

Somalia

24 January 2011

Contract Amendment No. 02

to

Contract No. 2010.061.GOV
Public Consultation and Submission services
between

United Nations Development Programme
(UNDP)

and

M/s National Civic Forum
(Contractor)

IT IS HEREBY AGREED by the Parties to the aforementioned contract that it shall be amended as herein under described and such amendment shall be in accordance with the provision therefore as stated under the above Contract.

WHEREAS, the parties now agree to amend original contract to provide for additional Special Conditions.

Now therefore the parties agree to amend the contract as follows:

4. Special conditions

4.4 The advance payment to be made upon signature of the contract by both parties is contingent upon receipt and acceptance by UNDP of a bank guarantee for the first milestone amount of the advance payment issued by a Bank and in a form acceptable to UNDP.

4.5 Once 80% of the work or activities have been completed under each of the milestones on the contract, the Contractor can report on the activities thus far implemented and request payment.

4.6 Once the Joint Consultation Unit is formulated, the joint work plan will bring clarity as to the milestone applicability and accordingly budget amendments where necessary may be formally requested.

All the other terms and conditions of the original contract signed on 1st December 2010 remain the same.

IN WITNESS WHEREOF, the duly authorized representatives of the Parties have effected their signatures below:

For and on behalf of:

Contractor

Dr. Abdullahi Harin

Executive Director

UNDP - Somalia

Maria Dimata

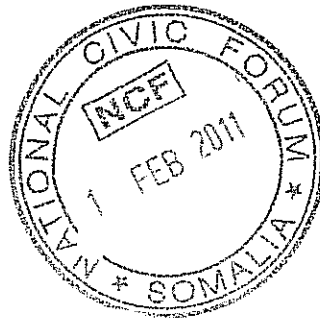
Country Director (a)

Signed: 

Signed: _____

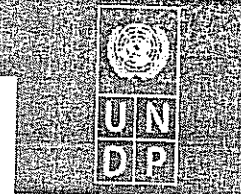
Date: 1st Feb. 2011

Date: _____



Summary of Contract Amendments

Description	Amount USD
Contract No. 21/01/061 GOV Public Consultation and Submission services	98,700.00
Contract Amendment No: 1: Detailed milestone.	0.00
Contract Amendment No: 2: 4. Special conditions	0.00
Final contract price remains	98,700.00



Somalia

29 December 2010

Contract Amendment No. 01

to

Contract No. 2010.061.GOV
Public Consultation and Submission services
between

United Nations Development Programme
(UNDP)

and

M/s National Civic Forum
(Contractor)

IT IS HEREBY AGREED by the Parties to the aforementioned contract that it shall be amended as herein under described and such amendment shall be in accordance with the provision therefore as stated under the above Contract.

WHEREAS, the parties now agree to amend original contract to provide for a detailed milestone.

Now therefore the parties agree to amend the contract as follows:

- 3.3 Payments effected by UNDP to the Contractor shall be deemed neither to relieve the Contractor of its obligations under this Contract nor as acceptance by UNDP of the Contractor's performance of the Services.

All the other terms and conditions of the original contract signed on 21st December 2010 remain the same.

MILESTONE	Key Personnel in charge	Target delivery period from signing of contract	AMOUNT
Advance Payment of 6% of total contract amount upon signature of contract for: a. mobilization of team b. preparation of work plan in consultation with partners	Dr. Abdullahi Haider	10 days after contract signature and receipt of payment request	USD 5,922.00
Payment of 44% of total contract amount upon approval of work plan and delivery of first phase of work plan.	Dr. Abdullahi Haider	30 days from start date and receipt of payment request	USD 43,428.00
Payment of 40% of total contract amount upon approval (by UNDP) of financial and narrative progress reports against approved work plans.	Dr. Abdullahi Haider	90 days from start date and receipt of payment request	USD 39,480.00
Payment of 10% of total contract amount upon receipt and approval (by UNDP) of final financial and narrative reports against approved work plans.	Dr. Abdullahi Haider	120 days from start date and receipt of payment request	USD 9,870.00
Total (100%)			USD 98,700.00

IN WITNESS WHEREOF, the duly authorized representatives of the Parties have effected their signatures below:

For and on behalf of:

Contractor

Dr. Abdullahi Haider

Executive Director

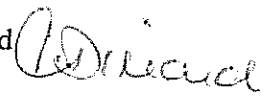


Date: 05-07-2011

UNDP - Somalia

Marie Dimond

Country Director a.i.



Date: 05/01/11



Summary of Contract Amendments

Description	Amount USD
Contract No. 2010.061.GOV Public Consultation and Submission services	98,700.00
Contract Amendment No: 1: Detailed milestone.	0.00
Revised final contract price	98,700.00



Somalia

United Nations Development Programme

Sustainable human development

Contract for Professional Services

Between UNDP Somalia and National Civic Forum for the Public Consultation and Submission services on behalf of the Somalia Constitution Making Support Project under the Governance Programme of UNDP Somalia.

Contract.2010.061/GOV

Dear Sir/Madam,

Ref.: No. Contract.2010.061.GOV

Contract for Services between **UNDP Somalia** and **National Civic Forum** for the Public Consultation and Submission services on behalf of the Somalia Constitution Making Support Project under the Governance Programme of UNDP Somalia.

The United Nations Development Programme (hereinafter referred to as "UNDP"), wishes to engage your company- **National Civic Forum**, duly incorporated under the Laws of Germany (hereinafter referred to as the "Contractor") in order to perform **Public Consultation and Submission service** on behalf of the Somalia Constitution Making Support Project under the Governance Programme of UNDP Somalia (hereinafter referred to as the "Services"), in accordance with the following Contract:

1. Contract Documents

- 1.1 This Contract is subject to the UNDP General Conditions for Professional Services attached hereto as Annex I. The provisions of such Annex shall control the interpretation of this Contract and in no way shall be deemed to have been derogated by the contents of this letter and any other Annexes, unless otherwise expressly stated under section 4 of this letter, entitled "Special Conditions".
- 1.2 The Contractor and UNDP also agree to be bound by the provisions contained in the following documents, which shall take precedence over one another in case of conflict in the following order:
 - a) this letter;
 - b) The Contractor's **bid signed 9th of July 2010**.
- 1.3 All the above shall form the Contract between the Contractor and UNDP, superseding the contents of any other negotiations and/or agreements, whether oral or in writing, pertaining to the subject of this Contract.

2. Obligations of the Contractor

- 2.1 The Contractor shall perform and complete the Services described in Annex II for a period of **4 months**, effective from the date of commencement of the service with due diligence and efficiency and in accordance with the Contract.

- 2.2 The date of actual commencement should be communicated to Procurement via procurement.so@undp.org with the contract reference as the subject line.
- 2.3 The Contractor shall also provide all technical and administrative support needed in order to ensure the timely and satisfactory performance of the Services.
- 2.4 The Contractor shall submit to UNDP a detailed work plan with specific deliverables and timelines within 2 weeks of signing this contract;
- 2.5 All reports shall be written in the English language, and shall describe in detail the services rendered under the Contract during the period of time covered in such report. All reports shall be transmitted by the Contractor by Mail/or Fax to the address specified in 9.1 below.
- 2.6 The Contractor represents and warrants the accuracy of any information or data provided to UNDP for the purpose of entering into this Contract, as well as the quality of the deliverables and reports foreseen under this Contract in accordance with the highest industry and professional standards.

3. Price and Payment

- 3.1 In full consideration for the complete and satisfactory performance of the Services under this Contract, UNDP shall pay the Contractor a fixed contract price of **USD 98,700.00 (United States Dollars Ninety Eight Thousand and Seven Hundred Only)**
- 3.2 The price of this Contract is not subject to any adjustment or revision because of price or currency fluctuations or the actual costs incurred by the Contractor in the performance of the Contract.
- 3.3 Payments effected by UNDP to the Contractor shall be deemed neither to relieve the Contractor of its obligations under this Contract nor as acceptance by UNDP of the Contractor's performance of the Services.

MILESTONE	Key Personnel in charge	Target delivery period from signing of contract	AMOUNT
Payment of 6% of total contract amount upon signature of contract for: a. mobilization of team b. preparation of work plan for UNPOS-UNDP Task Force for subsequent payments	Dr. Abdullahi Haider	1 month	USD 5,922.00
Payment of 44% of total contract amount upon delivery of	Dr. Abdullahi Haider	As per agreed work plan	USD 43,428.00

of a. 50 % of agreed work plan deliverables			
Payment of 30% of total contract amount upon delivery of a. 80 % of agreed work plan deliverables	Dr. Abdullahi Haider	As per agreed work plan	USD 29,610.00
Payment of 20% of total contract amount upon delivery of: a. 100% of work plan b. final project narrative and financial report	Dr. Abdullahi Haider	As per agreed work plan	USD 19,740.00
Total (100%)			USD 98,700.00

- 3.4 UNDP shall effect payments to the Contractor after acceptance by UNDP of the invoices submitted by the Contractor to the address specified in 9.1 below, upon achievement of the corresponding milestones and for the following amounts:
- 3.5 The Contractor shall submit invoices (see clause 5.1.1) for the work done for every milestone, as indicated above.
- 3.6 Progress and final payments shall be effected by UNDP to the Contractor after acceptance of the invoices submitted by the Contractor to the address specified in 9.1 below, together with whatever supporting documentation of the actual costs incurred is required in the Breakdown of Costs or may be required by UNDP. Such payments shall be subject to any specific conditions for reimbursement contained in the Breakdown of Costs.

4. Special conditions

4.1 The responsibility for the safety and security of the Contractor and its personnel and property, and of UNDP's property in the Contractor's custody, rests with the Contractor.

4.1.1. The Contractor shall:

- (a) put in place an appropriate security plan and maintain the security plan, taking into account the security situation in the country where the services are being provided;
- (b) assume all risks and liabilities related to the Contractor's security, and the full implementation of the security plan.

4.1.2 UNDP reserves the right to verify whether such a plan is in place, and to suggest modifications to the plan when necessary. Failure to maintain and implement an appropriate security plan as required hereunder shall be deemed a breach of this contract. Notwithstanding the foregoing, the Contractor shall remain solely responsible

for the security of its personnel and for UNDP's property in its custody as set forth in paragraph 4.1 above.

- 4.2 Each invoice paid by UNDP shall be subject to a post-payment audit by auditors, whether internal or external, of UNDP or the authorized agents of the UNDP at any time during the term of the Contract and for a period of three (3) years following the expiration or prior termination of the Contract. The UNDP shall be entitled to a refund from the Contractor for any amounts shown by such audits to have been paid by the UNDP other than in accordance with the terms and conditions of the Contract. Should the audit determine that any funds paid by UNDP have not been used as per contract clauses, the company shall reimburse such funds forthwith. Where the company fails to reimburse such funds, UNDP reserves the right to seek recovery and/or to take any other action as it deems necessary.
- 4.2.1 The Contractor acknowledges and agrees that, at anytime, UNDP may conduct investigations relating to any aspect of the Contract, the obligations performed under the Contract, and the operations of the Contractor generally. The right of UNDP to conduct an investigation and the Contractor's obligation to comply with such an investigation shall not lapse upon expiration or prior termination of the Contract. The Contractor shall provide its full and timely cooperation with any such inspections, post-payment audits or investigations. Such cooperation shall include, but shall not be limited to, the Contractor's obligation to make available its personnel and any documentation for such purposes and to grant to UNDP access to the Contractor's premises. The Contractor shall require its agents, including, but not limited to, the Contractor's attorneys, accountants or other advisers, to reasonably cooperate with any inspections, post-payment audits or investigations carried out by UNDP hereunder.
- 4.2 The Contractor agrees to undertake all reasonable efforts to ensure that none of the UNDP funds received under this Contract are used to provide support to individuals or entities associated with terrorism and that the recipients of any amounts provided by UNDP hereunder do not appear on the list maintained by the Security Council Committee established pursuant to resolution 1267 (1999). The list can be accessed via <http://www.un.org/Docs/sc/committees/1267/1267ListEng.htm>. This provision must be included in all sub-contracts or sub-agreements entered into under this Contract.

5. Submission of invoices

- 5.1.1 The invoice shall be presented in a format that links invoiced line items to specific deliverables under clause 2.4.
- 5.1.2 An original invoice shall be submitted by mail by the Contractor for each payment under the Contract to the following address:

UNDP Somalia
Springette, Spring Valley, Lower Kabete Road
P.O Box 28832, 00200, Nairobi, Kenya
registry.so@undp.org

Invoices submitted by fax shall not be accepted by UNDP.

5.1.3 Invoices should reference the contract and any purchase orders issued to the contractor in connection with this contract.

6. Time and manner of payment

6.1 Invoices shall be paid within thirty (30) days of the date of their acceptance by UNDP. UNDP shall make every effort to accept an invoice or so advise the Contractor of its non-acceptance within a reasonable time from receipt.

6.2 All payments shall be made by UNDP to the following Bank account of the Contractor:

Bank Name & Address	CFC STANBIC BANK P.O BOX 72833-00200, NAIROBI
Branch Name:	CHIROMO
Beneficiary Name:	NATIONAL CIVIC FORUM
Beneficiary account:	0100001351073
SWIFT Code:	SBICKENX

7. Entry into force. Time limits.

7.1 The Contract shall enter into force upon its signature by both parties.

7.2 The Contractor shall commence the performance of the Services not later than **3rd January 2011** and shall complete the Services within 6 months from commencement date. If however commencement of the services occurs later than the date mentioned clause 2.1 takes precedence over this clause.

7.3 All time limits contained in this Contract shall be deemed to be of the essence in respect of the performance of the Services.

8. Modifications

8.1 Any modification to this Contract shall require an amendment in writing between both parties duly signed by the authorized representative of the Contractor, **Dr. Abdullahi**

Contract.2010.061.GOV
Haider, National Civic Forum and Alvaro Rodriguez, Country Director, UNDP
Somalia.

9. Notifications

- 9.1 For the purpose of notifications under the Contract, the addresses of UNDP and the Contractor are as follows:


For the UNDP:
Alvaro Rodriguez,
Country Director,
UNDP Somalia,
Springette, Spring Valley
Off Lower Kabete Road
P.O Box 28832, 00200
Fax: +254 020 4183641
Nairobi, Kenya
registry.so@undp.org

For the Contractor:

Dr. Abdullahi Haider,
Executive Director,
National Civic Forum,
P.O Box 10799 – 00100
Nairobi, Kenya
Tel: + 254 – 020 – 2613997/ 2613992
Fax: + 254 – 020 – 3749132
E-mail: ncf Somali@gmail.com

If the above terms and conditions meet with your agreement as they are typed in this letter and in the Contract Documents, please initial every page of this letter and its attachments and return to this office one original of this Contract, duly signed and dated.

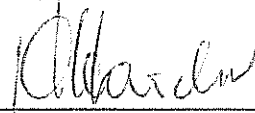
Yours sincerely,


Alvaro Rodriguez,
Country Director,
UNDP Somalia

For:
Dr. Abdullahi Haider,
Executive Director,
National Civic Forum,
P.O Box 10799 – 00100
Nairobi, Kenya
Tel: + 254 – 020 – 2613997/ 2613992
Fax: + 254 – 020 – 3749132
E-mail: ncfsomali@gmail.com

Agreed and Accepted:

Signature:



Name: **Dr. Abdullahi Haider,**

Title: **Executive Director,**
National Civic Forum,

Date:

21st DEC. 2010



ANNEX I

**UNDP GENERAL CONDITIONS OF CONTRACT
FOR PROFESSIONAL SERVICES**

1. LEGAL STATUS

The Contractor shall be considered as having the legal status of an independent contractor vis-à-vis UNDP. The Contractor's personnel and sub-contractors shall not be considered in any respect as being the employees or agents of UNDP or the United Nations.

2. SOURCE OF INSTRUCTIONS

The Contractor shall neither seek nor accept instructions from any authority external to UNDP in connection with the performance of its services under this Contract. The Contractor shall refrain from any action which may adversely affect UNDP or the United Nations and shall fulfil its commitments with the fullest regard to the interests of UNDP.

3. CONTRACTOR'S RESPONSIBILITY FOR EMPLOYEES

The Contractor shall be responsible for the professional and technical competence of its employees and will select, for work under this Contract, reliable individuals who will perform effectively in the implementation of this Contract, respect the local customs, and conform to a high standard of moral and ethical conduct.

4. ASSIGNMENT

The Contractor shall not assign, transfer, pledge or make other disposition of this Contract or any part thereof, or any of the Contractor's rights, claims or obligations under this Contract except with the prior written consent of UNDP.

5. SUB-CONTRACTING

In the event the Contractor requires the services of sub-contractors, the Contractor shall obtain the prior written approval and clearance of UNDP for all sub-contractors. The approval of UNDP of a sub-contractor shall not relieve the Contractor of any of its

obligations under this Contract. The terms of any sub-contract shall be subject to and conform to the provisions of this Contract.

6. OFFICIALS NOT TO BENEFIT

The Contractor warrants that no official of UNDP or the United Nations has received or will be offered by the Contractor any direct or indirect benefit arising from this Contract or the award thereof. The Contractor agrees that breach of this provision is a breach of an essential term of this Contract.

7. INDEMNIFICATION

The Contractor shall indemnify, hold and save harmless, and defend, at its own expense, UNDP, its officials, agents, servants and employees from and against all suits, claims, demands, and liability of any nature or kind, including their costs and expenses, arising out of acts or omissions of the Contractor, or the Contractor's employees, officers, agents or sub-contractors, in the performance of this Contract. This provision shall extend, inter alia, to claims and liability in the nature of workmen's compensation, products liability and liability arising out of the use of patented inventions or devices, copyrighted material or other intellectual property by the Contractor, its employees, officers, agents, servants or sub-contractors. The obligations under this Article do not lapse upon termination of this Contract.

8. INSURANCE AND LIABILITIES TO THIRD PARTIES

8.1 The Contractor shall provide and thereafter maintain insurance against all risks in respect of its property and any equipment used for the execution of this Contract.

8.2 The Contractor shall provide and thereafter maintain all appropriate workmen's compensation insurance, or its equivalent, with respect to its employees to cover claims for personal injury or death in connection with this Contract.

8.3 The Contractor shall also provide and thereafter maintain liability insurance in an adequate amount to cover third party claims for death or bodily injury, or loss of or damage to property, arising from or in connection with the provision of services under this Contract or the operation of any vehicles, boats, airplanes or other equipment owned or leased by the Contractor or its agents, servants, employees or sub-contractors performing work or services in connection with this Contract.

