent which is to say through the male line. Members of the Harti sub clans will trace their lineage to Harti as far back as twenty generations or more.¹³ The strong corporate identity derived from descent promotes cooperation and coexistence across agnatic clans. “Within a clan the general area in which its members are concentrated is for the purposes of grazing in principle open to the stock of all those of its constituent lineage segments”.¹⁴

⁸ Lewis, A Pastoral Democracy, 4.

⁹ Ibid.,4-5.

¹⁰ Elmi, Afyare Abdi. *Understanding the Somalia Conflagration: Identity, Political Islam and Peacebuilding*. 2010. Pluto Press. 30.

¹¹ Ibid.

¹² Lewis, A Pastoral Democracy, 5.

¹³ Ibid., 4.

¹⁴ Ibid., 5.

This general accommodation of their lineage segments allows the clan to function as “the upper limit of corporate political action”.¹⁵ However, the clans’ ability to promote any political action is strictly based on consensus because clans have “no centralized internal administration or government”.¹⁶ “The clan does not have a specific office of leadership associated with it”.¹⁷ This vacuum is filled by the clan elders as Lewis explains, “At every level of lineage allegiance, political leadership lies with the elders of the group concerned”.¹⁸

The primary lineage stands as the “most distinct descent group within the clan”.¹⁹ The primary lineage is the lineage within a clan to which a member attributes membership. Since the primary lineage is “strongly integrated in agnation”²⁰, “marriage is usually outside the primary lineage”²¹ to promote external links. Below this level of division lies the dia-paying group; it is the most stable minimal political unit that clansmen operate under. “This is a corporate group of a few small lineages reckoning descent through from four to eight generations to the common founder and having a membership of from a few hundred to few thousand men”.²² Lewis illustrates how the primary lineage and dia-paying group lineage units organize the Darood clan-family, “A

¹⁵ Lewis, *A Pastoral Democracy*, 5.

¹⁶ *Ibid.*

¹⁷ *Ibid.*, 196.

¹⁸ *Ibid.*

¹⁹ *Ibid.*, 5.

²⁰ *Ibid.*

²¹ *Ibid.*

²² *Ibid.*, 6.

man gives his primary lineage-group, Reer Hagar, Barkad, Jaama Siyad, or whatever it happens to be. Within his primary lineage-group, he gives the minimal political unit, which is his dia-paying group”.²³

Agnation is a supreme aspect of Somali politics. Somalis are born into a particular lineage thereby restricting their membership to a single clan, a single primary lineage and a single dia-paying group. Through genealogy Somalis garner ties to other Somalis; it represents their “political affiliation and the range of kin towards whom he has obligations and upon whom he depends by the mere fact of agnatic connexion”.²⁴ On the immense value attributed to agnation a well known Somali saying has it that “A limb is broken when the advice of agnatic kinsmen is disputed”.²⁵ The Somali clan system obliges cooperation among Somali clans through the linkages it provides through the affinal ties founded on relatives acquired by way of marriage. Marriage as an individual contract binding a man and a woman as husband and wife is embedded with reciprocal obligations to their respective agnates as well. Lewis illustrates the solidarity the clan system affords Somalis through their affines (relatives by marriage).

A man speaks of his affines (hidid) as a group and the link between the individual families is generalized on each side and viewed as a link between the respective lineages imposing duties and obligations on both sides... they provide a useful subsidiary social bond on the strength of which a man can expect hospitality as a kinsman (not merely a guest) from a lineage to which he is either linked personally as an affine or through the affinal ties of another member of his lineage.²⁶

²³ Lewis, *A Pastoral Democracy*, 136.

²⁴ *Ibid.*

²⁵ *Ibid.*, 137.

²⁶ *Ibid.*, 140.

Thus affinal linkages afford the Somali clans a vast network to elicit cooperation. The durable connections already in place due to membership to a particular clan is further reinforced when Somalis as they often do seek affinal ties outside the domain of their respective clans. Lewis holds the bonds afforded by affinal ties as very useful in controlling hostilities between the clans. “The bond is important too in providing a channel of information between affinally linked yet hostile lineages; and affines often play a major part in negotiation and in the settlement of disputes”.²⁷ At every sub-clan level and across clan-families Somalis find themselves as agnates owing to their common ancestry and likewise affines owing to their exogamous tendencies. Thus the strong agnatic and affinal ties sanctioned by the Somali clan system tame their rigid kinship ties when Somalis are dealing with members of opposing clans. Such ties can establish political links between lineages which are not partilineally related. Though Somali segmentation into numerous clans with each descending from a distinct agnate may lead to dissimilarities or disparateness, the clan system equips them with built in mechanisms such as affinal ties to counterbalance their agnatic ties.

Uterine Ties

The agnatic generations providing genealogies differentiating clans from each other prescribe the limits of Somali political affiliation and provide “the main theme of Somali politics”.²⁸ The segmentation of the Somali clan system though based on agnatic descent does not necessarily give rise to “a simple hierarchy of balanced descent

²⁷ Lewis, *A Pastoral Democracy*, 140.

²⁸ *Ibid.*, 159.

groups”.²⁹ Within each clan some lineages increase at higher rates than others and therefore have all the ordering that segmentation provides from sub-clans to primary lineages to dia-paying groups. While the numerically inferior clans are classified into a clan and a dia-paying group.³⁰ As such agnatic segmentation does not present “equipoised units”³¹ due to the distortions presented “by the recognition of irregular growth and by importance given to the uneven distribution of man-power and fighting potential”.³² Such inequalities are counteracted partly by uterine ties which are founded on polygamous marriages sanctioned by Sharia law permitting a man to have as many as four wives at any given time. These marriages give rise to “groups of siblings sharing a common father but having different mothers”.³³ Polygyny can lead to distinct morphologies across clans where some are more ramified than others. This can lead to numerical disparities directly impacting the fighting potential of the respective clans. Thus weaker clans confronted with a restricted access to manpower tend to form alliances with other lineages through existing uterine ties. Lewis explains this aspect of the Somali clan system that enables weaker clans to counterbalance stronger clans within their clan-family as follows:

In the internal relations between the three lineages B, C and D, the weaker lineages C and D will tend to unite in opposition to B and they may do so through uterine ties real or putative. Where this occurs the members of a lineage allied through a common mother call themselves bah Khadiija, say, giving the name of the mother or her clan. Here the points of division are not agnatic ancestors but

²⁹ Lewis, *A Pastoral Democracy*, 151.

³⁰ *Ibid.*

³¹ *Ibid.*, 159.

³² *Ibid.*

³³ *Ibid.*, 143.

their mothers and the recognition of the uterine link as a political principle provides, as it were, a lateral system of unification whereby unevenly balanced agnatic segments can achieve approximate numerical parity.³⁴

This is a built in mechanism that promotes a power balance across the clan families. The founded balance can further promote peaceful relations between the comprising clans notwithstanding their shared agnatic descent which restricts aggression in the first place. No one lineage within the clan-family is capable of wielding enough power to dominate the remaining clans. Thus, the clan system provides the basis for Somali clans to form defensive coalitions promoting a balance of power within each clan family. These coalitions will however be trumped by their corporate identity which compels Somali clansmen to unite against aggressors outside the scope of their respective clan-families.

The Heer Contracts

The values founded by the Somali clan system are implicit but gain a binding character through heer or social contract. Heers are thus the second fundamental principle of Somali politics. The function of the heer is “to call into effect the implicit values of agnation”³⁵, and stand as contractual agreements entered into at every level of segmentation. The contractual political agreements founded by the heer are localized in the dia-paying group.³⁶ As the most stable political units, the dia-paying groups by entering into social contracts create political units bound in collective responsibility for their member’s actions. Lewis notes that political unity is not restricted solely to the dia-paying groups. “When any order of lineage, be it clan, primary lineage-group, or dia-

³⁴ Lewis, *A Pastoral Democracy*, 153.

³⁵ *Ibid.*, 159.

³⁶ *Ibid.*

paying group, acts as a corporate political unit against another, it generally does so in terms of a contractual treaty binding all its members”.³⁷ The ability to enter into binding agreements such as heer is largely based on agnatic connections. Then it is kinship and the heer that comprise the two driving factors of the Somali political system. The heer however is less constraining in contrast to kinship which Somalis cannot refute. The heer contacts are open to being abrogated, modified or rescinded.³⁸ The primary subject of the heer agreements principally relates to “collective defense and security and to political cohesion in general”.³⁹ In this sense, the heer denotes “a body of explicitly formulated obligations, rights and duties. It binds people of the same treaty (heer) together in relation to internal delicts and defines their collective responsibility in external relation with other groups”.⁴⁰ The heer attributes legal liability to acts such as homicide, wounding, and insult which embraces a wide array of infringements of rights, from adultery to defamation.⁴¹ “Compensation for physical injuries and homicide is based on the shariah, being assessed by sheikhs... according to standard Shafi’ite authorities”.⁴² The heer allocates specific compensation for victims of murder at varying rates. In principle, all Somali accept that another man’s life is worth 100 camels.⁴³ Given that the availability of 100 camels is disproportionate amongst the Somali clans, the equivalent value in other

³⁷ Lewis, *A Pastoral Democracy*, 160.

³⁸ *Ibid.*, 162.

³⁹ *Ibid.*

⁴⁰ *Ibid.*

⁴¹ *Ibid.*

⁴² *Ibid.*, 162-163.

⁴³ *Ibid.*, 163.

livestock may be provided.⁴⁴ Between certain clans there is no objection to the substitution of money even in the case the groups paying compensation were in access to significant livestock resources.⁴⁵ Within the dia-paying groups the members solidarity is reflected in their reduction of blood-compensation paid internally. “The Dulbahante clan within each of the Faarah Garaad and Mahamuud Garaad groups of lineages...the compensation for homicide is 120 camels in the case of a man, and sixty in the case of a woman. But between the Mahamuud and Faarah Garaad the value is the normal one of 100 and 50 camels respectively”.⁴⁶ A higher than the statutory tariff of 100 camels per male and 50 per female may be paid, in cases of homicide where the killed is of high status or the circumstances surrounding a murder are particularly disgraceful. In such cases the samirsiis procedure which requires higher rates of compensation is resorted to in order to promote satisfaction and effect conciliation.⁴⁷ As such, the heer seeks to preserve the dignity of the aggrieved party in its allocation of compensations. The samirsiis clauses in the heer contracts reflect a vested interest in promoting the resumption of peaceful relations between the respective clans. It seeks to preserve existing peace treaties between rival clans by constituting hefty blood-compensation rates in excess of 100 camels to discourage the continuation of hostilities after the murder of their members.⁴⁸ The heer confers equal rights to all members of society including children as well as unborn fetuses. “In many cases, and perhaps generally however, the

⁴⁴ Lewis, *A Pastoral Democracy*, 163.

