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## 3

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## DEVOLUTIONARY POLITICS IN SOMALIA: PROSPECTS FOR PEACEKEEPING, PEACEBUILDING, AND DEVELOPMENT

*Matthew Hoisington*

No centralized government has existed in Somalia since the fall of the Siad Barre regime in 1991. Many policy makers see the country as hopeless and ungovernable, but, since 1991, a number of devolved mechanisms and institutions, including cross-clan collaborations, regional groupings, ideological federations, and business alliances have emerged to close the governance gap. These informal, local types of governance present unique opportunities for peacekeeping, peacebuilding, and development, as well as the eradication of pernicious spoilers such as the armed Islamic group al Shabaab and the making of a new Somali political constitution. To capture these possibilities, the international community should embrace the politics of devolution and tailor its policies to fit the complex, fragmented, and interdependent reality of Somali society.

Channeling Thomas Hobbes' vision of the state of nature, the prevailing view depicts life in Somalia as nasty, brutish, and short. The facts are

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overwhelming. For the fifth year in a row, the country has topped *Foreign Policy* magazine's "Failed States Index" (Foreign Policy Online 2012). No effective national government has existed since the fall of Muhammed Siad Barre's regime in 1991. Persistent conflict has displaced more than 1.5 million people and resulted in an additional 800,000 refugees (Internal Displacement Monitoring Centre 2011). Life expectancy is among the lowest in the world. Famine and drought wreak havoc throughout the countryside. The toll on Somalis from hunger and violence in the last twenty years is staggering: between 450,000 and 1.5 million have died (Norris and Bruton 2011). The economy is in tatters with an average GDP of only \$600 per capita (CIA World Factbook 2011). Proliferation and nonexistent law enforcement have precipitated the rise of dangerous armed groups such as al Shabaab, Hizbul-Islam, and al Qaeda. In the absence of a functioning economy, pirates operate unfettered, tormenting both the population and international waters in search of sustenance. It is T.S. Eliot's *Waste Land* meets Mad Max's *Thunderdome*.

In the midst of the chaos, suffering, and violence, international engagement has focused almost exclusively on reviving the central government (ICG 2011). Despite international sponsors' combined expenditure of more than \$55 billion dollars (Norris and Bruton 2011), thirteen separate incarnations of a central government have ended in failure. The latest, the Transitional Federal Government (TFG), which was created through protracted international mediation brokered by the Intergovernmental Authority for Development (IGAD)—a consortium of East African states committed to regional cooperation—and the United Nations (UN) in Nairobi from 2002 to 2004, currently teeters on the edge of another downfall. These repeated attempts have foundered due to poor design and corrupt execution, leaving the population deeply distrustful of national government. The time has come for more enlightened perspectives. In order to provide security, stability, and development in Somalia, the international community must move beyond its stale centralization policies and embrace alternative approaches. In short, it must accept the politics of devolution and facilitate a transfer of powers from central governing institutions to local and informal actors.

Current efforts aimed at the provision of governance in Somalia reflect antiquated notions of how to engineer stable political and economic communities. By coupling compulsory political organization with centralized government, the international community perpetuates its failed policies of the past and underappreciates modern perspectives on governance and institution building. These modern perspectives include fresh ideas on

devolution, which refers to the distribution (or redistribution) of authority from centralized to local governments. The possibilities for such systems are limitless, bounded only by each community's vision for its collective future. While difficult to implement effectively, especially given the perils of Somalia's fragmented political landscape, devolution offers a closer match to the real distribution of political power within the country. It also shifts the discussion toward the building-up of viable political processes at the local level, which have a much greater impact on the daily life of Somalis, and away from the delusions of centralized governance that have dominated policy-making to date.

Somalia serves as a case study for both the failures of centralized government and the possibilities of alternative forms. Since 1991, a number of mechanisms and institutions, including cross-clan collaborations, regional groupings, ideological federations, and business alliances have emerged to close the governance gap left by the absence of a centralized government. Precipitated by necessity yet closely linked to the underlying sociological characteristics of the region, these various local and informal actors have combined to create a complicated yet resilient mosaic of overlapping governmental authority. Somalia today is not *ungoverned*, as is commonly purported. Rather it is *alternatively governed* in unique and constructive ways.

Somalia's informal systems of governance have generally been accorded little to no role in external efforts to revive the Somali political landscape (Menkhaus 2007). The UN Political Office for Somalia (UNOPS), for instance, has continuously pursued a policy emphasizing the importance of national government. In his recent reports on Somalia to the UN Security Council, the Secretary-General has reiterated the importance of "assisting the TFG in consolidating its authority" (UN Security Council 2011). In his own words, the strategy of the international community since 2008 has been to support the TFG in completing the tasks needed to end the transition, notably finalization of a constitution; to assist the TFG to broaden the base of the peace process through outreach and reconciliation; and to support the development of basic state governance and institutions, especially in the security sector (UN Security Council 2012a). By acting as a *de facto* military for the TFG, the African Union (AU) Mission in Somalia (AMISOM) also perpetuates the idea that governance structures in Somalia must adhere to the tenets of centralization. The recent increase of AMISOM troops authorized by the UN Security Council only propagates the myth of TFG power (UN Security Council 2012b).

These kinds of policies run counter to the realities of Somali society.

The TFG would control no territory at all were it not for extensive and continuous counterinsurgency action carried out by AMISOM forces against al Shabaab, an armed Islamic fundamentalist group with links to al Qaeda. By artificially propping up the TFG, both the AU and the UN exaggerate form at the expense of substance. The long-term implication of such misaligned strategies is the continuation of the present cycle—another failure of centralized governance and more suffering for the Somali people. While challenges to devolution exist, including finding ways to counter pernicious local governance authorities such as al Shabaab, Hizbul-Islam—another Islamic fundamentalist group that has fought the TFG in the past—and other "spoilers" (Stedman 1997), it is by identifying, leveraging, enfranchising or disenfranchising, and "responsibilizing"<sup>1</sup> constructive forms of local governance that the international community will best assist in stabilizing and developing Somalia.