8.4 Except for the workmen's compensation insurance, the insurance policies under this Article shall:

- (i) Name UNDP as additional insured;

(ii) Include a waiver of subrogation of the Contractor's rights to the insurance carrier against UNDP;

(iii) Provide that UNDP shall receive thirty (30) days written notice from the insurers prior to any cancellation or change of coverage.

8.5 The Contractor shall, upon request, provide UNDP with satisfactory evidence of the insurance required under this Article.

9. ENCUMBRANCES/LIENS

The Contractor shall not cause or permit any lien, attachment or other encumbrance by any person to be placed on file or to remain on file in any public office or on file with UNDP against any monies due or to become due for any work done or materials furnished under this Contract, or by reason of any other claim or demand against the Contractor.

10. TITLE TO EQUIPMENT

Title to any equipment and supplies that may be furnished by UNDP shall rest with UNDP and any such equipment shall be returned to UNDP at the conclusion of this Contract or when no longer needed by the Contractor. Such equipment, when returned to UNDP, shall be in the same condition as when delivered to the Contractor, subject to normal wear and tear. The Contractor shall be liable to compensate UNDP for equipment determined to be damaged or degraded beyond normal wear and tear.

11. COPYRIGHT, PATENTS AND OTHER PROPRIETARY RIGHTS

UNDP shall be entitled to all intellectual property and other proprietary rights including but not limited to patents, copyrights, and trademarks, with regard to products, or documents and other materials which bear a direct relation to or are produced or prepared or collected in consequence of or in the course of the execution of this Contract. At the UNDP's request, the Contractor shall take all necessary steps, execute all necessary documents and generally assist in securing such proprietary rights and transferring them to UNDP in compliance with the requirements of the applicable law.

12. USE OF NAME, EMBLEM OR OFFICIAL SEAL OF UNDP OR THE UNITED NATIONS

The Contractor shall not advertise or otherwise make public the fact that it is a Contractor with UNDP, nor shall the Contractor, in any manner whatsoever use the name, emblem or official seal of UNDP or the United Nations, or any abbreviation of the name of UNDP or the United Nations in connection with its business or otherwise.

13. CONFIDENTIAL NATURE OF DOCUMENTS AND INFORMATION

13.1 All maps, drawings, photographs, mosaics, plans, reports, recommendations, estimates, documents and all other data compiled by or received by the Contractor under this Contract shall be the property of UNDP, shall be treated as confidential and shall be delivered only to UNDP authorized officials on completion of work under this Contract.

13.2 The Contractor may not communicate at any time to any other person, Government or authority external to UNDP, any information known to it by reason of its association with UNDP which has not been made public except with the authorization of UNDP; nor shall the Contractor at any time use such information to private advantage. These obligations do not lapse upon termination of this Contract.

14. FORCE MAJEURE; OTHER CHANGES IN CONDITIONS

14.1 Force majeure, as used in this Article, means acts of God, war (whether declared or not), invasion, revolution, insurrection, or other acts of a similar nature or force which are beyond the control of the Parties.

14.2 In the event of and as soon as possible after the occurrence of any cause constituting force majeure, the Contractor shall give notice and full particulars in writing to UNDP, of such occurrence or change if the Contractor is thereby rendered unable, wholly or in part, to perform its obligations and meet its responsibilities under this Contract. The Contractor shall also notify UNDP of any other changes in conditions or the occurrence of any event which interferes or threatens to interfere with its performance of this Contract. The notice shall include steps proposed by the Contractor to be taken including any reasonable alternative means for performance that is not prevented by force majeure. On receipt of the notice required under this Article, UNDP shall take such action as, in its sole discretion, it considers to be appropriate or necessary in the circumstances, including the granting to the Contractor of a reasonable extension of time in which to perform its obligations under this Contract.

14.3 If the Contractor is rendered permanently unable, wholly, or in part, by reason of force majeure to perform its obligations and meet its responsibilities under this Contract, UNDP shall have the right to suspend or terminate this Contract on the same terms and conditions as are provided for in Article 15, "Termination", except that the period of notice shall be seven (7) days instead of thirty (30) days.

15. TERMINATION

- 15.1 Either party may terminate this Contract for cause, in whole or in part, upon thirty days notice, in writing, to the other party. The initiation of arbitral proceedings in accordance with Article 16 "Settlement of Disputes" below shall not be deemed a termination of this Contract.
- 15.2 UNDP reserves the right to terminate without cause this Contract at any time upon 15 days prior written notice to the Contractor, in which case UNDP shall reimburse the Contractor for all reasonable costs incurred by the Contractor prior to receipt of the notice of termination.
- 15.3 In the event of any termination by UNDP under this Article, no payment shall be due from UNDP to the Contractor except for work and services satisfactorily performed in conformity with the express terms of this Contract. The Contractor shall take immediate steps to terminate the work and services in a prompt and orderly manner and to minimize losses and further expenditures.
- 15.4 Should the Contractor be adjudged bankrupt, or be liquidated or become insolvent, or should the Contractor make an assignment for the benefit of its creditors, or should a Receiver be appointed on account of the insolvency of the Contractor, UNDP may, without prejudice to any other right or remedy it may have, terminate this Contract forthwith. The Contractor shall immediately inform UNDP of the occurrence of any of the above events.

16. SETTLEMENT OF DISPUTES

16.1. Amicable Settlement

The Parties shall use their best efforts to settle amicably any dispute, controversy or claim arising out of, or relating to this Contract or the breach, termination or invalidity thereof. Where the parties wish to seek such an amicable settlement through conciliation, the conciliation shall take place in accordance with the UNCITRAL Conciliation Rules then obtaining, or according to such other procedure as may be agreed between the parties.

16.2. Arbitration

Unless, any such dispute, controversy or claim between the Parties arising out of or relating to this Contract or the breach, termination or invalidity thereof is settled amicably under the preceding paragraph of this Article within sixty (60) days after receipt by one Party of the other Party's request for such amicable settlement, such dispute, controversy or claim shall be referred by either Party to arbitration in accordance with the UNCITRAL Arbitration Rules then obtaining, including its provisions on applicable law. The arbitral tribunal shall have no authority to award punitive damages. The Parties shall be bound by any arbitration award rendered as a result of such arbitration as the final adjudication of any such controversy, claim or dispute.

17. PRIVILEGES AND IMMUNITIES

Nothing in or relating to this Contract shall be deemed a waiver, express or implied, of any of the privileges and immunities of the United Nations, including its subsidiary organs.

18. TAX EXEMPTION

18.1 Section 7 of the Convention on the Privileges and Immunities of the United Nations provides, inter-alia that the United Nations, including its subsidiary organs, is exempt from all direct taxes, except charges for public utility services, and is exempt from customs duties and charges of a similar nature in respect of articles imported or exported for its official use. In the event any governmental authority refuses to recognize the United Nations exemption from such taxes, duties or charges, the Contractor shall immediately consult with UNDP to determine a mutually acceptable procedure.

18.2 Accordingly, the Contractor authorizes UNDP to deduct from the Contractor's invoice any amount representing such taxes, duties or charges, unless the Contractor has consulted with UNDP before the payment thereof and UNDP has, in each instance, specifically authorized the Contractor to pay such taxes, duties or charges under protest. In that event, the Contractor shall provide UNDP with written evidence that payment of such taxes, duties or charges has been made and appropriately authorized.

19 CHILD LABOUR

19.1 The Contractor represents and warrants that neither it, nor any of its suppliers is engaged in any practice inconsistent with the rights set forth in the Convention on the Rights of the Child, including Article 32 thereof, which, inter alia, requires that a child shall be protected from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical mental, spiritual, moral or social development.

19.2 Any breach of this representation and warranty shall entitle UNDP to terminate this Contract immediately upon notice to the Contractor, at no cost to UNDP.

20. MINES

20.1 The Contractor represents and warrants that neither it nor any of its suppliers is actively and directly engaged in patent activities, development, assembly, production, trade or manufacture of mines or in such activities in respect of components primarily utilized in the manufacture of Mines. The term "Mines" means those devices defined in Article 2, Paragraphs 1, 4 and 5 of Protocol II annexed to the Convention on Prohibitions and

Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects of 1980.

20.2 Any breach of this representation and warranty shall entitle UNDP to terminate this Contract immediately upon notice to the Contractor, without any liability for termination charges or any other liability of any kind of UNDP.

21. OBSERVANCE OF THE LAW

The Contractor shall comply with all laws, ordinances, rules, and regulations bearing upon the performance of its obligations under the terms of this Contract.

22. AUTHORITY TO MODIFY

No modification or change in this Contract, no waiver of any of its provisions or any additional contractual relationship of any kind with the Contractor shall be valid and enforceable against UNDP unless provided by an amendment to this Contract signed by the authorized official of UNDP.

ANNEX II

Terms of Reference (TOR)

Introduction: The United Nations Development Programme (UNDP) for Somalia -Liaison Office in Nairobi- in early April published an expression of interest (UNDPSO/IFP/2010/005/GOV) for experienced international, local Somali community based organizations, and non-governmental organizations (NGOs), training institutions, media outlets, and civil society organizations interested in supporting the Somali constitution process to submit for the capacity building/training, public consultation, community participation and monitoring and evaluation components of the Somali Constitution Making Support Project executed by the UNDP Somalia Governance Programme. Thirteen organizations responded of whom twelve have been short listed for this round. Each potential partner is now requested to present detailed project proposals, budgets and CVs of personnel envisaged to undertake the work in respect of their area or areas of interest. Based on these submissions partners selected will be contacted directly by UNDP as Implementing Partners of the Somalia Constitution Making Support Project.

Objective: The constitutional process is mandated by the Transitional Federal Charter of the Somali Republic and the Djibouti peace accord, which among other things, agreed to expand the Independent Federal Constitution Commission, the official body mandated to draft the constitution independently and ensure that it is a product of the views of Somalis regarding the Nation-State they wish to see for future generations. The deadline for producing a draft constitution is December 2010. The draft constitution will need to be ratified through a national referendum according to the Transitional Charter. This must take place before the end of the transitional period in August 2011.

Areas of support: Comprehensive capacity building/training of the Somali constitutional institutions (Independent Federal Constitution Commission, Ministry of Constitution and Federal Affairs, and Parliamentary Committee on Constitution) and support to the civic education campaigns, public consultation, community participation and evaluation components of the process are essential if this critical transitional task is to be achieved on time by the Constitution Commission.

The areas of support include;

1. Training of constitutional institutions (PCC, Ministry and IFCC) on constitutional substantive topics
2. Development of public consultation systems and services including IT systems to track and summarize public inputs and submissions and surveys/opinion polls and training on focus groups & target group consultations with key stakeholders
3. Technical support to the Constitution Commission thematic committees
4. Community civic education activities, including organization of public education, community awareness campaigns and sensitization workshops
5. Monitoring and evaluation of civic education, media campaigns and community programmes

Scope of Works for contract awarded

2.0 Public consultation and submission services

1. Develop IT and database systems to manage receipt, collation, analysis, and re-direction of public submissions and public consultation data to the relevant thematic committees
2. Management of the public submissions
3. Analyses of public submissions and timely submission of analysed data to the Constitution Commission
4. Conduct focus groups on topics and issues to be determined by the Constitution Commission,
5. Conduct public perception baseline surveys and track and analyse public perception over the course of the constitution process
6. Conduct opinion polls on specific topics/areas at strategic points of the process and on specific issues and topics to be chosen by the Constitution Commission
7. Publications of targeted research, survey results, opinion polls, and analysis of public perceptions-basically what Somalis are saying about the constitution?
8. Train IFCC and civil society organizations and moderators on how to conduct focus groups & target group consultations
9. Publication of the Constitution Commission Consultation Draft Constitution Report – explaining its work and how it went about producing the Consultation Draft Constitution.
10. Publication of the simplified Consultation Draft Constitution with questions and possible issues for public consultation – this may take the form of consultation paper.
11. Conflict analysis of target districts and communities prior to public consultations
12. Monitoring of contentious issues and conflict levels associated with the constitution process in each district to ensure that the process provides a forum for the negotiation of solutions to the divisive or contested issues.



Somalia

14 July 2011

Contract Amendment No. 03

to

Contract No. 2010.061.GOV
Public Consultation and Submission services
between

United Nations Development Programme
(UNDP)

and

M/s National Civic Forum
(Contractor)

IT IS HEREBY AGREED by the Parties to the aforementioned contract that it shall be amended as herein under described and such amendment shall be in accordance with the provision therefore as stated under the above Contract.

WHEREAS, the parties now agree to amend original contract to provide for No Cost Extension up to 15th August 2011.

Now therefore the parties agree to amend the contract as follows:

2. Obligations of the Contractor
 - 2.1 The Contractor shall perform and complete the Services described in Annex II for a period of 4 months, effective from the date of commencement of the service with due diligence and efficiency and in accordance with the Contract.

All the other terms and conditions of the original contract signed on 21st December 2010 remain the same.

IN WITNESS WHEREOF, the duly authorized representatives of the Parties have effected their signatures below:

For and on behalf of:

Contractor

UNDP - Somalia


Dr. Abdullahi Haider

Alvaro Rodriguez

Executive Director

Country Director

Signed: 

Signed: 

Date: _____

Date: _____

Summary of Contract Amendments

Description	Amount USD
Contract No. 2010.061.GOV Public Consultation and Submission services	98,700.00
Contract Amendment No: 1: Detailed milestone.	0.00
Contract Amendment No: 2: 4. <u>Special conditions</u>	0.00
Contract Amendment No: 3 No Cost Extension up to 15 th August 2011.	0.00
Final contract price remains	98,700.00



2011-08-14

Contract Amendment No. 4

to

Contract No. 2010.061/GOV
For public consultation and submission services

between

United Nations Development Programme
(UNDP)

and

M/s National Civic Forum
(Service Provider)

IT IS HEREBY AGREED by the Parties to the aforementioned contract that it shall be amended as herein under described and such amendment shall be in accordance with the provision therefore as stated under the above Contract, for public consultation and submission services on behalf of the Somalia Constitution Making Support Project under the Governance Programme of UNDP Somalia.

WHEREAS, the Parties now agree to modify the following clauses a no-cost extension of the contract until December 31st, 2011 to enable the National Civic Forum finalize the activities as detailed in the original contract.

All other terms and conditions of the original contract remain unchanged.

A handwritten mark, possibly a signature or initials, located in the bottom right corner of the page.

Agreed and Accepted:
For UNDP Somalia:

Alvaro Rodriguez
Country Director

Signature

Alvaro Rodriguez

Date:

14/8/11

For the Contractor:

Name: Dr. A. HAIDEA

Title: Executive Director

Signature:

[Signature]

Date:

14/8/2011

Summary of Contract Amendments

Description	Amount US \$
Original Contract Price:	98,700.00
Contract Amendment No: 1 detailed milestone. No cost implication	00
Contract Amendment No: 2 Special conditions. No cost implication	00
Contract Amendment No: 3 No cost extension. No cost implication	00
Contract Amendment No: 4 No cost extension. No cost implication	00
Total contract value including contract amendments 1-4	98,700.00





2011-09-21

Contract Amendment No. 05

to

**Contract No. 2010.061/GOV
For Public consultation and submission services**

Between

**United Nations Development Programme
(UNDP)**

And

**M/s National Civic Forum
(Services Provider)**

IT IS HEREBY AGREED by the Parties to the aforementioned contract that it shall be amended as herein under described and such amendment shall be in accordance with the provision therefore as stated under the above contract, for public consultation and submission services on behalf of the Somalia Constitution Making Support Project under the Governance Programme of UNDP Somalia.

WHEREAS, the Parties now agree to modify the below referenced clauses:

3. Price and Payment
- 3.1 In full consideration for the complete and satisfactory performance of the Services under this Contract, UNDP shall pay the Contractor a fixed contract price of **USD 118,440.00 (United States Dollars One Hundred and Eighteen Four Hundred and Forty Hundred Only)**
- 3.3 Payments effected by UNDP to the Contractor shall be deemed neither to relieve the Contractor of its obligations under this Contract nor as acceptance by UNDP of the Contractor's performance of the Services.

Summary of Contract Amendments

Description	Amount USD
Contract No. 2010.061.GOV Public Consultation and Submission services	98,700.00
Contract Amendment No: 1: Detailed milestone.	0.00
Contract Amendment No: 2: 4. <u>Special conditions</u>	0.00
Contract Amendment No: 3 No Cost Extension up to 15 th August 2011.	0.00
Contract Amendment No: 4 No Cost Extension up to 31 st December 2011.	0.00
Contract Amendment No: 5 <u>Cost Addition</u> .	19,740.00
Total contract value including contract amendments 1-5	118,440.00



Somalia

1st December 2011

Contract Amendment No. 06

to

Contract No. 2010.061.GOV
Public Consultation and Submission services
between

United Nations Development Programme
(UNDP)

and

M/s National Civic Forum
(Contractor)

IT IS HEREBY AGREED by the Parties to the aforementioned contract that it shall be amended as herein under described and such amendment shall be in accordance with the provision therefore as stated under the above Contract.

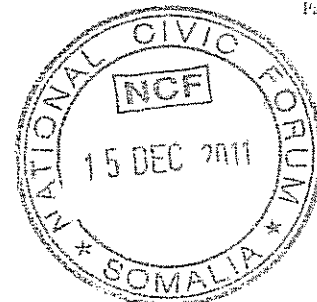
WHEREAS, the parties now agree to amend original contract to provide for No Cost Extension up to 31st March 2012.

Now therefore the parties agree to amend the contract as follows:

2. Obligations of the Contractor

2.1 The Contractor shall perform and complete the Services described in Annex II for a period of 4 months, effective from the date of commencement of the service with due diligence and efficiency and in accordance with the Contract.

All the other terms and conditions of the original contract signed on 21st December 2010 remain the same.



IN WITNESS WHEREOF, the duly authorized representatives of the Parties have effected their signatures below:

For and on behalf of:

Contractor UNDP - Somalia
 Dr. Abdullahi Haider Alvaro Rodriguez
 Executive Director for Country Director

Signed: *Abdullahi Haider*



Signed: *Alvaro Rodriguez*

Date: 15th DEC 2011

Date: _____

Summary of Contract Amendments

Description	Amount USD
Contract No. 2010.061.GOV Public Consultation and Submission services	98,700.00
Contract Amendment No: 1: Detailed milestone.	0.00
Contract Amendment No: 2: 4. <u>Special conditions</u>	0.00
Contract Amendment No: 3 No Cost Extension up to 15 th August 2011.	0.00
Contract Amendment No: 4 No Cost Extension up to 15 th August 2011.	0.00
Contract Amendment No: 5 Cost Addition.	19,740.00
Contract Amendment No: 6 No Cost Extension up to 31 st March 2012.	0.00
Total Contract Value including contract amendments 1-6	118,440.00

National Civic Forum

Charter

ARTICLE I: NAME

The name of this organization shall be the NATIONAL CIVIC FORUM, henceforth, NCF.