⁴⁵ *Ibid.*, 164.

⁴⁶ *Ibid.*

⁴⁷ *Ibid.*

⁴⁸ *Ibid.*

death of a child requires the same compensation as that of an adult. Thus the Gadabuursi even exact payment of full blood-wealth for a miscarriage caused by a blow inflicted on a pregnant woman”.⁴⁹ The heer contracts differentiate between fatal acts to determine intentionality versus premeditation. This instills within the heer fairness as individuals won’t be held accountable for involuntary homicide such as those involving motor vehicle accidents for example. Thus, the heer reduces the amount of compensation held to be payable if acts leading to murder are ruled out as an accident.⁵⁰ This is of great value within closely integrated groups, because the clauses in the heer agreements that reduce compensation keep the groups cohesion intact.⁵¹ Lewis holds that “accidental deaths are more susceptible to amicable settlement than premeditated death”.⁵² The heer is rigorously binding and the verdicts it carries out reflect its character as a body of law. The contractual groups’ are expected to abide by its rule long as a verdict has been reached. A case in point is that pertaining to medicinal homicide.

A man administered a drug of his own preparation to a fellow clansman. When the patient subsequently died, investigation by other herbalists showed that the drug was injurious although it had been thought to be beneficial. No one disputed that the deceased had taken the drug willingly. Yet clan elders with the assistance of elders of another clan ruled that since the herbalist had not first obtained the consent of the deceased’s kin before administering the drug he and his dia-paying group should pay blood-wealth to the kin of the deceased. The consent of the patient alone was not considered sufficient and compensation was paid.⁵³

⁴⁹ Lewis, *A Pastoral Democracy*, 165.

⁵⁰ *Ibid.*, 166.

⁵¹ *Ibid.*

⁵² *Ibid.*

⁵³ *Ibid.*, 167.

This case provides evidence that the confine of contract obligates Somalis to comply unless one party wishes to secede from the contractual group. And secondly, elders play a very important role in settling disputes.

The viability of the dia-paying group is further strengthened in the face of the heer. An individual cannot alone pay the statutory tariffs should he commit a crime. Thus individuals depend on the assistance they receive from others to meet the large amounts of compensation. Failure to effect conciliation will result in resorting to exact vengeance which can breed further enmity and eventually ignite an all out war between clans. The dia-paying group enables Somalis to fulfill blood-debts “without impoverishing the joint resources of a group”⁵⁴. Fulfilling blood-debt is divided into two portions. The larger is paid and received by all the members of the group as a whole. While the smaller portion rated at thirty-three and a third camels is paid and received by the immediate kin of the defendant or the plaintiff.⁵⁵ This indicates the extent to which a body of agnates acts collectively as a dia-paying group signatory to a common contract.

Traditional Structures of Authority: Clan Elders and Shir

As mentioned clan lineages and dia-paying groups do not have any official political leadership to represent them. However, this task has been traditionally undertaken by a group of clan elders who are also genealogically close. The men that occupy such role are men of charisma wielding enough influence to become unofficial

⁵⁴ Lewis, *A Pastoral Democracy*, 171.

⁵⁵ *Ibid.*, 172-173.

leaders.⁵⁶ These clan elders are delegated the task of managing the heer contracts and function as the leaders of the various dia-paying groups.⁵⁷ Clan elders assume similar responsibilities both in northern regions of Somalia as well as south central Somalia, and only differ in the terms attributed to them by the Somali. These elders are called aqiil in northern Somalia or nabadoon in south central Somalia.⁵⁸ According to Gundel, “Today, the aqiil and nabadoon are head of the dia-paying group, and function as decision makers, judges and conflict mediators between the lineage groups”.⁵⁹ The unofficial leadership positions persist at various levels of segmentation. For instance, at the clan-family level there is a clan head. Again the names attributed to this figure differ amongst the Somali; however, the clan head retains the same character. In Somaliland he is known as Suldaan or Garaad, in Puntland he is referred to as Issim, while in south-central Somalia as Duub.⁶⁰ These clan heads represent a high level of traditional authority overseeing both the clans and their heer contracts.⁶¹ The clan head stands as a symbol of the unity of a given clan family. However, not every clan is known to have a clan head.⁶² The clan heads transcend all the divisions stipulated by clan segmentation. Their specific role is to represent their clans in all their external relations. According to Lewis clan elders represent “the territorial exclusiveness of the clan”, and “the fact that it

⁵⁶ Joakim Gundel and Ahmed A. Dharbaxo, *The Predicament of the 'Oday'* Report. Nairobi: Danish Refugee Council, (2006), 13.

⁵⁷ Ibid.

⁵⁸ Ibid.

⁵⁹ Ibid.

⁶⁰ Ibid.

⁶¹ Ibid.

⁶² Ibid., 14.

periodically unites as a corporate political unit, which its Sultan represents”.⁶³ The clan head is “ideally an arbitrator and peacemaker concerned with the maintenance of clan solidarity”.⁶⁴ Clan heads often mediate between warring factions both at inter and intra levels of clan interactions, and retain special immunity during armed conflict.⁶⁵

As mentioned the elders are responsible of managing the heer contracts. As such special councils or the shir are convened to resolve problems as they arise. The shir is considered the most fundamental institution of governance amongst the Somali.⁶⁶ The shir is not formal and does not attach any formal positions to its comprising elders. It stands as an ad hoc institution convening as the need arise. It represents gatherings at the clan level to deliberate matters of common concern.⁶⁷ The elders are required to garner adequate knowledge of the heer contracts and likewise enjoy a reputation as judicious men.⁶⁸ In the case of internal disputes between clansmen, both parties to a dispute must accept the members of committees or courts assembled to decide guilt. It is also at the shir councils where heer treaties are modified, peace treaties are signed, alliances are constructed, and war planning takes place.⁶⁹ The shir councils decision are based on a majority rule, where all adult males can partake in the processes.⁷⁰ The shir’s democratic

⁶³ Lewis, A Pastoral Democracy, 205.

⁶⁴ Ibid.

⁶⁵ Joakim Gundel and Ahmed A. Dharbaxo, *The Predicament of the 'Oday' Report*, 14.

⁶⁶ Ibid., 15.

⁶⁷ Ibid., 16.

⁶⁸ Ibid., 14.

⁶⁹ Ibid.

⁷⁰ Ibid., 15.

nature by virtue of providing each clansman the right to join and equally contribute to the shir processes renders its decisions legitimate. This is a process free of coercion and depends on appealing to the sensibilities of the clan members. The clan members contribute to every single decision as opposed to policies adopted by a centralized body requiring their compliance. As such, the clan system promotes the subsidiarity rights of each Somali clan, by promoting clan consensus before adopting any given action. This is a bottom-up orientation to public policy, where the policies adopted are devised by the stakeholders.

In addition to their contributions to the shir council clan elders are delegated a set of communal responsibilities including:

Nominating the different units of the population, and heads of the nomadic encampment (reer), nominating the aqiil in the mag-paying structure, crowning the suldaan, Garaards, etc., nominating delegates for conflict mediations, follow up on matters of common concern, maintaining Islamic and cultural values, policing public resources, infrastructure, water, pasture, etc, to be best utilized and shared fairly.⁷¹

As such, the clan elders though not official political leaders do certainly facilitate their clan's affairs. Their juridical character is reflected on the fact that Somalis consider decisions reached by their traditional clan elders as a "decision no one can deny".⁷² Hence, the traditional clan structures enjoy immense popular legitimacy.

⁷¹ Joakim Gundel and Ahmed A. Dharbaxo, *The Predicament of the 'Oday' Report*, 15.

⁷² Ibid.

The Somali Clan System Vis-à-vis the Federal State Model

Elmi maintains that the clan system exercises strong influence on clans' perceptions regarding the legitimacy of the Somali government.⁷³ This is due to its profound success in negating any identity transcending that of the clans. Somalis perceive government to be legitimate and adequately representative when a fellow clan member is in government.⁷⁴ Clans attribute ownership to the traditional areas they inhabit, and therefore, command to “have a say in the political and economic issues that are related to that part of the country”.⁷⁵ Somalis are not interested in a state, “wherein all groups share its ownership”.⁷⁶ Given the convoluted segmentation of the Somali clan system it is unfeasible that a highly centralized government will be able to accommodate all the Somali clans and sub-clans aspirations for autonomy. This is a fact substantiated by the historic failure of all forms of federal governments instituted in Somalia.

Not much is deducible concerning the current federal government's aptitude to succeed when compared to its predecessor the Transitional Federal Government (TFG). According to the Stratfor Analysis, the TFG was never self sufficient and required the presence of African Union forces indefinitely, “The TFG was formed under IGAD auspices in 2004, but seven years later it controls little territory other than parts of Mogadishu, and if not for some 10,000 AU peacekeepers deployed in the Somali capital

⁷³ Afyare Abdi Elmi, *Understanding the Somalia Conflagration*, 37.

⁷⁴ Ibid.

⁷⁵ Ibid., 38.

⁷⁶ Ibid.

those areas would have been overrun by al Shabaab long ago".⁷⁷ The current lack of any meaningful policy formulations that may positively distinguish Hassan Sheikh's government may be a foretelling sign, given that all TFGs were considered a failure, inept and above all operated with marked impunity in siphoning millions of international donors' monies.⁷⁸

The success of any given government is predicated on the degree of its legitimacy. This legitimacy is attainable only when the values held by the citizenry are reflected within its constitutional articles. This is the requisite allowing the citizenry to choose the regime type their government will undergo. In Somalia, the citizenry place immense value on preserving their respective clans' hegemony. The Somali clans partake in the clan system which enables them to enter into contracts to organize themselves. This system is endowed with a set of mechanisms capable of promoting political settlement and therefore peaceful relations. The clan system has survived the colonial and the post colonial period, and thus the Somali clans continue to maintain their traditional forms of social organization. This enduring nature of the clan system suggests that Somalis attribute a great deal of value to its organizational ability. Therefore it is obvious that Somalis would want to see it reflected within their constitution. Modern governance cannot stand alone in Somalia and will continue to face stern opposition if it attempts to suppress the clan system. As Gundel rightly claims the Somali clan systems possesses

⁷⁷ "Somali Governance: What Follows the TFG?." Stratfor Analysis 28, Business Source Complete, 2011. <https://www.stratfor.com/>. (Accessed May 4, 2015).