## I. DEVOLUTION AND THE POLITICAL CULTURE OF SOMALIA

Devolution is characterized by the transfer of powers from the central government to local and even informal political units. While the process generally fits within a "top-down" conception of governance, the principles that it enshrines, including subsidiarity and local responsibility, might also function within a "bottom-up" system. For example, under the top-down variant of devolution, the central government would retain overall legal control (*e.g.* equal protection under the laws, voting eligibility, allocating authority to raise revenue, ensuring general law and order, and regulating fraud and corruption) and the authority to alter local government powers, but local entities would have substantial authority to hire, fire, tax, contract, expend, invest, plan, set priorities, and deliver the services they choose (Wunsch 1998). In a bottom-up form of devolution, local and informal actors might hold all legal authority and forgo centralized leadership altogether. The latter is more likely to succeed in Somalia because of the "uncentralized" political mindset of most Somalis (LSE 1995).

It should be noted that devolution does not equate with decentralization, although the two concepts are related. According to its foundational document, the Transitional Federal Charter (TFC), the TFG is a "decentralised system of administration based on federalism" (Somali Transitional Charter 2004), but in function it favors centralized institutions and the consolidation of power in the hands of the elite. Decentralization enables this kind of "recentralization" (Wunsch 2001) because, unlike devolu-

tion, it envisions local entities acting largely as local agents of the central government rather than as quasi-independent actors. Such a system only operates to the extent that centralized institutions are willing to relinquish power. Decentralization enables power-hungry central actors to retain and retract authority because it envisions them as the orchestrators of the process. In contrast, a devolutionary process places central and local actors in a multi-level governance partnership with one another, thus limiting the power disparity between them.

The key to understanding the prospects for devolution in Somalia lies in appreciating the factors that motivate the Somali conception of political organization, namely kinship and its specific kind of social contract (Gundel 2006; Mohamed 2007; Lewis 1961). The Somali kinship structure is premised on agnatic (patrilineal) lineage, or clans. There are approximately 100 clans for the five million people in Somalia, though the size and power of each clan varies considerably. All clans belong to a clan family, which consists of related clans and represents the highest level of political solidarity within the Somali nation or ethnic group. There are six major clan families that fall into two groups, the agro-pastoral (*Digil* and *Rahanweyn*) and the nomadic (*Hawiye*, *Dir*, *Isaq* and *Darood*). While clanship represents the first principle of Somali politics, such allegiance is “imaginary” absent the rules of order (Mohamed 2007). The foremost ordering mechanism, and the most important level of social organization for each individual, is the *mag-paying*<sup>2</sup> (or blood payment) group, which is premised on lineal sub-sets within each clan. Members of a *mag-paying* group pay and receive damages in concert for death or injuries sustained or inflicted by a member of the group. All Somali men belong to a *mag-paying* group, and their social and political relations are defined by contracts (customary laws or *xeer*) that are entered into within and between *mag-paying* groups (Gundel 2006).<sup>3</sup>

The juridical-political operational structures of the clans are also indispensable to an understanding of Somali attitudes toward governance. Disputes that arise between members of the same *mag-paying* group are taken before a *shir*, an open council administered by *xeer beegti* (or wise judges) who are selected for their legal expertise. The *shir* represents the most important institution of governance in the Somali pastoral society, and, in addition to serving as the venue for mediating disputes, it is also the place where groups take decisions on war and peace, debate political issues, and alter existing contracts (Lewis 1961; van Notten 2005; Gundel 2006). Next to the *shir*, the *Gurrti* serves as the governing body of the clan, consisting of elders (or *odayaal*) from the various social units that

make up a given community. Its responsibilities include nominating heads of the *mag-paying* groups, called *aqiil*,<sup>4</sup> who lead the *mag-paying* groups and function as decision-makers, judges, and conflict-mediators for their fellow clan members (Gundel 2006). Operating above the *aqiil* at the level of the clan-family are the clan-heads, known as *Suldaan* in Somaliland, and referred to as *Issim* in Puntland and *Duub* in south central Somalia<sup>5</sup> (Gundel 2006). They are also selected by the *Guurti* through a decision called *Guurti Ka Hadh* (a decision no one can deny). As the “corporate political head” of the clan, the *Suldaan* exercise considerable authority (Gundel 2006). They are the most important conflict mediators in inter- and intra-clan relations, and their status makes them *biri-mageydo* (untouchable) during periods of armed conflict (Lewis 1961).

In this very fluid social order there are no completely stable political units, and substantial overlap and redundancy exists. Nevertheless, the Somali people adhere to the rules created by this social structure and since the collapse of the Somali state, the clan system as a whole has been indispensable in creating a modicum of peace, security, and order among the population. For example, during the 1990s traditional structures formed the basis for the emergence of Somaliland and Puntland, two autonomous sub-regions in Somalia, as self-sufficient political units (Gundel 2006). In the south and central areas of Somalia clan leaders have also attempted to establish new administrations premised on traditional structures. Unlike their northern counterparts, however, their efforts have been frustrated by a precarious security situation, typified by warlordism and the rise of al Shabaab, as well as the disruptive effects of the large-scale international intervention projects aimed at reestablishing the centralized state in Mogadishu (Gundel 2006).

Clans present two paradoxes to governance that are particularly relevant to peacekeeping and peacebuilding. First, the majority of armed conflicts in Somalia have been fought along clan lines, yet their engagement also offers the best chance for peace and reconciliation. *Suldaan*, *aqiil*, and *xeer beegti* serve as multi-level conflict mediators; *xeer* provides a basis for negotiated settlements; and *mag-paying* groups deter killing by increasing its costs. Al Shabaab’s insurgency against the TFG and the group’s interaction with the clans clearly illustrates this paradox. Al Shabaab is composed mostly of members of the *Hawiye* clan family, but, in the south and central portions of the country, opportunistic clan elders from other families who are bent on expanding their own powers have also cooperated with al Shabaab. This has enabled the group to expand its footprint and influence in Somalia with a relatively small fighting force of only several thousand

fighters. However, because it is self-serving, such support is also precarious. It will last only as long as al Shabaab remains influential. The number of hardcore ideological believers within al Shabaab's ranks is estimated to be only 300 to 800 individuals out of a group of several thousand (Hanson 2011). By generating political empowerment through the implementation of a devolved system of governance, rather than asking clans to ally with the TFG and then relying on the centralized government to enfranchise them, the international community may be able to incentivize the non-ideologically aligned, non-*Hawiye* members of al Shabaab to take part in the legitimate construction of a Somali polity, thus undercutting the armed group's operational basis of support.

