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Decentralized Unitary System: A Possible Middle Ground Model for Somalia

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Abstract

The debate over a suitable governance model for Somalia is re-examined using material gleaned from interviews, focus-groups, document analyses and literature. The article first identifies four domestic grievances – trust-deficit, demand for democracy, access to basic services and call for equitable share of resources – that drive people's interest in centrifugal tendencies. These are taken in conjunction with a look at external factors, from neighboring countries to the international community, which put pressure on clan politicians and push clan-based federalism as a solution. Within this context, the relevance of current proposals for confederation, federation, consociation, and decentralization are considered. Basing a final section of analysis within the current literature, a decentralized unitary system is concluded to be the most suitable governance model for Somalia. Principal factors for this conclusion are based on the model as a flexible toolkit that can keep the country united while addressing local grievances and the legitimate interests of external actors.

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Introduction[1]

For the last two decades, Somalis and the international community have been working on re-establishing the Somali state. However, there is disagreement as to the most suitable governance system that could regulate the country's economic, political and social conflicts. This study is part of a wider research project that investigates the question of which governance systems might work for Somalia and its people, and here it looks at the debate around decentralization. In collecting data for this study, select-elite interviews, focus group feedback, textual analysis of constitutions of the Somali government and regions, speeches by politicians, and extensive library and media research have been used.

This article examines the motivations and grievances expressed by Somalis in their desire for decentralization. It identifies four basic grievances that drive the current centrifugal tendencies: trust-deficit; demand for political participation; access to basic services; and equitable share of resources. The article also argues that neighboring countries, the international community, and clan-politicians are each backing the clan-federalism proposal for different reasons. The study explains and assesses different proposals currently available in the literature regarding confederation, federation, consociation and a decentralized unitary system. The article, then, analyses the findings and the literature, and concludes that a decentralized unitary system is the most suitable governance model for Somalia, because it is a flexible toolkit that can keep the country united while addressing local grievances and legitimate interests of external actors.

Domestic Grievances and External Drivers

Based on published literature, public interviews, media accounts, interviewees, observations, and document analysis, four factors were identified that explain the current centrifugal tendencies in Somalia. The first and perhaps most important factor is

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[1] This article is part of a wider study on the issue of suitable governance systems for Somalia. The Heritage Institute for Policy Studies in Somalia supported the part of the study that took place in the country. As a result, short policy paper on this issue has been published for public education purpose through the Heritage Institute. The statements made herein are solely the responsibility of the author. See the report at
http://www.heritageinstitute.org/wp-content/uploads/2014/01/Decentralization_Options_for_Somalia-ENGLISH.pdf.

trust-deficit.[2] A decade of corrupt government (1960–1969), two decades of repressive military regime (1970–1990), and over 20 years of civil war (1991–present) have created a culture of suspicion among different communities and individuals. The first civilian government, this view claims, was corrupt and committed injustices when it came to resource-sharing and service delivery. The military regime made things worse as it committed human rights atrocities –attacking villages, killing civilians and displacing tens of thousands of Somalis.

Despite these injustices, different Somali clans lived together in all the major cities, some having settled in major urban centers for centuries. However, during the civil war, Somalia's warlord-led factions committed multiple atrocities against civilians; killing tens of thousands and displacing millions. They systematically removed families from their homes and displaced whole communities. Mogadishu, Baidoa, Kismayo and other major cities came under the rule of clan militias that targeted citizens because of their clan identity. According to the proponents of the trust-deficit rationale, it is because of this history that many Somalis do not want to take another chance with a dictatorial central government. As one well-respected intellectual said in an interview, "I do not want to see another episode of the experience that my family had gone through in the early 1990s. Whatever system is adopted, we need to make sure that such atrocities do not occur again."[3] Indeed, people who hold this view argue that each community moved back to its traditional territories because of lack of trust toward others.

Many people who support decentralization also demand genuine political participation. According to the findings of this study, Somalis want to elect their local and national representatives. This demand is not limited to the elites of one region or clan, or even one class (the elite). Rather, it is common to hear Somalis saying, "I do not want Mogadishu authority to appoint the mayor of my town or the governor of my region."[4] This is a widespread grievance that many Somalis, across the country, have against

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[2] Many of the individuals interviewed and many of the relevant papers on the subject express this rationale. See also Ali. A. Abdi, "Reconstructing the Collapsed Somali state, and the Promise (and Possible Pitfalls) of Federalism," *Horn of Africa*, vol. XXI (2003), pp.20-29; Ismail Ali Ismail, "Federal Structure for Somalia: An upas Tree or Panacea?" *Horn of Africa*, vol. XVIII (2000), pp.75

[3] Personal communication with Somali academic, October 2012, Lillehammer, Norway.

[4] Somalis, in debates on this subject, often express the desire to elect their officials. Most of the armed opposition to the military government rejected this practice. For instance, see Ismail Hurre Buubaa writing for the Somali National Movement in 1989.

centralized and authoritarian administration in the capital. This is particularly the case because previous governments appointed governors, mayors, police commissioners, and all other bureaucrats for different agencies. This previous system was so centralized that even the decision to transfer a schoolteacher from one place to another was made in Mogadishu. Reinforcing mistrust of this central force is the newly common practice to organize a political party somewhere and claim a presidency of a given region. For many, the motivation behind this creation of regional states is to join politics at local or national levels. Since there are no elections, political parties, strong think-tanks, or any other mechanism that would-be politicians can use, they try to gerrymander a real or imagined territory of the clan and then mobilize people along that line. This latter practice suggests that each clan or sub-clan has exclusive ownership of a district or region or part of the country.

Another common demand is for equal access to basic services and a fair distribution of resources. Many Somalis cite the problematic system as a reason to object to a heavily centralized and authoritarian system. This problem of centralization has affected the elite as well as citizens. Back in the military days, people living in the far north and deep-south had to go to Mogadishu to get everything from a passport to a university education or a well-paying government job. Somalis from all backgrounds shared the complaint: "I do not want to go to Mogadishu to get a passport or a university education. I need to access these services close to home."[5] These complaints were not unfounded, previous governments did maintain resources for these basic services in the capital, even though they could have been delivered locally.[6]

Finally, Somalis associate centralized and authoritarian government with the unequal sharing of resources – a practice locally referred to as *sad-bursi*. Previous military governments' approach to regional development was arbitrary and uneven. "Resources" often meant foreign aid, as the country's domestic revenue sources are meager. Very few cities or regions were granted development projects, while Mogadishu received the bulk of both private and public investment. For example, the military government built about 100 schools and several vocational training centers in Mogadishu, and its growth came at the expense of other cities' development. This preferential development was

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[5] Interview with participants, April 2013, Mogadishu, Somalia.

[6] A verse in a famous poem by Somali poet Adan Arab reads: "Sidii baan xafiis meel fog jira, ugu muctaadaaye" [I still must travel to far away offices (government bureaucracy) to full-fill my basic needs] – this is not a literal translation.

exacerbated by the common practice of government leaders and clan officials to buy land and build sumptuous villas in the capital, bringing jobs and cash to the city. As a hub for government services the city also saw a preferential development of infrastructure such as roads, schools, hospitals and other projects. As a consequence of this history, many in Somalia see decentralization as the best way to avoid over-development in one area, and under-development in others.

For Somalis, then, the four main grievances around centralization reveal little disagreement among political elites in rejecting a centralized *authoritarian* regime. The anti-centralist and authoritarian camp believes that Somalia's future governance system must be able to address the trust-deficit among communities and individuals, the democratic participation of citizens, government responsiveness to the needs of the people, and fair resource-sharing among Somalis.