⁷⁸ "Letter Dated 27 June 2012 from the Members of the Monitoring Group on Somalia and Eritrea Addressed to the Security Council Committee Pursuant to Resolutions 751 (1992) and 1907 (2007) concerning Somalia and Eritrea." June 27, 2012. <http://www.un.org/>. (Accessed May 02, 2015).

“aspects of good governance and can complement modern institutions with legitimacy and checks and balances”.⁷⁹

Gundel holds that any efforts directed at building strong and good governance in Somalia must be aligned with the existing traditional Somali structures.⁸⁰ The heer treaties along with the functions brokered by the Somali clan elders represent a vernacular for governance readily accessible to all Somalis. Instead of trying to introduce foreign concepts of governance such as state sovereignty, it is much more sensible to embark on state building on basis of the traditional Somali structures. The Somali state catastrophe can be solved if government accommodates the clan system and specially the role of the traditional Somali authorities. A viable strategy to achieve this goal is to adopt a confederal state system.

⁷⁹ Joakim Gundel and Ahmed A. Dharbaxo, *The Predicament of the 'Oday' Report*, 56.

⁸⁰ Ibid.

CHAPTER III

HISTORY OF THE SOMALI STATE

Origins of the Somali State

Somalia's inauguration into statehood was destined to fail; as it was certainly marred with serious obstacles severely limiting its prospects for success from the beginning. Perhaps the Somali state's improbability to flourish has to do with Englebert's contention, that "contemporary states in sub-Saharan Africa are not African"¹, descending from "arbitrary colonial administrative units"², and therefore not congruent to Africa's existing societal configurations. In other words, Somalia's 'state failure' as an African state is predicated on its colonial master's forceful erection of a sovereign state system in serious odds with the Somali way of life. Englebert argues that the origin of African states "remains exogenous: European, not African, and set up against... rather than having evolved out of the relationships of the groups and individuals in societies".³ Englebert is essentially suggesting that Somali polities as in other colonized Africans, did not commit to any proposals to institute any models of governance, European or else, and were simply coerced to institute a mode of governance contradictory to their established norms. The Somali government model as a unitary state has been endorsed by European powers unappreciative of the preeminent standing of the Somali clan system. Thus, instead of promoting desperately needed political organization in a newly autonomous

¹ Pierre Englebert, "The Contemporary African State: Neither African nor State." *Third World Quarterly* 18, no. 4, (1997): 767.

² Ibid.

³ Ibid.

polity, the state has functioned as the source of much instability. European powers were mainly concerned with propping client states in Africa, and thereby undercut the evolution of sound democratic institutions after their physical departure from Africa.⁴ More importantly such powers did not place any value in constituting the right regime type for the newly independent African peoples.

Colonial Rule in Somalia: the British and the Italians

In the case of Somalia, a European bias construed for each of the British and Italians to erect governments reflecting their respective philosophies concerning governance. Lewis holds that “divergences contained in the Republic’s dual colonial experience present a wide range of intricate problems which would have to be solved before the new state could function with proper efficiency”.⁵ Acemoglu and Robinson corroborate Lewis’s assessment concerning the dim circumstance confronting the Somali state at its independence in 1960. “The structures of colonial rule left Africa with a more complex and pernicious institutional legacy in the 1960’s than at the start of the colonial period”.⁶ Somalia’s independence has unleashed a myriad of issues limiting the proper integration of the Somali people. Partitioning Somalia into numerous colonies has complicated the state’s labor to develop congruent institutions across its territories. The newly formed Somali Republic confronted the issue of uniting British Somaliland and Italian Somalia with each subscribing to conflicting systems in terms of administrative

⁴ Daron Acemoglu and James A. Robinson, *Why Nations Fail: The Origins of Power, Prosperity, and Poverty*. New York: Crown Publishers, 2012, 116.

⁵ I.M Lewis, *A Modern History of the Somali: Revised, Updated & Expanded*. Oxford: James Curry, 2002, 171.

⁶ Daron Acemoglu and James A. Robinson, *Why Nations Fail*, 116.

practices, legal systems, accounting systems and formal languages. Lewis enumerates the challenges facing the Somali Republic at its independence as follows:

In administration... each staff operated under different conditions of service and on rates of pay which differed radically...The northern legal system was based primarily upon English Common Statute Law and the Indian Penal Code. In the south the system depended mainly upon Italian Colonial Law... In fiscal and accounting procedures the position was equally complex for wide differences in procedure distinguished the British system in operation in the north from that founded by the Italians in the south. And to round out the picture, considerable variations in tariffs and customs dues and in patterns of trade divided the north from the south... these differences were further aggravated by linguistic barriers which, as well as entailing an Italian teaching tradition in southern schools and an English one in the north, affected all spheres of activity, private as well as public... members could not write to each other directly without the aid of English-Italian interpreters.⁷

Overcoming such obstacles was not a task commensurate to an embryonic state, and functioned to restrict the Somali state's ability to operate as a cohesive unit serving to the Somali people. It is also important to note that these challenges were left to be conquered by a very backward society in terms of not being able to institute a formal script to write the Somali language until 1972 approximately twelve years after its inception.⁸ This rendered the Somali society incapable of producing any written material to educate the Somali public, and thereby limited any opportunity to politically socialize the Somali people to make amends with a profoundly radical state system at odds with the ruling clan dogma. This issue pertaining to literacy rests on a pre-colonial Somalia void of any meaningful academic system. According to Abdi in pre-colonial Somalia education involved the teaching of "how to read, write and memorize the Koran, the Muslim Holy

⁷ Lewis, *A Modern History of the Somali*, 170-171.

⁸ *Ibid.*, 5.

Book”⁹. The schools providing this form of education were initially preferential and admitted only male students, and were generally administered by self employed religious scholars “requiring fees in the form of ration, sheep, cattle, camel, etc”¹⁰. As such, at their independence the vast majority of Somalis have lacked access to conventional educational opportunities for decades, in exception to very limited number of individuals that received scholarship opportunities in England and Italy in the ten years preceding Somalia’s independence.¹¹ This general neglect to develop an education system especially during Somalia’s colonial years defies claims by European powers regarding their motives to civilize African territories. Abdi suggests that education was intentionally suppressed in Somalia as a mechanism for the general suppression of the Somali people.

This testifies to the overriding character of colonial education where, despite the claim of civilizational, developmental educational motives, the essence of that education ultimately fulfills the real objectives of imperialism. In the case of Somalia, as elsewhere in the colonized world, a grade 7 education was apparently sufficient for administrative and low level technical duties assigned to the natives. The type and level of education that should lead to critical citizenship and social analysis would have been a danger to the longevity of colonialism.¹²

Therefore, the Somali state was left to be operated by undereducated individuals with no adequate literal or practical knowledge to allow the state to function with proper efficiency. The corollary to this predicament is a dead be Somali civil society not able to offset the existing deficiencies in the government apparatus. Consequently, Somalia as a society remained in a very limited supply of an intellectual class that may effect positive

⁹ Ali A. Abdi “Education in Somalia: History, Destruction, and Calls for Reconstruction.” 1998. *Comparative Education* 34 (3). Taylor & Francis, Ltd.: 329.

¹⁰ Ibid., 329.

¹¹ Lewis, *A Modern History of the Somali*, 148-49.

¹² Abdi, “Education in Somalia, 331.

social change. According to Rothbard the presence of an intellectual class of citizens holds immense implication to proceed in the direction of an ideal polity.

All new, radical ideas and ideologies begin necessarily with one or a handful of lone intellectuals, and so through history such intellectuals, finding themselves in possession of a radical political creed, have realized that, if social change is ever to occur, the process must begin with themselves... therefore, we must educate these people-via lectures, discussions, books, pamphlets, newspapers, or whatever-until they become converted to the correct point of view. For a minority to become a majority, a process of persuasion and conversion must take place-in a word, education.¹³

The idea of instituting an absolute sovereign in Somalia remains in complete opposition to the prevailing clan dogma which places immense value on the sovereignty of the constituent clans.¹⁴ Consistent with autonomous clan rule aspirations is the Somali clans' historical self segregation into particular areas in Somalia. For instance in today's Somalia, Somaliland is disproportionately represented by the Isaaq clan; Puntland is likewise disproportionately represented by the Darood clan, while Mogadishu home of the current Federal government is largely inhabited by the Hawiye clan. Acting on their view as an autonomous entity, each clan demands the control of their respective local governments. To convince the Somali clans to enter into a social contract with a sovereign state and thus renounce their historical right of self rule is only possible by way of realizing unprecedented social change not short of a political revolution. As Rothbard illustrates social change is made possible by a core of intellectuals and political activists dedicated to educating the public and persuading them to adopt the right course of action.

¹³ Murray N. Rothbard, "Concepts of the Role of Intellectuals In social Change Toward Laissez Faire." 1990. *Journal of Libertarian Studies* 9, no. 2 (1990): 44.

¹⁴ Lewis, I.M. *A Pastoral Democracy: A Study of Pastoralism and Politics among the Northern Somali of the Horn of Africa*. (London: Published for International African Institute By Oxford University Press., 1961), 2-3.

In the years preceding Somalia's independence and the years following its independence education was largely nonexistent in the Somali public sphere. Somali society was never educated on the systems of governance they were to abide by, nor was it convinced that the state's repudiation of the clan system could preserve their rights. The absence of a fundamental agent of socialization such as an education system has limited the successful emergence of other agents such as mass media and political leadership and institutions which may have effected a social change in the direction of state sovereignty. Amid such abysmal conditions thrives a competing pedagogical tradition which is that pertaining to kinship, customs and the general ethos that govern the Somali clan system. Thus, the clan system continues to compete with the western based ideals of governance that Somalis were never properly socialized to accept, and functions as the source of much tension after its independence. The Somali state has been historically lacking a general strategy for social change, and coupled with the radicalizing effects a highly centralized state system poses for its traditional structures, the Somali state has been stuck in a failing course. Somalia's eventual inability to resolve core issues such as education as evident by its current literacy rate of only 37.8 percent suggests that the issues driving Somalia's failed status have originated decades ago and continue to remain unresolved today.¹⁵ The state's ability to rectify the issues facing Somali society is largely dependent on the degree of compliance it can elicit from Somalis; however, this step remains unattainable given that the state was always viewed as a particularistic entity serving to the clans most represented within the state apparatus. This view has been congealed in Somalia after the

¹⁵ "Somali Distance Education and Literacy." UNESCO. 2011. <http://www.unesco.org/ui/litbase/?menu=4&programme=100>. (Accessed November 12, 2015).

inauguration of a stunningly ill prepared Somali state presiding over a nonexistent economy to sustain its proper development.