ARTICLE II: STATEMENT OF PURPOSE

The National Civic Forum is an independent, non-partisan organization founded by a cohort of Somali scholars and professionals who met on September 20th–24th, 2004 in Nairobi, Kenya. NCF’s mission is to generate and disseminate creative ideas that may assist in educating the Somali people in order for them to establish a democratic political order, durable peace, justice, rule of law and sustainable development.

Such a generation of creative ideas and their dissemination through various media and publications is particularly crucial during the Transitional Federal Government’s mandate at a time when not only national reconciliation, social reintegration and confidence-building should be a high priority but also the supremacy of the rule of law, respect for human rights and civil liberties, social justice, economic recovery, and accountability—among others—should be systemically affirmed and enforced in earnest, thus ending forever the rule of one-man and the rule of the gun in the Somali Republic.

The ideas that the NCF generates will become the basis for a new public platform, where any and all aspects of national problems will be objectively and dispassionately debated, with a view to searching common grounds of solving them. This could be realized by NCF's persistent and positive engagement of the nascent Transitional Federal Institutions, the Somali society, the civil society organizations, and the international community, ensuring that each one of them plays its specific role in the most effective and constructive way.

ARTICLE III: AFFILIATION

NCF is an unaffiliated and independent organization.

ARTICLE IV: MEMBERSHIP

Any Somali scholar or professional who is committed to the spirit and goals of NCF as explained in this charter may become a member of NCF. The potential member shall be independent and unaffiliated with any political or sectarian organization whose aims or objectives are contrary to those espoused by NCF.

The annual membership meeting of this organization shall be held on the 10th day of August each and every year except if such day is deemed infeasible, then and in that event, the Board of Directors shall fix the day, but it shall not be more than two weeks from the date fixed by this Charter.

The Secretary shall mail notice of this meeting to every member in good standing at his/her address as it appears in the membership roll book in this organization, a notice telling the time and place of such annual meeting.

Regular meetings of this organization shall be held anywhere that the Board of Directors deems appropriate or convenient.

The presence of not less than sixty percent of the members shall constitute a quorum and shall be necessary to conduct the business of this organization. But a lesser percentage may adjourn the meeting for a period of not more than two weeks from the date scheduled by this Charter and the Secretary shall cause a notice of this scheduled meet-

ing to be sent to all those members who were not present at the meeting originally called. The second meeting shall automatically constitute a quorum if half plus one of NCF's effective members attend.

The Chairperson may call special meetings of this organization when five members of the Board of Directors deem it for the best interest of NCF. Notices of such meeting shall be mailed to all members at their addresses as they appear in the membership roll book at least 10 (ten) days before the scheduled date set for such special meeting. Such notice shall state the reasons that such meeting has been called, the business to be transacted at such meeting and by whom it was called. At the request of 75% (seventy-five percent) of the members of the Board of Directors or 75% (seventy-five percent) of the members of NCF, the Chairperson shall cause a special meeting to be called but such request must be made in writing at least 15 (fifteen) days before the requested scheduled date.

No other business but that specified in the notice may be transacted at such special meeting without the unanimous consent of all present at such meeting.

ARTICLE V: VOTING

Only members in good standing may vote. At all meetings, except for the election of officers and directors, all votes shall be by voice. For election of officers, ballots shall be provided and there shall not appear anyplace on such ballot that might indicate the person who cast such ballot.

At any regular or special meeting, if a majority so requires, any question may be voted upon in the manner and style provided for election of officers and directors. At all voting by ballot, the Chairperson of such meeting shall, prior to the commencement of balloting, appoint three members who shall act as the Election Committee and who shall, at the conclusion of such balloting, certify in writing to the Chairperson the results, and the certified copy shall be physically affixed to the minutes of that meeting.

Candidates for office shall not be members of the Election Committee.

ARTICLE VI: ORDER OF BUSINESS

1. Roll Call.
2. Reading of the Minutes of the preceding meeting.
3. Reports of Committees.
4. Reports of Officers.
5. Old and Unfinished Business.
6. New Business.
7. Adjournment.

ARTICLE VII: BOARD OF DIRECTORS

NCF will have a Board of Directors consisting of (7) seven members, and an Executive Director who shall be an ex-officio member with a non-voting status. The Chairperson, the Executive Director, Secretary, and Treasurer, may sign the checks or drafts of NCF.

The directors for the ensuing year shall be chosen at the annual meeting of this organization and they shall serve for a term of two years.

The Board of Directors shall oversee the duties of the officers and act in the name of NCF when it shall be regularly convened by its Chairperson after due notice to all the directors of such meeting.

Five [Seventy-one (71%) percent] of the members of the Board of Directors shall constitute a quorum and the meetings of the Board of Directors shall be held regularly twice a year.

Each Board Member, except the Executive Director, shall have one vote and such voting may not be done by proxy.

The Board of Directors may make such rules and regulations covering its meetings as it may in its discretion determine necessary.

Vacancies in the Board of Directors shall be filled by a vote of the majority of the remaining members of the Board of Directors for the balance of the year.

The Chairperson of the Board of Directors by virtue of his/her office shall be Chairperson of the Board of Directors.

No Board Member shall for reason of his/her office be entitled to receive any salary or compensation.

The Board of Directors shall publish an electronic monthly newsletter covering relevant developments in the affairs of NCF and the Somali Republic.

The Board of Directors shall set up and maintain a web site dedicated to the dissemination of the ideas generated by NCF.

A director may be removed if four of the remaining six directors conclude that sufficient cause exists for such removal. The Board of Directors may entertain charges against any director. A director may be represented by counsel upon any removal hearing. The Board of Directors shall adopt such rules for this hearing as it may in its discretion consider necessary for the best interests of NCF.

ARTICLE VIII: OFFICERS

The Board will elect the officers of NCF including the Executive Director. The officers shall be responsible for the day-to-day management of the affairs of NCF. The officers shall serve for a term of two years. The initial officers of the Organization shall be as follows:

1. Executive Director
2. Secretary
3. Treasurer

The Executive Director by virtue of his/her office shall be an ex-officio member of the Board, and shall:

- present at each annual meeting of NCF an annual report of the work of NCF.
- see to it that all books, reports and certificates required by law are properly kept or filed.
- have such powers as may be reasonably construed as belonging to the chief executive of any organization.

- nominate an acting Executive Director, in the event of the absence or inability of the Executive Director to carry out his/her duties.

The Secretary shall keep the minutes and records of NCF in appropriate books, and shall:

- file any certificate required by any statute, federal or state, of whichever country this organization is registered.
- give and serve all notices to members of this organization. S/He shall be the official custodian of the records and seal of this organization.
- present to the membership at any meetings any communication addressed to him/her as Secretary of NCF.
- submit to the Board of Directors any communications which shall be addressed to him/her as Secretary of NCF.
- attend to all correspondence of NCF and shall exercise all duties incident to the office of Secretary.

The Treasurer shall have the care and custody of all monies belonging to NCF and shall be solely responsible for such monies or securities of NCF. The Treasurer shall ensure that the monies are deposited in a regular business bank or trust company. S/He must be one of the officers who shall sign checks or drafts of NCF. No special fund may be set aside that shall make it unnecessary for the Treasurer to sign the checks issued upon it. The Treasurer shall render at stated periods as the Board of Directors shall determine a written account of the finances of NCF and such report shall be physically affixed to the minutes of the Board of Directors of such meeting. The Treasurer shall exercise all duties incident to the office of Treasurer.

ARTICLE IX: STAFF AND COMPENSATION

The Executive Director shall hire and fix the compensation of any and all employees and consultants, which in his/her discretion may determine to be necessary for the conduct of the business of NCF.

ARTICLE X: COMMITTEES

The Board of Directors shall appoint and dissolve committees of NCF as needed.

ARTICLE XI: DUES

The dues of this organization shall be \$300.00 (three hundred US\$) per annum and shall be payable within the month of January of every year. Members who are based in Somalia shall pay US\$100 (one hundred US\$). NCF shall welcome any contribution from its members. The Board of Directors may also waive membership dues for selected honorary members. Only members who pay their dues shall be considered of good standing and thus shall be eligible to vote.

ARTICLE XII: AMENDMENTS

This Charter may be altered, amended, repealed or added to by an affirmative vote of no less than two-thirds (seventy-five percent) of the members of good standing.

ARTICLE XIII: DISSOLUTION

The Board of Directors may propose the dissolution of NCF by arranging an extraordinary meeting of the Members giving them 30 days notice, communicating the proposed dissolution.

Any proposed dissolution shall be passed by 75% (seventy-five percent) of the members present at the meeting.

The Board of Directors shall proceed to implement the dissolution after it has been passed.

After the satisfaction and clearance of all debts and liabilities, all assets of the NCF shall be donated or transferred to any IRS tax exempted organization or institution of similar objectives as determined by the majority of NCF members during the dissolution meeting.

List of Interviewees

Consultation Workshops: Somali Constitution Making Support Project

Venue Amira Castel Hotel Mogadisho, Somalia

Topic: Sharia & Democracy, Citizenship, Political Structures & Participation and Natural Resources Distribution

SN	Participant Name	Institution	Tel.	E-mail
1	Marian Osman Mohamed	Member of Parliament	0615185898	marianosman@gmail.com
2	Osman Haji Ali	Member of Parliament & Traditional Leader		
3	Sh. Abdikhaliq Abdullahi Hamsa	Member of Parliament & Traditional Leader		
4	Sh. Ahmed Abdullahi Hussein (Sheikh Fanax)	Member of Parliament & Traditional Leader		
5	Cadil Shegow Sagaar	Member of Parliament		
6	Ibrahim Salax "Dheyfo Allah"	Member of Parliament		
7	Abukar Hassan Ali "Maqaarey"	Member of Parliament		
8	Abdisatar Sh. Abdisalam Sh. Hassan Barsane	Member of Parliament	0615520384	
9	Sh. Abdirashid Mohamed Dirir	Member of Parliament		
10	Mohamed Hassan Allow	Member of Parliament		
11	Sheikh Ahmed Abdi Dhicisow	Traditional & Religious Leader		

12	Sh. Ahmed Shuke	Traditional & Religious Leader			
13	Sh. Ali Nur Moallim	Traditional & Religious Leader			
14	Sheikh Abdirashid Abdi Mohamud	Traditional & Religious Leader			
15	Sheikh Abdullahi Sh. Mohamed Xikam	Traditional & Religious Leader			
16	Sheikh Yusuf Tuur Yare	Shabelle Releif (Local NGO)	0615136133	Xamar1954@hotmail.com	
17	Shafici Ismail Ahmed	Civil Servant	0615270000	gaas270000@hotmail.com	
18	Raghe Ali Osman	DOHAR ¹	0615199662	ismaail60@hotmail.com	
19	Abdiaziz Ahmed Hersi	DOHAR	0615661464	Cax1331@hotmail.co.uk	
20	Abdinasir Haji Mohamed	DOHAR	0615110390	abdunaserhag@hotmail.com	
21	Mukhtar Sh. Omar	DOHAR	0615509780	muqtarfuunyi@hotmail.com	

¹ Department of Humanitarian Affairs & Resettlements

Department of Economics
University of Buffalo

Dear Participant,

This questionnaire is designed to study the management and distribution of the National Resources of Somalia. The information you provide will help us better understand the issues surrounding national resource management and distribution. We request that you give us an accurate picture of what you perceive the issues to be. Please respond to the questions frankly and honestly.

Your responses will be kept *strictly confidential*. Only members of the research team will have access to the information you give. In order to ensure the utmost privacy, we will provide an identification number for each participant. We will use this number for follow-up purposes only. The numbers, names, or the completed questionnaires will not be made available to anyone other than the research team. A summary of the results will be shared with you after the data have been analyzed. If this research is published, the responses will appear only in their aggregate form.

Thank you very much for your time and cooperation. We greatly appreciate your help in furthering this research endeavor.

Cordially,

Hodan Issa, Ph.D.

Professor of Economics

PERSONAL INFORMATION

Full Name: _____

Please check the box that accurately represents your age, gender, and educational achievement.

(1) Highest of Education Attained

- Elementary
- Intermediate
- Secondary
- College
- Graduate School

(2) Age

- 15 – 30
- 31 – 45
- 46 – 60
- 61 - 75
- > 75

(3) Gender

- Female
- Male

(4) Region of Origin

- | | | | | |
|-----------------------------------|--------------------------------|-------------------------------------|------------------------------------|------------------------------------|
| <input type="checkbox"/> Awdal | <input type="checkbox"/> Sool | <input type="checkbox"/> Galgadud | <input type="checkbox"/> Lower Sh. | <input type="checkbox"/> Lower J |
| <input type="checkbox"/> North W. | <input type="checkbox"/> Bari | <input type="checkbox"/> Hiran | <input type="checkbox"/> Bay | <input type="checkbox"/> Middle J. |
| <input type="checkbox"/> Sanag | <input type="checkbox"/> Nugal | <input type="checkbox"/> Middle Sh. | <input type="checkbox"/> Gedo | |
| <input type="checkbox"/> Togdheer | <input type="checkbox"/> Mudug | <input type="checkbox"/> Banadir | <input type="checkbox"/> Bakol | |

(5) Do you own farm land? Yes No

(6) What is your occupation _____

LAND

Agricultural Land

(1) Who should own agricultural lands in Somalia?

- Government
- Private Individual or corporations
- Local Clans (traditional system of ownership)

If Government,

(a) What level of Government

- Central Government
- Regional Government
- District Government

(b) Who should have the legislative and executive power over agricultural lands?
That is to say, who should set the rules governing the distribution of land and the limits of property rights, and who should administer it?

- Central Government
 - Regional Government
 - District Government
 - Some Mixture of the above (specify) _____
-
-

If private,

(a) Who should have the legislative and executive power over agricultural lands?
That is to say, who should set the rules governing the distribution of land and the limits of property rights, and who should administer it?

- Central Government
- Regional Government
- District Government
- Some Mixture of the above (specify) _____

If traditional ownership,

(a) Who should have the legislative and executive power over agricultural lands?
That is to say, who should set the rules governing the distribution of land and the limits of the property rights, and who should administer it?

- Local Elders
- Central Government
- Regional Government
- District Government
- Some Mixture of the above (specify) _____

(2) How do you think the agricultural lands should be distributed?

(3) Should registration of agricultural lands be required? Yes No

(4) Should there be a limit to:

a) Number of parcels one may own? Yes No.

If yes, how many parcels? _____,

b) Size of parcel? Yes No.

If yes, how many hectares? _____

c) Number of years of ownership? Yes No.

If yes, how many years? _____

(5) Should the number of parcels and parcel size restrictions apply to the lands that were previously owned, either traditionally or through registered land permits? Yes No.

If no, how should such lands be treated?

(6) If a farmer does not cultivate his/her land for a number of years, should the land be taken away from them and given to another individual or corporation? Yes No. If yes, after how many years of no cultivation should the rule take effect? _____

(7) Should the private owner (individual farmer or corporation) have the right to sell, give to somebody else, or mortgage the land or to pass it through inheritance? Yes No.

(8) In your opinion, what issues regarding land ownership and administration do you think should be addressed in the Somali constitution?

RANGE LAND

(9) Who should own the range lands?

- Government
- Private Individual or corporations
- Local Clans (traditional system of ownership)

If Government,

(c) What level of Government

- Central Government
- Regional Government
- District Government

(d) Who should have the legislative and executive power? That is who should set the rules governing the distribution of the land and the limits of the property rights and who should administer it?

- Central Government
 - Regional Government
 - District Government
 - Some Mixture of the above (specify) _____
-
-

URBAN LAND

(10) Who should own the urban land?

- Government
- Private Individual or corporation
- Local Clan (traditional system of ownership)

If Government,

(a) What level of Government

- Central Government
- Regional Government
- District Government

(b) Who should have the legislative and executive power? That is who should set the rules and who should administer it?

- Central Government
- Regional Government
- District Government

If traditional ownership,

(a) Who should have the legislative and executive power? That is who should the rules and who should administer it?

- Local Elders
- Central Government
- Regional Government
- District Government
- Some Mixture of the above (specify) _____

(11) Should there be a limit to:

- a) Number of lots one can own? Yes No. If yes, how many lots? _____,
- b) Size of the lot? Yes No. If yes, how many metres? _____
- c) Number of years of ownership? Yes No. If yes, how many years _____

(12) Should the lot owner be given the right to sell, give to somebody else, or mortgage the land or to pass it through inheritance?

(13) Should there be urban land designated as national property or property of municipalities, particularly designated for social services? Yes

OTHER NATIONAL PROPERTIES

For the following questions, please select the letter that corresponds to your selected option:

- (a) Private
- (b) Central Government
- (c) Regional Government
- (d) District Government
- (e) Private

(1) Who should own

Seashores	_____	Roads	_____
Beaches	_____	Airports	_____
Seaports	_____	Rivers	_____
Ponds	_____	Historical land marks	_____

(2) Who should have the legislative and executive power over

Seashores	_____	Roads	_____
Beaches	_____	Airports	_____
Seaports	_____	Rivers	_____
Ponds	_____	Historical land marks	_____

NATURAL RESOURCES

(1) Who should own the natural resources (minerals and oil)?

- Central Government
- Regional Government
- District Government
- Private
- Shared Ownership. Specify between who _____

(2) Who should have the legislative and executive authority over natural resources? That is to say, who should set the rules that govern the distribution and the limits of the property rights and who should administer it?

- Central Government
- Regional Government
- District Government
- Private
- Shared. If shared, specify between who _____

(3) What criteria should be used to determine who should have the legislative and executive authority over natural resources?

(4) Who should have the responsibility of collecting and distributing the revenues derived from natural resources?

- Central Government
- Regional Government
- District Government
- Private
- Shared. If shared, specify between who _____

(5) How should the revenues derived from natural resource development and management be shared among the different levels of government?

(6) What formula should be used to distribute the revenue?