Outside the country, however, there are three different forces pushing the clan-federalism project. Somalia's neighbors, Ethiopia and Kenya, are the leading proponents of a clan-based "federal" formula. Addis Ababa and Nairobi have effectively replaced the central government of Somalia in the realms of security and politics for the last two decades. As such, they have been actively involved in the design and implementation of clan-based federalism in Somalia since the late 1990s.[7] According to Matt Bryden, Ethiopia shared a position paper at the partners' forum of the Inter-Governmental Authority on Development (IGAD) in 1998 in which it designated five or six clan-based regions in Somalia. Bryden quotes from the paper, showing that Addis Ababa prescribed "local administrative structures [that] could constitute building blocks" to the restoration of peace and statehood to Somalia, and that "an important role should be played by civil society – the emergence and role of which should be encouraged by the international community."[8] Bryden notes that the international community "reluctantly accepted" the Ethiopian proposal. Bryden's interpretation of the proposed clan-division is that regions would be divided up into territories dominated by the four armed clans: Darod, Digil & Mirifle, Hawiye and Isaaq.[9]

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[7] See the Inter-Governmental Authority for Development (IGAD). Draft IGAD Strategy on managing the liberated areas in Somalia, 12th and 13th January 2012, Hilton Hotel, Addis Ababa, Ethiopia

[8] Matt Bryden, "New Hope for Somalia? The Building Block Approach," *Review of African Political Economy*, vol. 26, no. 79 (March 1999), p.134.

[9] Ibid., p. 136

Strategically, although they sometimes pursue different objectives, Ethiopia and Kenya seek a weak and friendly Somalia as a neighbor for two reasons. First, they believe that if a strong state emerges aspirations of what they call 'irredentism,' or a greater-Somalia, might return.[10] This belief is exacerbated by the presence of strong and well-organized Islamist groups in the country, and the presence of an active business class in the Horn of Africa.[11] Moreover, Ethiopia and Kenya have national security concerns, which, they argue, originate from Somalia, citing extremism and nationalism in their own countries.

In the past, Ethiopian rulers have advanced two main narratives that explain their position on Somalia: The protection of their Christian island in a sea of pagans, and the demand for a sea corridor.[12] Ethiopia's current position incorporates these narratives, but added also concerns about irredentism, the war on terror (the government says that the Ogaden National Liberation Front and Oromo Liberation Front could use Somalia as a base to organize their activities), and access to a sea corridor.[13] When it comes to the latter concern, as a land-locked country, Ethiopia has serious interests in being able to access the sea through Somalia. Unsurprisingly, then, the current Ethiopian designed clan federalism project would divide Somalia into six regions (Somaliland, Puntland, the Central Regions, Hiran-Shabelle, South-Western, and Jubbaland) – each of the six has a territorial boundary with Ethiopia, as well as access to the coastline.[14]

For its part, Kenya has publicly argued that security threats from Somalia have damaged its tourist industry,[15] and cites this as the reason it needs a buffer zone in the

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[10] Kenya's former president, Daniel Arap Moi, spoke at the National Defence University in Washington, DC in September 2003. Also see the coverage of the African Digest at www.indo-african-society.org/pdf/africandigest.pdf.

[11] See Afyare Elmi, *Understanding the Somalia conflagration: Identity, Political Islam and Peacebuilding.* London, Pluto Press, 2010.

[12] John H. Spencer, *Ethiopia at Bay: A Personal Account of the Haile Sellassie Years* (Algonac, MI: Reference Publications, 1984); See also Charles L. Geshekter, 'Anti-colonialism and Class Formation: The Eastern Horn of Africa before 1950', *International Journal of Historical African Studies* 18, no.1 (1985): 1–32. See also Nuruddin Farah**,** Which Way to the Sea, Please? *The Horn of Africa Journal* Oct/Dec 1978, Vol.1, Number 1, pp 31-36

[13] The Federal Democratic Republic of Ethiopia Foreign Affairs and National Security Policy and Strategy, 'Ethiopia's Policy towards Somalia', www.mfa.gov.et/Foreign_Policy_And_Relation/Relations_With_Horn_Africa_Somalia.php.

[14] Telephone Interview with senior Somali government official, October 2014

[15] Michelle Nichols, "Kenya says world neglecting Somalia security threat." Reuters News Agency, Sep 17, 2010, available at http://www.reuters.com/article/2010/09/18/us-somalia-kenya-idUSTRE68G5GA20100918

Jubba region.[16] This is not unrelated to the current dispute between Kenya and Somalia over resources, which is being adjudicated by the International Court of Justice. Both Ethiopia and Kenya have signed political and economic agreements that work against Somalia, and have been doing so since 1963.[17] Both countries have troops in Somalia and are directly involved in the creation and re-creation of factions, regions, and proxy politicians in the country.

The international community (donors, IGOs and NGOs) has also been actively supporting decentralization in Somalia. For the international community, decentralization is generally considered a good governance practice. The International Financial Institutions (IFIs) and most of aid donors encourage developing countries to decentralize the government's administrative, political, and fiscal powers, shifting them to local entities. Decentralization is also considered by the international community to be the most convenient mechanism by which to stabilize post-conflict countries. As Cheema and Rondinelli write: "the International Monetary Fund, the World Bank, and other international development organizations prescribed decentralization as a part of structural adjustments needed to restore markets, create or strengthen democracy, and good governance."[18] Lidia Cabral adds: "the international community, driven by empowerment and efficiency narratives, has been an important driving force pushing for decentralisation reforms."[19] Since the Somali state collapsed in 1991, the international community has been in the driver's seat, and has at times supported Ethiopian and Kenyan agendas.[20] It has helped to establish transitional governments, sponsored and helped draft the Somali constitution, and provided legitimacy to various

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[16] BBC World News, "Are Kenyans seeking a buffer zone in Somalia?" October 28, 2011, available at
http://www.bbc.com/news/world-africa-15499534

[17] See Catherine Hoskyns, *Case Studies in African Diplomacy* (Dar es Salaam, Nairobi and Addis Ababa: Oxford University Press, 1969); John Drysdale, *The Somali Dispute* (New York: Fredrick A. Praeger, 1964).

[18] G. Shabbir Cheema and Dennis A. Rondinelli, "From Government Decentralization to Decentralized Governance," in Cheema and Rondinelli (eds.) *Decentralized Governance: Emerging Concepts and Practices* (Harvard University, 2007), p.4.

[19] Lidia Cabral, *Decentralisation in Africa: Scope, Motivations and Impact on Service Delivery and Poverty*, Overseas Development Institution Working Paper, 2011, p.6.
[20] See Bryden, "New Hope for Somalia? The Building Block Approach," p. 154

Somali and external groups that are working to set the boundaries of Somalia's administrative districts.[21]

External actors, both regional and international, have had significant effects inside the country. Somali politicians of different clans have worked to align their clan, personal and political interests to those of the external actors, particularly Ethiopia and Kenya. The Jubba administration, the initiatives in Central Somalia, Hiran-Shabelle regions, and the two Baidoa conferences (organized by group of Digil and Mirifle clan politicians) have all tried to get support from their neighbors.

Internally, clan-elites are openly divided along clan-lines when it comes to the emerging regions. For many Digil & Mirifle and Hawiye politicians, there should be only four regions where the Isaaq clan would control Somaliland; the Darod clan would control Puntland; Hawiye would have central Somalia; Digil & Mirifle clan would dominate the six regions of southern Somalia including Jubba; and Mogadishu would be the capital city of the country. In contrast to this, the Jubba administration and many politicians from the Darod clan in other regions advance a five-region-proposal. In this case, the south-west would be divided into two regions and the Lower Jubba, Middle Jubba and Gedo would be the fifth state under Darod control. Digil & Mirifle clans would control Bay and Bakol and Lower Shabelle. The current 'final' proposal grants two regions to Darod clans and two regions to regions to Hawiye clans while leaving one region each for the Digil and Mirifle and Isaaq clan. Perhaps the Darod-Hawiye duopoly that Ahmed Samatar warned against is in full force again.[22]

Given the local, regional, and international contexts, data collected from various sources –despite the lack of public opinion survey—suggest strong domestic support for decentralization. Trust-deficit among Somali communities, suspicion of a strong authoritarian and central state, desire for political participation, demand for services at the local level, and fairness in sharing resources have all been given as rationales for the country's centrifugal tendencies. However, the form of such a decentralized system

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[21] Although he is relatively new to Somalia, UN envoy to Somalia Ambassador Nicholas Kay is active in promoting the creation of clan-regions in the country.