In addition to the hurdles posed by introducing a system of governance in direct opposition to the indigenous clan system, the absence of a civil society that may induce social change towards state sovereignty, other issues arise from Somalia's ill preparation for independence. The propulsion of Somali society into the realm of statehood was injudiciously orchestrated and functioned to only promote a debilitated state. Somalis lacking any prior history in statehood were expected to master statecraft within a very short timetable and skillfully manage the affairs of an entire country. In 1950 the United Nations Assembly Trusteeship Agreement required each of the British and the Italians to groom Somalia for its eventual independent statehood status.¹⁶ To achieve this end the Trust Administration required that "Somalis were to be given increasing responsibility in the political and administrative control of their country under the benevolent tutorship of the Trust Administration".¹⁷ The restriction of the trusteeship period to ten years¹⁸ should have compelled those overseeing state formation in Somalia to adopt a plan that would symmetrically prepare northern and southern Somalis to eventually unite as a single state. Nonetheless, the Italians did not seem to place much value in coordinating their efforts with the British or at the very minimum ensure that their approaches would not hinder the eventual unification of Somali territories.¹⁹ This senseless lack of coordination suggests that the colonial powers were not concerned with erecting a Somali state capable of

¹⁶ Lewis, *A Modern History of the Somali*, 139.

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ Ibid., 148.

consolidating control over all the Somali territories. Even though these events take setting on the heels of World War II, there is no indication that the special United Nations Advisory Council which was “created to sit in Mogadishu to provide direct liaison with the Italian administration and its wards”²⁰, took any action to advocate for the dire need of close coordination. As it seems, the British and the Italians adversarial standing owing to their recent conflicts may have clouded their judgment. Or perhaps and more plausible they could not align their interests with expending their limited resources to effect the completion of a momentous task such as state building. As Abdi reports the end result of their tutorship was handing government offices to individuals with little to no education.²¹ Thus it is plausible to suggest that the colonial powers were merely interested in instituting a semblance of a state. After all a weak protégé in Somalia posed no issues for the British or the Italians whom were interested in sustaining their hegemony over the area. Lewis suggests Italy’s main concern during the trusteeship period being limited to the manufacturing of diplomatic linkages that would serve its interests. “The Italian Administration confined its participation in Somali politics to seeking to encourage those elements... which it considered most ‘moderate’ and favourable to a continuation of the Italian connexion”.²² The Italian occupation with state building in southern Somalia did not meet any of the goals that it was set out to accomplish as ordained by the United Nations Trust Administration: “to foster the development of free political institutions and to promote the development of the

²⁰ Lewis, *A Modern History of the Somali*, 139.

²¹ Abdi, “Education in Somalia, 331.

²² Lewis, *A Modern History of the Somali*, 146.

inhabitants of the territory towards independence”.²³ These goals or at least similar ones which the Italians failed to realize should have nevertheless guided the British in their efforts to prepare British Somaliland towards independence. However, as history bears witness the British were equally negligent in their general approach to promote any meaningful progress in these areas. Thus, in terms of preparing the Somalis to rule themselves by themselves the Italians and the British did not accomplish much.

Unlike the Italians being tied to a set timetable of ten years to hand sovereignty to the Somali people; the British did not set any time frame for independence. According to Lewis, “This coincided with the general view prevalent in British circles that development was likely to be all the more effective if conducted at a slow and steady pace”.²⁴ This stance on part of the British clearly suggests that reaching the stage at which Somalis would be adequately prepared to rule themselves by themselves necessitating slow incremental changes deliverable over a significant period of time. This philosophy however did not stop them from ending their efforts in a “hectic scramble”²⁵. The British greatly hindered the prospects for a legitimate Somali state by illegally ceding control of Somali territories to Ethiopia in 1954.

Without prior notice or consultation with her Somali subjects, on 29 November Britain signed a new agreement with Ethiopia which provided for the complete withdrawal of British authority and replaced the remaining officials by a British Liaison staff with headquarters at Jigjiga. The duties... were to facilitate the exercise by the British-protected Somalis of their rights to graze and water their livestock in the Haud.²⁶

²³ Lewis, *A Modern History of the Somali*, 146.

²⁴ *Ibid.*, 148.

²⁵ *Ibid.*

²⁶ *Ibid.*, 150-51.

Surrendering Somali territories to Ethiopia denied the Somali state its right to territorial sovereignty, and rendered it incapable to control large swaths of land crucial to the livelihood of its people. According to Lewis the effects of the British agreement with Ethiopia were widely felt throughout northern Somalia. “When the terms of the new agreement and its implications became public knowledge there was an immediate and widespread outcry. Massive demonstrations occurred throughout the Protectorate to express the deep sense of Somali outrage”.²⁷ As the Ethiopians claimed their sovereignty rights over Somali territories the British Liaison staff found it increasingly difficult to secure “the British-protected Somalis... rights to graze and water their livestock in the Haud”²⁸. It is not conceivable that the British did not foresee the complications implicated by ceding Somali territories to Ethiopia, after all their 1954 agreement with Ethiopia has deprived any future Somali state from controlling one third of the Protectorate’s territories.²⁹ According to Mohamed the discovery of oil in the Haud by the American owned Sinclair Oil Corporation had much influence on the British sudden decision to cede the Haud to Ethiopia.³⁰ The northern Somalis witnessing this unjust relinquishing of their lands were prompted to launch “a vigorous campaign with the twin objectives of recovering the Haud and obtaining independence for the Protectorate within the British Commonwealth”.³¹ This campaign led the British government in 1956 to

²⁷ Lewis, *A Modern History of the Somali*, 151.

²⁸ Ibid.

²⁹ Jama Mohamed, “Imperial Policies and Nationalism in the Decolonization of Somaliland, 1954-1960.” *The English Historical Review*, (2002): 1178.

³⁰ Ibid., 1182.

³¹ Lewis, *A Modern History of the Somali*, 151.

announce that “the pace of advancement would be accelerated and representative government gradually introduced”.³² As such, the British efforts to prepare the Somalis to rule themselves apart from burdening the Somalis with serious issues concerning the integrity of Somali territories can be summed as four counterproductive years. This period witnessed the rapid promotion of Somalis lacking the requisite skills to senior positions in the police and administration.³³ Such irresponsible devolution of power to a dangerously underdeveloped state system stands in great contrast to the British view that development would require a slow and steady pace. The British sought to capitalize on the short lived Somali nationalism calling for their immediate departure, and would require the abrogation of the 1884 and 1886 Anglo-Somali treaties as a condition for independence.³⁴ The British specifically demanded that “clan headmen and traditional leaders should publically demonstrate their acceptance of the decision to grant independence”.³⁵ This British stance to demand the consent of clan headmen and traditional leaders instead of the officials representing the interim state suggests a clear grasp of the Somali clan system as the repository of authority. This sense of awareness concerning the legitimacy of the traditional structures was not taken into account by the British in their preoccupation with state formation in Somalia. According to Mohamed the British need to place such proviso is driven by the fear that international bodies such as the United Nations taking cognizance of the matter, especially when the Anglo Somali treaties has specifically prohibited the British from ceding any Somali territory to any

³² Lewis, *A Modern History of the Somali*, 152.

³³ Ibid.

³⁴ Ibid., 163.

³⁵ Ibid.

other power.³⁶ This double standard on part of the colonial powers has afflicted the Somali state with real issues at its inception and coupled with existing structural and social impediments, it was only a matter of time for enough pressure to accumulate and eventually lead to the effective collapse of a merely titular Somali state.

The Somali State not a State

Though the Somali state's inability to consolidate its right to rule over its territories is instigated by the British extralegal agreements with Ethiopia, it is otherwise deficient in meeting the criteria for an actual sovereign state. Based on Max Weber's classical definition: "The state is the human community that, within a defined territory- and the key word here is "territory"- (successfully) claims the monopoly of legitimate force for itself".³⁷ The word community in this definition denotes people with a common background or shared interests. Although the vast majorities of Somalis speak the same language and practice the religion of Islam it does not follow that they share neither a common background nor common interests. The Somali segmentary clan system classifies Somalis into numerous competing clan families, and thereby annuls any common ancestry between the Somali clans. On the other hand, their clan dogma requires the political ascendancy of the clan and thereby negates any shared interests outside the clan level. These conditions impede Somali nationals' capacity to conceive themselves as part of a larger Somali community, and therefore pledging allegiance to an all encompassing Somali state. In addition to these issues concerning the inclusivity of the

³⁶ Mohamed, "Imperial Policies and Nationalism, 1201.

³⁷ Max Weber and John Dreijmanis, *Max Weber's Complete Writings on Academic and Political Vocations*. (New York: Algora Publishing, 2008) *eBook Collection* (EBSCOhost).

Somali state, it has been historically incapable of monopolizing the use of coercive power over all the Somali territories due to colonialism's "indiscriminate boundary arrangements"³⁸. "The creation of the Republic still left outside the fold those Somali nationals living in French Somaliland, in the contiguous eastern regions of Ethiopia, and the Northern Frontier District of Kenya".³⁹ Englebert provides an analysis in regards to African state systems that further legitimates the contention that the Somali state not being a state in a Weberian sense.

Few would argue that, in many respects most African states fail to meet these criteria: theirs is a dubious community of heterogeneous and occasionally clashing linguistic, religious and ethnic identities, their claim to force is rarely effective and much less monopolistic; their frequent predatory nature fails the test of legitimacy; and their territoriality at best hesitant and contested.⁴⁰

Although Englebert's general analysis of African state systems is synonymous with Somalia, the situation in Somalia was especially aggravated by the presiding unitary state system. Lewis explains the union between the British Somaliland and Italian Somalia to have initiated drastic imbalance within Somali clan politics.

The marriage of the two territories entailed significant, and in some cases quite drastic changes in the political status of the various clans and lineages with the state... despite the patriotic fervor which acclaimed the formation of the Republic, the most all-pervasive element in politics remained the loyalty of the individual to his kin and clan.⁴¹

As such, the formation of the state system in Somalia has consolidated power within an entity viewed as precedential to the clan. This marks a transformation in Somali history at which point clans found themselves suddenly in a position to obey decrees formulated by

³⁸ Lewis, *A Modern History of the Somali*, 179.

³⁹ *Ibid.*, 178.

⁴⁰ Englebert, "The Contemporary African State: Neither African nor State.", 767.