Second, despite internal organization, clans are highly resistant to exogenous control and centralized governance. In this "nation of poets" (Samatar 1996), the Somali preference for individualism and unilateral action is reflected in the following proverb:

I and Somalia against the world. I and my clan against Somalia.  
I and my family against the clan. I and my brother against the family. I against my brother.

This kind of sentiment helps to explain why efforts at centralized governance have failed repeatedly in Somalia. Individual freedom is closely guarded and it is not something that Somalis forfeit lightly. The imposition of governance from outside of Somalia has been anathema to the Somali conception of individual, localized empowerment. Moreover, because TFG officials gained their positions through international negotiations, rather than local elections, Somalis have never had a chance to participate in the government's formation. This disconnect was exacerbated by the TFG's inability to convene on Somali territory until 2006. Its failure to garner political legitimacy among the local population has placed the TFG at real risk of collapsing without ever emerging out of the transitional phase.

As a result of these shortcomings, as well as the continued battle against al Shabaab and Hizbul-Islam in the south and central portions of Somalia, the TFG most resembles the government of a city-state with the capital, Mogadishu, as its only area of effective control. Instead of serving as the nucleus for what may one day become an effective central government, the TFG should be seen as one potential player among many in the constellation of Somali governance. Equal and persistent attention must also be paid to the local and informal entities, such as clans, *mag*-paying groups, *aqiil* and *Suldaan* that organize daily life for Somalis. By reimagining what is possible in terms of structures outside of the centralized state, the vari-

ous mechanisms and institutions of governance can be stitched together in novel ways that are both more appropriate and more effective for the Somali population.

## II. DEVOLUTIONARY THEORIES OF GOVERNANCE FOR SOMALIA

Devolutionary theories of governance for Somalia are not new, but they remain underappreciated and under-implemented. Writing in 1995, a group of scholars from the London School of Economics and Political Science (LSE), led by I.M. Lewis and James Mayall, offered four models of "decentralised constitutional government" that would be most appropriate for Somalis: a confederation; a federation; a decentralised unitary state with strong guarantees of local or regional autonomy; and a consociational, non-territorially-based form of decentralization premised on power sharing. A confederation is a union of independent sovereign units which nonetheless agree to join together for certain purposes to create common institutions to manage their common affairs. Over time, it may evolve into either a federation or a decentralized unitary state. A federation is an association of states that agree to form a union under a federal government while retaining full control over their own internal affairs. The decentralized unitary state, meanwhile, envisions a sovereign central government that for reasons of administrative convenience and political legitimacy transfers many of its powers to regional and local authorities. Finally, a consociational model involves non-territorial power sharing among all important communities within a state (*e.g.* clans, *mag*-paying groups, etc.). They generally have four key features: executive power sharing; proportional representation in all public institutions; community self-government; and veto powers for minorities (LSE 1995).

The LSE report concluded with a "menu of options" outlining the advantages and disadvantages of each approach. It also considered a final form of governance with the highest degree of decentralization, which the authors called functional cooperation. This form could exist "without the creation of formal state machinery at all" because it relies upon cooperative arrangements that could work without reference to political authority (LSE 1995). *Xeer* represents one example of functional cooperation that already exists in Somali society. Additional functional arrangements could be constructed between clans or *mag*-paying groups on the basis of shared interests. For instance, nomadic pastoralists might create land and water use agencies, while coastal groups could agree on oversight for fisheries

and enlist *Saldaan* to serve as administrative heads. The challenge is capturing the cooperation mechanisms that are already present in Somalia while keeping the sovereign state out of the process. According to the LSE report's conceptions, Somali sovereignty could lie with all adult Somali citizens, in the constituent territorial units of a Somali state or states, or with the clans (LSE 1995). Importantly, each of these possibilities would transfer sovereignty away from centralized governance institutions and toward more localized control.

The most innovative aspects of the LSE "menu" are the consociational and functional cooperation models. Both deemphasize the role and even the necessity of the central government in ways that fit the clan dynamics and political realities of Somalia. Despite the merits of these more creative proposals, the international preference toward centralized government led the negotiators who created the TFG to settle on something straddling the line between a federation and a decentralised unitary state with strong guarantees of local or regional autonomy, namely a "decentralised system of administration based on federalism" (Somali Transitional Charter 2004). The result has been a government with little or no popular support. Moreover, while the TFC directed the TFG to "ensure that the process of federating Somalia shall take place within a period of two and a half years" (Somali Transitional Charter 2004), the government has thus far demonstrated neither the will nor the capacity to devolve power. Corruption and short-sighted Somali leadership have played a role in the TFG's failures, as has uninspired external diplomacy (Menkhaus 2007). However, its centralized form is also intrinsically flawed given Somalia's underlying social structures (ICG 2011).

Taking the failures of centralization into account, Ken Menkhaus has proposed a "mediated state" for Somalia, in which "the government relies on partnership—or at least coexistence—with a diverse range of local intermediaries and rival sources of authority to provide the core functions of public security, justice, and conflict management in much of the country" (Menkhaus 2007). While admittedly "messy, contradictory, illiberal," and subject to constant renegotiation, in Menkhaus's view the mediated state offers "the best of [the] bad options" for Somalia (Menkhaus 2007). According to his approach:

[T]he "top-down" project of building a central government and the organic emergence of informal polities are not viewed as antithetical (though they are invariably political rivals, co-existing in uneasy partnership), but are instead harmonized or nested together in a negotiated division of labor. The nascent

central state limits itself to a few essential competencies not already provided by local, private sector, or voluntary sector actors (Menkhaus 2007).

By focusing on developing a "minimalist state and harmonizing state authority with local systems rather than displacing them," Menkhaus believes that Somalia could be "at the forefront of a seismic shift in the nature and scope of the sovereign state in Africa" (Menkhaus 2007). His idea accentuates the positive aspects that could be wrought by matching governance arrangements with Somalia's unique sociology, as well as the change it might have on the Somali mindset and political attitudes. Instead of forcing centralization on recalcitrant Somalis who by and large exhibit a preference for informal and traditional arrangements, the national government would act merely in response to governance deficits at the local level. Arranged this way, the relationship between the central and local forms of government would be less adversarial and threatening. The "negotiated division of labor" might serve the interests of both sides and the locus of sovereignty could shift to where it belongs, away from the central government and toward individual Somalis.