[22] See Ahmed Samatar's speech, "Prof. Samatar Waa in laga Baxo Afduubka Siyaasadeed Duopoly (Daarod & Hawiye)", available at https://www.youtube.com/watch?v=3yJssNTKJjU#t=266

is contested, which is where external drivers have the most sway. Ethiopia and Kenya, for their own national interests, push for a clan-based federal system approach (influencing clan officials in bids to gain access to power and resources), and the international community supports decentralization generally as a component of good governance.

What is the Best Model of Governance?

A survey of current literature on the issue reveals an embryonic debate among scholars, politicians and the general public that focuses on four proposed governance models. Each model is said to address the grievances outlined here, and designs context-appropriate institutional mechanisms for regulating the Somali conflict.

A team from the London School of Economics and Political Science, led by professors Ioan Lewis and James Mayall, published a study in 1995 that explored models of governance for Somalia.[23] Their study briefly explained models of confederalism, federalism, consociationalism, and decentralization, and assessed their suitability for Somalia, arguing that all four mechanisms had features that were relevant for the Somali context. Although it is important, the LSE study is not only dated, but was never definitive in its recommendations.

The authors outlined some relevance for a confederal system in Somalia. Confederalism is defined as a "union of states" where independent states come together for limited objectives such as foreign affairs, defense or economics. In such a system, *sovereignty* remains with the constituent states that form the confederation.[24] The LSE study argues that this system is consistent with Somalia's traditional values, and that the different regions or states in Somalia could establish a confederal system "with representation from each state or region, protected by the sovereign status of each region and by the right to veto, or opt out of unwelcome proposals."[25]

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[23] See Afyare Elmi's "Decentralization Options for Somalia," a policy paper published by Heritage Institute for Policy Studies in Mogadishu, available at http://www.heritageinstitute.org/wp-content/uploads/2014/01/Decentralization_Options_for_Somalia-ENGLISH.pdf

[24] See also Frederick K. Lister, *European Union, the United Nations, and the Revival of Confederal Governance* (Westport, CT: Greenwood Press, 1996), p.22.

[25] Iaon Lewis and James Mayall, *A Study of Decentralized Political Structures for Somalia: A Menu of Options* (European Union, 1995), p. xix.

Professor Hussein Adam agrees with the authors of the LSE study. He argues that confederation could be an option between Somalia and Somaliland, if the latter's call for recognition fails. He writes, "Meanwhile, the Republic of Somaliland may, if it is able to attain peace and stability and democratic reforms, achieve international recognition. It is also likely that internal and international circumstances may oblige it, in time, to reconsider full independence and opt for some link with Mogadishu in a confederal state."[26] Richard Dowden further argues that Somalis, even though they are one nation, would benefit from the Switzerland model of confederation, stating simply: "The model for Somalia is Switzerland."[27]

However, many disagree with the confederal proposal and contend that federalism is more suitable for the Somalia context. Federalism, according to Watts, is defined as the "combination of shared-rule and regional self-rule within a single political system so that neither is subordinate to another."[28] In Somalia, this system has been proposed at the inter-state and intra-state levels. At the inter-state level, some politicians and scholars have suggested that a federal system between Ethiopia and Somalia would address the wider conflict between the two countries. According to British Cabinet documents, Emperor Haile Selassie was the first to propose a federation between Ethiopia and Somalia.[29] According to the document, the "Emperor's recent speech at Gabredarre, in which the idea of federation between Somalia and Ethiopia was put forward, produced a sharp and hostile reaction from the Prime Minister of Somalia."[30] In his 1956

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[26] Hussein M. Adam, "Somalia: Federalism and Self-Determination," in Peter Woodward and Murray Forsyth [eds.] *Conflict and Peace in the Horn of Africa: Federalism and Its Alternatives* (Brookfield, VT, 1994), p.121.

[27] Richard Dowden, "Don't Force Statehood on Somalia," *African Arguments* (October 20, 2011), available at http://africanarguments.org/2011/10/20/don%E2%80%99t-force-statehood-on-somalia-by-richard-dowden/

[28] See Ronald L. Watts, *Comparing Federal Systems in the 1990s* (Kingston, Ont. Institute of Intergovernmental Relations, Queens University, 1996), p.1; Daniel J. Elazar, *Exploring Federalism* (University of Alabama Press, 1987). William H. Riker, *Federalism: Origin, Operation, Significance* (Boston and Toronto: Little, Brown and Company, 1964). Ronald L. Watts, *Comparing Federal Systems* (Montreal: McGill-Queens University Press, 1999).

[29] See also: Daniel D. Kendie, "Toward North East African Cooperation: Resolving the Ethiopia-Somalia Disputes," *Northeast African Studies*, vol. 10, no. 2 (2003), p.92. See the British Cabinet discussion that in a declassified report by the Secretary of the Cabinet of the UK, C. (57), 38, February 15, 1957.

[30] See the British Cabinet document in a declassified report by the Secretary of the Cabinet of the UK, C. (57), 38, February 15, 1957, p. 4.

Gabredarre (Qabri-Daharre) speech the emperor proposed that Somalia be absorbed into his empire, arguing that a Somali state was not viable.[31]

Years later, at the height of Somali nationalism, I.M. Lewis also came to the conclusion that the long-term solution to regional conflict would be to create a federation between Somalia and Ethiopia.[32] Cuban leader, Fidel Castro, during the Somalia-Ethiopia war in 1977, has also proposed that Somalia, Ethiopia and the People's Democratic Republic of Yemen to federate in order to end the war and unite the socialist regimes of the region.[33] As recently as 2007, Hussein Aideed, former deputy prime minister and interior minister of Somalia, declared that Ethiopia and Somalia should abolish boundaries and create one passport,[34] though he later joined the anti-Ethiopian movement based in Asmara.

At the intra-Somalia level, according to Mohamed Mukhtar, the current debate on the suitability of a federal system for the country originated with the Hizbia Dastur Mustaqil al-Somalia (HDMS) proposal. The HDMS, a political party that represented the Digil & Mirifle clan families, called for a "decentralized federal structure" for Somalia.[35] According to Mukhtar, the leadership of the dominant Somali Youth League undermined the process and it was defeated.[36] Some, like Mohamed Abshir Waldo, argue that the HDMS have already introduced, but Puntland has implemented federalism in Somalia.[37]

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[31] Emperor Haile Selassie delivered the speech on August 25, 1956 when he visited Kabre-Dahar (Qabri-Daharre). The speech, titled, "Emperor Haile Sellassie in the Ogaden" was later published by the *Ethiopian Observer*, Vol. 1, Issue 1, December 1956.

[32] See I.M. Lewis, "Recent Developments in the Somali Dispute," *African Affairs*, vol. 66 (1967), p.112.

[33] See "Somalia Breaks with Soviet Union, Cuba" November 22, 1977, published in the *Executive intelligence Review,* vol. 4, Issue 47, pp. 1-3

[34] Salaad Iidow Xasan, "Xuseen Caydiid oo sheegay in ay doonayaan in la baabi'iyo xadka u dhaxeeya Soomaaliya iyo Itoobiya, hal Baasaboorna ay yeeshaan," *Hiiraan Online*, January 3, 2007, available at http://www.hiiraan.com/news/2007/Jan/wararka_maanta3-520.htm

[35] See Mohamed H. Mukhtar, "The Emergency and Role of Political Parties in the Inter-River Region of Somalia from 1947 to 1960," *UFAHAMU* (Journal of The African Activist Association), vol. XVII, no. II (Spring 1989), p.85.

[36] See ibid., p.87.

[37] Mohamed Abshir Waldo, "Federalism in Somalia: Birth of Puntland State and the Lessons Learned," *Horseed Media*, October 9, 2010, available at http://horseedmedia.net/2010/10/09/federalism-somalia-birth-puntland-state-lessons-learned/

Though it cited the benefits of confederalism, the 1995 LSE study also suggested that a federal system could be used to address Somalia's governance issues, arguing that federalism would satisfy those who want a centralized system as well as those who prefer a decentralized system. Its authors recommended the Swiss or the United Arab Emirates models, although they acknowledged the different context of Somalia.[38] The LSE study, however, did not discuss the constituent units of Somalia and the distribution of powers and responsibilities.