⁴¹ Lewis, *A Modern History of the Somali*, 166.

members of opposing clans. The Somalis subscription to a clan system discredits the notion that state representatives from opposing clans can equally represent all Somalis, and thereby relegates the state as an entity solely laboring to realize the interests of specific clans. As a countervailing mechanism to keep at bay what is construed as an unscrupulous system, clans were encouraged to wield enough latitude to preserve their political ascendancy and competed to capture the highest positions in the state. However, the scarcity presented by the disproportionality between all powerful positions within any single government and the multitude of Somali clan families rendered such aims increasingly difficult to materialize. This societal disposition for political domination is fueled by clan politics which is best exemplified by a zero sum game, whereby gains secured by one clan lead to losses for another.

Clan Politics Vis-à-vis Highly Centralized Governance

Eno explains the disparities yielded by the unitary Somali state system from the clan perspective. He specifically enumerates two particular effects this political order had on the Darood clan. “(1) That clanism is always superior to nationalism in Somali socio-political life, and (2) That the Darood had to retreat, to strategize and then come up with a more effective political roadmap to support their clan supremacy”.⁴² The first Somali presidential nomination leading to Somalia’s independence sheds much light on the dynamics engendered by a sovereign state system aiming to disband a historically entrenched clan system. The first Somali president Aden Abdulle Osman was a southerner descending from the Hawiye clan and married to a Darood. The Isaaq clan

⁴² Mohamed Eno, *The Bantu-Jareer Somalis: unearthing apartheid in the Horn of Africa*/Mohamed A. Eno. London: Adonis & Abbey, 2008. World Affairs Online WAO. 149-150.

concluded that the prime minister would be nominated from their ranks but this never happened.⁴³ The prime minister post was instead given to Abdirashid Ali Sharmarke a Darood.⁴⁴ According to Eno, the Isaaq hoped that the newly adopted political process would enable them “to realize a power sharing structure of north-south, which was not responsive to the tenets of the greed that was haunting the southern leaders at the time”.⁴⁵ Thus, to restrain this perceived southern greed the Isaaq’s next best strategy was to secure enough cabinet positions. However, to their misfortune the fifteen member cabinet entrusted to administer the Republic nullified any Isaaq plans to offset the southern clans. “The clan representation was uneven as Hawiye and Darood scooped the largest numbers, with the Isaaq at par with the Digile-Mirifle and the Gudabursi at much smaller representation”.⁴⁶ Though the Isaaq as a clan family represents the majority inhabiting one of the two main regions constituting the Somali Republic, there were no constitutional grounds for the nomination of an Isaaq neither as a president nor as a prime minister which may have contributed to the Isaaq frustrations. In fact, president Osman was nominated subsequent to a vote held by the National Assembly of the Republic which stood as an amalgamation of the two legislative bodies hailing from the former British Somaliland and Italian Somalia.⁴⁷ Given that this National Assembly represented a reasonable balance of northern and southern interests.⁴⁸ Three reasons may have

⁴³ Eno, *The Bantu-Jareer Somalis*, 150.

⁴⁴ Ibid.

⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ Lewis, *A Modern History of the Somali*, 164.

⁴⁸ Ibid., 165.

contributed to the general dissent amongst the Isaaq following the nomination of a Hawiye president and Darood prime minister. The first being the fact that out of the ninety seats allocated to the southern territories within the Assembly, thirty seats were allocated to their traditional rivals the Hawiye, Darood and Rahanweyen clans. While the second has to do with the fact that the thirty three seats allocated to northern territories were to be shared by the Isaaq with the local Dir and Darood clans. Although the allocations of such seats were based on clan territorial distributions, the Isaaq were nevertheless unsatisfied. Its efforts to maintain a power balance against the other Somali clans were frustrated by the fact that the Hawiye and Darood whom in addition to retaining the highest positions in the state were also allocated thirty seats each in the Assembly. In this view, the prospects for the Isaaq to contend with these newly found disadvantages remained contingent on their ability to closely align their interests with entities outside the immediate purview of their clan. However, the prevailing clan politics rendered the realization of such high level of coordination very difficult to attain. A third and more important reason lies with the fact that the National Assembly and therefore the higher echelons of government were to be headquartered in Mogadishu. In addition to the remoteness of Mogadishu from the northern territories which has plausibly diminished the Isaaq claims as a sovereign entity, the area was naturally perceived as a cesspool dominated by Hawiye clansmen with very close ties to the presidency. Eno considers the political milieu precipitated by the state system to have significantly diminished the Isaaq's political standing.

The Isaaq found themselves deeply ditched into a double tragedy. For one, the sharing mechanism did not favor them in terms of north against south as per their presumption. For the other since the north is characterized by ethnic diversity, they had to concede some of the seats to representatives from other northern

communities. Dented by the new political trends, the Isaaq aspiration stood daunted.⁴⁹

With the mounting pressure generated by an overall sense of injustice a group of Isaaq officers attempted a secessionist plot.⁵⁰

The Somali state witnessing a military coup on December 1961⁵¹, just one and a half years after independence, indicates the distortions unleashed by a federal state model. For the Isaaq the only way to redress the situation was to rapidly detach itself from the Republic. The aftermath of the first presidential nomination has rendered the Isaaq as the biggest losers in terms of power sharing, however a similar coup was very likely to materialize had the Hawiye or Darood suffered similar losses. The latter two would also be driven by their inability to reconcile their clan dogma with the prevailing political order which seeks to subordinate their interests to entities outside the purview of the clan. Lewis describes the sentiments fueling this coup as follows: “a mixture of personal ambition and northern patriotism, these British-trained junior officers quietly arrested their southern superiors whom they regarded as unjustly promoted over their heads”.⁵² It is very unlikely that this group of young Isaaq officers would have undertaken such drastic measures had their superiors also been Isaaq. However, the Isaaq’s conception of the northern territories as their ancestral lands has played an instrumental role in rendering the very presence of non Isaaq state representatives seeking to command power as problematic. Thus, this particular coup has been instigated by

⁴⁹ Eno, *The Bantu-Jareer Somalis*, 150-151.

⁵⁰ *Ibid.*, 151.

⁵¹ Lewis, *A Modern History of the Somali*, 173.

⁵² *Ibid.*, 174.

Isaaq dissatisfaction with the makeup of the Somali government undergirded by a clan oriented calculus. Somalia has been historically void of an overarching sovereign capable of consolidating its right to the use of force and thus self help has been the primary mechanism to secure interests.⁵³ Lewis illustrates the role of force in realizing political power among Somali clans as follows: “Political status is thus maintained by feud and war, and self-help- the resort of groups to the test of superior military power- is the ultimate arbiter in political relations”.⁵⁴ Thus, the Isaaq resorting to self help in the form of a military coup represents a natural progression of events driven by their need to realize a favorable political status within the Somali clan system.

Post Colonial Somalia

Promoting the primacy of the clan or in other words a stern subscription to the Somali clan system has been the most pressing task for Somalis since independence. The colonialist’s forceful erection of a highly centralized political structure has nourished the prerogative of individuals seeking to realize such task. Eno describes a post colonial Somalia as follows: “In this nature of affairs, nepotism, clanism and individualism became the forces of substitute to the outwardly promoted nationalism. To the state coffers, every individual at its vicinity had to help himself and his kinship to the best of his ability, if not to the best of his satisfaction”.⁵⁵ Eno points to the consequence of colonialism in Somalia in the terms of an underdeveloped Somali state presiding over an equally underdeveloped economy. The Somali state representatives’ affliction with a lust

⁵³ I.M. Lewis, *A Pastoral Democracy: A Study of Pastoralism*, 3.

⁵⁴ Ibid.

⁵⁵ Eno, *The Bantu-Jareer Somalis*, 151.

for avarice can be explained in terms of the Somali state not being the product of long broad based social struggle. Such struggle is often the precursor for any given polity to freely develop and safeguard the good reciprocated by a thriving state. As such, Somalis need to enter into a binding social contract with a federal state does not follow from an experiential imperative justifying the need for such high level of coordination. This imperative remains largely absent today as suggested by the contemporary assertiveness of traditional structures in Somaliland and Puntland.⁵⁶ A Somalia that remains a highly traditional stateless society today, suggests that the introduction of a sovereign state system in Somalia did not detract Somali polities from endorsing clanism.

The sentiments that led the Isaaq to dissent against the Somali government dissipated as they secured the position of premiership. The 1967 elections brought Abdirashid Ali Shermarke from the Darood clan to the presidency, who summoned his ally Muhammad Haji Ibrahim Igal from the Isaaq clan to occupy the premiership.⁵⁷ During the 1969 elections the Somali Youth League party has monopolized the National Assembly in control of 73 seats out of the total of 123 seats.⁵⁸ According to Lewis “a record number of 1,002 candidates, representing 62 parties, contested the 123 seats”.⁵⁹ Samatar explains such unprecedented interest in the political process not as a byproduct of faith in democratic processes but rather in terms of a desire to loot public resources. “The main way to get access to state funds was to become an elected political

⁵⁶ Joakim Gundel and Ahmed A. Dharbaxo. *The Predicament of the 'Oday'* Report. Nairobi: Danish Refugee Council, (2006), 1-85.

⁵⁷ Lewis, *A Modern History of the Somali*, 202.

⁵⁸ *Ibid.*, 204.

⁵⁹ *Ibid.*, 202.

representative or, even better, a minister, and this goes a long way to explain the increase in both number of parties and candidates in the 1964 and 1969 elections”.⁶⁰ Many rival lineage segments which supported candidates under 62 different party banners could not succeed “in a returning a trusted representative to Mogadishu”⁶¹. The elections have resulted in the Somali Youth League party securing approximately 60 percent of the Assembly seats. Those outside of the Assembly complained about “the corruption and nepotism which they considered now prevailed at all levels of government”.⁶² Electoral petitions and complaints were brought to the Supreme Courts attention, however, “contrary to previous decisions, now ruled that it was not empowered to judge such issues”.⁶³ Despite the enormous discontent felt by the rival clans, “Premier Igal and president Abdar-Rashid seemed supremely unconcerned by these danger signals and their only acknowledgment of them was to adopt a dangerously high-handed and authoritarian style of rule which added to their unpopularity”.⁶⁴ Even though the election of a southern president and a northern premier should have put an end to the divisions along the north-south axis, clan rivalries persisted nevertheless. The predominant perception of the state as nepotistic has rendered the elected government as a project for promoting the interests of the ruling elites’ clan affiliation. Thus the witnessed fragmentation of the political system into 62 parties is mainly due to clan particularism instigating a race between the

⁶⁰ Abdi Ismail Samatar, “Destruction of State and Society in Somalia: Beyond the Tribal Convention”. *The Journal of Modern African Studies* 30, no. 4. (1992): 634.