FOREIGN AID

- 1) Who should administer foreign aid funds to Somalia?
 - The central government
 - The regional governments
 - Shared between the central and regional governments
- 2) Who should have the oversight authority in relation to the distribution and management of foreign aid?
 - The central government
 - The regional governments
 - Shared between the central and regional governments
- 3) Should the foreign aid funds be included into the government budget? Yes No.
- 4) How do you think foreign aid funds should be distributed among the regions?
 - Equally
 - Based on special needs for development
 - Based on population size
 - Using the same formula as that used by the central government to distribute funds to the regions.
- 5) What mechanism do you think should be in place to ensure that the foreign aid funds are neither misused nor subjected to corruption?

FINANCIAL RESOURCES

- (1) Do you think Somalia needs a central bank? Yes No.

HUMAN RESOURCES

- (1) Somalia is endowed with productive human resources that need to be efficiently used if we need to develop the country and attain a better standard of living. It is a well known fact that the majority of these human resources, namely women and youth, are excluded from the productive forces of the country. Do you think that women and youth should be given their God given rights to contribute to development and prosperity of the country and their well-being? Yes No.

If your answer to question number 1 is yes, then answer the rest of the questions in this section.

- (2) Do you think that women should be given equal access to

Education Yes No
Employment Yes No
Economic resources Yes No

- (3) In all political sectors, should there be a minimum quota set aside for women to assure that women have political representation? Yes No.

If yes, what percent would you recommend?

- 5% - 20%
 21% - 35%
 36% - 50%
 >50%

- (4) Would you agree to the establishment of provisions in the constitution that would guarantee gender equity in employment, access to economic resources, and education?

Yes No.

- (5) Would you agree to the establishment of provisions in the constitution that would guarantee the rehabilitation and development of the youth? Yes No.

If yes, what would you propose?

I sincerely appreciate your time and cooperation. Please check to make sure that you have not skipped any questions inadvertently, and then drop the questionnaire in the locked box, clearly marked for the purpose, at the entrance of your department.

Thank you!

Report on the Identification of Research Methods and Development of Questionnaires for the Field

Introduction

Somali is an oral community where most of the society important information is shared orally. This has its advantages as well as its disadvantages in that the people with one origin and a common history are brought together to share that which is very core to them, their language and culture. However this is a disadvantage in that the community lacks written information for future reference by the generations to come, the writing is done by non Somalis who risk distorting the facts.

Any one studying the Somali community has to put the above fact into consideration. NCF in the study of the four topics related to the constitution making process discussed extensively on the most appropriate research method with the research team who then agreed that to get the optimum from the process, they would hold some discussions with the interviewees/workshop participants and then ask the questions.

Research methods

All the four researchers started with desktop research after which they reviewed the existing literature and compiled their findings. The previous Somali constitutions and charter formed part of the literature that was reviewed while constitutions of various Muslim countries were part of the desktop research carried out. The four researchers extensively consulted the Consultation Draft Constitution-CDC and the IFCC Public Submission Form on the fifteen chapters of the CDC. These enabled them to generate a list of questions each which will guide them through the information collection process.

Due to the sensitivity and the importance of the constitution making process, NCF will conduct workshops on the four topics of research in Mogandishu where the participants will be taken through what the CDC states on each. After this the appropriate researcher will then conduct focused group discussion guided by the set of questions generated earlier, this will be done on a number of groups to get a true reflection of what the people want entrenched in the CDC.

The data collected will later be analyzed and shared with the consortium partners and other stakeholders in a workshop.

A set of questions on each of the four topics

Nexus Between Shariah and Democracy: Questions for Constitution Making Process in Somalia

1. Should Somalia have a constitution, considering that it is a Muslim country and since some Somalis contend that the Qur'an should be the constitution of the country?
2. How can the sharia and the constitution be reconciled?
3. Are you satisfied with the way the **old** constitution tackles the relationship between state and religion?
4. Are you satisfied with the way the **new Draft** constitution tackles the relationship between state and religion?
5. What should the constitution say about freedom of religion and freedom of conscience?
6. How should the constitution incorporate human rights and reconcile those with Sharia?
7. How should the constitution tackle constitutional issues pertaining to women?
8. Does sharia apply only to religious matters or should be all encompassing in the way some Somalis contend?
9. What are your perceptions of Sharia? Could there be multiple interpretations of Sharia?
10. What are your perceptions of democracy? Is there only one interpretation of democracy?
11. Are sharia and democracy compatible?
12. What are some of the issues related to Sharia and/or democracy that the constitution should avoid?
13. What issues related to Sharia and/or democracy that should be explicitly included in the constitution?
14. Should the constitution include a provision a Sharia Compliance commission?

Citizenship; Entitlement, Acquisition, Revocation and Legislation

1. Who should Qualify for Somali citizenship?
2. What kind of rights should such citizenship include? (political, legal, economic and social)
3. What kind of duties should such citizenship include?
4. What kind of citizenship should be given to Somalis in the Diaspora?
5. Should the country expect them to have the same rights and duties
6. How do you see the link between citizenship and Islam?

The Natural Resources Management and Distribution in Somalia, linking the 'is' and the 'ought'

1. Who should own agricultural lands in Somalia?
2. How do you think the agricultural lands should be distributed?
3. Should registration of agricultural lands be required?

4. Should there be a limit to: Number of parcels one may own, Size of parcel, Number of years of ownership?
5. Should the number of parcels and parcel size restrictions apply to the lands that were previously owned, either traditionally or through registered land permits? Should the private owner (individual farmer or corporation) have the right to sell, give to somebody else, or mortgage the land or to pass it through inheritance?
6. In your opinion, what issues regarding land ownership and administration do you think should be addressed in the Somali constitution?
7. Who should own the range lands?
8. Who should own the urban land?
9. Should there be a limit to: Number of lots one can own? Size of the lot? Number of years of ownership?
10. Should the lot owner be given the right to sell, give to somebody else, or mortgage the land or to pass it through inheritance?
11. Should there be urban land designated as national property or property of municipalities, particularly designated for social services?
12. Who should have the legislative and executive authority over natural resources? That is to say, who should set the rules that govern the distribution and the limits of the property rights and who should administer it?
13. Who should administer foreign aid funds to Somalia?
14. Do you think Somalia needs a central bank?
15. Somalia is endowed with productive human resources that need to be efficiently used if we need to develop the country and attain a better standard of living. It is a well known fact that the majority of these human resources, namely women and youth, are excluded from the productive forces of the country. Do you think that women and youth should be given their God given rights to contribute to development and prosperity of the country and their well-being?

Political Structures and Participation in the Context of the Somali Constitution

1. What is federalism?
2. Are you in favor of federalism and why?
3. Does the Charter go far enough to establish federalism?
4. What do you consider to constitute political participation?
5. Do you think that the Charter grants full political participation?

Constitution Making Support Project: Progress Report

Prepared by:	Wambui Kihui
Date (MM/DD/YYYY):	20 04 2011
Reporting Period:	March 2011

1. Narrative

During this reporting period in discussion which spilled over to early April, NCF entered phase one of the project. The researchers on the four topics were intensively involved in desk top research, literature review and identification of appropriate research methods and the development of questionnaires. They exchanged the first, second and eventually third drafts of their work with the lead researcher and NCF management team. This saw the work go through a refining process. A panel discussion was constituted to discuss the Nexus Between Shariah and Democracy; Questions for Constitution Making in Somalia. The researcher of this topic made a presentation which led to a discussion by the participants who included Shariah scholars, academia, professionals, CDC drafter and business community living in Nairobi.

See attached annex I the drafts on desk top research, literature review and questionnaire for the four topics.

NCF made a field trip to Mogadisho to make contacts with the interviewees and also identified the venue for the focus group discussion in the fields. During the visit we had a chance to have a consultation meeting with the IFCC on Wednesday the 20th April 2011 on the research topics, shared the research documents including the draft questionnaires and together agreed to identify the research participants and interviewees. NCF also contacted the legislative organ of the TFG and several meetings were held with some parliamentarians in order to identify potential interviewees/research participants from the parliament. The interviewees/ research participants from the executive organ of the government were also considered and definitely the civil society actors were identified and will be included. They are; professional associations, youth & women groups, traditional & religious leaders. Therefore, we are planning finalise the list of interviewees the beginning of next week and once finalized together with IFCC we will share with UNDP.

Consultation Meeting Minutes between IFCC and NCF in Mogadisho

DATE:
20-04-2011

TIME:
9:45-11:45 AM

LOCATION: HOTEL NASA
HABLOOD II AND THE OFFICE OF
IFCC IN MOGADISHO, SOMALIA

Meeting Called By	The Executive Director of the National Civic Forum (NCF).	
Type Of Meeting	Consultation Meeting between the Independent Federal Constitution Committee (IFCC) and the National Civic Forum (NCF).	
Name of Meeting Facilitator/minute taker	NCF Executive Director, Dr. Abdullahi Haider	
List Of Attendees	The General Secretary of IFCC; Mr. Said Mohamed Addo, the consultant from UNDP, Mr. Abdulkadir Yusuf, working with IFCC and the NCF Executive Director, Dr. Abdullahi Haider	
Topics: Consultations, Information sharing, updating, and partnership on the activities of the constitution making project supported by UNDP-Somalia.		
Discussion Summary	<p>The meeting started with the presentation of the participants and the IFCC welcomed the meeting called by NCF. At the start of the meeting NCF gave a brief description of the major tasks and activities concerning the constitutionalism project. At the meeting NCF explained in details the four topics of the research on the draft constitution. IFCC appreciated the selection of the topics and considered a paramount importance to study these topics. Nonetheless, IFCC underlined the importance of the Federalism topic that is not a part of the research topics and stated that it is strongly desirable to be included.</p> <p>Concerning the IFCC, they have shared with NCF the fact that they had an extensive meetings and consultations with the traditional leaders, individuals and other non state actors. The discussions were mainly around the natural resource distribution. At the deliberations, it became evident that 80% of the Somali population is Agro-Fishery Communities. IFCC is welcoming the research study of NCF and extends its full support. However, IFCC requested that NCF to share the documentations concerning the research study such as; the questionnaires, list of the interviewees identified and the field workshop particularly the dates of the focus group discussions in Mogadisho.</p>	
Conclusions	In conclusion, it has been agreed a follow up and regular meetings between the IFCC and NCF. It has been also decided that NCF will share the exact dates of the field research activities particularly the focus group discussions and the list of the identified interviewees.	
Action Items	Person Responsible	Deadline
<p>The following documents are to be shared with IFCC:</p> <ol style="list-style-type: none"> 1. Questionnaires Developed for the research study; 2. Research methodology; focus group discussions, one to one discussions and the data collections and analyses; 3. List of the interviewees identified. 	NCF project Manager	As soon as possible

National Resource Distribution and Management: Issues to be Considered Inthe Somali Constitution

Phase I Report to the National Civic Forum

April 19, 2011

Submitted by

Hodan S. Isse, Ph.D.
242 Jacobs Management Center
Department of Finance and Managerial Economics
School of Management, University (SUNY) at Buffalo
Buffalo, NY 14260-4000, USA
Phone: 716-645-3219
Fax: 716-645-3823

Abdinasir M. Abdulle, Ph. D.
Technical Consultant
State of Utah, Department of Commerce
Division of Public Utilities
Heber M. Wells Bldg
160 East 300 South
Salt Lake, UT 84114
Phone: 801-530-6687
Fax: 801-530-6650

National Resource Distribution and Management: Issues to be considered in the Somali Constitution

Drafting a constitution in a country where a large majority of the population does not have a properly functioning government is a complex process. What is more complicated is to design a system that provides rules and institutions where economic resources, be they national, communal or personal are managed, distributed and safeguarded in a country that for the past twenty years has seen nothing but war, violence, and destruction of wealth. Nonetheless to rekindle livelihood, gain our national identity, eradicate abject poverty that characterizes Somalia, we must ensure that our limited resources are used in the most effective and efficient way possible.

It is a well-known and commonly held fact that access and distribution of resources is one of the most common causes of conflicts in the world. History informs us that unequal distribution of commonly owned resources coupled with weak governance and unchecked greed is one of the root causes of conflicts over time and across countries. This fact is very apparent in much of sub-Saharan Africa, in which cyclical conflicts are often triggered by droughts and famines, which in turn lead to fighting over access to valuable resources. Unfortunately the natures of these conflicts are exacerbated by the fact that these conflicts themselves worsen the conditions that are created by famines and droughts.

Other conflicts are caused by misappropriation of commonly owned resources, mismanaged human and financial resources, and government-to-government foreign aid by powerful groups. If Somali society has no rules for appropriation of its valuable resources and if it has no legal institutions to safeguard the efficient and equitable allocation of resources, then it will be plagued by perpetual and debilitating conflict that has already paralyzed the national fabric. When setting up a framework for management, access and distribution of resources, in

the constitution of Somalia, it is important that the rules set do not create more instability and further polarization of the population.

Currently literature about resource management and distribution in Somalia is very limited. What little that is available at this point suggests that resource management contributed to the civil unrest in Somalia. There are, however, differing viewpoints regarding the relationship between national resources and civil war. One viewpoint argues that resource scarcity is the cause of civil wars. The other viewpoint argues that resource abundance is the cause of civil wars. Interestingly a related viewpoint states that the need to control national resources in order to fund the warlords' ambitions is and has been a factor in the perpetuation of the war in the case of Somalia. Whether the access and distribution of national resources could be viewed as a source of conflict or a war perpetuating factor, it is necessary that the Somali legislatures address it and come to a fair standard and practice of allocating and managing the nation's resources.

Before we look into what practices and protocols need to be created for the regulation and distribution of, and access to natural resources, we must clearly understand the role that scarcity plays in the creation and perpetuation of conflicts. The 1987 report of the World Commission for Environment and Development correlated environmental degradation and conflict, and consequently proposed an expanded definition of security which, in addition to the traditional definition, included the growing impacts of environmental stress (World Commission on Environment and Development, 1987). Similarly, Galtung (1982) argued that "wars are often over resources" and that the "destruction of the environment may lead to more wars over resources".

Using case studies conducted in Mexico, Pakistan, Palestine, Rwanda, and South Africa, Homer-Dixon examined the link between scarcity of renewable resources such as cropland, fresh water, forests, and fisheries, and violence. The findings of this study indicate that, though factors such as migration, ethnic tensions, economic inequalities, and weak institutions are the main causes of violence, there is an indirect causal relationship between resource scarcity and violence (Homer-Dixon, 1998a). In a different study Homer-Dixon indicated that the bloody wars that erupted in Somalia and Rwanda can be attributed to environmental factors (Homer-Dixon, 1998b).

Another viewpoint to consider in setting the framework for management of natural resources is the surprising role that resource wealth has in creating violent conflicts. Proponents of the concept that resource wealth is the main cause of conflict maintain that economic agendas are significant in the onset and perpetuation of civil wars. There are small influential groups that have a vested economic interest in the onset and prolongation of civil wars. In a statistical investigation of the global pattern of large-scale civil conflicts since 1965, Collier distinguishes between grievance and greed as motivating factors of civil wars (Collier, 2000). Grievance is associated with factors such as ethnic and religious hatred, lack of political rights, economic inequalities, or economic incompetence of the government. Greed is related to the economic aspirations of political groups, militias, and individual leaders. The findings of the study indicated that "conflicts are far more likely to be caused by economic opportunities than by grievance." The findings also indicate that there is little evidence that grievance explains either the onset of a civil war or its continuation. Therefore, some small but influential group could have a vested interest in the initiation and continuation of a civil war. Environmental and other resource riches play a large part in sustaining conflict, as the availability of resources that could be looted (primary commodities) make longer wars feasible. In addition, availability and control of seaports and airports will make longer wars sustainable.

In explaining why greed is a more plausible explanation of the onset and the continuation of civil wars, Collier indicated that greed motivated rebels do not face any of the collective action problems faced by rebellions motivated by grievance. There is no free-rider problem because each insurgent will get his/her share of the benefit. There is no coordination problem because the insurgents do not need to be numerous to control some territory in order to exert predatory practices on the trade of primary commodities. Rebellions will use some of the rent from primary commodities export to pay their recruits and will not depend on promises, thus eliminating the time-consistence problem. Hence, rebellions motivated by greed will seize this opportunity for profit.

However, there are other groups motivated by greed, such as opportunistic businessmen, criminals, and traders that will benefit from the war. Traders will benefit through the widening of profit margins on the goods they sell to the customers; criminals will benefit by accumulating assets through theft and either taking it out of the country or converting it to other assets; and

opportunistic businessmen will benefit at the expense of those businesses which are constrained to honest conduct.

Regardless of which viewpoint better explains the link between national resources and conflicts, all viewpoints maintain that poor national resource management and allocation can lead to conflict, and endanger national stability.

If we examine land management laws that governed natural resource management and allocation in Somalia, we might see what frameworks in the past were applied to Somalia and determine what worked and what didn't. The land tenure system in Somalia changed historically because of changing political circumstances. Surprisingly formal land laws were not passed in Somalia until 1973. Before the colonial era, because Somalis were predominantly nomadic, they owned land communally, but the use of each location was designated to a specific clan, sub-clan, down to extended family level. This system allowed the allocation of a specified territory to each clan. Each clan grazes its animals and farms in its designated territory. In case of drought or any other natural disasters in clan territory, clan members would seek permission from the neighboring clans and such permission was almost always given. The British and Italian colonials and the subsequent post-independence Somali governments attempted to substitute state authority for the clan authority over the land tenure system.

Formal land laws were established in 1973 during Siad Barre's regime. The Somali land laws consisted of (1) Law 73 of 21 October 1975 (Agricultural Land Law), (2) Decree of 16 October 1976 (Law 23 on Agriculture), (3) Law 41 of 13 September 1973 (Urban Land Distribution), and (4) Decree 31 of 31 December 1973 (nomination of Chair Persons of Regions and Districts) (Beileh, 1985).

The Agricultural Land Law stated that all land resources were owned by the state. The law provided the Ministry of Agriculture the jurisdiction for managing, allocating and controlling land resources. Lease holdings could be issued to cooperative societies, state farms, autonomous agencies, local government bodies, and private individuals or companies, which then became tenants of the state. The law made land registration compulsory. Any person who did not register his/her land within six months of the law's enactment would lose the right to use the land. The law restricted the amount of land and the duration of lease holdings. Farmers could receive lease holding for only a parcel. Registered lease holdings could not be bought, sold,

leased, rented or mortgaged, although rights could be transferred if the lessee is incapacitated or dies. The government would repossess land that exceeded size restrictions, were used for non-agricultural purposes, were not used productively, were unnecessarily fragmented, or were not farmed for a successive two-year period. An important feature of this law was that it didn't provide any tenure rights to pastoralists.