In addition, most Somali peace agreements prescribed some form of a decentralization, regional autonomy or federal system. Yet, the first attempt to design a 'federal' institution took place during the Kenya Reconciliation Conference in 2002-2004. The issue became controversial when a committee was tasked to draft a constitution. The committee broke into two groups. Those managing the conference put together a harmonization committee led by Professor Abdi Samatar.[39] Eventually, Ethiopia, Kenya and IGAD intervened and sided with the group led by Somali warlords. The Transitional Charter that resulted from the conference included articles and clauses explaining how a federal system would be achieved.[40] The current draft constitution is also based on the previous charter and adopts a 'federal system' for the country.[41]

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[38] Iaon Lewis and James Mayall, *A Study of Decentralized Political Structures for Somalia: A Menu of Options.*

[39] See the draft charter that the harmonization committee proposed, available at http://digitalcommons.macalester.edu/cgi/viewcontent.cgi?article=1023&context=bildhaan

[40] See the Transitional Federal Charter of Somalia, available at http://www.somalilaws.org/Documents/The%20Transitional%20Federal%20Charter%20of%20the%20Somali%20Republic.pdf

[41] Mohamed Abbas Sufi, "The Future Political Order for the Federal States of Somalia," *Northeast African Studies*, vol. 10, no. 3 (2003), pp.281-288; Faisal A. Roble, The Culture of Politics: The Somali Experience, Wardheernews, May 5, 2013, http://cdn.wardheernews.com/wp-content/uploads/2013/05/The-Culture-of-Politics_Faisal2.pdf; Issa Mohamud Farah (Dhollawaa), "Somalia Federalism: Achievements, Challenges and Opportunities," *Somalitalk*, 2013, available at http://somaliatalk.com/2013/dhoolawaa.pdf; Ismail Haji Warsame, "Federalism, a Guarantor of Peace Among Somali Clans," 2013, http://jubbalandvoice.com/?p=194. Abdulkadir M. Abow**, "**Federalism: The Past and the Present," *Wardheernews*, January 27, 2011, available at http://www.wardheernews.com/Articles_11/Jan/Abow/27_Federalism_The_Past_and_Present.html; Abdulrahman M. Badiyow, "Wardheer Interview with Abdulrahman M. Badiyow," *Wardheernews*, April 16, 2013, available at http://www.wardheernews.com/wdn-interveiw-with-dr-abdurahman-m-baadiyow**/**; Abdinur Sh. Mohamed, **"**The State of Somali Union," *Hiiraan Online*, April 18, 2012, available at http://www.hiiraan.com/op4/2012/apr/23693/the_state_of_somali_union.aspx

Besides confederal and federal systems, the consociational model of power sharing also has its share of support.[42] The consociational approach is a "group building block." It relies on four principles: Building grand coalitions; protecting minorities by providing a minority veto; guaranteeing the representation of all groups by employing proportional representation; and providing segmental autonomy, particularly if there are religious or language segments."[43] In such a system, competing groups divide executive, legislative and judicial powers among themselves. There are many illustrative examples of power-sharing in Africa, including Burundi (Hutu/Tutsi) and Zimbabwe (blacks/whites), which both employ power sharing as a way to diffuse conflict. Somalia's current "4.5 clan" formula is another example that shows the use of non-territorial power sharing of the consociational model, whereby four so-called "major clans" get an equal share of legislative and executive powers. The model would see the 275 seats distributed so that each 'major clan' takes 61 while a number of "marginalized clans" get only 31.

Many support the 4.5 consociation formula for clan power-sharing. Political leaders of the Digil & Mirifle clans that have traditionally been excluded from power consider this arrangement an important milestone and defend it vigorously. They believe the formula provides Digil & Mirifle clans representation equal to that of the domineering Hawiye and Darod politicians. It also gives some representation (albeit small) for "unarmed" clans. Mohamed Mukhtar argues that the 4.5 power-sharing formula is an important achievement. For him, it provides a practical basis for dealing with the question of the relative size of different communities.[44] Sheikh Omar Faruq, a well-respected religious scholar, supported the 4.5 power-sharing formula, calling it a "solution" but not a fair one (*Waa xal ee ma ahan xaq*).[45] Both Mukhtar and Sheikh Omar Faruq regard the

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[42] See Stefan Wolff, "Consociational Theory of Conflict Management," available at
http://www.stefanwolff.com/files/ConsociationalTheoryPaper.pdf

[43] See Rudy B. Andeweg, "Consociational Democracy," *Annual Review of Political Science*, vol. 3 (2000), pp.509-536. Arend Lijphart, *Democracy in Plural Societies: Comparative Explanation* (New Haven: Yale University Press, 1977). Arend Lijphart, "Prospects for Power-Sharing in the New South Africa," in Andrew Reynolds [ed.] *Election '94 South Africa* (London: James Currey, 1994). Andrew Reynolds, "Majoritarian or Power-Sharing Government," Paper presented at Constitutional Design 2000 (December 9-11, 1999). Timothy Sisk, *Power Sharing and International Mediation in Ethnic Conflicts* (Washington, DC: US Institute of Peace Press, 1996).

[44] See Mohamed H. Mukhtar, "Somali Reconciliation Conferences: The Unbeaten Track," in Abdullahi A. Osman and Issaka S. Souare [eds.] *Somalia at the Crossroads: Challenges and Perspectives in Reconstituting a Failed State* (London: Adonis and Abbey Publishers, 2007).

[45] Sheikh Omar Faruq was instrumental in the success of the Arta conference. He has publicly defended the 4.5 formula as a practical solution to power-sharing.

arrangement as a temporary mechanism. When peace is established, they suggest that the question of representation can be dealt through one-person and one-vote system.

There have also, finally, been proponents of a decentralized unitary system. Ismail A. Ismail, for example, contends that "to establish a healthy polity in Somalia, the only thing necessary in terms of structures is simple unitary system with genuinely inbuilt decentralization."[46] Ahmed I. Samatar agrees, and explains the decentralized unitary system as a "scenario that implies strong central authority but leaves some limited but *important* local decisions to the provinces of the country."[47] He contends that the center should be strong enough to supervise local government and must be able to lead the reconstruction of the country. Omar Salad Elmi disagrees with Samatar on specifics, rather calling for a decentralized system where the regions would enjoy "substantive powers" and responsibilities.[48]

Governance in Theory vs. Practice

Governance models are, generally speaking, tools that are used for regulating different political, economic and social conflicts. In the past, nations have adopted confederal, federal, consociational, or decentralized systems, with different results. As such, none of the models can be seen as objectively worse or superior. The utility and relevance of a given model depends on the context in which the system is being applied. The models, moreover, cannot be cut and paste from one context to another and expected to function in the same manner. Each situation requires a tailor-made governance model that can regulate the peculiar aspects of a given society. As Horowitz pointed out, analysts should take a holistic view of other aspects such as presidential versus parliamentary systems, centripetal and centrifugal tendencies, party development or various electoral systems.[49]

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[46] Ismail, "Federal Structure for Somalia: An Upas Tree or Panacea?" p.80.

[47] Ahmed I. Samatar, "The Porcupine Dilemma: Governance and Transition in Somalia," *Bildhaan*, vol. 7 (2007), p.83

[48] Omar Salad Elmi, "Federalism and Decentralization – Options for Somalia," November 27-29, 2008, Nairobi, Kenya, available at http://www.somalitalk.com/2008/dec/22dec08.html

[49] See Donald L. Horowitz, "Constitutional Design: Proposals versus Processes," in Andrew Reynolds (ed.) *The Architecture of Democracy: Constitutional Design, Conflict Management and Democracy* (Oxford: Oxford University Press, 2002).

If scholars have different views as to the best governance model for Somalia, the country's political elites have contradictory assumptions about the role of a post-war Somali state. Some, particularly the leadership of the aspiring regions, and neighboring states, would evidently prefer to establish almost independent clan states by keeping the central government extremely weak or non-existent. Others emphasize the importance of the unity of the country and therefore prefer a system that would not reify existing clan divisions.