⁶¹ Lewis, *A Modern History of the Somali*, 205.

⁶² Ibid.

⁶³ Ibid.

⁶⁴ Ibid., 206.

clans to seize the spoils of elections in the form of public resources. These resources are not viewed by the clan institution as communal. The control of such resources remained as the most effective mechanism to secure political ascendancy. Thus, clanism was utilized to differentiate between candidates, because choosing a candidate outside of the clan would result in losing access to state funds. Samatar considers the rise of a military junta shortly after the assassination of the president in October of 1969 as necessary “to save the system from consuming itself.”⁶⁵

The Era of Siad Barre’s Military Rule

Thus, the federal state system inability to form a viable transcendent nationalism that unites the component clans gave way to dictatorship in the form of General Muhammad Siyad Barre. Shortly after seizing power he implemented scientific socialism⁶⁶, “with the stated aim of uniting the nation and eradicating its ancient clan divisions.”⁶⁷ The clan system was officially banned and became a serious criminal offence.⁶⁸ The dia-paying regime concerning the collective payment of blood money was outlawed.⁶⁹ To eradicate any remainents of clan ideology Siyad employed a revolutionary rhetoric in which he presented himself as the “Father” of the Somali nation whose “Mother” was his revolution.⁷⁰ Barre introduced intense radio propaganda, local

⁶⁵ Samatar, “Destruction of State and Society in Somalia”, 635.

⁶⁶ I.M. Lewis, *Blood and Bone: The Call of Kinship in Somali Society*. (Lawrenceville, NJ: Red Sea, 1994), 222.

⁶⁷ Ibid.

⁶⁸ Ibid.

⁶⁹ Ibid.

⁷⁰ Ibid.

Orientation Centers, to inculcate this new ideology.⁷¹ While Barre overtly sought measures to eliminate clan and lineage divisions, to sow the seeds of national solidarity, he was also “covertly relying on older, time-honored ties of loyalty.”⁷² Barre realized that scientific socialism was not enough to consolidate his rule after his regime survived an unsuccessful coup by the Majerteen clan in 1978.⁷³ This attempt to dislodge Barre was driven by his terrible defeat during the Ogaden War and the ensuing refugee invasion by the Ogaden Somalis into northern Somalia.⁷⁴ According to Lewis this series of events led to “widespread public demoralization and to an upsurge of “tribalism” (ie clan loyalties), as different groups sought scapegoats to explain the debacle”.⁷⁵ Barre’s resort to clanism was heightened following the formation of armed opposition in the form of the Somali National Movement (SNM) in 1989. The SNM despite its name is comprised of members from the Isaaq clans of northern Somalia. The threats presented to Ethiopia in the form of its neighboring Somalia being ruled by a military regime encouraged it to sponsor the SNM insurrection against Barre. However, after the signing of a peace agreement with Ethiopia, implications of the ease of tension between the two nations have triggered an “audacious SNM onslaught on military installations in Northern Somalia that quickly led to the 1988-91 all out civil war between the regime and the Isaaq clansmen”.⁷⁶ Adam points to Barre’s acknowledgment of the preeminent standing of the clan institution in

⁷¹ Lewis, *Blood and Bone: The Call of Kinship in Somali Society*, 222.

⁷² *Ibid.*, 223.

⁷³ Lewis, *A Modern History of the Somali*, 252.

⁷⁴ Lewis, *Blood and Bone: The Call of Kinship in Somali Society*, 224.

⁷⁵ *Ibid.*

⁷⁶ *Ibid.*, 226.

Somalia, a reality which compelled him to call upon the clan loyalties he once sought to abolish. “Once he dropped “scientific socialism” as his guiding ideology, Barre did not resort to Islam, as did Numeieri in the Sudan. Atavistically, he resorted to clanism”.⁷⁷ In his efforts of implementing Clan-Klatura, a policy charged with clanism, Barre began substituting government officials with loyal clansmen, specifically from three clans, code named M.O.D.⁷⁸ The M represents Barre’s patrilineal clan the Marehan, the O for Ogaden his mother’s clan, and D for Dulbahante his son in law’s clan who was also head of the National Security Service.⁷⁹ Barre’s need to align himself with these three particular clans reflects the clan system’s ability to promote cooperation at the intra clan level.

It is important to emphasize here that these three clans- the President’s (M), his mother’s brother’s (O), and his son-in-law’s (D), all belong, at a higher level of segmentary grouping, to the Darood clan family. Although the regime at all times included representatives of other non-Darood clans, the magic letters MOD thus represented the inner circle of Darood power.⁸⁰

Thus, the MOD had a shared interest in preserving Barre’s power. From the Darood clan perspective upholding Barre’s power is tantamount to upholding Darood hegemony. This intricate grouping of clan families has enabled Barre to generate a level of cooperation otherwise not attainable. Barre’s ability to elicit the allegiance of these three clans is encoded in the clan institution. In exception to the obvious loyalties afforded to Barre by his own patrilineal clan the Marehan, advancing cooperation from the Ogaden and Dulbahante are predicated on the reciprocal rights bestowed by the clan institution on

⁷⁷ Hussein M. Adam, “Somalia: A Terrible Beauty Being Born?.” In *Collapsed States: The Disintegration and Restoration of Legitimate Authority*. Ed. I.W. Zartman. (Boulder: Reinner, 1995), 75.

⁷⁸ Lewis, *A Modern History of the Somali*, 222.

⁷⁹ Lewis, *Blood and Bone: The Call of Kinship in Somali Society*, 223.

⁸⁰ Ibid.

members of the mother's clan as well as those founded by marriage. Thus, it is the set of rights enshrined in the Somali clan system that have placed Barre in a very unique position to exert extraordinary cooperation to co-opt the Darood to partake in a brutal civil war. The clan institution is naturally inclined to promote solidarity and thus cooperation among agnates.

As evidenced by the analysis provided in the preceding chapter, the Somali clan system can be manifestly inclusive, and seeks to appreciate affinities, which are bestowed on the basis of near as well as remote relations. Through marriages the clan system transfers affinity to groups of Somalis that may belong to differing clans. In the case of Barre, his son in law General Ahmed Suleiman Abdille's Dulbahante descent has consummated a set of rights and responsibilities over the Dulbahante to Barre and vice versa. This explains the General's rise to the head of the National Security Services. The affinal ties available to Barre enabled him to realize his objective to combat insurgency groups in Somalia. Barre utilized the Ogadeeni refugees who had earlier been treated by the northerners as refugee guests, as a "paramilitary militia to fight the SNM and to man checkpoints on the road"⁸¹. Since the SNM held no qualms against the Ogadeen, their sudden enmity to the SNM and Isaaq clan at large is to a great extent facilitated by Darood intra clan solidarity. Barre also sought to co-opt the disunited Majeerteen by framing his appeal as an overall Darood solidarity against the Isaaq's SNM. By 1989 in addition to the SNM (Isaaq), and SSDF (Majeerteen), the United Somali Congress (USC) has joined the armed struggle against Barre's regime. The USC is "primarily a Hawiye organization with two main factions. One was based on the Abgaal clan, whose home

⁸¹ Lewis, *Blood and Bone: The Call of Kinship in Somali Society*, 226.

town is the Somali capital, Mogadishu, and the other based on the Habar Gidir, the clan of the USC militia commander, General Aidid”.⁸² Barre sought to exploit the divisions within the USC militia and urged all the Darood in Mogadishu to “kill its Hawiye citizens whether they were Abgaal or Habar Gidir”.⁸³ As Barre witnessed more armed groups vying to dislodge him from power he transitioned into a survivalist mode, and consolidated clan power more and more within the Marehan. “By the middle of 1987 it was estimated that as much as half the senior officer corps belonged to the President’s clan or related clans, the proportion being even higher in the artillery and tank brigades based in the capital in the new southern command unit headed by Siyad’s son General Maslah”.⁸⁴ Barre’s need to reconfigure the military has to do with reliance on clan dogma which obligates his patrilineal kinsmen to stand with him. Barre was able to pair his goal to remain in power with that of the Marehan and the Darood in general resuming political ascendancy in Somalia. Nevertheless, the armed uprising would reach the point that Barre’s armed forces could not suppress, leading to his eventual escape from Somalia on January of 1991.⁸⁵

State Failure Discourse

The Somali state’s classification as a “failed state” emanates from scholarship appealing to a western body of knowledge that serves as a compass guiding any proposed scholarly endeavor. This knowledge is predicated on a set of assumptions and shared

⁸²Lewis, *Blood and Bone: The Call of Kinship in Somali Society*, 227.

⁸³ Ibid.

⁸⁴ Lewis, *A Modern History of the Somali*, 256.

⁸⁵ Lewis, *Blood and Bone: The Call of Kinship in Somali Society*, 227.

truths that configures what constitutes reality. According to Grovogui the ‘economy of knowledge’⁸⁶ undergirding African studies scholarship and ‘failed state’ discourse in particular has enabled its proponents to “orient their inquiries and research agenda’s towards particular perceptions of the world to effect specific understandings of ‘international reality’”.⁸⁷ Thus, if a sizable portion of the literature consumed by researchers in the field of African politics fiercely promotes a particular viewpoint or places its inquiry under particular theoretical frameworks. Then it is plausible to surmise that the resultant literature is likely to further propel arguments evolving out of the basic ‘economy of knowledge’ that organize its production. This is an issue this project seeks to highlight. The Somali clan system has been identified as responsible for the political dilemmas facing the Somali state. Given that the Somali civil war was shaped by numerous clan based militias vying for political control. It was easy to conceive clanism as the source of civil tumult and the ensuing chaos in Somalia. This was primarily accomplished by way of scholarship that tethers Somali ‘state failure’ to the clan institution. The resultant viewpoints continue to color discourses pertaining to the Somali state, and have rationalized attempts by the international community to reinstitute an already failed federal government model in Somalia. The series of transitional federal governments propped by international donors after Barre’s ouster have all failed to realize a political settlement in Somalia.⁸⁸ In fact, these forms of international interventions have “produced or prolonged crises of conflict or authoritarian rule”.⁸⁹

⁸⁶ Siba N. Grovogui, “Regimes of Sovereignty: International Morality and the African Condition.” 2002. *European Journal of International Relations* 8, no. 3, (September 2002): 315.

⁸⁷ Ibid.

⁸⁸ Martin Doornbos and John Markakis, “Society and State in Crisis: What Went Wrong in Somalia?” *Review of African Political Economy* 21, no. 59 (1994): 82–88.