The subject of a redefined statehood for African countries is taken up by Letitia Lawson and Donald Rothchild, who have written that Africans "have begun to move away from colonially designed juridical statehood to fashion empirical formulas that respond to the messiness of their current realities" (Lawson and Rothchild 2005). However, it remains to be seen "whether these new, flexible structures prove [to be] an effective response to a political environment in which state weakness poses severe challenges" (Lawson and Rothchild 2005). Overcoming the status quo and implementing radically different notions of statehood and sovereignty will undoubtedly represent a difficult process in places where entrenched powerbrokers have little incentive to embrace wholesale changes. Nonetheless, the force of these ideas lies in their flexibility and compatibility with each society's underlying characteristics.

Finally, Alex de Waal has put forth a creative policy proposal for political organization in Somalia that emphasizes the driving force of the resource base of the Somali political economy to the formation of governance structures (de Waal 2007). This resource base includes "the riverine agricultural land, pastureland, remittances from overseas workers, and the resources that can be captured and dispensed by a sovereign state, including foreign aid and currency ('sovereign rents')" (de Waal 2007). For de Waal, the clans are epiphenomenal; they are secondary to the primary economic drivers of social organization. In order to design a structure for governance "it is

necessary to attend [first] to the economics of conflict and state viability” (de Waal 2007). This includes radically reconfiguring the relations between the state and the productive and commercial sectors (de Waal 2007).

Accordingly, de Waal suggests three theoretical solutions to the problem of statelessness in Somalia: consensus among all groups; political dominance of a commercial class with its economic base in the productive sector and no expectation of foreign patronage; and a Leviathan—a political leader that commands sufficient military force to be able to impose a solution (de Waal 2007). The TFG represents an attempt at a Leviathan, with contributions from the UN and the AU designed to provide the logistical and military support necessary to enforce the government’s will on the population. To date this strategy has failed. The TFG remains a weak institution and the Somali state is no closer to reconstruction than it was twenty years ago. In effect, the international community has its sequence backwards. By supporting the establishment of a central government prior to stabilizing Somalia’s economic dysfunctions, the UN, AU and others pursue a policy that instigates further discord between the TFG and the actors who presently control the factors of economic production—the clans, the mercantile class, and the regional governments they have created. A better approach would be to address the deficiencies and imbalances in the current economic system as a prelude to building the political arrangements necessary to delineate roles for each actor. In short, “Somalia needs a chamber of commerce before it needs a cabinet” (de Waal 2012).

The policy implication of de Waal’s analysis is that in order to be effective, peacekeeping, peacebuilding, and development strategies in Somalia must maintain a focus on the actual drivers of Somalia’s political economy. For de Waal, these are primarily economic, not political. His “economy first” approach may understate the importance of kinship to Somalia’s clans, but because it is grounded in factual analysis, his point is salient. In order to build a better future, it is necessary to identify the underlying factors of Somali society and allocate power where it is actually concentrated, which in this case is with the clans and other local level actors.

De Waal’s proposal also highlights the ways in which the unique economic situation in Somalia undercuts the centralized state building project and provides opportunities for devolved governance. In the absence of a central government, the private sector has emerged as a health care and education provider, as well as an operator of seaports, airports, electrical grids, and water pipelines (Menkhaus 2007). This “privatization of everything” (Menkhaus 2007) has also presented a rare chance for inter-clan cooperation. The vitality and cross-clan collaboration in the private sector

starkly contrasts with Somalia’s inability to engage in formal state building (Menkhaus 2007).

Further, through substantial remittances from the Somali *diaspora*, a number of interesting and potentially scalable economic phenomena have emerged at the local level. Finance mobilized through the remittance sector, known as the *hawala* system in Somalia, has become the basis for investment in other sectors including telecommunications, media, transportation, construction, and related activities (de Waal 2007). This has led to impressive growth. In the absence of state regulations for financial institutions, *hawala* “relies on reputation and trust,” and the clan system serves as its guarantor (de Waal 2007). The flow of remittances has not been controlled by any one major political or clan affiliation; however, the process has established “thriving urban enclave economies and brought political power to the major businessmen operating in these sectors” (de Waal 2007).

Political empowerment through economic development at the local level has arisen most explicitly in Somaliland and Puntland, where largely autonomous governance structures have formed to provide “physical security and an enabling environment for the return of relative prosperity” (de Waal 2007). The predominant economic activity in Somaliland is livestock trading, and the coordination of this sector has been instrumental to the formation of the regional government. In fact, according to de Waal, the Republic of Somaliland may be described as “a profit-sharing agreement among the dominant livestock traders with a constitution appended” (de Waal 2007). Both Somaliland and Puntland maintain intricate governance arrangements, fostering trade, security, and economic development far surpassing that achieved by the TFG in Mogadishu. Similar situations also exist to a lesser extent in Galmudug and Ximan and Xeeb, although these latter areas have only recently begun to develop the capacity to engage in self-governance.

### III. PROSPECTS FOR PEACEKEEPING, PEACEBUILDING, AND DEVELOPMENT

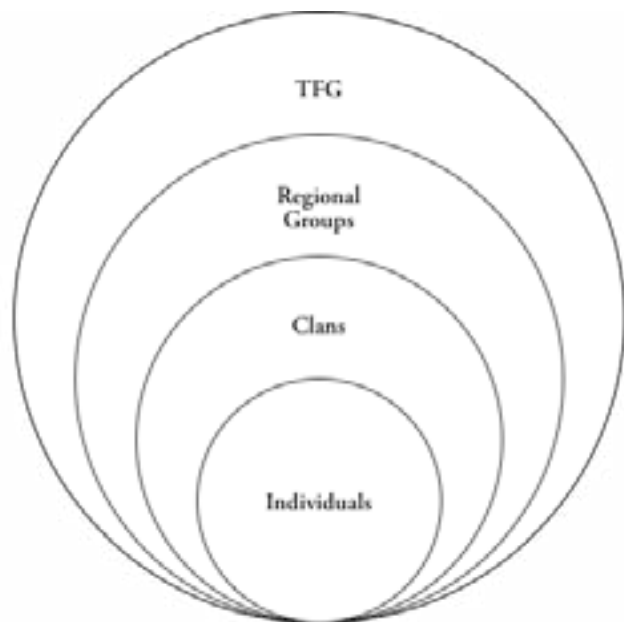
The various theories regarding the reconstruction of Somalia present myriad prospects for peacekeeping, peacebuilding, and development. By shifting the focus from the TFG to local or informal actors, devolution provides a method through which the international community can support meaningful change for Somali citizens. Because it serves an integral coordinating function in the country, a change in UNPOS policy in particular would have pervasive effects.