Predicting the outcome of a good governance model is made more complicated by the contradictory trends that mark contemporary Somali society. On the one hand, population movement has been ongoing for many decades, so that fragmentation and integration have been constant at multiple levels in Somali society. Thus, even though civil war created conditions that separated communities in the 1990s, subsequent intra-clan wars, Ethiopian invasion and natural disasters such as the famines of 1992 and 2011 have forced millions to move from their areas. In drought and war, it is common for people to move to wherever they can survive. People from southern Somalia left their homes seeking a better livelihood and they are now in the northern and central parts of the country in significant numbers. Somalia's demographic face can be said to have been changing for the last two decades. In addition, many express their desire for a united and strong democratic state that functions well and serves its citizens in order to transform Somali society.

Each of the four governance models reviewed has some features that fits with particular trends of Somali society. Regional politicians want a clan-based independent state or confederal system and weak central government. The Somaliland leadership, on the other hand, wants to secede from the rest of the country and has been seeking recognition for more than two decades. Other regions—including Puntland, Galmudug, Himan & Heb, Khatumo, Southwest and Jubbaland prefer a complete independence or a confederal model. Each of these regions has its own representatives overseas, militias, and an exclusivist conception of ownership of the land and citizenship. They thus use a federal system in their rhetoric, but in substance, they advocate, at best, a confederal system, if not complete independence. For this reason, Richard Dowden's prescription on confederal system is based on the reading of the de-facto situation on the ground.[50]

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[50] Richard Dowden, "Don't Force Statehood on Somalia,"

In practice, regional states in Somalia behave as though they are part of a confederation. Their constitutions deal with almost every aspect of governance. They legislate and govern in areas of security, citizenship, natural resources, and foreign relations. They cooperate with foreign countries, particularly with Ethiopia and Kenya. Functioning regional states have executive governments that are active in all aspects of society. Interestingly, beyond an arbitrary representation in the parliament and cabinet, the central government does not have direct relations with the people of the region – it has to reach people in the regions through the regional administrations, thus making the system a de-facto confederal model.

In an interview, one Somali politician explained this dichotomy. He argued that there is a vacuum of power in Somalia, and since there is no common government that can perform its functions, it is natural that the regional states fill the gap.[51] This may be true in some cases, but the leadership of Puntland and Galmudug, during the constitutional conferences in Garowe and Mogadishu, expressed entrenched positions when they participated in writing the current draft constitution. So, in reality there is a clear mismatch between the rhetoric of the aspiring regional and clan leaders and substance of their actions and their founding documents.

However, although the practice on the ground shows confederation, there are three limitations that would make the model unlikely to be successful. First, the establishment of a confederal system is largely limited to the leadership of the aspiring regions and neighboring countries. The rest of the elite and the wider public do not share a desire for the creation of independent and powerful clan-states alongside a nominal central government. Second, the number of constituent states is not yet agreed among Somalis. In fact, the proposal has created further conflict among Somali communities, since it fixes territories in a situation of fluid clan identities, taking no account of the many claims and counter-claims to regions and districts of the country by the sectarian elite. In fact, it has lead in some cases to open conflict (Hiran, Lower Shabelle, Sool-Sanaag, Lower Jubba, Galgadud and Mudug). A final reason for its non-adoption is that confederation as a model has not been part of the toolkit for divided societies for the last two decades.

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[51] Interview with participant, Mogadishu, May 2013

For many intellectuals and politicians, federation is also not a viable option.[52] Those who oppose the model say Somalia is too small, too poor and too homogeneous to embrace a confederal or federal system. This was the position of the late Abdirizak Haji Hussein, former prime minister of Somalia,[53] as well as researcher Mohamed Mukhtar, who told Voice of American that federalism should be dropped from the constitution.[54] Ismail A. Ismail identified seven practical obstacles that would make the implementation of a federal system in Somalia very difficult, if not impossible,[55] and Ali A. Hersi contends that all of the conditions that necessitate federation are absent from Somalia and therefore a federal prescription for Somalia would be recipe for self-destruction.[56] Abukar Arman agrees, arguing that the proposed federalism "virtually institutionalizes the Balkanization of Somalia into clan fiefdoms without any clear territorial size or borderlines."[57]

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[52] See Ahmed Samatar, "Fagaaraha Debate," available at http://www.youtube.com/watch?v=MI8V3E_DYCM; Afyare Elmi, "Nidaamka Federaalku Xal uma ahan dhibaatada Soomaaliya," *Wardheernews*, January 17, 2011, available at http://www.wardheernews.com/Articles_11/Jan/Afyare/Nidaamka_Federaalka.pdf. Mohamud Mohamed Yahye, "Somalia's Federal System: Can it Work?" *Hiiraan Online*, December 2007, available at http://www.hiiraan.com/op2/2007/dec/somalia_s_new_federal_system_can_it_work.aspx. Muktar Omar, "On the Centralist-Federalist Debate," *Wardheernews*, 2013, available at http://www.dillapress.com/news/somalia-news/3084-somalia-on-the-centralist-federalist-debate.html. Abdullahi Dool, "Why Federalism Is Wrong for Somalia," *Hiiraan Online*, June 2, 2010, available at http://www.hiiraan.com/op4/2010/jun/14775/why_federalism_is_wrong_for_somalia.aspx. Mohamud Ulusow, "Clan Federalism Tears Somalia Apart," *Hiiraan Online*, January 29, 2013, available at http://hiiraan.com/op4/2013/jan/27900/clan_federalism_tears_somalia_apart.aspx

[53] Abdirazak Haji Hussein, "The Future Constitutional Structure of the Somali Republic: Federal or Decentralized Unitary State?"

[54] See the interview by Harun Maruf of the Voice of America with Professor Mohamed Mukhtar, available at http://www.voasomali.com/content/article/1636979.html?utm_source=dlvr.it&utm_medium=twitter

[55] Ismail, "Federal Structure for Somalia: An Upas Tree or Panacea?" p. 75

[56] Ali A. Hersi, "Democratic Devolution of Powers in Somalia: Administrative Decentralization or Federalism for Self-Destruction," *Somalia Online*, April 23, 2004, available at http://www.somaliaonline.com/community/showthread.php/37273-Administrative-Decentralization-or-Federalism-for-Self-Destruction

[57] Abukar Arman, "A Constitution of Ambiguity and Deferment," Foreign Policy Association, August 7, 2002, available at http://foreignpolicyblogs.com/2012/08/07/a-constitution-of-ambiguity-and-deferment/

The presumption that Somalia must adopt a federal system, according to Ali A. Hersi[58] and Abdirizak H. Hussein,[59] is based on confusion about, and poor diagnosis of, Somalia's governance problem. This line of thinking suggests that, while it is true that past military regimes and faction leaders abused power and committed heinous crimes against the Somali people, attributing the behavior of the military dictatorship to Somalia's 1960 constitution or to a unitary state model would be misguided. Evidence given for this view is first that the military regime suspended the Somali constitution when they took power in 1969, and second that then President Mohamed Siyad Barre ruled the country single-handedly irrespective of what the constitution allowed or rejected.

Another rationale used by proponents of federation are that Somalis, regardless of the region where they live, want to elect their own leaders, locally, regionally, and nationally. While this is a legitimate demand, leaders can also be elected through a democratic and unitary system. If the prevailing desire for Somalis is a democratic system, then this does not necessarily mean that the only option is a federal one. Globally, federalism is not the most used model of democracy, and by the numbers it is unitary systems that are more popular. Internationally there are only 25 federal states, and of these only three are in Africa (South Africa, Nigeria, and Ethiopia).[60] Thus, presuming the effectiveness of a democratic model based on the form of a state is fallacious.

Comparing Somalia to the general characteristics of federal countries, it rarely meets the conditions that necessitate federation.[61] Somalia is a small, largely homogeneous, and poor country, with no agreed-upon regional boundaries. These are the opposite of what Peter Schuk has laid out as the four conditions under which federations are born.[62] First—as is the case with most of the federal countries such as the United States, Canada, and United Arab Emirates—independent states come together to create

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[58] See Ali Hersi, "Democratic Devolution of Powers in Somalia."

[59] Abdirazak Haji Hussein, "The Future Constitutional Structure of the Somali Republic: Federal or Decentralized Unitary State?"