Barre was able to manipulate the clan system to his advantage in the most unscrupulous manner. The introduction of ‘clan-klatura’ as a criteria for organizing government, was the base of the divide and rule policy that facilitated clan warfare. According to Malito, mainstream interpretation of Somalia’s incapacity to realize functional governance is based on analyzing the Somali civil war as barbarian conflicts affected by the Somali clan system.⁹⁰ Malito holds an epistemological orientation concerning the nature of state incapacity in Somalia and promotes the argument “That any event concerning the life and death of the state (formation, deformation, integration and disintegration) needs to be evaluated inside its appropriate historical and international context”.⁹¹ The current literature on Somali ‘state failure’ obscures a very important issue at the heart of Somalia’s enduring crisis which is that pertaining to the political struggle over state power.⁹² This struggle is correlated to the Somali clan system which gives rise to a number of clans claiming the right to separate territorial control. However, the clan system does not constitute a direct cause of such struggle. The continued struggle in Somalia has to do with neglecting the indigenous political structures, and thereby undercutting the Somali clans’ capacity to settle their political disputes. Therefore, the state has lacked the substantive autonomy to exercise effective governance in Somalia which has severely limited its performance. The only successful responses to the problem

⁸⁹ Branwen Gruffydd Jones, "The Global Political Economy of Social Crisis: Towards a Critique of the ‘failed State’ Ideology." *Review of International Political Economy* 15, no. 2 (2008): 180-205.

⁹⁰ D.V. Malito , “Somalia and state-building: state capacity or state autonomy? A critical review of how to decolonize African Studies.”. *Somaliland Journal of Peace and Development*, 1, no. 1 (2001): 8.

⁹¹ *Ibid.*, 4.

⁹² Malito, “Somalia and state-building, 4.

of sovereignty that plagues the Somali state have emerged through local projects of state-building capable of incorporating the existing traditional Somali structures to serve the needs of government.⁹³ These projects have “transformed the territorial order on a sub-regional basis, as represented by the self-proclamation of the independent Republic of Somaliland in 1991, and the declaration of Puntland as an autonomous region”.⁹⁴

A lesson learned from Barre’s presidency is that Somali clans are capable of realizing consensus long as their clan family reaps the benefit of their cooperation. The regions inhabited by the Somali clans can realize peace and prosperity if the clan system is allowed to function properly. The Somali clan system is equipped with a unique set of mechanisms that under a confederal government system can promote peaceful relations both at the intra clan and the inter clan levels. Somaliland and Puntland have successfully utilized the mechanisms afforded to them by the clan system to institute functioning political and administrative institutions.

The current successes attained by Somaliland and Puntland come in stark contrast to the literature on Somalia’s ‘state failure’ which problematizes the clan system. This suggests an analytical deficiency concerning the true essence of the clan system and specially its capacity to promote peaceful relations between Somalis. The literature is exemplified by its aim to superimpose a set of metrics designed to measure failure on Somalia which does not constitute a formal state.⁹⁵ It is certainly not possible to measure the performance of institutions that did not develop throughout Somalia’s colonial and

⁹³ Joakim Gundel, and Ahmed A. Dharbaxo. *The Predicament of the 'Oday' Report*, 1-85.

⁹⁴ Malito, “Somalia and state-building, 3.

⁹⁵ Jones, “The Global Political Economy of Social Crisis”, 181.

post colonial history. The literature essentially juxtaposes Somalia as well as an increasing number of African countries to the achievements achieved by European states over decades, and concludes failure.⁹⁶ The ‘successes’ of the developed states at the expense of Africa don’t seem to factor much into the conclusions concerning failure.⁹⁷ Barre’s ability to politicize the clan system to consolidate his power has served as an essential point of departure; however, Somalia’s history which is replete with conditions facilitating failure has been brushed aside. Jones contends that the prism of ‘state failure’ “obfuscates the historical social relations of crisis while legitimizing the reproduction of imperial social relations”.⁹⁸ The clan system is not granted a critical analysis either; its convoluted nature may have made such shortcoming possible, but does not legitimate the literature’s outright denunciation of a political system that has been serving to the Somalis for centuries. The international community seems to have internalized such literature and remain obstinate in propping the colonially imposed unitary state system in Somalia.

⁹⁶ Jones, “The Global Political Economy of Social Crisis”, 181.

⁹⁷ Ibid.

⁹⁸ Ibid., 182.

CHAPTER IV

SOMALILAND'S EXPERIMENT IN STATE BUILDING

Issues Confronting Somaliland after Independence

Somaliland's achievements in state-building, which are marked by the creation of functioning political and administrative institutions has began on May 18, 1991, "when the Somali state collapsed and Somalilanders declared independence."

¹ Somaliland's ability to succeed has been facilitated by its policy to accommodate the existing traditional structures. "The upper house of Somaliland's future parliament was an institutional legacy of the Guurti, the Elder's advisory body founded by the SNM to operate alongside its own Central Committee of civilian leaders".² Between 1991 and 1996 Somaliland witnessed conflicts between the state and the Isaaq clan militias. However, the state was able to successfully respond to these challenges.³ Conflict has erupted over strategic assets, which the clans in close proximity claimed ownership.⁴ The main assets factoring prominently onto these conflicts were the port of Berbera, the airport of Hawiye and territories in Burco.⁵ The clans' claims of ownership were based on their historic inhabitation of the territories in which such assets lied. This situation was

¹ Andrew Scott Duffield, "When Do Rebels Become State Builders?: A Comparative Case Study of Somaliland, Puntland and South-Central Somalia." *Bildhaan, An International Journal of Somali Studies* 13, (January 2013): 4.

² Ibid., 5.

³ Ibid., 6.

⁴ Ibid.

⁵ Ibid.

further exacerbated by clans such as the Habar Yunis and Warsengali, “who saw themselves outside of the inner core of elites running Somaliland.”⁶ These were serious obstacles to Somaliland’s government and required calculated solutions to prevent prolonged internal fighting between the Isaaq clans’ militias. Duffield provides an analysis of the political situation confronting the novice Somaliland government at the time of its independence. “The transaction costs of splintering were reduced as militias were organized autonomously during the wartime and each clan militia amassed and held onto its own weapons in case other violent actors emerged”.⁷ Thus, Somaliland’s government was facing an existential threat at its inception. These were challenges requiring immediate action; otherwise “acquiescence could imply weakness and timidity towards the state’s opponents.”⁸ As such, it was imperative for the state to use force to provide the first and most important public good: the control over the use of force. In doing so, however, the state was successful in persuading the clans to realize a political settlement.

The Role of the Somali Clan System

The Somali clan system figured notably in Somaliland’s ability to disarm rebel groups and reorganize the distribution of power. The clan elders were able to intervene by “hosting peace conferences and adjudicating disputes according to customary law, using traditional sources of conflict resolution at critical junctures when state institutions

⁶ Duffield, “When Do Rebels Become State Builders?”, 7.

⁷ Ibid., 6.

⁸ Ibid., 7.

were faltering”.⁹ The clan elders retain legitimacy and respect among the Somali clans and therefore were instrumental in preventing a prolonged civil war. Clan elders provided “disincentives to state challengers.”¹⁰ According to Gundel, “In the framework of modern government, the main role of traditional authorities is to ensure the political stability and accountability of the executive”.¹¹ The Somali clan system has a very important role to fulfill in Somalia, and government should be devised in a complementary manner rather than consolidating power in a conventional bureaucratic fashion. The clan elders’ remain as the directors of the heer contracts which every single clan-family relies on to promote social cohesion with neighboring clans in addition to prosecuting criminal acts. Clan elders “simultaneously act as legislators, executors, and judges.”¹² Thus, their customary authority is diffuse across the Somali clans and they were an indispensable source to broker consensus between the clans.

In the case of Somaliland the clan system flourished because its state building project created a House of Elders incorporating the local clan elders. Duffield suggests that Somaliland’s ability to witness an acceleration of significant state building post 1996 to be a function of the lack of external influence. This allowed the Isaaq clans to employ their traditional customary dispute resolution mechanisms to end hostilities.

Successful consolidation of coercion matured as a result of Somaliland’s indigenous, bottom-up state-building process, which took place without significant international attention or funding and thereby suggests the importance

⁹ Duffield, “When Do Rebels Become State Builders?”, 7.

¹⁰ Ibid.

¹¹ Joakim Gundel and Ahmed A. Dharbaxo. *The Predicament of the 'Oday'* Report. Nairobi: Danish Refugee Council, (2006), V.

¹² Ibid., IV.

of political settlements being organized, financed, and if necessary, fought over, by internal elites rather than international actors.¹³

Somaliland's efforts in state building were spared from intransigent foreign powers set on promoting a system of governance not compatible with the Somali way of life. This sense of isolation has provided the optimal political atmosphere to draft "a national charter with the aim of building a home-grown democracy."¹⁴ This peace process was driven by the traditional Somali institutions born out of the Somali clan system. The heer agreements provided the framework to affect reconciliation between the Isaaq clans, while the traditional elders functioned as clan representatives diligently laboring to promote peaceful political settlement between their clans. Thus, referring back to the clan system empowered the clan elders to reach peaceful solutions to their disputes without having to avail themselves to formal courts or any other restorative justice systems that did not exist in Somalia.¹⁵

It is important to note that the Isaaq as the most represented clan in Somaliland entered into such negotiations with the conviction that the Isaaq clan-family political standing would not be overshadowed by rival clans. Secondly, that government would be headquartered in their territories which meant that their region as whole would reap the economic and political goods facilitated by the state. Thirdly, that their customary laws including their clan elders were already accommodated by the state. Their most pressing concern was to reach a fair power sharing structure with the other minority clans such as the Dulbahante. This concern was satisfied by the signing of a democratic constitution to

¹³ Duffield, "When Do Rebels Become State Builders?", 8.

¹⁴ Joakim Gundel and Ahmed A. Dharbaxo, *The Predicament of the 'Oday'* Report, 16.

¹⁵ Marleen Renders, "Appropriate 'governance-technology'? Somali Clan Elders and Institutions in the making of the 'republic of Somaliland'". *Africa Spectrum* 42 (3). Institute of African Affairs at GIGA, Hamburg/Germany: 445.

enact two parliamentary chambers, the House of Representatives which are democratically elected based on a three party system, and the House of Elders. Renders notes that “the new political system featured the Guurti as the highest organ of the state, the final arbiter in institutional and political conflicts”.¹⁶ Thus, the state’s policy to promote political and administrative institutions in harmony with the existing societal configurations underscored by the Somali clan system allowed Somaliland to escape the abysmal conditions that continue to confront federal Somalia. This renders Somaliland a successful case of African state-building.