Presently, UNPOS's responsibilities include the implementation of the Djibouti peace process (between the TFG and Alliance for the Re-Liberation of Somalia or the "ARS," a former Islamic opposition group that has agreed to participate in the peace process); assisting the re-establishment, training, and retention of the Somali security forces (military, police, and judiciary); providing good offices and political support for the efforts to establish lasting peace and stability; coordinating counter-piracy initiatives in the region; working with the TFG to improve its capacity to address human rights issues, justice, and reconciliation, and; coordinating the work of the UN in Somalia (Center on International Cooperation 2011; UN Security Council 2009). The mission is based in Nairobi but also maintains offices in Mogadishu, Somaliland, and Puntland.

Based on its current mandate and activities, it is clear that UNPOS operates with the prevailing picture of Somali political organization in mind:

**Figure 1: The Prevailing Picture of Somali Political Organization  
(The "Concentric Model")**



This graphic depicts a preeminent role for the TFG with all other actors operating under its auspices. While regional groups, such as Somaliland and Puntland, are recognized and engaged by UNPOS, they are seen as

*within* Somalia and the goal is always to bring them *under the authority* of the TFG. Moreover, the picture perpetuates the fiction of the TFG as the *de jure* and *de facto* government of Somalia, even though it lacks legitimacy among the Somali people and exercises minimal effective control. Finally, clans and individuals are relegated to a subordinate role. The goal is also to bring them *under the authority* of the TFG, instead of figuring out ways to place them *alongside* or *in a relationship with* the TFG, which would more closely reflect the situation on the ground as well as the consciousness of the population.

The concentric model of the Western ideal of governance results in a specific interpretation of the UNPOS mandate. For instance, the training of Somali security forces translates into *the training of Somali security forces for use by the TFG*. Similarly, the provision of good offices and political support for the efforts to establish lasting peace and stability becomes *the provision of good offices on behalf of the TFG to establish lasting peace and stability within Somalia*. A more accurate depiction of Somali society may look something like the following:

**Figure 2: The Devolved Picture of Somali Political Organization  
(The "Devolutionary Model")**



*Note: Large circles represent spheres of life and smaller circles and lines represent the actors in those spheres and their connections to other actors*

The devolutionary model does not depict any particular relationship; rather it highlights the different ways in which political actors in Somali society interact with one another. The larger background spheres may represent particular sectors of Somali life, such as security, or specific industries in which Somali political actors engage in a certain amount of cooperation or build special relationships. The smaller spheres may represent individual or group actors, and the lines between them signify political, legal, kinship, clan, or economic connections. Referring back to Menkhaus' conception of the mediated state or the LSE report's consociational model, any actor may occupy any of the spheres as they are drawn

above. The nature of the political relationship between actors becomes a function of their underlying characteristics, including their geographical location, their functional specialty, their connections with other actors, and their ability to project power. As these relationships multiply, they create a complex web of interdependencies and fragmented loyalties. Instead of being geared towards increasing the power of one actor over others, this model is focused on how best to build and strengthen ties between various political actors in a way that adheres to the underlying sociology of the region.

Applying de Waal's ideas, it is possible to imagine the drivers of organization and connectivity being economic instead of political. As the capital derived from remittances is used to finance other industries, connections are made between the different clans or powerful individuals controlling those industries. Similarly, as economic activity builds in "urban enclaves," those enclaves exercise more political power and forge connections with other economic and political actors. The resulting political organization reflects these underlying conditions, but politics is not the sole, or even the primary, driver. Corruption is a concern, but clans, as the guarantors of the system, would engage in self-policing. The resulting complex web of interdependencies would also naturally disincentivize any unfair practices or unequal treatment between actors.

Using the devolutionary model instead of the concentric model to interpret the UNPOS mandate yields a much different set of responsibilities and possibilities for the mission. For instance, security forces would no longer need to belong to the TFG. Instead they can be devolved to regional governments and properly vetted informal actors operating in areas of instability and insecurity. This would provide an opportunity for more effective and widespread operational expertise because security forces would be forced to interact with the local actors who are the actual drivers of peacekeeping, peacebuilding, and development in the country. It also offers a larger pool from which to pull eligible and able-bodied fighters. Moreover, on specific issues, such as the training and development of the judiciary, UNPOS would be empowered to recognize *xeer* and to conceptualize creative ways to organize the different *xeer* systems into relationships with one another. This type of policy would reflect the unique sociological attributes of Somali society, including the importance of the *mag*-paying groups and the *Suldaan* to the settlement of disputes. Finally, with regard to good offices, instead of being limited to facilitating the TFG's negotiations with other actors, UNPOS would be mandated to entertain any and all relevant political actors operating in Somalia, in-

cluding al Shabaab, and to facilitate negotiations or settle issues of mutual concern between them.

The usefulness of the devolutionary model is also evident with respect to the new "roadmap" for ending the transition in Somalia, which the TFG, TFP, EU, UN, AU, IGAD, government of Galmudug, government of Puntland, League of Arab States, Organization of the Islamic Conference, and the Islamic group Ahlu Sunna Wal Jama'a (ASWJ) signed on September 6, 2011 in Mogadishu. The roadmap sets ambitious goals along four pillars: security; constitution (drafting); reconciliation; and good governance. Moreover, it is informed by four principles: Somali (TFG) ownership; inclusivity and participation; provision of resources; and monitoring and compliance.

A review of the responsibilities included in the roadmap reveals the shortcomings of the concentric approach. For example, the TFG is granted a great deal of autonomy under the constitution pillar, which superficially reflects the preference for "Somali ownership" while also perpetuating the international preference for centralized governance. In drafting the constitution, the TFG is directed to consult with all stakeholders. However, the modalities for this cooperation are left to the discretion of the TFG, which in practice has led to the exclusion of most citizens from political decision-making. Because the TFG sees itself as operating within a concentric model, which the language of the roadmap supports, the TFG's method of consultation will likely reflect its own self-image as the central government of Somalia. Instead of supporting "Somali ownership" over the transitional process, the manner in which the constitutional process is conceived actually undercuts and disenfranchises the various local actors who are not voluntarily consulted by the TFG. In effect, the principle of Somali ownership is replaced by a principle of "TFG ownership."