Although the intent of the government was, among other things, to draw the population into new occupations (settled farming) that could reduce food imports as a cushion against draught, the Land Law had encouraged land grabbing by influential people and it alienated farmers from their lands, and left them with little legal resources for securing their tenure rights. Some of the farmers did not register their lands because the registration process was complicated, time consuming, expensive, and did not allow for multiple parcel registration which some of them had.

After the civil war broke out, groups with economic agenda including armed militias and the opportunistic businessmen, de facto changed the land tenure system in Somalia by taking control of most of the resource rich regions of southern Somalia.

Law 41 of September 1973 dealt with urban land distribution. It stated that all land in the Somali Democratic Republic, regardless of who used it, was public property. Public property could either be in the public domain or the private domain. Article 3 of this Law listed what was in the public domain. These included, but were not limited to, seashores, beaches, ports, rivers, airports, all telecommunication services, all cemeteries and mosques, and all historical landmarks. Everything else was in the private domain. The Secretary of State for Public Works had the authority to issue land use permits free of charge to anyone who fulfilled the land use permit provisions of the Law. In addition, land in urban areas could be bought. The urban land use permit was permanent for Somali nationals as long as they fulfilled their responsibilities.

These laws did not explicitly address the ownership, distribution, and management of natural resources such as oil and minerals. Since the onset and the continuation of the civil war in Somalia, land became a lootable resource. No laws could prevent land grabbing. Thus the powerless majority of small holders were deprived of their resources, thus increasing the potential for further conflict. The lack of explicit laws dealing with the ownership, distribution, and management of potential natural resources such as oil and minerals exacerbated the

problem where different clans within the country would want their fair share of these resources regardless of where it is found and developed. Hence, provisions on natural resources that would resolve the conflict over the ownership, distribution and management of these resources among the competing groups are essential. A constitution would be a proper place to address these resource issues. This would prevent these provisions from being changed without super-majority and special procedures. Issues that the constitution needs to address include: ownership, distribution, and revenue distribution.

Ownership and control of Natural Resource

The determination of natural resource ownership is important especially in countries such as Somalia where the geographic distribution of natural resources is uneven across the clans and where it represents a large portion of national economy. The competing ownership claims include private, communal or customary land rights, and state ownership. To attain reasonable natural resource management and development and to avoid conflicts over these resources, the constitution should clearly establish legal rights to these resources among the competing claims.

Around the world, there are a number of recognized forms of natural resource ownership:

National Ownership- In most countries of the world governments own all mineral resources. These include all valuable rocks, minerals, oil, and natural gas. Private individuals and corporations in those countries are not allowed to legally extract and sell mineral commodities without first obtaining an authorization from the Government. During the Siad Barre regime, only the government could own or sell the minerals in the country.

Generally, national ownership of natural resources is protected by the constitution, as is the case in Russia, Norway, Venezuela, Indonesia and the majority of Middle Eastern countries. Constitutions often distinguish between surface rights, which may remain in private or communal hands, and subterranean minerals, which are owned by the national government.

Regional Ownership-Regional ownership of natural resources is generally found in federal states like the United States and Canada, and the United Arab Emirates. In this form of natural resource ownership, the regional government owns and controls its natural resources. That would fulfill the goal of enabling regional entities to maintain high level of autonomy from the central government. However, it may generate conflict between mineral-rich and mineral-

poor regions of the country. Conflict may also arise between the national and regional governments.

Shared Ownership-A few countries practice a system of national and regional ownership of natural resources. Countries that practice this form of ownership include Canada and Russia. In Canada, each province owns and administers mineral resources within its borders, whereas the federal government owns and administers mineral resources on frontier lands (The Northern Territories and offshore). In Russia, though national ownership of natural resources is exercised, the national government signed treaties of power sharing with certain mineral rich regions.

In a shared ownership system, regions maintain direct control over substantial portions of their own mineral wealth while allowing the national government to regulate the interchange and exchange of mineral resources inter-regionally and internationally. However, it is often difficult to decide how to divide the ownership of mineral resources between regions and the national government to the satisfaction of all parties involved.

Localized Ownership- This system of ownership provides ownership and control of natural resources to localized government entities, such as municipalities in which large reserves of mineral deposits are found. The advantage of this system of ownership is that it enables local entities to hold regional natural resources in trust for the benefit of the local population. However, this system of ownership is highly divisive for it alienates natural resource poor regions of the country.

Constitutional determination of ownership of natural resources must be accompanied by allocation of the legislative and executive authorities over natural resources management between the different levels of government. This will determine who has the right to make laws relating to the development and exploitation of natural resources. This is important because it determines the rights and the limitations of ownership. The range of issues covered by the allocation of regulatory authority includes: contracting authority and procedures; licensing, taxation and royalty regimes; employment practices; safety and environmental standards; and any other matter that affects the development of the natural resource sector.

As with ownership provisions, provisions clarifying the allocation of legislative and executive authority will provide confidence to investors. Uncertainty about which level of government has the authority to regulate and sign contracts would be a major impediment to the

development of natural resources. It would make investors reluctant to commit to a long-term engagement or demand a higher share of the profits to compensate for the political risk of conflicts between different levels of government regarding jurisdiction over natural resources.

The decision on the proper allocation of legislative and executive authority over natural resources depends on the following criteria.

- 1) *Efficiency and capacity*: Which level of government has the capacity to develop and manage the natural resources most efficiently?
- 2) *Equity*: How a minimum standard of public services will be ensured across states or provinces?
- 3) *Accountability*: Which level of government provides the greatest accountability to the local population with respect to the exploitation of natural resources?
- 4) *National Interest*: Is a national regulation over a particular aspect of natural resource development required?

These criteria can at times be contradictory. For example, assigning authority to regional government may improve accountability because regional governments can better determine the needs and preferences of their population. However, there are efficiency and capacity concerns related to assigning powers to the regional government. It will complicate the development of national policy on natural resources. Regional governments may compete with each other to attract investors by offering investors more favorable contract terms or violate environmental and labor standards in a race to land a lucrative investment.

Natural Resource Revenue Sharing

Natural resource revenues are problematic as they are prone to be captured by ruling groups or communities, exacerbating social division and possibly leading to direct conflicts. Given the lack of trust inherent in post-conflict environments, a transparent and fair generation, collection, and sharing of natural resource revenues can be a determining factor of the viability of the peace agreements. Therefore, a constitutional enshrinement of revenue collection and distribution provisions and implementation mechanisms is critical in making the constitution agreeable to all of the parties involved.

In most of the countries, the national government is responsible for the collection and distribution of the natural resource revenues. It distributes these revenues through the national budget, proportional to distribution of the population throughout the country. Other countries use other distribution formulas.

How should the draft constitution address uses and misuses of Foreign Aid?

This section examines the past and present institutions of foreign aid that brings together the different perspectives in understanding one of the root causes of state failure. Lack of social justice, corruption and conflict over access to economic resources such as foreign aid creates a loss of Somali unity and identity. Squabbling over these resources produce endless divisions, perpetual violence, abject poverty, and clan allegiance. Clan based identities replaced national identity, allegiance and loss of nationhood that were once a common unbroken bond.

For instance, Somalia was flooded with foreign aid in 1977 at the height of the Cold War after Somalia aligned itself with the United States. Prior to 1977 Somali government prioritized investment in agriculture, industry, infrastructure, literacy, and defense. Things changed after the political maneuverings of the cold war and government appetite for distribution rather than creation of wealth became its economic strategy. Government-to-government foreign aid lacked the necessary checks and balances, transparency, and accountability, thus merely contributing to the grotesque failure of the state and the ensuing conflict and civil war. Those who had access to foreign aid resources gave them to their clan members and their loyalists. The foreign aid contributed to the polarization between those who were connected to the distribution of foreign aid such as clan loyalists, and those who had close ties to the government. Many felt disenfranchised and left out. Foreign distribution was also used as a divide-and-rule tool, further alienating those regions that were already at war with government. This led to the loss of trust, common Somali national identity among the citizens, and created clan fiefdoms. As a result clan based identity replaced Somali national identity.

Foreign aid became a substitute for legitimate investments and economic growth, changed people's incentives in distributive activities, and increased graft and corruption. Thus, it further masked the underlying issues with the economy, and once the distribution of foreign aid ceased, the already weak foundations collapsed. This in turn weakened the legitimacy of

Mohamed Siad Barre's government, leading to its overthrow in 1991. Since then Somalia has not had a functioning government.

Beside the warlords, other individuals and institutions stepped in to attempt to take on the responsibility of the government. These were bent on revenge, war and exploitations of the commons. This turned out to be a far worse economic and political situation for Somalis. Warlords were stepping up, collecting taxes for funding their illegal exploits. The money they collected was never put back into the community, but was used to perpetuate more violence and conflict. This behavior was so entrenched that those who had commanded the commons and created ownership now resist transferring their ill-gotten resources back to the governments. This lack of resources for the government then stymies the amount of participation they can have from the people and the community. Somalis are stuck in what is called "transitional losses trap" as war and polarization do not create winners. Thus economic resources could be used to either perpetuate or resolve conflict. In the Somali case, it was used to perpetuate the conflict.

William Easterly (2000) coined the term "decentralized corruption" to describe a situation where each warlord establishes roadblocks and collects revenue. He claims that this type of revenue generation from multiple roadblocks can cause far worse damage to the economy and people than any centralized corruption. Centralized corruption is when government extorts resources from the public and might put some of the revenue back into public use such as provision of education, national defense and other sectors. He claims that a ruler/government has a vested interest to stay in power and keep the country together even in the presence of exorbitant corruption. Thus, unlike decentralized corruption and extortion by warlords, a complete dissipation of resources is less likely with rulers. This clearly explains why and how Somalia that has not had a functioning government for twenty years tops Transparency International's 2010 perceived corruption index.

Transparency International is a well-respected NGO that tracks governmental perceived corruption for all countries of the world. Huguette Labelle, chair of Transparency International reports that, "These results signal that significantly greater efforts must go into strengthening governance across the globe." He adds that, "With the livelihoods of so many at stake, governments' commitments to anti-corruption, transparency, and accountability must speak

through their actions.” Accurate statistics for Somalia are hard to come by, but common sense tells us that the majority of the foreign aid intended for the poor and the powerless are embezzelled by corrupt national and international actors. Clearly, if the current state of the country is to be reversed, the new constitution must propose fundamental changes and legitimate means to combat corruption. This pattern that destroys the creation of wealth can be only be reversed through a strong system of well defined, enforced and protected property rights in both the private and public domains.

Both the international community and Somali people can together create viable government resources management that benefits all. A well equipped government along with clear checks and balances, accountability and transparency must be installed. Focusing on rebuilding and restructuring the country’s economic wellbeing will begin when government’s primary task of safe and secure environment has been achieved.

How should the constitution address uses and misuses of financial resources?

“Money bewitches people. They fret for it, and they sweat for it. They devise most ingenious ways to get it, and most ingenious ways to get rid of it. Money is the only commodity that is good for nothing but to be gotten rid of. It will not feed you, clothe you, shelter you, or amuse you unless you spend it or invest it. It imparts value only in imparting. People do almost anything for money, and money will do almost anything for people. Money is a captivating, circulating, masquerading puzzle.” (Federal Reserve Bank, 1957).

A well functioning monetary system is a prerequisite for stable and sound financial system. The government must undertake the establishment of a monetary system that ensures accountability and transparency of the financial system. It must also act as a governing body in safeguarding the financial stability of banks. Financial resources management is the lifeblood of any working economy. Special laws in the Constitution should state its basic macroeconomic

goals such as full employment, low and stable price, and maintain and protect the value of the national currency, and create sustainable economic growth. Currently a de facto dollarization is widespread since the national currency lost its value and has been weakened due to the absence of government institutions to regulate the currency.

Inflation is rampant now as governments, both local and national, print money and no legal protection exists. The sole job of money creation must rest on the government and the monetary institutions. This is where the Somali government can exploit the opportunity and create viable monetary policy. Before the civil war all banks operating in Somalia were government-owned. After the civil war, however, a conglomeration of money transfer services took over the role of state-owned bank and has been successful in bringing needed money in every locality of the country. Money transfer services are still informal and unregulated. They can be formalized by converting them into commercial and chartered banks, which can coexist with national banks.

A brief history of how the Federal Reserve Bank of the United States was created will illuminate how a special section in the Somali constitution might find some parallels. Unlike many central banks such as the Bank of England, France, or Germany, to mention but a few, the USA Federal Reserve system was established only in 1913 when most developed countries already had functioning central banks.

The USA Federal Reserve Bank is unique in three ways (Hall and Lieberman, 2010). First, instead of one big central bank, 12 regional federal bank districts were created. This was to address the economic and cultural diversity of different states. It was to ensure that no dominations of powerful central banks are allowed in setting policies that favor the interests of

one region to the detriment of others. Secondly, one can easily notice the absence of the word “Central” in the name of the USA Federal Reserve System. This was done by design as anything dubbed as central could have ignited suspicions of central authority in United States. Thirdly, though Congress created the Federal Reserve System, the President of the USA appoints the chair of the Federal Reserve System. This set up safeguards the Federal Reserve’s independence from the political maneuvering of party politics and economic agendas.

From a deep and thorough analysis of the creation and the current management of the federal banking system of the United States has much relevance’s to the current situation in Somalia, as a nation coming out of a civil war with great mistrust between regions and between central and regional governments. One of the foremost important duties of a transitional government is setting up a central bank and developing one key currency. The Somali Shilling should be re-evaluated to provide much needed stability to the region. The Somali Central Bank should set up branches in a number of financial districts to be designated by independent financial experts and not by the central government. These financial regions would then spawn smaller banks, which would increase control of the regions, something that the federal government is struggling with now. Nothing helps secure a region better than financial stability. This would also help remove the clans’ hold over their respective regions. This move from a familial rule to a popular one would also decrease exponentially the amount of bloodshed.

How should the constitution address uses and misuses of private property and market failure?

Production of wealth can take many forms. Wealth can either be created through lawful or unlawful means. Creation of wealth entails entrepreneurs’ focusing on niche markets and the

exploitation of opportunity for making profit. But to be successful, entrepreneurs must ensure that the goods and services offered for sale are of good quality, safe, and meet the demand of customers. They must also ensure that their wealth is not expropriated or destroyed. On the other hand, wealth can be built or accumulated through illegal means such as extortion, illegal roadblocks, corruption, expropriation of public and commonly owned resources. There is a clear difference between the two mechanisms of creating wealth, but both concurrently exist in Somalia's economy today. A case study of Somalia businesses follows.

Despite the war, conflict and failed governments, a pleasantly surprising fact has been the growth and conglomeration of Somali private enterprises in every region of the country and their unsurpassed success in bringing needed services to the population. No doubt that Somali entrepreneurs revitalized the economy of war-torn Somalia by providing and being a catalyst for bringing market based solutions to satisfy the needs and wants of Somalis in both Somalia and the neighboring countries such as Kenya, Ethiopia, Uganda, and Djibouti and as far away as South Africa. For example, many Somali businesses provide telecommunication infrastructure and informal banking that have grown dramatically in scale and scope.

Somali entrepreneurs have brought some life-blood to many poverty-stricken and remote areas where none existed before. Their provision of telecommunications and money transfer services performed far better than those that existed before. Ironically they also perform better than those available in many neighboring state-run African countries today. However lawful, the remarkable success of many Somalis businesses remain a double-edged sword as their exemplary financial achievement came at the expense of much suffering, pain, loss of life and abject poverty.

Some entrepreneurs get greedy and earn their wealth employing unlawful means. To be successful, they became the main instigators of the war economy, thus prolonging the civil war. Gaining profit or wealth is unlawfully prohibited in Islam, but it abounds in Somalia. The wealth thus gained gave some Somali entrepreneurs power, political clout, and prominence.

Due to absence of a functioning government, many people in Somalia profited unlawfully from commonly owned resources such as foreign aid and public revenue at the expense of the poor, disabled, women, children, and the powerless. The human misery of civil war clearly took its toll on the disadvantaged, the poor, women, children, and the elderly.

The allocation of economic resources by informal market mechanisms is not always satisfactory even in countries with strong government regulations and institutions. Profit making individuals don't always maximize social welfare. Nor do we expect them to behave fairly unless a government mechanism is set up that regulates and corrects their actions. Thus this is where a functioning government could bring about the efficient allocation of scarce resources that aligns the interest of markets with that of enhancing social welfare. Many instances of market failure are documented in Somalia today where nonrenewable resources are depleted where expired foods and medicines are sold in the markets.

Economists all agree that governments have a legitimate function in correcting sources of market failure such as widespread negative and positive externalities, moral hazard, provision of public goods, such as national security, protection of property rights, setting legal system and regulatory apparatuses. Governments also have a legitimate function to devise a focused approach to reduce poverty, youth plight, and gender inequity, and minimize the influence of special interest groups. The draft constitution should devise a social safety net that might reverse the plight of those adversely affected by the civil war.

How should the constitution address the uses and misuses of human resource?

Economists consider human resources as one of the most crucial resources in a given country. The current 4.5 clan representation fails to incorporate and utilize many talented Somalis, namely women, youth, and men hailing from minority clans. However, the management and allocation of these resources are paramount because of the general scarcity of talent, creativity, productivity, and ingenuity etc. For efficient allocation of these scarce resources and skills, representation must be based on merit, knowledge, education, and experience and not on power, privilege, political clout or clan affiliation. Women and youth were disproportionately affected and it is they who mainly bear the brunt of the war. Many youth are unemployed, and many of the economic sectors such as fishery, agriculture, livestock, ports that provide employment for them were either destroyed or expropriated by few powerful individuals or warlords.

Women and Youth without a doubt are the most important and vital human resources that the government of Somalia should help foster and grow. This is crucial in order to ensure a

functioning and stable society. Gender inequities in our society's allocation of fundamental and basic resources such as education, health care, nutrition, and political representation matters because there is a strong association between equity and equal representation and wellbeing, productivity, and economic growth.

As things stand now many elements of the current government and the draft constitution do little to protect and represent the interests of women and youth. This is quite shocking since women make up more 50% of the population and 44.7% of the population is under the age of 14. In addition to that, the median age slightly below 18 years. Moreover, in the current situation of cyclic and multigenerational conflicts, the protection and the personal growth of women and children can essentially provide much needed strength and vitality to both the internal security and the economy of Somalia. With so many widowed mothers and mothers whose husbands are working outside the county, the protection and assurance of women's right to work and equal pay is important for not only economic growth but for the well-being of families. This is particularly true with respect to Somalia where women head many households. One of the disturbing trends in Somalia is that women have limited access to education and vocational training. This is in addition to the heavy workloads women are expected to carry as part of their household chores. Moreover cultural norms/ restriction and discriminatory practices continue to limit women participation in the economy, preventing them from earning wages, thus further exacerbating gender inequities.