Somaliland Vis-à-vis Federal Somalia

The history of Somalia highlights the troubled legacy a region such as Somaliland had to overcome with very minimal international aide. The contrast between the trajectories of events following Somaliland’s self proclaimed independence in terms of state building compared to the series of Transitional Federal Governments (TFG) that ruled Somalia since 2000 is stark. Ever since the year 2000, the TFG has been viewed as the de jure sovereign by the international community including the United States, and their allocation of millions in aide to the TFG headquarters in Mogadishu, has proved to be a dismal attempt to erect a central federal government in Mogadishu.¹⁷

Up until August 2012, when its mandate ended, the TFG remained the internationally recognized government of Somalia, and since the September 2012 presidential elections in Somalia has been headed by a new president and prime minister, and new (no longer transitional) Federal Government. However, although this new installment of a Federal Government in Mogadishu may be

¹⁶ Renders, “Appropriate ‘governance-technology’?”, 446.

¹⁷ Nikola Pijovic, “Seceding But Not Succeeding: Africa International Relations and Somaliland's lacking international recognition”. *Croatian International Relations Review no.68 (2013): 73, 1-37.*

seen as a step in the direction of finally building a permanent Somali government, it is important to note that the new president was not elected by the people (in a popular vote) but by the new Somali parliamentarians, who in turn were also not elected by a popular vote, but by a selected group of elders from Somali clans.¹⁸

In contrast, the state in Somaliland has demonstrated a legal election process and peaceful transfer of power. According to Pijovic,

Somaliland currently boasts most attributes of a democratic state: a constitution that enables a peaceful transition of government (most notably when President Egal died in 2002 and the presidency was legally conferred to his vice-president Kahin), and guards civil liberties; a government in which the executive and legislative branches have been controlled by different political parties; active civic organizations; and a relatively free and independent media.¹⁹

These conditions concerning the legality of Somaliland's government is corroborated by a member of the international election observer mission to Somaliland in September 2005. "The elections were well organized and successfully conducted with over 800,000 voters turning out to the country's 985 polling stations to elect 82 members of parliament. This represents a turnout of over 90 per cent".²⁰ Pijovic notes that "the election processes in Somaliland in 2005 and 2010... have served to further institutionalize Somaliland's separation from Somalia and highlight the gap between Somaliland's democratically elected governments and Somalia's non-democratically elected Federal Government".²¹ The degree of cohesion and peace that shape Somaliland's elections is made possible by the constituents' common agnatic descent. The vast majorities of the electorates belong to the Isaaq clan family and cast their votes for Isaaq politicians. The reported voter turnout of 90 percent suggests an overwhelming popular trust in the political process and

¹⁸ Pijovic, "Seceding But Not Succeeding, 8.

¹⁹ Ibid., 11.

²⁰ Stefan Simanowitz, "Democracy comes of age in Somaliland." *Contemporary Review* no. 1679 (2005): 337.

²¹ Pijovic, "Seceding But Not Succeeding, 12.

likewise the class of politicians seeking to administer the state. This is made possible by their shared understanding that whatever shape the ensuing government takes, it will nevertheless preserve the economic and political concerns of the Isaaq clan family. This comes in great contrast to Isaaq active opposition against the central federal government prior to their independence. While after gaining their independence, the TFG did not provide any incentives for the Isaaq to reunite with the Somali Republic. This is predicated on the fact that the current government presiding in Mogadishu is not truly representative of all the segments of the Somali populace and is certainly not the product of open democratic elections such as those witnessed in Somaliland. In fact the current Somali president Hassan Sheikh appointment stands as an absolute transgression of the Federal Republic of Somalia Provisional Constitution Article 111G. Article 111G calls for establishment of a national independent electoral commission which “shall be inclusive and representative and be impartial and neutral.”²² It clearly states that the mandate of such commission includes “The conduct of presidential elections, the conduct of federal parliament elections and the continuous registration of voters and revision of voter’s roll”.²³ As such the current Somali government is unconstitutional and therefore illegal. While Somaliland is increasingly legal and democratic, Somalia remains illegal and undemocratic. Pijovic points to a double standard concerning the international community’s intervention in the Somali political arena,

While African governments and the African Union (AU), coupled with the United Kingdom (UK), United States (US), and other Western donors have for years funded and provided international recognition to the Transitional Federal Institutions of Somalia, not withstanding their abysmal record of inaptitude,

²² “The Federal Republic of Somalia: Provisional Constitution” 2012. http://www.constitution.org/cons/somalia/120708_ENG_constitution.pdf. (Accessed November 12, 2015).

²³ Ibid.

corruption, and lack of popular legitimacy in the country, the same countries and international organisations still do not recognise the only part of Somalia that actually boasts a legitimate and democratically elected government and has managed to remain largely peaceful since 1991.²⁴

This renders the international community's intervention in Somalia's internal affairs as either misguided or guided by ulterior motives serving to those involved. The successes attained by Somaliland clearly calls for the replication of the processes that enabled it. The replication of such processes requires the reorganization of the Somali government into a confederal state system that allows the Somali clan families to rule themselves. However, this was never attainable due to the mounting pressures on the Somali government to resume its business as usual under the federal state configurations.

The Case for a Confederal Somali State

International efforts in state building often discount the principle of subsidiarity, where the locals holding the political stakes are often alienated. Somali clans represent distinct communities with varying interests, and therefore their social problems can only be best dealt with at the most local level. This calls for the need to decentralize the Somali government, which in effect would allow the solidarity engendered by clanism to promote the wellbeing of Somalis. As evident in Somalia, the types of programs that are funded and the institutions that were supported seemed more synchronized with the donors, compared to the Somalis whom were clearly not compliant.

The institutions that result from these state building efforts therefore do not reflect an internal consensus on how the members of a political community wish to be governed. Rather, the privileging of stabilisation leads to the promotion of a

²⁴ Pijovic, "Seceding But Not Succeeding, 2.

particular kind of state, which contributes to social and spatial fragmentation rather than reconciliation.²⁵

In this context Somaliland stands as one of the two regions in Somalia in which the local population in the form of clan elders and civil society has guided the political sphere in a way consistent with their views of what is necessary to attain peace and prosperity. Another issue facing the international community's efforts in Somalia is effectiveness. "The institutions and functions of a 'successful' state are assumed to be the Western state model, and any deviation from an ideal-type Western state is interpreted as a shortcoming".²⁶ International efforts in Somalia are based on a western model that substantiates the need for a strong central government. In the eyes of the international community including neighboring African states the TFG presented the vehicle to arrive at such a strong central government.

In the context of Somalia, a central federal government is not the ideal government. Given Somalia's cultural intricacies and Somalis subscription to a specific order underscored by membership to a clan system, the Somaliland experiment stands as a model to extend peace and prosperity to other Somali territories. According to Clapham Somaliland offers "a means to positively change the incentives for better governance, not only for Somaliland, but also in south-central Somalia."²⁷ The clan elders were essential in realizing a political settlement in Somaliland.

The road to peace in Somaliland was paved by many peace and reconciliation conferences and clan elder meetings. Such conferences were concerned with

²⁵ Devon Curtis, *The limits to state building for peace in Africa*. *South African Journal of International Affairs* 20, no. 1 (2013): 84.

²⁶ *Ibid.*, 85.

²⁷ H.H. Christopher Clapham, *African Game Changer? The Consequences of Somaliland's International (Non) Recognition*. Johannesburg: The Bernthurst Foundation.

constitutional issues and aimed at agreeing on a framework for power sharing amongst Somaliland's clans, creating mechanisms for the participation of clan elders in government, structuring institutions of government, and establishing ways of maintaining security.²⁸

Gundel holds that, "The two most stable administrations in Somalia today, Somaliland and Puntland, are largely established on the initiative of the traditional leaders".²⁹ This empirically validates that the state in Somalia would be complemented by a thriving clan system. Accommodating the clan system will facilitate clan consensus and will lead to functioning political and administrative institutions. These two administrations do adopt formal governmental structures; however, the clan system is still responsible for regulating the community life, controlling access to land, and maintaining peace through the existing her treaties to which the clans are still signatories.³⁰ The key to attaining peace in these two particular areas in contrast to the abysmal conditions confronting southern Somalia lies with the administration's decision to allow the clan system to regulate community life. This was accomplished by the traditional clan elders. These elders have proven capable of solving disputes and seeking conflict resolution between the clans.³¹ Thus government must support the traditional structures of the Somali clan system to enable it to realize its legitimate roles in society.

A confederal state system can change the incentives for better governance for each of the four remaining clan families, Darood, Digle and Mirifle, Dir and Hawiye. The replication of Somaliland's state building experience will require the empowerment of the respective clans' traditional structures to realize political settlement. This requires a

²⁸ Pijovic, "Seceding But Not Succeeding, 11.

²⁹ Joakim Gundel and Ahmed A. Dharbaxo. *The Predicament of the 'Oday'* Report, 56.

³⁰ Ibid.

³¹ Ibid.

less ambitious central state that shares its sovereignty with regional states representing the five major Somali clan families. A highly centralized state removes the incentive for the Somali clan families to realize a framework for power sharing. A federal state government calls into question the Somali clans need maintain a balance of power. A federal state will require them to surrender their power, but the clans reject such dominance.³² The need to agree on a power sharing framework at a regional government level is attainable because the clan families would not be subject to other clans. Acemoglu and Robinson contend that, “It is likely that any group or clan attempting to centralize power would not only have faced stiff resistance but would have lost its existing power and privileges”.³³ Thus Somalis are against a federal state government due to its consolidation of power. In this sense, the state is actively conceived of as an entity threatening to the respective clans’ wellbeing. As such, the clans have historically competed to control state power. This was evident throughout the years following Somalia’s independence. The fears founded on the prospect of a rival clan consolidating state power have been justified by Siad Barre’s military regime. These are the circumstance that will continue to frustrate efforts to propagate a federal state system in Somalia. Reorganizing the Somali state into a confederal system of governance promotes the Somali clans need to self preserve and restores their self rule aspirations. A confederal state government type stands as a viable framework to replicate the Somaliland state building tradition and thus overhaul Somalia. The confederal structure gains its legitimacy in Somalia through its ability to allow the clans to rule themselves by

³² Daron Acemoglu and James A. Robinson, *Why Nations Fail: The Origins of Power, Prosperity, and Poverty* (New York: Crown Publishers, 2012), 243.

³³ Ibid.

themselves in a regional state setting. This does not mean that the central state would be negligible, as its purview would be mainly confined to matters consistent with maintenance of peace, international trade, foreign diplomacy and any other domains negotiated for by the comprising regional governments.

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