The Garowe Principles, agreed upon by representatives from the TFG, TFP, ASWJ, Puntland, Galmudug, and UNPOS at the first Somali National Consultative Constitutional Conference on December 24, 2011 make some improvements to the roadmap framework, but unresolved issues remain. In particular, it is unclear to what extent the new process of constitution-making departs from the failed initiatives of the past. The timeline for the process is also extremely condensed, which may lead to hasty compromises and sloppy draftsmanship. The Principles envision a three-step process to the formation of a constitutional parliamentary system. First, a committee of experts will draft the constitution. That draft will then be handed over to a National Constituent Assembly for review and ratification. Finally, after provisionally adopting the draft constitu-

tion (presumably), the assembly will dissolve, giving way to a new federal parliament. The entire process is supposed to be completed by August 21, 2012. While the sequential build-up of the system makes logical sense, it is overly formulaic, and the composition of the particular bodies is not representative of the Somali population. For instance, the National Constituent Assembly is not an elected body. Rather, delegates will be nominated by “all roadmap signatories and civil society” on the basis of the 4.5 formula (The Garowe Principles 2011). The formula requires the four largest clan families (*Rahanweyn*, *Hawiye*, *Dir* and *Darood*) to receive equal representation, while all other clans split the remaining “one-half.” This formally disproportionate arrangement has angered and disenfranchised many communities and delegitimized the TFG in the eyes of much of the Somali population. Even worse, because the “prevailing security situation will not permit direct elections,” the initial composition of the federal parliament will also be formed according to the same 4.5 formula (The Garowe Principles 2011). The Principles do envision discarding the 4.5 formula after the expiration of the parliament’s first term (The Garowe Principles 2011), but by that point the damage will already have been done. Once again, an unrepresentative and detached body will attempt to enforce its vision of governance on a recalcitrant and disenfranchised Somali population.

By switching to a devolutionary model, it is possible to imagine a different conception of Somali ownership over the constitution-drafting process envisioned by the roadmap and the Garowe Principles. It would be more inclusive, more representative, less hurried, and less formulaic than the present proposal. For instance, instead of funneling responsibility through the TFG and then relying on the TFG to bring other actors into the process, the whole process could be reframed so as to allow each actor to undertake the responsibility to consult with one another with a view to organizing the political arrangements (*i.e.* “constitution”) for a Somali state. The resulting bilateral and multilateral arrangements may be “messy, contradictory, illiberal,” and subject to constant renegotiation (Menkhaus 2007), but they also would be more closely aligned to the realities of Somali society. The difficult task of incentivizing the various actors to participate in the process should not be overlooked; however, by shifting the focus from the TFG to thinking about how to organize the system as a whole, the devolutionary model frames the unique political dynamics in Somalia as they exist and not how the international community wishes them to be. Further, it creates a framework within which an inclusive conversation about how to incentivize actors to participate

in the process of organization and constitution-making can take place.

The devolutionary model also makes it much easier to conceptualize ways to disenfranchise spoilers, including al Shabaab. The group emerged as an insurgency movement against the TFG and its Ethiopian supporters in 2006. At that time it utilized terrorist tactics to attack AMISOM troops and government institutions in Mogadishu. Over time, however, it has evolved into a form of shadow government. For example, the group’s members have begun handing out food and supplies to poor Somalis. They have also instituted mobile *sharia* courts to give suspected criminals quick trials and attempted to mediate local disputes (Hanson 2011). Through these methods, the group has sought to take control of towns in southern and central Somalia by political, rather than violent, means. Applying Stephen Stedman’s pioneering framework on spoiler strategies, al Shabaab should be categorized as a “total” spoiler (Stedman 1997) because it holds immutable preferences, espouses radical ideologies, and sees the world in all-or-nothing terms. The group seeks to destroy the TFG and impose their strict version of Islam on all Somalis. Accordingly, they may only be dealt with coercively. However, the group’s diversification to non-violent methods complicates this analysis. The concentric model creates a set of conditions by which victory over al Shabaab can only be accomplished by either killing its members or expelling them from Somali territory. As experience has shown, the TFG lacks the capacity to fulfill such a mission. The result has been AMISOM forces thrust into the unenviable position of fighting a protracted counterinsurgency on the TFG’s behalf.

By using the devolutionary model, it is possible to re-conceptualize the threat posed by al Shabaab as well as the tools that may be available to address it. Instead of an internal threat that must be purged, under the devolutionary model al Shabaab would represent one actor among many in a fragmented political landscape. While no less pernicious, it would be more isolated (and more susceptible to *increased isolation*). Coercive means may still represent the best way to address al Shabaab, but these means could be employed in different ways. For instance, it might not be necessary to kill or expel al Shabaab in order to “destroy” it. Rather, it might be possible to address the threat by “disconnecting” or “severing” al Shabaab from the local support network that allows it to thrive. As the experience of other armed groups operating in Somalia, including al Qaeda, (Menkhaus and Shapiro 2010) has shown, support from the local population and connections with other like-minded actors represents the single most important prerequisite to success.

#### IV. CHALLENGES TO THE IMPLEMENTATION OF DEVOLUTION

The full-fledged implementation of a devolutionary system presents significant practical challenges, especially in the south and central portions of the country where the security situation is the most precarious. However, by addressing these hurdles at the lowest level of abstraction—the local level—the devolved system confronts the problems at their genesis and creates the necessary conditions for the development of sustainable peace and stability in the country.

One way to drive devolution is to make incremental progress. For some time, the international community has experimented with the so-called “building-block” approach to peacebuilding. While this technique has been known to Somalia stakeholders since the end of colonialism in 1960, practitioners thus far have not gone far enough in its implementation (Bøås and Rotwitt 2010). Instead of taking the methodology to its logical conclusion and empowering actors on the truly local level, they have made the mistake of focusing on regional entities. Operating at such a level of abstraction worked in Somaliland and Puntland, but it has failed miserably in south and central Somalia, where the ethnic divisions are greater and the on-again, off-again interventions of the international community have disrupted local dynamics. In order to effectively build incremental progress in these difficult areas, the international community must reinvigorate the building-block approach through a renewed commitment to local engagement. This means talking with the *Suldaan*, *aqiil*, and *Guurti* on an individual or small-group level, empowering local actors to participate in the provision of their own security, and dispersing aid directly to local leaders.