[60] See the Forum of Federations, available at www.forumfed.org

[61] See Afyare Elmi, *Nidaamka Federalku Xal uma aha Soomaaliya* (2003, revised 2011), available at http://www.wardheernews.com/Articles_11/Jan/Afyare/Nidaamka_Federaalka.pdf
[62] Peter Schuk, "Federalism," Yale Law School Repository, 2006, available at http://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=2659&context=fss_papers

a federated nation. In Somalia, there are no independent states that could come together to form a Somali federation. Currently, there are various self-governing clan communities, but these are not viable entities that could constitute a federation. In the case of Somaliland, some unionists from the northern regions propose a federation between Somalia and Somaliland, but this idea has not gained traction, and the predominant thinking is that Somaliland will seek independence from the rest of Somalia.

The second reason for federation has been colonialism. As was the case for Australia under the British, colonial forces have created federations for their own administrative convenience. Ethiopia, and to a lesser extent Kenya, act as the new colonial masters of Somalia, and have been trying to impose a clan-based federal system on the country since 1998. So far, they have not succeeded. In a minority of cases, federations result from military conquest. For instance, when the Allied Forces defeated Germany in 1945, they dictated its governance models and imposed a federation. While Somalia is exposed to heavy external intervention and the meddling of neighbor-countries, neither colonial nor military imposition of a federation seem likely. The only other model for the formation of a federal system is when a unitary system decides to establish a federal system in order to appease forces of regionalism and localism. Since Somalia's national government is nowhere to be seen in the current regionalization process, this too seems impossible. The only acts dealing with the question of governance on this level is the Somali parliament's passing of an incomplete local and regional administration act.[63] Ironically, the government has not bothered to use this act to establish regional or district administrations.

Moreover, Somalia is not a multi-national or multi-religious state. It is a largely homogeneous society.[64] Other than issues that relate to the two main dialects, there are no linguistic or religious cleavages that necessitate federation. Federation would be useful if some communities did not share certain values with the majority, but in Somalia there are no religious or linguistic values that separate communities. The entire population is Muslim and Sunni, and almost all speak the Somali language and its

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[63] See Sharciga Maamullada Degmooinka iyo Gobollada Dalka [Districts and Regions Administration Act], July 2013, Official Bulletin, Number 6, pp. 1-22.

[64] See Ali Hersi, "Democratic Devolution of Powers in Somalia."

different dialects, as evidenced by the national media outlets, which broadcast in both main dialects of May and Mahatiri.

Finally, the small size of Somalia means its geography does not necessitate federation. Moreover, the country is poor and cannot afford to run multiple levels of administration. As Mohamud Mohamed Yahye put it, "How can a penniless country, like Somalia, which has been undergoing a seemingly endless civil war in the past 17 years, and whose governmental institutions have all been destroyed, afford to run such a bloated and huge administrative structure? It baffles me even to contemplate its possible occurrence!"[65] It is a sentiment shared by Ali A. Hersi who has said "There is hardly any part of this country that can stand by itself as a viable federal unit."[66] These observations are solid, and accurately grasp the measure of the situation in Somalia. Take, for example, the four ports – Mogadishu, Kismayo, Bosaso and Berbara – which are the main sources of revenue for different administrations. These are far from being sufficient to meet the needs of any level of government, and were not built by the regions that are claiming exclusive ownership of these ports. Rather, they are some of the infrastructure left behind by the national government.

Implementing a federation could, moreover, serve to divide the country. This is because it would first require that Somalia be broken down into a set number of regional states. The various proposals (eighteen, eight, six, five, four, three, and two) are self-serving, and tend to be gerrymandered by neighboring countries and clan elites working to establish dominance over the country. Ahmed Samatar has warned against the dangers of adopting federalism, arguing that it would be very difficult to "[establish] legitimate provinces."[67] Hersi has also called federalism and the 4.5 formula, "two political viruses."[68] Abdirizak H. Hussein, writing for the Hiil Qaran Party, came to a similar conclusion, arguing that federalism was the wrong prescription for Somalia, and more in the interest of external actors than the nation's peoples.[69] So, while in name Somalia

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[65] Yahye, "Somalia's Federal System: Can it Work?"

[66] Hersi, ""Democratic Devolution of Powers in Somalia."

[67] See Samatar, "The Porcupine Dilemma."

[68] Ali Abdirahman Hirsi, "Continuing Governance Crisis in Somalia: The Bitter Fruit of the Somalis' Faulty Approach to the Practice of Statecraft," *Wardheernews*, June 26, 2006, available at
http://wardheernews.com/Articles_06/june_06/26_Somalia_Governance.Crisis_Dr.A.Hirsi1.html

[69] Abdirazak Haji Hussein, "The Future Constitutional Structure of the Somali Republic: Federal or Decentralized Unitary State?" *Hiiraan Online*, April 2011, available at

has been a "federal state" since 2004, any practical implementation of this structure has been elusive. This is hardly surprising, since federalism has rarely succeeded in Africa, and particularly in East Africa. As Ali Mazrui observed, "For the first half-century of postcolonial experience in Africa, the word federalism has been anathema almost everywhere in Africa other than in Nigeria."[70] Superu agrees and writes that Africa has become the "virtual graveyard of federal experiments."[71] Most of the countries in East Africa have tried and failed in implementing a federal system (Sudan, Uganda, Ethiopia-Eritrea, Kenya). In some instances, secession became the only solution available.

In East Africa, Eritrea and South Sudan represent practical examples where federalism failed and separation was the final solution, although the new states have not succeeded either. In Uganda and Kenya, proponents of federalism were co-opted or coerced while a powerful single party and the military hold together Ethiopia's "ethnic federalism." In the case of Somalia, the possibility of the creation of several clan-based regions is rooted to Ethiopia's ethnic federalism. But, since the center shifted to Addis Ababa and Nairobi, some regions, if not all of Somalia, have become de facto states of neighboring countries.

On the other hand, the power-sharing of consociational model has been identified as a possible solution. This model is based on the idea of non-territorial group-building blocks that share the power and resources of a country. In the case of Somalia, these building blocks would be the country's large clan-families– Darod, Digil & Mirifle, Dir, Hawiye, and Isaaq—which had fought bitterly in the first stage of the conflict. It was also based on these clan associations that conflicts emerged at the level of the sub-clan, seeing members of each clan-family might clash amongst themselves. What the consociational model accommodates for is the non-territorial nature of the clans, whose members are spread around the entirety of Somalia. This is one of the selling points of the model for its proponents, which would mean that Somalia would not be divided into regions, so that the whole country would belong to the whole people, allowing clans to share power and resources equitably.

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http://www.hiiraan.com/op2/2011/apr/the_future_constitutional_structure_of_the_somali_republic_federal_or_decentralized_unitary_state.aspx

[70] Ali Mazrui, "Capitalism, democracy and stability in Africa," USAfricaonline.com, 22 March, 1998. See also Adem Kassei Abebe, "Umpiring Federalism in Africa: Institutional Mosaic and Innovations." *African Studies Quarterly*, Vol. 13, Issue 4, Winter, 2013, pp. 53-79

[71] Rotimi Suberu, "Federalism in Africa: The Nigerian Experience in Comparative Perspective." *Ethnopolitics*, 2009, 8.1: p. 67

While a federation in name, the power sharing of the consociational model has been in operation in practice since 2000. There are at least two advantages. First, it broke a political deadlock among Somali factions. This allowed Somali groups to form a transitional government in 2000 at the Arta Conference. Second, it creates a more representative system of governance in that the seats of parliament and cabinet must be shared among clans. This is critical within the Somali context, given the problems of trust that stemmed from the military government. Indeed, far from the earlier systems in place, a consociational model means the average individual can see that he/she is represented when a member of their clan is in the system.

For a consociation to function well it require well-defined group building blocks that will share executive and parliamentary seats. Some, however, question whether Somalia's clans—although they are important in the life and politics of the country—can act as such a block. Just as creating geographic borders would solidify clan locations, so too would creating clans as group-building blocks. Associations can get as large as the extended network leading back to a great grandfather, so long as that group has the resources to pay a *diya* (blood money equivalent to 100 camels or about USD 50,000) for itself. The extended families that have these resources have at times demanded representation within a political system based on clan affiliation.