Few women have access to credit markets, capital, land, training and financial and management education, which are necessary in order to startup a business. Thus discriminatory cultural norms prevent women from starting, owning and maintain businesses. Excluding women from direct participation in the economy and the creation of goods and services, and limiting their role to being consumers and child bearers, will stunt the rebuilding and growth of Somalia. This will be a devastating blow and disservice to all Somalis, men, women, and youth.

The constitution should outlaw discriminatory hiring practices based on sex. It should also prohibit the exclusion of women in education and vocational training. Incentives should put in place to encourage the economic participation of women and youth. A special law that gives tax incentives to businesses and institutions that educate, train, and hire women must be passed.

Women lack political representation at all levels of the current government. No representation means no voice; and no voice means no political clout in all matters that affect

women. Barriers that women face, which prevent them from gaining leadership positions increased since the civil war began. Traditional prejudices that lead to the disenfranchisement of women must be removed. Ensuring women's access to economic and political resources is not about gender equity; it is about the long-term prosperity of the country.

Preliminary Analysis of the Draft Constitution.

The new Constitution is not specific enough when it addresses the allocation and distribution of the country's resources. There is only one Article that addresses the issue and it is not detailed. Resource management is discussed only under the rubric of the private sector. The Constitution raises more questions than it answers. What should be done to stop misuse of resources or corruption? How will the profits of the natural resources be distributed? Such questions are never answered. Corruption has plagued all governments Somalia has had. Corruption has irreparably damaged Somalia's institutions. The constitution has to protect resources, nonrenewable ones in particular, from government corruption and the profiteering of unlawful businesses.

Good governance is predicated on the ability of the government to provide clear and operational services to its people. This includes the provision of law and order, proper institutional infrastructure, properly managed physical institutional (ports, roads, bridges, waterways), and government provided institutional (legal and regulatory) in managing resource be they financial, human or communal. The people elect leaders in the hope that they will provide a plan that will provide for them and not leave them with meager resources. The Somali people want leaders that will not allow their scarce resources accruing in the hands of the few political connected groups or powerful interest groups, while the rest of the people are left in destitution and poverty. The new Somali draft constitution lays out an ideal of protection, but does not enunciate a real plan of how it should be done. It is deficient in pointing the way by which the government should handle and manage its resources. Albeit, it is a consultative Draft, which has a long way to go before it is ratified.

Article 50 of the constitution outlines Somalia's natural resources policies, but it is only a mere page. The article mentions in passing prevention, management, and public ownership. It lacks details concerning the management of various resources such as national, natural, human, financial, foreign aid resources. Such details are crucial in order to prevent evasion of the law

through use of loopholes. It is understandable that more details will be provided in local laws but local legislatures will need more constitutional guidelines. Absent that there will be conflicting rules and regulations in different regions.

Methodology

This study will use a survey questionnaire and focused group discussions in order to collect data pertaining to Somali stakeholders' views on the constitution. The survey questionnaire is attached as a separate file. Here is a partial list of the question that will be asked:

1. Does the constitution adequately address the issue of natural resource management and its allocation among the constituent regions?
2. Does the constitution redress the social and economic concerns of women, youth and other marginalized minorities?
3. Does the constitution provide adequate legislative guidelines for the ownership and distribution of lands?
4. Does the constitution address how the state should combat government corruption?
5. Does the constitution address how the state should combat the excesses of the private sector?
6. How much leeway should the government give to the central banking system?
7. How will a chairman of the Central Bank be chosen and how long will his term be?
8. How will commercial banks be regulated so that they don't abuse their power?
9. What will be the role of banks as moneylenders to private and institutional entities?
10. How should the constitution address financial resource management issues in the context of twenty years of civil war?
11. How should the constitution address private property issues in the context twenty years of civil war? How would constitution address market failure?
12. How should the constitution address human resource management issues in the context twenty years of civil wars? How should the constitution address the issues of government failure?

Literature Cited

Arthur M. Okun, *Equality and Efficiency: The Big Tradeoff* (Washington: Brookings Institution 1975), P.1

Beileh, A. *Trans. Somali Legislation Relating to Land*. Madison Land Tenure Center. University of Wisconsin. 1985.

Federal Reserve Bank of Philadelphia, "Creeping Inflation," *Business Review*, August 1957, p.3.

Galtung, J. *Environment, Development and Military Activity: Towards Alternative Security Doctrines*. Norwegian University Press. Oslo. 1982.P. 99.

Hall and Lieberman. *Economics principles and Applications*. 6th ed. South-WesternCengageLearning. 2010.

Homer-Dixon, T. and J. Blitt, eds., *Ecoviolance, Links Among Environment, Population, and Security*. Rowman & Littlefield Publishers. Oxford. 1998. P. 223.

Ibid.

Collier, P. *Doing Well Out of War: An Economic Perspective*. In M. R. Berdal, D. Malone, and International Peace Academy. *Greed & Grievance: Economic Agenda in Civil Wars*. International Development Research Center. Boulder, Co., London, and Ottawa. 2000. Pp. 299-314.

Yoonie K. and J. McKee. *Iraq: Negotiating an Equitable Allocation of Oil Resources. Briefing Packet for the Turkomen Delegation. Negotiation Simulation*. 2004.

Haysom, N. and S. Kane. *Negotiating natural resources for peace: Ownership, control and wealth-sharing*. Briefing Paper. 2009.

Ibid.

Busby, G. J. Isham, L. Pritchett, and M. Woolcock. *Natural Resource and Conflict: What Can We Do?*, In Bannon, J. and P. Collier (eds), *Natural Resources and Violent Conflict*. Washington DC, World Bank. 2002.

International Monetary Fund. *Guide on Resource Revenue Transparency*, 2005.

World Commission on Environment and Development. *Our Common Future*. Oxford University Press, Oxford. 1987. P. 19.

Tandemproject final issues. www.tandemproject.com, 2010.

<http://www.adcmnnesota.org/page/adc-publications/experience-somali-entrepreneurs-twin-cities>

<http://www.csmonitor.com/World/Africa/Africa-Monitor/2010/1026/Most-corrupt-country-in-the-world-Somalia-says-Transparency-International>

Consultative Draft Constitution (CDC) Field Research Report

May 28, 2011

The researchers carrying out the CDC project focused their research on four main topics:

1. The Nexus Between Shariah and Democracy (conducted by Mr. Farah Sheikh);
2. National Resource Management and Distribution in Somalia (conducted by Dr. Hodan Isse);
3. Political Structures and Participation (conducted by Dr. Hassan Mahadallah; and,
4. Citizenship (conducted by Dr. Abdulkadir Osman).

The researchers had already concluded literature reviews on their respective topics before coming to Nairobi for the field research, which was carried out in Mogadishu and Nairobi. Participants in the field research were recruited with the help of Dr. Haider, Mr. Mohammed, and Ms. Wambui, who run the National Civic Forum (NCF). The list of participants in Mogadishu was jointly identified by NCF and IFCC while those of Nairobi were drawn from the workshops NCF has been conducting. No effort had been spared to make sure that recruited participants were as representative of the Somali nation as possible.

Three members of the research team (Dr. Hodan Isse, Dr. Yusuf Nur, and Mr. Farah Abdulkadir) and NCF executives namely director Dr. Abdullahi Haider, Mr. Abdi Mohammed, Mr. Ahmed Ugas and Ms. Wambui Kihui met with representatives of the IFCC in Nairobi on May 16, 2011. Views were exchanged on the best way to carry out field research in Mogadishu for the CDC project. The IFCC team imparted to the research team methodology suggestions, which proved valuable in the field.

The research team planned to conduct focused group sessions in Mogadishu, in Garowe, and in Hargeisa. The Garowe and Hargeisa sessions were eventually dropped for security and logistics reasons. Despite that, the research team believes that the eventual participants in the sessions were as representative of Somalia as a whole as could be hoped for in the present circumstances of the country.

Before leaving for Mogadishu, Dr. Hodan Isse took advantage of the fortuitous presence in Nairobi of a Somali diaspora group who was attending a conference held at the Hilton Hotel. Dr. Isse got 25 of the attendees to fill out her questionnaire on resource sharing. The group was quite representative of the Somalia nation since it was drawn from Somali diaspora communities all over the world.

The first research group consisting of Dr. Hodan Isse, Dr. Yusuf A. Nur, and the director of NCF, Dr. Abdullahi Haider, arrived in Mogadishu on May 17th, 2011. The team started field research on the following day - May 18th. All field research sessions in Mogadishu were held at Amira Castle Hotel.

Drs. Abdulakadir Osman and Mahadallah, who were at the time on their way from Denmark and USA, respectively, were to join the team in Mogadishu on May 20th. Only Dr. Abdulkadir Osman ended up joining the team in Mogadishu, Dr. Mahadallah having being delayed by ticket problems.

The first session was attended by members of the Transitional Federal Parliament (TFP) and members of the TFG. The session, which was on resource sharing as envisaged in the CDC, was conducted by Dr. Hodan Isse. There were eleven participants, five of whom were members of the TFG. All five were women who were either chairpersons or members of FTG standing committees.

The second session (also on resource sharing, conducted by Dr. Hodan Isse) took place in the morning of May 19th. The session was attended by 20 participants most of whom were Mogadishu University students or graduates. There were eight women among them.

The third session (also on resource sharing and conducted by Dr. HodanIsse) was held in the afternoon of May 19. The session was attended by a group of Somali consultants who were in Mogadishu working with different ministries of the TFG. All seven participants were men.

In addition to the focused group discussions, Dr. Hodan Isse also got all participants of her sessions to fill out a questionnaire on resource sharing.

Dr. Abdulkadir Osman Farah joined the team in Mogadishu on May 20th and conducted the fourth session, which was on Citizenship and the CDC. The session, attended by 12 participants, took place on May 21st. There were two women among the participants.

The fifth session was on Shari'a, democracy, and the CDC, and was conducted by Mr. Farah Sheikh Abdulkadir. The session was attended by 15 participants: five men representing different religious groups; Mogadishu University students; Benadir University students; a member of a new political party called Peace and Development Party; and, two self-designated intellectuals.

In addition to the above sessions, Dr. Abdulkadir Osman and Mr. Farah Abdulkadir conducted focused group discussions over lunch covering their respective topics with the same group of Somali consultants that Dr. Hodan had surveyed for her third session.

The research team returned to Nairobi on May 25th. On the following day, May 26th two sessions were held at the Meridian Hotel. The first session, held in the morning, was conducted by Dr. Hodan Isse. The topic was resource sharing and the CDC. The afternoon session, which was on citizenship and the CDC, was conducted by Dr. Abdulkadir Osman. The same participants, who numbered 20, took part in both sessions. The participants were almost exclusively from the Puntland state of Somalia. There was only woman among them.

Rapporteurs were hired to record each of the nine sessions the research team had conducted. The lists of participants and the rapporteur's reports are attached.

Dr. Mahadallah will fly to Mogadishu on June 4th and with the help of Dr. Haider, and will conduct focused group discussions on political participation and the CDC. The plan is for him to fly back to Nairobi on June 7th. On the 8th, Dr. Mahadallah and Mr. Farah Abdulkadir will conduct focused group discussion among Nairobi Somali diaspora comprising Somalis who are originally from the Puntland state of Somalia.

Validation workshops will start in Nairobi on June 5th. On that day, two workshops on resource sharing and citizenship will be held. On June 9th, validation workshops for the remaining topics (shari'a and democracy, and political participation) will be held. That will conclude the field research of the CDC Project.

The Final Narrative Report- Constitution Making Support Project on Public Consultation

Introduction

NCF was contracted by UNDP-Somalia to get the views of Somalis on four topics related to the Consultation Draft Constitution namely;

1. The Nexus between Shariah and Democracy: Questions for constitution making process in Somalia.
2. Citizenships
3. National Resource Management and Distribution in Somalia, linking the 'is' and the 'ought'.
4. Political Structures and participation in the context of the Somali Constitution.

After drawing its work plan and sharing it with UNDP-Somalia, NCF BODs together with the research committee recruited the research team whose positions had been advertised earlier when the organization commenced the partnership process. Dr Yusuf Nur was picked to lead the team while Mr. Farah Sheikh Abdulkadir, Dr Abdulkadir Farah Osman, Dr Hodan Isse and Prof. Hassan Mahadallah were selected as the researchers of the above four topics respectively and their profiles shared with UNDP. The selection process was purely on merit and NCF members certified that the team was competent enough to execute the task.

At the NCF secretariat, the project was being directed by Dr. Abdullahi Haider who was also then NCF executive director and was assisted by the coordinator Mr. Abdi Mohammed and assistant coordinator Ms. Wambui Kihiu.

Research Process

Initially the task was planned to be executed in four months from January –April 2011. However this was not possible as the researchers were in the middle of teaching semesters in their respective institutions of higher learning. The project director in consultation with UNDP project consultant adjusted the work plan to suit the researchers.

Mean while the researchers carried out literature review, desk top research, research methodology identification, development of questionnaire and pretesting of the same. They shared several drafts of these with the lead researcher who shared the final drafts with NCF secretariat. The project director visited Mogadishu to identify the venue and together with the IFCC the identified the interviewees.

In May, 2011 the researchers congregated in Nairobi before taking off to Mogadishu where they conducted the focused group discussions. In Nairobi the team met with the IFCC and shared with them the questionnaires they were to use in Mogadishu to gather the views of the Somalis on the four topics related to the CDC. Having been on the ground, IFCC gave very important insight which the researchers incorporated to their tools. In Mogadishu, the researchers conducted several FGDs with different groups of Somalis who included students from the universities, members of parliament, youth and women

groups and religious leaders. The researchers realized that they were missing the voices of Somalis from Somaliland and Puntland and due to logistics constraints they could not travel to these regions. This necessitated FGDs workshops in Nairobi with participants from these two regions. The workshops eventually took place in Nairobi, but without representatives from Somaliland who claimed that they were an independent state thus not party to what was taking place in South Central. Validation workshops were also carried out in Nairobi.

Though the public consultation was being carried out by a consortium and NCF attended the workshops organized by the members especially the Media, none turned up for NCF workshops despite the invitation. UNDP however attended all the workshops they were invited for.

After gathering the views of Somalis, through FGDs, sharing preliminary findings and incorporating the comments from the interviews the researchers finalized the data analysis and shared the findings with the lead researcher who after editing handed over the final report to NCF. NCF shared the report with UNDP-Somalia.

The following are the recommendations of the Somalis on the four topics related to the CDC:

The Nexus between Shariah and Democracy: Questions for constitution making process in Somalia.

Whether or not sharia shall be enshrined in the constitution resulted in a near consensus in that most of the respondents were of the opinion that Sharia shall be the foundation and reference of the Somalia's constitution. However, it was recommended that an independent commission be set up to oversee the implementation of Sharia and that such commission shall comprise mainly Islamic scholars. Some discussants went even further and laid down the mandate of the commission and how it should be constituted. A participant in the discussions said, "A commission of religious jurists whose mandate is to safeguard the correct implementation of the Sharia provisions in the constitution must be formed. These commission members should be either appointed by the executive or directly elected by the people, but they must be finally endorsed by parliament." Others were of the opinion that a good Sharia -sourced constitution implemented by rotten leaders is an exercise in futility. In this light, the country's top leadership must be people of high integrity with sound religious background and all the three arms of the government should be entitled to safeguard the implementation of the Sharia provisions in the constitution and the constitution as a whole.

On democracy the respondents were as divided as the term itself and most held conflicting views. There were those of the view that the term democracy must not be used since it has connotations with western style of governance and has evil intent. An interviewee vehemently stated, "Democracy entails some evil ideals that contradict the Sharia teachings and thus Somalis have developed some phobia against it. Therefore the term democracy should not be mentioned in the constitution."

Many participants held the contrary view and insisted that democracy is good and all democratic ideals such as elections and other democratic ideas that are in harmony with the Sharia ought to be

entrenched in the constitution. Democracy is useful as it is antagonistic to autocracy and it is also flexible. If adopted in a Somali context with a different terminology that befits the requirements of the common citizens then democratic values need to be borrowed.

Citizenships

Both focus groups in Mogadishu and Nairobi appeared enthusiastic in discussing the theme of Somali citizenship, viewing the issue from different perspectives. Most comments concentrated on Somali origin, territory, and the significance of Somali Diaspora citizenship. In addition, the focus groups suggested the importance of clarifying the citizenship issue in the Somali constitution as Somalis increasingly acquire dual and multiple citizenships.

Participants disagreed on who qualifies to acquire Somali Citizenship. Certain participants proposed that the Somali language should be a determining factor of the acquisition of Somali citizenship. Others suggested religion should be essential for the acquisition of citizenship. There was less discussion on ethnicity and race. Another important aspect which participants spent time concerned the issue of whether the second and third Somali Diaspora generations, who mostly don't speak proper Somali, should acquire Somali citizenship. This raises the question of whether speaking the native language could be considered as an important citizenship factor of national cohesion.

Some of the focus group participants in Mogadishu proposed Somali ethnicity, language and the Islamic religion as core requirements for Somali citizenship acquisition. Others considered citizenship as a legal relationship between a state and its citizens. In this regard the origin of the person as a Somali is important. For the participants of focus groups in Nairobi, citizenship entails having rights and obligations. In addition, a Somali origin and the affiliation to the Islamic religion equally constitute major requirements of citizenship eligibility. With regard to the perception of Somali citizenship, there were no significant differences between focus groups in Mogadishu and in Nairobi. In Mogadishu participants stressed security, statehood and nationhood, while focus groups in Nairobi emphasized respect for Somali tradition, culture and interest. Somalis in Nairobi also highlighted the need for patriotism towards the homeland.

According to the participants in the focus group discussions in Mogadishu Somali citizenship should be given to any person of Somali origin and their descendants anywhere in the world. In addition they will allow non-Somali residents in the country, who do not violate the country's laws, to apply and obtain Somali citizenship. Similarly participants in the Nairobi focus groups would give Somali citizenship to people of Somali origin and their children. Both focus group participants recognize the dispersal of Somalis not just across the Horn of Africa but also in the world. Thus they acknowledge the importance of incorporating the wider Somali nation into a future citizenship proposition. After all, Diaspora is an increasingly integral powerful component of the Somali people, as Diaspora politically and economically contributes to the development of the country.