Engaging on a local level through the reinvigorated building block process will not be easy. Efforts will undoubtedly encounter resistance from the warlords and armed groups operating in the south and central parts of the country. The security situation in these areas represents a major problem for the implementation of the devolutionary approach. Gaining access to al Shabaab strongholds will require careful diplomacy and firm resolve. In certain limited circumstances it might also demand the use of force. As the only major military actor in the region, AMISOM is in a position to provide the security to facilitate engagement (UN Security Council 2007; UN Security Council 2012b). Under the mission’s original mandate, it was directed “[t]o support dialogue and reconciliation in Somalia by assisting with the free movement, safe passage and protection of all those

involved with the [political process]” (UN Security Council 2007). The list of “those involved,” however, included *only* politicians involved with centralized institutions. In order to truly undercut al Shabaab’s base of support, AMISOM’s perspective needs to become more inclusive of actors at the local level.

Another security issue that complicates devolution is piracy. Critics of the devolutionary proposal might presume that the lack of a centralized government and the absence of a national military will make Somalia powerless to respond to pirates. This critique mistakes the root of the piracy issue, which lies in the failure of the Somali economic system, not in the absence of security forces. Further, while it is true that a devolved approach does not emphasize military capacity, it does not preclude certain functions taking place at a national or international level, such as coastal defense. Finally, because the devolutionary model addresses the Somali political system at the local level, it enfranchises individuals who might otherwise have engaged in piracy. Citizens are generally more likely to participate in the local political process where local government is perceived to be independent and responsive to their needs (Cheema 2007).

The presence of the al Shabaab mobile courts and the practice of Islamic law raises the important question of whether *sharia* and *xeer* can coexist, or, if not, whether one system will swallow the other. Based on Somalia’s history, it will be very difficult for *sharia* to displace *xeer*. As a general rule, where the two conflict, Somalis prefer *xeer* to *sharia* (van Notten 2005). Another guiding principle of the Somali legal consciousness is that the law exists separately from politics and religion. A piece of Somali folk wisdom expresses the difference as *Diinta waa la baddali karaa, xeerka la ma baddali karo* (“one can change one’s religion; one cannot change the law”) (van Notten 2005). This principle is deeply entrenched. It therefore appears extremely unlikely that *sharia* will ever replace *xeer* as the dominant form of legal practice.

Additional practical difficulties to the exercise of the devolutionary model include apportioning legal status, creating ownership over the process, managing diverse interactions between the different elements, ensuring responsibility and accountability, and facilitating the rules of access for the various informal actors (Hydén 2007). These challenges are only exacerbated in unstable, post-conflict environments, where individuals may be desperate and suffering from acute, basic needs. These practical hurdles should not be overlooked in Somalia. Rather, they should be confronted directly. The best way to address the management, responsibility and accountability dilemmas, for instance, is to engage local leaders on an

individualized basis. By emphasizing the traditional governance structures, the international community might also gain access to local communities and give their engagement credibility.

To the doubters of the practical implementation of devolution, the success of Somaliland and Puntland should be held up as concrete illustrations of the merits of the approach. While the south and central parts of Somalia pose their own unique challenges to peacekeeping, peacebuilding, and development, there are useful lessons to be drawn from the north of the country. For instance, one of the major reasons that Somaliland and Puntland emerged as self-sufficient and largely peaceful political units was local leaders' promotion of traditional structures and mechanisms. While regional politicians have gained prominence over the past decade, the key to Somaliland and Puntland's ongoing success has been an erstwhile commitment to these underlying elements.

Finally, critics of the devolutionary system might worry that a renewed focus on local engagement will further fragment an already disunited Somali population. This reflects a misunderstanding of Somali history and politics. In fact, it is the drive toward centralization that is creating conflict between the clans, inciting power grabs, and causing local leaders to disregard *xeer* and other traditional structures (von Notten 2005). Rather than a solution, clan leaders view the formation of a centralized government as a threat to their traditional way of life. Their involvement in the process of government formation and their insistence on certain levels of participation are actions taken out of self-defense and self-preservation rather than a belief in the merits of the enterprise. The international community's inexorable drive for centralized government fosters rivalries and competition between clan leaders who fear the loss of power to other groups. In a country where every man is his own king, the very idea of a detached, Western-style democratic system ruling over the population is anathema. It divides rather than unites.

## V. CONCLUSION: SUPPORTING DEVOLUTION THROUGH INTERNATIONAL POLICY

One way to help operationalize devolution is to picture Somali political organization as a complex web of fragmented and interdependent loyalties and then tailor policy-making to fit that vision. Seeing the world in this way presents prospects for peacekeeping and peacebuilding that may otherwise go unrealized. The possibilities for security, constitution-making, and spoiler eradication, in particular, may be bolstered by re-conceptualizing

Somalia through the lens of devolution.

At a minimum, the international community should take the following substantive steps immediately:

*Postpone the constitutional process.* The mechanisms envisioned by the roadmap and the Garowe Principles entrench the illegitimate power disparities of the past while disenfranchising important local political leaders. A period of relative calm does exist in Somalia but this should not be wasted on a rushed and maladroit political compromise. Rather, it should be seized as an opportunity to connect with local and informal actors so that they may participate in the making of a new Somali political economy. Therefore, the constitutional process should be postponed until direct elections and a national referendum on the draft constitution can be held.

*Rejuvenate the traditional governance system.* Because the traditional structures represent a delicate ecosystem, this rejuvenation would have limitations. However, certain non-disruptive actions present attractive possibilities. For instance, the provision of infrastructure and technology and the training of low-level administrative personnel to support the *shir* and *Guurti* might increase the efficiency and effectiveness of the traditional governance system. In addition, these actions might empower more individuals to participate in governance decisions (Bertucci and Senese 2007).

*Redirect UNOPS' focus.* At present the leadership of UNOPS and the UN is far too focused on the constitutional drafting process and the security situation in the south and central parts of Somalia. These important actors must widen their perspective and engage directly with the local and informal actors that make the Somali political system work. In their reports to the UN Security Council, both the Secretary-General and his Special Representative must emphasize the importance of the traditional governance structures to the future of Somalia. A more enlightened vision of security is also necessary. While the instability in the south and central parts of the country presents real problems, the peacekeeping and peacebuilding approach must have multiple facets. Cutting-off al Shabaab's local support network by engaging with opportunistic clan elders, for instance, will be much more effective than strictly military action.