The dilemma here is reconciling group rights (clans) and individual rights (citizenship) within the model of governance. There is a consensus that the individual rights should come first, and would be the central pillar under which all group rights would be subordinate. This advances liberal democracy, but the notion has Islamic roots as well. In Islam, each person (male and female) is empowered and must be held to account for his/her actions. Thus, when designing a system of governance the 'House of Chiefs,' model seems a good starting place. This gives limited powers for clans, with most of the power invested in the executive and the House of the People, to which a citizen can elect representatives through a competitive electoral process.

Another drawback to the current 4.5 system is that it cannot be sustained in the long term. Though it looks somewhat like a consociational model, it was meant to be temporary, and must shift to include the Somali people in the power equation. Currently, only a few (politicians and clan chiefs) determine who represents the clan through an arbitrary process. Proposed modifications to add a few more clans in the mix do not change the ultimate problems of the current structure. Somalia needs to move beyond the current clan-elite dominated system to one where citizens have the opportunity to elect public officials and hold them to account. Therefore, besides the

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establishment of the House of Chiefs that would represent clans with limited powers, consociation has a limited utility for the country.

Some scholars even consider the 4.5-clan formula an institutionalization of discrimination. Abdi Samatar has argued that the collectivist formula undermines common citizenship, disregards the concept of a meritocracy and makes a mockery of good governance.[72] Many activists and intellectuals from marginalized communities have also rejected the model on the grounds of both its inequity and arbitrary nature. The assumption behind the formula is that the relative population sizes of the four armed clans (Darod, Digil & Mirifle, Dir, and Hawiye) are equal, and that the unarmed clans are equal to half of one of the "main" clans. Many—rightly—question this conclusion, demanding to see the population census that resulted in this arrangement.

The objectives of the critics of the 4.5 power-sharing formula are diverse. Some reject the whole idea of collective or group rights and call for citizenship-based politics. Others welcome the idea of clans sharing power as collectivities, but question the wisdom of limiting the formula to the 4.5 model. At the Istanbul Conference for Somali Civil Society (May 2012), a number of activists that identified themselves as being from marginalized clans made a strong case – convincing even the traditional elders of the four major clans – to change the formula from 4.5 to five. Consensus for this change came in the form of a communiqué, which was produced by the civil society members that had gathered for the meeting.[73] Although the parliamentary seats are divided according to the 4.5 formula, the current government uses a five-clan formula.

In general, there are three drawbacks associated with the current and possible future developments of the consociational model in Somalia. First, the formula was meant to be temporary, but the elite who benefit from the status quo have made it a permanent arrangement. As a result, there has been little effort to move towards a citizenship-based politics. The elites of the so-called four "major" clans are determined to keep this system for the simple reason that they can corrupt and manipulate the elders of the clans and thereby push their own political agendas. Second, although the current partial consociational system it makes the system look representative, the 4.5 formula

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[72] Abdi Samatar, on numerous occasions, argued that the 4.5 formula institutionalizes discrimination

[73] See "Communiqué: The Istanbul Gathering of the Somali Civil Society," *Hiiraan Online*, May 31, 2012, available at http://www.hiiraan.com/news4/2012/May/24333/communique_the_istanbul_gathering_of_the_somali_civil_society.aspx

damages the functionality of the institutions that are meant to serve the country. The sectarian elite politicize everything and demand that the formula be used for everything: commissions, committees and delegations, diplomats, security forces, bureaucrats, and so on. For the elite that benefit from the system, competence and meritocracy are not observed as important criteria, and rather inserting a member of the clan to serve the interests of the clan is top priority.

Finally, even though four clans and a number of 'unarmed' clans share power in the 4.5 model, the elites of two clans, the Hawiye and Darod, have dominated government for the past decade, securing the top spots of president and prime minister, with leftover portfolios given to other clans. Ahmed Samatar called this arrangement illegal and an "unfair duopoly."[74]

Decentralized Unitary System: A Possible Middle Ground for Somalia

Decentralization as a model for governance begins as a broad concept that is flexible, and gives nations a number of tools. It is distinct from the federalism model:[75] G. Shabbir Cheema and Dennis A. Rondinelli define decentralization as "transfer of authority, responsibility and resources – through deconcentration, delegation or devolution – from the centre to lower levels of administration."[76] While in a decentralized unitary system sovereignty and the constitutional powers remain within national state, the national government decentralizes administrative, political and fiscal powers to different entities including regions. For example, in decentralized systems there is a de-concentration of authority, which is delegated in order to respond to local service needs. The model also gives the central government final control of regional and local governments. Another option in creating a representative governance model, as Dennis Rondinelli notes, is devolution. As the most "extreme form of decentralization"[77]

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[74] Ahmed Samatar gave a number of media interviews on this issue.

[75] Daniel J Elazar, "Federalism vs. Decentralization: The Drift from Authenticity, *Publius, Vol. 6, Issue 4, pp. 9-19, 1976*

[76] See Cheema and Rondinelli, "From Government Decentralization to Decentralized Governance," p.1.

[77] See Dennis Rondinelli, "Government Decentralization in Comparative Perspective: Theory and Practice in Developing Countries," *International Review of Administrative Science*, 1980, p.139.

it allows the central government to establish "independent levels and units of government."[78] It also provides local officials with the authority, responsibility and resources in order to make decisions and implement them.

Cheema and Rondinelli have catalogued the advantages of decentralization. They argue that decentralization enhances democratic participation and ensures the representation of all citizens. They also note it has mechanisms to accommodate diversity of citizens within a given state-system.[79] In fact, at times, the devolution option gives more powers to sub-units or parallel agencies than a federal system does. The United Kingdom is a case in point, where Scotland enjoys significant powers while the country remains a decentralized unitary state. More importantly, under a decentralized system national unity can be strengthened; meager resources can be pooled and equitably shared; regions can be empowered; political participation at all levels can be enhanced; services can be delivered effectively; and a common citizenship can be forged.[80]

While some have noted that this system has been used in other African countries with mixed results,[81] all signs indicate that the flexible toolkit of decentralization is suitable for the Somalia context. It is even provided for in the country's first constitution: article 86 of Somalia's 1960 constitution stipulated that, "Whenever possible, administrative functions shall be decentralized and performed by the local organs of the State and by public bodies."[82] In addition, the late former Prime Minister Abdirizak H. Hussein suggested that the best way to meet local demands and keep the country united was to adopt a decentralized unitary system where some of the powers were assigned to individual regions. He wrote: "a decentralized unitary system, with guarantees of

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[78] Ibid., p.138.

[79] See Cheema and Rondinelli, "From Government Decentralization to Decentralized Governance." See also Pipa Norris, *Driving Democracy: Do Power-Sharing Institutions Work?* (New York: Cambridge University Press, 2008), p.160.

[80] See Cheema and Rondinelli, "From Government Decentralization to Decentralized Governance."

[81] See Stephen N. Ndegwa, "Decentralization in Africa: A Stocktaking Survey," World Bank, Africa Working Paper Series 40, 2002. For critical assessment, see Lídia Cabral, "Decentralization in Africa: Scope, Motivations and Impact on Service Delivery and Poverty," Overseas Development Institute, Future Agricultures, Working Paper 020, March 2011, available at http://www.future-agricultures.org/

[82] See Article 86 of 1960 Constitution, available at http://www.somalilaw.org/Documents/Constitution1960.pdf

regional or local autonomy, would be more, much more, appropriate for the Third Somali Republic."[83]

This system is not without its pitfalls, however. As Andrew Parker points out, the complexity of creating a system of decentralization is "Like a soufflé that requires just the right combination of milk, eggs, and heat to rise, a successful program of decentralization must include just the right combination of political, fiscal, and institutional elements."[84] As difficult as it is, decentralization can work in Somalia if, as Ismail A. Ismail writes,[85] Somalia's political and intellectual elites have the will and capacity to make it work.

For decentralization (in general) and devolution (in particular) to function properly in Somalia one has to start with the commitment of the political elite as a whole and the national government in particular. Somalia's elite missed a great opportunity at Independence on July 1, 1960, given that the 1960 constitution encouraged the decentralization of administrative power to its regions.[86] The political elite ignored the call, thus inadvertently contributing to the creation of many of the grievances that some Somali sectors developed against the Somali state.