Some members of the focus group in Mogadishu insisted providing citizenship to all Muslims in the country. Others disagreed in reference to extremists that often undermine the country's security. The disagreement on providing citizenship to all Muslims reflects the current conflict among the Somalis.

Some consider Muslims as equal citizens regardless of ethnic origin and race, while others suggest restricting citizenship to the people belonging to Somali ethnicity and the speakers of the Somali language.

With regard to the rights and obligations resting on the citizens of the country, Mogadishu focus groups prioritized security issues and freedom. Participants insisted that citizens first and foremost needed to get security and freedom to assemble and speak without fear of repercussions. In return, they proposed, citizens are obliged to pay taxes and to respect the country's laws and Islamic principles. Some of them also added that citizens should contribute to peace building in actively promoting good ethnical behaviour among citizens.

The Somalis in Nairobi refer to the need for citizens to abide by the rights and obligations stated in the constitution. They suggest citizens should safeguard the country's dignity and national interest. Clearly there was a difference between the ways focus groups in Mogadishu and in Nairobi analysed citizenship rights and obligations. For the people in Mogadishu security and freedom are vital elements for citizenship rights. When they talked about obligation they also referred to security requirements as they proposed citizens contributing to reconciliation and peacemaking processes among the conflicting Somalis. The task confronting Somalis in general and Mogadishu inhabitants in particular is the challenge of transforming a fragmented society dominated by warlords and militia into a society with responsible citizens, a task that can only be done by the coordinated efforts and insistence of the civil society. Obviously the prolonged devastating security condition makes the Somalis in Mogadishu to focus more on citizenship security and the need to find a peaceful solution to the protracted civil war.

For the Somalis in Nairobi, rights and obligation mean promoting and safeguarding the country's interests. Security is precious for all Somalis but the people in Mogadishu have longed for security since the outbreak of the civil war in 1991. The rest of the country had equally its share of insecurity but Mogadishu continues to experience the worst case as the status of the city remains contested and armed militias roam about and often threaten civilians.

Focus groups in Mogadishu suggest that Somalis should lose citizenship if they violate the country's laws, for instance by committing major crimes such as treason. People can also give up their citizenship status voluntarily. Citizens who acquired citizenship through naturalization might also lose citizenship if they repulsively violate the country's legislation. They also suggest Somali women who marry foreigners might also lose their citizenship.

For the focus groups in Nairobi a Somali recognised as a member of one of the Somali clans cannot lose citizenship. Any other persons might lose their citizenship status if they fail to uphold the country's laws. Apart from the language, clan identification is vital for distinguishing who is Somali and who is not. Regardless of what crimes Somalis commit they are citizens and will remain so. Nonetheless dictators and authoritarian regimes have in the past revoked dissidents' citizenship status.

National Resource Management and Distribution in Somalia, linking the 'is' and the 'ought'

Natural resource discussion had received the most diverse views in terms of resource control, allocation between the federal, regional, and district governments. The consensus amongst the groups was that no one government level should have full control over the distribution and management of natural resources. It should be shared among the different levels of government to ensure accountability, legitimacy, and transparency. Nonetheless all groups agreed that the federal government should maintain the ownership of strategic national resources, but its distribution and management should lie among different levels of governments.

National revenue pertains to the tax revenue collections from localities, ports, airports, etc. This revenue collection takes place at two levels; national and local. One group suggested local government should take 50% of the tax revenues collected from their localities and the rest to the federal government. However, the consensus amongst the groups was that the regional and local governments should take a large share of the national tax revenue. They asserted that 60% to 90% of the tax collection should be given to regions and localities where the revenues are being collected and the rest should go to the federal government. Moreover, local governments that do not have enough resources to meet their economic and social obligations should be supported by the federal government through tax redistributive services. Others suggested that budgetary needs and the population sizes should dictate how to distribute the national revenues. Some groups also noted that the federal government should lay down policy that restricts taxation of a product only at its original destination.

During the session, discussion on who should receive and administer foreign aid focused on accountability and assurance of the aid reaching those to whom it is targeted. The majority of the participants were in agreement that foreign aid funds should be appropriately received and fairly administered. The consensus amongst the groups was that for the time being, Somalia needs foreign aid. Most groups agree that foreign aid should be received and controlled by a special independent commission that comprises representatives from the regional and federal government.

There was a general consensus on the point of the Central Bank among the groups. Participants believed that an independent bank structure should be created by the parliament to manage monetary policy. There was a unanimous agreement between all groups that the head of the bank should be nominated by the president and approved by the parliament. The only disagreement around this topic stemmed from the question of who the bank had to answer to. The professional group saw the bank as the treasury department of the government, while most other groups sought to make it independent. This would not only provide a check to the power of the executive and legislative branch; but would serve as protection from any corruption stemming from the central government.

Discussion on human resource was quite interesting and participants concentrated on the importance of human resource and the need for developing quality human resources. The prolonged civil war depleted the human resources capacity of the country. Special laws in the constitution should consider youth recovering paths from abject poverty, unemployment, piracy and child soldiers. In the course of human

resources discussions, participants highlighted that human resource is the most important aspect of the economic and social development. Despite the looming facts that there was diverse and contradicting assertion on natural resource management, a remarkable consensus was reached amongst the groups in the distribution and management of human resources.

The issue of gender attracted much discussion from the participants particularly women whose representation was significant. During the discussion, participants' suggestions were that provisions of women rights need to be considered in the special laws of the constitution. Specifically they suggested that these provisions need to encourage education for women. They further emphasized the need to eliminate traditional norms that harm women's career development and are also inconsistent with Islamic teaching. Given the prolonged adverse effects of war on women, policies should be established to protect women from sexual violence. Anti-discriminatory policy should be developed where women will enjoy full and equal access to employment benefits. This specific group, who were mostly young ladies, asked that employment benefits such as maternity should be afforded to women. They expressed dismay in the current hiring practices that discriminate against women. To safeguard women labor rights national gender policy should be mandated.

State boundaries are problematic with each one disputing over districts or regions belonging to one state or another. The danger of the proliferation of state formation was expressed. A referendum over the appropriateness of federalism should be conducted. When federalism is endorsed through referendum, then special laws should be written governing state formation.

Political Structures and participation in the context of the Somali Constitution.

After a daylong session, the participants endorsed the fragmentation of the national government into three branches with separate and equal powers but registered a general aversion toward federalism. In the former case, although they favour the fragmentation of the national government, they noted few shortcomings in the Draft Constitution in lieu of which they made the following recommendations:

- The Constitution must clearly assign the powers of the three branches of government.
- The Constitution must not allow any one of the three branches to interfere with the authority of the other two.
- The Constitution must authorize the Legislative branch to exercise supervisory authority over the other two.
- The Constitution must authorize the Judiciary branch to hear and resolve all constitutional disputes.

Unlike the decentralization of the national power, which they endorsed, the focus groups instinctively rejected federalism. Their main concerns revolved around three main points: national security, political risk, social justification and economic burden.

From the consultation it was apparent that the Somalis were thirst for a system of government that would get them out of the protracted conflict among other things. NCF requested UNDP-Somalia to extend its public consultation partnership with some cost so as to get the views of Somalis on the

system of governance suitable for Somalia as it was one of the issues that arose from the previous consultations. After the extension with cost was granted, NCF BODs picked Dr Yusuf Nur and Prof. Hassan Mahadallah to carry out the task. This is because they are a command in the governance discipline, their familiarity with public consultation process having implemented the first phase of the process and the limited time that was given to execute the task.

While still in their institutions of higher learning where they teach, they carried out literature review, desk top research, methodology identification and developed the questionnaire and pretesting of the same. They shared the output of this with the research committee and NCF secretariat who updated UNDP-Somalia regularly. Due financial constrains, the FGDs could not take place in Mogadishu like in the previous consultation. However the two attended NCF annual conference in December 2011 where they conducted FGDs on the topic.

Mean while the secretariat organized for FGDs and validation workshops in Nairobi. The participants for these workshops were drawn from the Somalis residing in Nairobi specifically from South central and Puntland. Due to their busy teaching schedules the researchers were available in March, 2012 when they came to Nairobi. They conducted the Focus groups discussions and after analyzing the information they shared the preliminary findings with selected participants who gave their input. UNDP-Somalia was invited and attended the FGDs.

The researchers incorporated the comments and concerns of the participants and handed over the final analysis report to NCF research committee who edited it and handed it over to UNDP-Somalia by the end of March 2012.

Recommendations from the participants

The participants preferred mixed/hybrid system of governance to capitalize of positive aspects of presidential and parliamentary while avoiding their flaws. They preferred direct popular election of the president and parliament without a fixed term for president.

In terms of the tradeoffs between efficiency and representativeness, the participants of the focus group discussions, were divided on the issue. They agreed that presidential systems were more conducive to national development and representation, than parliamentary systems, especially when a majoritarian rule prevails.

The participants of our focus group discussion decried the current lack of electoral laws regulating the nation's party system. However, they objected to the limitation of the number of political parties by legislation. Instead, they endorsed a political approach discouraging the proliferation of political parties. One of the methods they proposed was to base them on known ideology or policy position, instead of clan or geographic characteristics.

Lastly, the discussants expressed collective preference for proportional representation over winner-take-all elections. Based on single-seat districts, the latter increases stakes of the election, and, therefore, the social tension in the area concerned.

Conclusion

Apart from the engagement with UNDP-Somalia, NCF started engaging the Somalis immediately the Consultation Draft Constitution was released in to the public in July 2010 for debate. It conducted public forums and panel discussions where the participants took time to study the draft and make recommendations. These deliberations were shared with IFCC.

NCF members Dr Yusuf Nur and Dr Abdkadir Osman Farah have been facilitating the constitutionalism debate informally in the USA and Denmark respectively. The organizations' intellectuals, civics and professionals continue to follow the steps the TFG takes towards the realization of a new constitution ensuring that their voices are audibly and clearly heard.

NCF looks forward to the next level of educating the public on the Constitution after taking into account their voices in this document.

**The Report of NCF Workshop Held on Saturday, May 26th 2011 at
the Meridian, Nairobi from 10.00am to 4.00pm**

Theme: A Focused Group Discussion Workshop

Table of Contents

Introduction.....	1
Focused Group Discussion: Citizenship.....	2
Group 1.....	4
Group 2.....	5
Group 3.....	5

INTRODUCTION

The workshop commenced at 10.30 am and the facilitator requested one of the participants to open the meeting with a word of prayer. A National Civic Forum (NCF) official thanked the participants for their attendance and welcomed them for the discussion. She informed the entire audience that, although living in Nairobi, the participants are focused group that represent the people of Puntland.

The facilitator expressed his concern on the gravity of problems facing Somalia as a result of the two-decade civil wars and believed that a constitution is the only remedy that can restore normalcy in the country. He gave a quick preview of the recent activities of NCF research team and their visit to Mogadishu where they collected the views of the residents on the four topics of the draft constitution. He admitted that due to some logistical constraints, it was not possible for the research team to visit Garowe and Bosaso to discuss these crucial topics with the residents and collect their views. He however, confirmed that the team was planning to visit those cities in the near future. It is because of that reason, the research team decided to invite participants who live in Nairobi but have their origins in Somaliland and Puntland to collect their views and latter add up to the Mogadishu findings for the research purposes.

The facilitator introduced each member of the research team stating their names, current occupation and their country of residence. After brief mention of the topics of discussion, he requested each participant to introduce themselves stating their names, place of birth and occupation.

The facilitator once again thanked the participants for sparing their time with the research team and stated that his assumption was that every participant was a nationalist and that was why the research team wanted to collect their views.

FOCUSED GROUP DISCUSSION ON THE TOPIC OF CITIZENSHIP

The guest speaker took this time to introduce himself and also thanked the participants for their attendance. He started his session by reminding the participants that humanity has the same origin and all human beings are brothers and sisters irrespective of race, religion, colour and tribe. In this light, he drove to the point that all Somalis are also brothers and sisters.

Basing on the Quranic teachings, the guest speaker argued that healthy classification is allowed in Islam and God blesses such classifications. Even God states in his holy book how he classified humanity into nations and tribes. He however regretted that man has from time immemorial come up with unhealthy classifications based on divisive motives. For instance, the negative ways in which the Somalis are classifying themselves into tribes and clans is misguiding and such classifications are not blessed by God. He reiterated that genuine classifications should be grounded on knowledge and wisdom.

He observed that citizenship is one of the man-made classifications and can sometimes be constructive, hence blessed by God, and at times so unhealthy not to attract God's blessings. He noted that the debate on citizenship is a global one and it takes different perspective in different countries depending on their socio-economic and political set-up.

Citizenship being the topic of discussion, he informed the audience that there are two types of citizenship. Complex citizenship that encompasses things such as social citizenship and the developed countries adopts this. The second one is the basic citizenship that mainly entails the basic rights of the citizens and this is the one that will be discussed in the session.

At this juncture, the participants were divided into three groups and given the same set of four questions on citizenship which they were expected to discuss and present their views at the end of the session. The following are the responses of each group:

GROUP 1

A) How do you understand Somali citizenship?

- The person who has rights and responsibilities over the country is a citizen
- It entails having rights and responsibilities over the country

B) Who can be given citizenship?

- Any person who is of Somali origin and has known clan lineage
- There should be laws that stipulates who else can be get citizenship

C) What are the rights and the responsibilities of the citizen?

- This has to be determined by the country laws with change of time

D) How can one lose his or her citizenship?

- The one that gets citizenship through the Somali or clan lineage can not lose it in any circumstance
- But the person that gets through the civil laws can again lose it through the same laws

GROUP 2

A) How do you understand Somali citizenship?

- Any persons of Somali origin and those born in Somalia have automatic citizenship rights

B) Who can be given citizenship?

- Any person who fulfils the citizenship requirements laid down by the government

C) What are the rights and the responsibilities of the citizen?

- The citizen should always safeguard the national interests of his or her country

D) How can one lose his or her citizenship?

- When one breaks the country's citizenship requirements laws

GROUP 3

A) How do you understand Somali citizenship?

- Citizenship entails one to be a Somali, respect the Somali traditions and Islam
- It also entails the love for one's country

E) Who can be given citizenship?

- The one who is proved by at least two people that he or she is a Somali

F) What are the rights and the responsibilities of the citizen?

- The citizen has to be fair to and safeguard the interests of the other citizens, the country and Islam, as it's the state religion.

G) How can one lose his or her citizenship?

- If the person commits a gross crime against the state
- If proved beyond doubt that the person is not a Somali
- Through any other state laws laid down by the government

After the presentations, a political science professor, who is also a member of the research team was given the opportunity to conclude the debate on citizenship. The scholar cautioned the participants against the dangers of limiting citizenship rights to tribes or clans as there are some tribes who claim to be Somalis when in Somalia and again denounce when in other countries. He argued that Somalia belong to the Somali tribe and warned of any further classification of the greater Somali tribe. His plea was for all Somalis to embrace unity and shun negative ethnicity.

REPORT OF CONSULTATION WORKSHOP

ON

SOMALI CONSTITUTION MAKING

CONDUCTED BY NATIONAL CIVIL FORUM (NCF)

FACILITATORS:

**Hodan Isse &
Yusuf Ahmed Nur**

Reporteur: Hashi Abdullahi Abdi

18 May 2011

A) INTRODUCTION:

1. Overview

This workshop was organized by the National Civic Forum with the aim of gathering relevant views from the Somali people on the current federal constitution. In efforts to make the process as participatory as possible NCF sought the diverse views from the sections of the society.

2. Workshop Objectives

The workshop objectives are:

- Pull different Somalis together to discuss the Federal Constitution process
- Gather relevant views on the constitution from the Somalis
- Generate ideas over resources distribution to complement the constitution process

3. Participants profile

The participants were of mixed representatives in the social setting who included Members of Parliament (MPs), civil society activists, representatives from the education institutions and civil servants. Among the MPs participating in the workshop were heads and members of Justice, Women & Child and Human Rights parliamentary committees. Apart from the MPs attending the workshop, the civil society representatives and civil servants had equated similar interest in contributing to the constitution process.

B) WORKSHOP PROCEEDING:

1) Opening Remarks:

Dr. Abdullahi Haider of National Civic Forum (NCF) opened the workshop with remarks on the importance of the session. Dr. Haider emphasized that the workshop covers participatory discussion about the Somali Federal Constitution process

He highlighted that during the workshop, themes for discussion will be focusing on Natural resources distribution, Citizenship, Political participation/structure and Democracy in the perspective of Islamic Shari'a. He introduced the facilitators to the participants and urged all participants to actively contribute.

2) Focus Group Discussion:

The session started with verses of Koran read by one of the participants as the opening of the workshop proceedings. After which the participants introduced themselves stating their current occupation and position which enabled the participants to be at ease with each other.

After the introductions, facilitators took over the stage and specifically made an overview of the workshop as well as how to proceed. The facilitator briefly highlighted the Somali Federal Constitution making process and the perceptions that the Somali people might have. He clarified that the thoughts sought will contribute to the constitution process on; natural, human and financial resources

Focused Group Discussion followed with the facilitator guiding on filling in the questionnaire and then recording if participants did not mind. There was assurance that

the information will be confidential as indicated on the FGD questionnaire which the participants filled. The questionnaires distributed contained detailed questions on; Land Policy, Natural resources, Financial resources, Human resources and Foreign Aid.

3) Special Questions:

The session kicked off with the facilitator leading the discussion by listing the participants questions based on the questionnaire they had just filled in.