*Adjust the AMISOM mandate.* The international community must place a renewed emphasis on AMISOM's protection responsibilities. In particular, it must extend those responsibilities to include local, informal actors. By

engaging with such leaders, the military force will undercut al Shabaab's local support network in a much more effective way. Distancing AMISOM from the TFG will also legitimize the mission among the population.

***Institutionalize the remittance sector.*** Because economic activity financed through the remittance sector is such an important driver of the Somali economy, international engagement should focus on making the system as efficient and productive as possible. This might include appointing an international liaison to the different clan groups that administer the remittance sector, as well as the provision of matching funds from international donors for important public service projects. Over time the international community could encourage local clan elders to pitch their investment ideas in more public, institutionalized settings, keeping in mind that the rules of order and final decision-making authority will be apportioned according to *xeer* and other customary rules. By institutionalizing and publicizing remittances, the international community will enable the subsequent development of spin-off, self-funded, domestic economic projects.

It should be noted that despite the positive aspects of devolution, important challenges remain. First, in order to avoid unintended consequences, it is crucial to temper expectations for the success of a devolved political order in Somalia. While devolution certainly has the potential to be more effective than centralization, it still comes with significant challenges and risks. Raising expectations unrealistically could result in the proliferation of unviable regional governments and "briefcase" regimes that have no real connection to the population (ICG 2011). Such power grabs would undercut the legitimacy of the devolved order. Second, it is important to anticipate resistance from the TFG and other actors who are antithetical to devolution. Despite its shortcomings, the TFG wields enough power to weaken and destabilize an intrinsically fragile devolutionary system. They too must be sold on the system's benefits. Third, local governance actors must be held accountable if the system is to function. The traditional mechanisms provide the requisite framework but they should be supported and fortified where necessary. For instance, by institutionalizing the *shir* and publicizing decisions, the international community can encourage compliance and dissuade potential violators. Finally, devolution does not represent the end but rather a new beginning. Sustained work and skillful application is necessary in order to strike a delicate balance between the various political actors. Uncertainty is inherent in the system and it must be embraced and managed in order to realize Somalia's devolutionary prospects.

## POSTSCRIPT

Since this article was submitted to press, the Transitional Federal Institutions (TFIs) have given way to a new Somali Federal Parliament (NFP) and a Provisional Somali Constitution. These new institutions, which formally took effect on August 20, 2012 in accordance with the "roadmap" process, break new ground in the modern Somali political landscape. For instance, under its Chapter 5, entitled, "Devolution of the Powers of Government in the Federal Republic of Somalia," the Provisional Constitution recognizes both federal and sub-federal levels of government and, importantly, requires that power should be given to the level of government where it is most likely to be exercised effectively (Somali Provisional Constitution, Article 50(b)). It also stipulates that each level of government shall respect and protect the limits of its powers (Somali Provisional Constitution, Article 51(2)). The possibilities for such a system far exceed those provided by the TFIs. While the system envisioned by the Provisional Constitution will be difficult to implement effectively, especially given the perils of Somalia's fragmented political landscape, it offers a closer match to the real distribution of political power within the country than anything that has come before it. It effectively shifts the discussion toward the building-up of viable political processes at the local level, which was the general position taken by this article.

Notably, in the creation of these new institutions, Somalia's local and informal systems of governance played an unprecedented role. With regard to the NFP, a group of 135 clan elders, referred to in the process as the "Traditional Leaders", nominated the new parliamentary members to a Technical Selection Committee (TSC), consisting of twenty-seven Somalis, two non-voting UNPOS representatives, and seven international observers. The TSC vetted the candidates and approved qualified individuals for inclusion in the new parliament. Despite significant difficulties, the Traditional Leaders and the TSC were able to cooperate in the NFP's formation. In the absence of direct elections, the fact that the Traditional Leaders acted as the catalysts of the process represents a positive development. In reviewing the Provisional Constitution, Somalia's new political leaders would do well to find a continued role for these alternative governance actors. The Provisional Constitution will be subject to a public referendum in late 2012, and general elections of parliamentary members will occur shortly afterward.

In the latter stages of the transitional period, UN and AMISOM representatives seemingly adopted a more devolved approach to carrying out

their activities. In his most recent report to the Security Council, the UN Secretary-General remarked that “representatives of UNPOS engaged the [clan] elders in frank discussions on their roles in and expectations of the new political framework”. Similarly, following the increase in its forces, AMISOM engaged in a mapping of stakeholders in the newly-controlled areas of south-central Somalia. The force commanders analyzed the power dynamics in these areas, identified the political and security leaders present, and attempted to discern their alignment and capacities. These new activities accord with the recommendations contained in the conclusions of this article. It is hoped that in the prelude to general elections and public referendum on the Provisional Constitution, the UN and AMISOM will continue to take the tenets of devolution into account. Despite significant improvements in policy and implementation, substantial work remains.

*Matthew Hoisington*

## NOTES

- <sup>1</sup> The process of “responsibilization” represents a novel idea for extending provisions of public international law that have historically applied between states to non-state actors, including the local and informal institutions operating in Somalia. By treating local and informal actors as subjects of international law (*i.e.* “subjectifying” them), such a regime closes a potential loophole in international legal responsibility that might otherwise result from the absence of a centralized government. Even if no central government exists in Somalia, by applying techniques of responsibilization, including monitoring, sanctions, and intervention, the international community could still hold local and informal actors accountable for any or all of their internationally wrongful acts. The resulting framework would be analogous to the current rules applicable to state responsibility.
- <sup>2</sup> *Mag*-paying groups are also referred to as *diya*-paying groups.
- <sup>3</sup> It should be noted that the participation of women in the formation and practice of *xeer* is negligible because they do not enjoy equal political rights (Le Sage 2005).
- <sup>4</sup> In south and central Somalia, these individuals are called *nabadoon*. The *aqiil* system in Somaliland is not purely a traditional system. In fact, it was an innovation introduced by the British during the colonial administration, and it has since evolved as a hybrid between modern and traditional forms of governance (Gundel 2006).
- <sup>5</sup> For the sake of simplicity and because the terms are used to describe the same level of traditional leader in each region, *Suldaan* will be used to refer to all three.

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