The record of Somalia's political class is, moreover, dismal when it comes to pushing through genuine decentralization, including multiple instances where the process has been manipulated for personal or clan-based gains. The current Somali government's rhetoric and actions have exacerbated the problem.[87] Earlier, it insisted on appointing governors and mayors for regions, but after neighbors and the international community applied some pressure, it started to continuously endorse the Ethiopian design and the wild claims of sectarian clan politicians by recognizing exclusive clan ownership of

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[83] Hussein, "The Future Constitutional Structure of the Somali Republic."

[84] See Cheema and Rondinelli, "From Government Decentralization to Decentralized Governance," p.9. See also Andrew N. Parker, "Decentralization: The Way Forward for Rural Development?" – Summary Findings section – World Bank, Policy Research Working Paper 1475, June 1995, http://elibrary.worldbank.org/content/workingpaper/10.1596/1813-9450-1475

[85] Ismail, "Federal Structure for Somalia: An Upas Tree or Panacea?"

[86] See Article 86 of the 1960 Constitution.

[87] The current government came to power in 2012. The selected parliament elected Hassan Sheikh as the president of the republic. In the three years since he came to power, Sheikh appointed three prime ministers: Abdi Farah Shirdon, Abdiweli Sheikh Mohamed, and Omar Abdirashid Ali.

territories. It was following this that the government passed confused legislation that institutionalized clan discrimination and denied Somali citizens' political rights.[88] This legislation divides powers to four layers of governments – districts, regions, states and the national government, and does not follow the decentralization ethos.

The government's insistence on nominating regional administrations is not consistent with the wishes of the people and the realities on the ground. While the establishment of clan-based regions simply does not enhance peace or democracy, the government's intention to appoint governors acts to dredge up memories of the country's authoritarian past, and works against trust. It also casts doubt on the government's intentions to work toward a real democratization. Since elections are not practical at present, the leadership could have set up a temporary process whereby communities of each region select delegates who then elect their leaders. After all, this is the system that resulted in the current national government, proving its practicality under the circumstances. In its handling of the early transition, the Somali government lost credibility.

Aspiring regional leaders have also proven an obstacle to the institutionalization of a decentralized model. They generally lack a genuine commitment to decentralization, and their actions reveal their interest in creating independent clan fiefdoms to realize personal political power. While regional capitals continuously demand a federal system, they work actively to control local resources and power; many have their own military, independent foreign policy, control of natural resources and citizenship laws, making each region basically an independent polity. This approach is unsustainable and will lead to further dismemberment of the nation. Through zero-sum competition and emotional appeals, Somalia's sectarian elites destroyed the Somali state. The same approaches will not be able to reinstitute the Somali state.

Given the state of the leadership, the capacity to create functioning institutions where there are none is critical if decentralization is to work in Somalia. A competent leadership should take advantage of untapped human resources both within the diaspora and the country. Somali people are resourceful, and young professionals can be found in abundance. The country's private education institutions, though very weak, produce many graduates, and with proper training could prove essential to the

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[88] See Sharciga Maamullada Degmooinka iyo Gobollada Dalka [Districts and Regions Administration Act, July 2013, Official Bulletin, Number 6, pp. 1-22.

functioning of a decentralized government. Along with proper use of its human resources, a new Somali leadership must think creatively about how to use its natural resources for state building, and alleviating the country's poverty. The issue of finances, though it will be a major challenge, might be alleviated through strategic partnerships with the international community. Working with international actors to build state institutions that will curb Somali piracy (which has cost international shipping companies some $18 billion every year since 2005)[89] could secure aid or development dollars as well as expertise.

Along with these strategic harnessing of resources, decentralization has to be embraced as an important principle of governance, and a flexible tool in public administration. As an idea rooted in the principle of subsidiarity where those affected by decisions have to participate in the policy-making and implementation, it can be employed in a variety of ways. The government can devolve responsibilities and powers to regions, private sector and civil society in order to respond to diverse challenges. Some of the tools of decentralization include de-concentration, delegation, devolution and regional autonomy, each of which can be employed in addressing the concerns of different Somali regions symmetrically and asymmetrically. According to Rondinelli, depending on how they are designed, parallel administrations and partnership arrangements can be useful for the national government. Through decentralization, it can use the principal of "build-operate-transfer" for capital projects,[90] similar to Turkish government's projects like the Digfer hospital in Mogadishu, which it built and will be managed for few years until it hands over to the Somali government. The government can also outsource some functions to the private sector and civil society organizations, such as the management of ports, airports, water, hydro and other areas of public administration.

Decentralization's tools can also be used to address Somalia's domestic concerns. For example, through the decentralization of power, democratic participation can be boosted and citizens can elect governors, mayors and councilors. While there should be no confusion over governance model and democracy—one does not preclude the other—decentralization makes representation more local and immediate. The provision

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[89] World Bank, *Pirates of Somalia: Ending a Threat, Rebuilding a Nation*, 2013, available at http://siteresources.worldbank.org/INTAFRICA/Resources/pirates-of-somalia-main-report-web.pdf

[90] See Dennis Rondinelli, "Government Decentralization in Comparative Perspective: Theory and Practice in Developing Countries."

of services –essential for such a poor country—can also be improved through decentralization by ensuring there is local access to essential government offices. As weak as the Somali government is, there are, for example, passport offices in some of the major towns of the country. While this is a good start, the government offers nothing else for now. Decentralization can happen through devolvement of government offices into regions and districts, as well as outsourcing them to public or private corporations and civil society organizations. In addition, through legislation, the government can address the issues of resource sharing, which has driven much of the political conflict. Finally, decentralization can work to bridge the current trust-deficit: a critical component of governance in the current Somali climate. The best way to restore trust among individuals and communities is to establish a legitimate and functioning authority that guarantees the safety and prosperity of all its citizens. What is missing is an authority that can enforce law and order. In 2006, the Islamic Courts established authority and began evicting people occupying the houses of those who had been forced to flee from Mogadishu. Many properties were subsequently returned to their owners. No Somali government authority has been able to do anything close to what the courts did in 2006 simply because they did not consider this issue a priority.

The model also makes room to adopt and absorb some of the multiple and hitherto competing proposals for governance. By combining old and new arrangements even in the creation of a governance model the principal of decentralization will be in place. The eighteen-region proposal, which parses out the nation according to boundaries many consider as a possible starting point. While financially supporting eighteen legislatures, executive regional governments, bureaucracies, and police forces will be impossible, and the number of regions must eventually decrease, they provide a legitimate and representative starting point for decentralization. A former politician interviewed for this study suggested that the country be divided into three regions (Somaliland, Central and North-East region - from Bal'ad to Bosaso, and Southern Somalia region – from Afgoi to Kismayo). According to this proposal, Mogadishu would remain the capital.[91]

When it comes to the distribution of powers and responsibilities, Somalia has to learn from other countries where decentralization has functioned well, for example the Kenyan model. In Somalia, there is no mechanism for policy to be delivered at the regional level, as those domains dedicated to the lower level often legislate religious or

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[91] Interview with former Somali minister, October 2014, Dubai, UAE

language policy. One plausible approach is to leave the sovereignty, legislation, planning and policy-making in the hands of an inclusive and democratic national government. The role of the regional and local governments would be to implement those policies. The most suitable way to distribute responsibilities and power is along the line of policy making and implementation.

Conclusion

If trust-deficit, demand for democracy, access to basic services, and equitable sharing of resources are, as this paper concluded, the principal grievances behind the centrifugal tendencies in Somalia, they are also the main reasons why a decentralized system is the answer to the nation's governance problem. This model of governance also takes into account the three actors behind the current clan-federalism project: Neighbors, international community and clan-politicians, and is supported by the literature on proposed governance systems. In assessing the suitability of confederation, federation, consociation and decentralized unitary systems, a decentralized unitary system can be concluded to be suitable for Somalia. This governance model can keep the country strong and united, and addresses the legitimate grievances and aspirations that Somalis have expressed.

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