- Q1 How to determining state boundaries?
- Q2 How to share national resources?
- Q3 Appropriate Human Resource systems?
- Q4 Who is to receive and spend foreign Aid?
- Q5 Should Hawala companies work as official banking system?

i) Determining state boundaries

During the session, discussion on this issue was lengthy and included:

- * State boundaries are problematic with each one disputing over districts or regions belonging to that state
- * The state formation itself engages smaller state replication within the state
- * Referendum on the appropriateness of federalism should be conducted
- * When federalism is endorsed through referendum, then special law should be drafted to govern state formation.

ii) Sharing national resources

Participants' discussion on this theme was equally interesting and resource sharing was a concern for everyone. Responses covered both natural resources and revenues in regard to the district, region and to the central government. All responses from the discussion were focusing on fair resource sharing but specific comments noted included:

- * District/region retains 45% of its revenue and 55% to the central government
- * District/region retains 60% of its revenue and 40% to the central government
- * District/region retains 85% of its revenue and 15% to the central government
- * District/region retains 15% of its natural resources and 85% to the central government
- * Central government should balance resources to regions on development need.

iii) Appropriate Human Resource systems

In this discussion, women were contributing most and their emphasis was on a gender perspective. Responses ranged from advocating for quality education and empowerment to establishment of relevant policies for youth, women and children. Most of the participants shared the following points of view:

- * From government to region, women and children should be educated allocating 25% for children and 30% for women of the financial resources on education.
- * Human resource should be selected on education and quality
- * National women and youth policy should be enshrined in the constitution
- * Labour rights should be enshrined in the constitution and implemented
- * Peace and citizenship education to the public on proactive citizens

In the course of discussion on the Human Resource, the issue 4.5 clan basis political system, in which the current TFG institutions are based, attracted heated debate as it affects people of this nation. They recalled that the political arena of Somalia was based on nationalism since 1950s. The participants were in agreement to scrap off the system and replace it with merit basis system as it affects people accessibility to opportunities.

iv) Foreign Aid

The discussion was on who should receive and administer foreign aid translating to accountability and assurance of the aid getting to the target group. Participants were in agreement on the following for the aid to be appropriately received and fairly administered:

- * For the time being, Somalia needs foreign aid
- * Foreign aid should be received and controlled by the federal government
- * Special independent commission should be set up to oversee the foreign aid
- * Members of the commission should be working for the government
- * There must be checks and balances (those managing and those overseeing)
- * Foreign aid distribution should be need based

v) Central bank

As part of the resource distribution agenda, participants discussed financial resources. The focus was how the central bank should operate from the capital to the regions and its service to the people. Also discussed were remittance companies (Hawala system). From the discussion, participants were in harmony over the following:

• Central bank

- * There must be a functioning central bank
- * Central bank to have branches in all regions
- * For ease of access, the central bank services to be available countrywide
- * Central bank to have branches from district, region to capital
- * Central banking system be effective
- * Central bank to have independent regulatory body and rule of law exercised

• Remittance companies (Hawala system)

- * Remittance companies (Hawala) should be registered
- * Their assets should be controlled by the central bank

- * Special rules governing the Hawala companies be set up by the central bank
- * Private transferring company banks should work as recognized banks
- * Deposit in the private companies should be guaranteed by the central bank as collateral

4) Conclusion and Sum up:

The workshop concluded by all participants agreeing on the points of contribution to be considered for the constitution making process. Participants highlighted at the end that the final constitution package will be relevant to the Somali people while the facilitators appreciated participants' contribution. In addition the participants recommended:

- Labour rights enshrined in the constitution
- National child policy (rights and care)
- Preserve national property
- National gender policy
- Special education for women (formal & non-formal)
- National youth policy (education, employment creation etc)
- Poverty reduction policy
- Observe the three powers (executive, legislature and judiciary)
- Civic education for the public (peace education, citizenship, participation)
- Ensure checks and balances in the powers of the government
- Pension policy to be set up and made part of the constitution
- Orphanage and old age care policy
- Health care service policy

Workshop participants:

SN	Participant Name	Institution	Tel.	E-mail
1	Marian Sh. Osman Mohamed	MP-member of the Justice Committee of the Parliament		marianosman@gmail.com
2	Hawa Abdillahi Qayaad	MP-Chairperson of Women, Child & Human Rights parliament Committee		
3	Bishara Abdi Garabey	MP- Chairperson of air & land Transportation committee of the Parliament		
4	Habiba Mohamed Kheyr	MP-member of Women, Child & Human Rights parliament Committee		
5	Marian Farah Warsame	MP-member of the Reconciliation Committee of the parliament		
6	Raghe Ali Osman	DOHAR		ismaail60@hotmail.com
7	Abdiaziz Ahmed Hersi	DOHAR		Cax1331@hotmail.co.uk
8	Abdinasir Haji Mohamed	DOHAR		abdunaserhagi@hotmail.com
9	Mukhtar Sh. Omar	DOHAR		Muqtaarfuyun1@hotmail.com
10	Mohamed Ahmed Alim	Civil Society Activist		
11	Yahya Sh. Amir H. Ibrahim	Life Science University Researcher		yahyamw@yahoo.com
12	Hashi Abdullahi Abdi	Reporteur		

**The Report of NCF Workshop Held on Saturday, May 26th
2011 at the Meridian Hotel, Nairobi from 10.00am to
4.00pm**

Theme: A Focused Group Discussion Workshop

Table of Contents

Introduction.....	1
Focused Group Discussion: National Resource Management and Distribution, linking the “is” and the “ought”	2
Group 1.....	3
Group 2.....	4
Group 3.....	5
Group 4.....	6
Discussion on the role of NGOs in Somalia.....	7

INTRODUCTION

Nearly all the invited participants had arrived by 10.30 am and the facilitator requested one of them to open the meeting with a word of prayer. A National Civic Forum (NCF) official thanked the participants for their attendance and welcomed them. She informed the entire audience that, although living in Nairobi, the participants are a focused group that represent the people of Punt land.

The facilitator expressed his concern on the gravity of problems facing Somalia as a result of the two-decade civil wars and believed that a constitution is the only remedy that can restore normalcy in the country. He gave a quick preview of the recent activities of NCF research team and their visit to Mogadishu where they collected the views of the residents on the four topics of the draft constitution. He admitted that due to some logistical constraints, it was not possible for the research team to visit Garowe and Bosaso to discuss these crucial topics with the residents and collect their views. He however, confirmed that the team was planning to visit those cities in the near future. It is because of that reason, the research team decided to invite participants who live in Nairobi but have their origins in Punt land to collect their views and latter add up to the Mogadishu findings for the research purposes.

The facilitator introduced each member of the research team stating their names, current occupation and their country of residence. After briefly mentioning the topics of discussion, he requested each participant to introduce themselves stating their name, place of birth and occupation.

The facilitator once again thanked the participants for sparing their time for the research team and stated that his assumption was that every participant was a nationalist and that was why the research team wanted to collect their views.

FOCUSED GROUP DISCUSSION ON THE TOPIC OF NATIONAL RESOURCE MANAGEMENT AND DISTRIBUTION IN SOMALIA, LINKING THE 'IS' AND THE 'OUGHT'

The facilitator welcomed the first guest speaker who is also a member of the research team to start the deliberations on the topic:-**National Resource Management and Distribution in Somalia, linking the 'is' and the 'ought'**

She first reminded the participants that the research was assumedly based on federal system of governance which has also been adopted by the Consultative Draft Commission (CDC).

As an economist, she expressed her belief that the fight among the Somalis is primarily instigated by the need to own, manage and control the national resources in Somalia and in essence tribal and clan conflicts are just manifestations of the fight over these resources. She said that from her recent visit to Mogadishu, it was evident that the owners of the means of production who are also rich and influential are the stumbling block to the establishment of a national political order in Somalia.

She employed two methodologies to collect the views of the participants. First, she distributed a qualitative questionnaire to all the participants and requested them to answer the questions as objectively as possible. The filled in questionnaires were to be submitted at the end of the session.

Secondly, the focused group was divided into four groups each comprising of five members. To be representative, each group was made up of participants of different demographic trend, place of origin and occupation. All the groups were then provided with the same set of five questions on the topic of discourse written in both English and Somali. Some of these questions were developed from the discussions between the focused groups in Mogadishu and the research team.

After lengthy discussions and brainstorming, all the four groups answered the questions and a member from each group was given the time to present the views of his or her team.

These are the groups views:

GROUP 1

A) How to determine state boundaries?

- Should be based on the need and agreement of the communities living in the border regions

B) How to share the natural resources?

- The region in which the resources are being exploited should get 50% and the other 50% should go to the central government.

C) How to distribute the national revenues?

- 90% of the revenues should be given to the region where the revenues are being collected while the other 10% should go to the central government

D) How to determine or allocate the human resource opportunities?

- By creating independent institutions that make sure allocation of job opportunities are purely based on merit

E)

i) How to safeguard the foreign aid?

- By creating independent commissions in all regions to plan and manage the use of these funds

ii) How to create an independent and Halal Central Bank?

- By creating a Shariah-based institution which is independent from the central authority

GROUP 2

A) How to determine state boundaries?

- Should be based on the agreement of the communities living in the border regions

B) How to share the natural resources?

- Through the central government, the regions endowed with natural resources should give some percentage of their earnings from these resources to the other regions that do not have these bounties.

C) How to distribute the national revenues?

- 60% of the revenues should be given to the region where the revenues are being collected while the other 40% should go to the central government

D) How to determine or allocate the human resource opportunities?

- Merit should only be the parameter that determines the allocation of government job opportunities

E)

i) How to safeguard the foreign aid?

- By creating independent institutions that safeguard, monitor and evaluate the use of these foreign aid

ii) How to create an independent and Halal Central Bank?

- The parliament should be given the mandate to create one and the decision on how to appoint its leadership

GROUP 3

A) How to determine state boundaries?

- The consensus reached by the communities living in the bordering regions should prevail above anything else

B) How to share the natural resources?

- The central government should manage the natural resources of the country and ensure that the standards of living of its citizens are maintained in all regions irrespective of their productivity.
- 70% of the earnings from the natural resources should go to the producing region while 30% should go to the central government. The central government is bound to change these percentages.

C) How to distribute the national revenues?

- 70% of the revenues should be given to the region where the revenues are being collected from while the other 30% should go to the central

government. The central government should have the overall management mandate.

D) How to determine or allocate the human resource opportunities?

- Should be based on merits but with some considerations given to the disadvantaged, neglected and minority groups in order to achieve both equity and equality

E)

i) How to safeguard the foreign aid?

- The central government to receive, plan and manage the foreign aid

ii) How to create an independent and Halal Central Bank?

NB: The group did not attempt this question

GROUP 4

A) How to determine state boundaries?

- If there are no bridges, rivers, lakes or any other natural borders, historical border arrangements should also determine the new borders

B) How to share the natural resources?

- There should be a national policy to stipulate the sharing and management of these resources
- 25% of the earnings from the natural resources should be reserved for the producing region while 75% is for the central government
- On water, there should be an elaborate national policy detailing proper conservation and utilization guidelines

C) How to distribute the national revenues?

- Budgetary needs and the population patterns should dictate how to distribute the national revenues
- The federal government should lay down policy that restricts taxation of a product only at its original destination

D) How to determine or allocate the human resource opportunities?

- For political portfolios, the 4.5 formula would be appropriate
- In non-political professions, allocation should be done using the merit system
- 7% of the overall positions should be reserved for the minorities, neglected and discriminated groups

E)

i) How to safeguard the foreign aid?

- Pledges should be made only by the relevant government agencies and not the donor coming with the aid without the government's request

ii) How to create an independent and Halal Central Bank?

- By creating commissions that ensure the central bank remains independent from the central authority
- To make the bank engage in halal activities, Islamic law scholars should be in its mainstream leadership

DISCUSSIONS ON THE ROLE OF NGOs IN SOMALIA

After the presentations, the guest speaker requested the participants to briefly discuss the advantages and disadvantages of the numerous Non-Governmental Organizations (NGOs) that work in Somalia since they have and control a considerable amount of foreign aid. Are some of them duplicating projects? Are there briefcase NGOs?

A participant classified the NGOs into two groups. A group which does marvellous projects that have a bearing on the social-economic and political lives of the beneficiaries. But this group is unfortunately inadequately funded by the donor community. The second group consists of NGOs that only write good proposals and are well-funded but engage in “white elephant projects” that do not benefit the target people. The participant reported that the total number of registered NGOs working in Somalia is 1867.

Another participant claimed that most of the NGOs in Somalia are not transparent and are only out there to embezzle the foreign aid. She in particular took issues with the United Nations (UN) agencies which she accused of becoming cartels to misappropriate funds.

Poor prioritization of projects has been cited as one of the deliberate ways of misusing funds. For instance, a participant narrated how an NGO that was given \$ 3 million to combat piracy in the coast of Somalia only used \$ 76000 for that course. The remaining money did not even leave the donor country which means this was an evil scheme hatched abroad to steal the fund meant to assist the Somalis. Some foreign countries have been accused of pretending to send many NGOs to the less developed countries but principally intend to use the organizations as job creating avenues for their jobless nationals.

It was also noted that some local NGOs connive with prominent personalities in the regional authorities to identify funding projects, seek the funds and finally share the loot with little regard to the concerns of the poverty-laden target populace.

Owing to the internationally set conventions and code of ethics, subsidiary NGOs linked to their mother international NGOs have been praised to be more accountable and transparent than the locally registered NGOs that pledge funding from several donor agencies. Also commended for their transparent, accountable and prudent management of their resources are the Arab-Muslim NGOs that have humanely intervened in many sectors such as education and helping the orphans since the start of the civil wars in Somalia.

To curb the NGO menace in Somalia, it was recommended that a proper authority under the planning ministry be established to account for the activities of these organizations from the local level to the international level. Committees should be set up in every region to monitor and evaluate the activities of these NGOs including funding details.

A report on a Consultative Forum between the National Civic Forum (NCF) and the Independent Federal Constitution Commission (IFCC) Held on Saturday, May 14th 2011 at the Meridian Hotel, Nairobi from 11.30am to 4.00pm

Table of Contents

Introduction.....1

Discussions on:

1) Discussions on the Research
Topics.....2

2) Discussions on the Proposed Research
Methodologies.....5

Annexes.....6

INTRODUCTION

At around 10.30 am most of the expected guests had arrived and the facilitator requested one of the participants to open the forum with a word of prayer. The invited guests comprised of the research team, research implementation committee from National Civic Forum (NCF) and Independent Federal Constitution Commission (IFCC) where the latter is the agency which is involved in the drafting of the current constitution of Somalia. Every member from the two institutions was asked to introduce him or herself before the other guests.

The facilitator took to the floor and thanked the participants for attending the session. He briefly highlighted the agenda of the meeting which was to deliberate on the research of the four topics and primarily getting the views of the Somali populace on these topics.

The topics of discussion were:

- a) The Relationship between the Shariah and Democracy; Questions for Constitution Making Process
- b) National Resource Management and Distribution in Somalia, linking the 'is' and the 'ought'
- c) Political Structures and Participation in the context of the Somali Constitution
- d) Citizenship; Entitlement, Acquisition, Revocation and Legislation.

The facilitator had requested the participants to limit their discussions on these four topics and figure out the best research modalities with the aim of accommodating the input of the people at the grassroots level and other opinion leaders. He reminded the participants the significance of these topics to the constitution making process and if successfully tackled, the achievement of a constitution will be within reach.

The fact that the new constitutional dispensation is greatly inclined to a federal system of government poses a great challenge considering that the Somalis were only used to a central government since independence up to its collapse in 1991.

While acknowledging the presence of this challenge, NCF and IFCC had vowed to continue their search for an all inclusive constitution for Somalia as this is seen as the only way Somalia can recollect itself out of the ashes.

One of the IFCC officials felt that NCF should have consulted with IFCC which had the abundant experience on Somali constitutional matters before attempting to carry out a research. He argued that a research was not necessary at this point. Other IFCC officials had also echoed the same concern.

Another IFCC official wondered why federalism which is the corner stone of the constitutional debate and the most sensitive topic was not among the listed topics. However NCF officials responded that federalism would be discussed under the topic of Political Structures and Participation.

NCF's restriction of the discussion to the four topics was also questioned by an IFCC member who preferred the chronology of chapter by chapter discussions but it was communicated that NCF was only operating under the framework stipulated by UNDP-Somalia and therefore had no authority to change the schedule.

A participant suggested that the two teams collaborate more closely in the future as their partnership is vital to the process of constitution making in Somalia.

DISCUSSIONS ON THE FOUR RESEARCH TOPICS

The following are the research topics to be discussed:-

- i) The Relationship between the Shariah and Democracy; Questions for Constitution Making Process
- ii) National Resource Management and Distribution in Somalia, linking the 'is' and the 'ought'
- iii) Political Structures and Participation in the context of the Somali Constitution
- iv) Citizenship; Entitlement, Acquisition, Revocation and Legislation.

Most of the participants commended NCF for choosing these four topics as they are very critical ingredients of the constitutional debate and comprise the main body of the constitution.

It is paramount to involve all the stakeholders at the grassroots level. For instance it was seen that the modalities be laid down to involve all the society groups in debating each topic at the grassroots level and collect their submissions

Another participant stressed the significance of gathering the views of the laymen concerning the topics on discourse. This is because the locals at the local level are likely to project sound solutions to the problems affecting them and are appropriately placed to understand issues affecting them. The adequate participation of the society groups at the grassroots level in the discussion will not only profile home grown solutions to the pertinent problems facing the locals but will also make the constitution a people driven one.

Considering the experience of IFCC in the process of constitution making in Somalia, their members promised to avail all the required technical and advisory support to NCF in the spirit of partnership and collaboration.

NCF's technical and research teams were invited by IFCC's Consultation Analytic Unit to share their documents. Some of the important documents that are at the disposal of IFCC's Consultation Analytic Unit are the submissions forwarded by the various society groups interviewed at the grassroots level. Such submissions are very important to NCF's research team as they can help it anticipate the nature of submissions that are expected and may be improve or amend the question structures previously used by IFCC so as to draw attention to areas unsatisfactorily covered by IFCC's research.

The close collaboration between IFCC's Consultation Analytic Unit and NCF's research team will allow NCF to understand the challenges that are likely to be faced at the local level when commissioning and moderating the public participation. Having anticipated the impending challenges, NCF's research team is expected to improve and build on the research methodologies employed by IFCC by making necessary adjustments.

In particular, it was agreed that ample time should be given to all the target groups at the grassroots level to deliberate on the different topics. That is to say, for example, that religious leaders, clerics and Islamic scholars will be accorded more time to discuss the topic of Shariah and Democracy. And these arrangements ought to be reflected in the proposed research methodology.

A member of the IFCC's Consultation Analytic Unit had narrated that experience taught him that it is cumbersome to always engage directly with the members of parliament whenever you are seeking their views on topical issues. This is because they are first unlikely to attend all the scheduled sessions as some go for other parliamentary or official duties while others claim to attend to their personal commitments. Secondly, not all the legislators you invite can meaningfully contribute to the ongoing debate since they might be hindered by the lack of knowledge and information on that particular field as some are not experts. The IFCC member suggested that it would be highly fruitful to engage the legislators through the Parliament's Constitution Committees.

Such committees will facilitate the meeting between NCF and the members of parliament that are involved and have background knowledge on the constitution making process.

The IFCC officials have pledged to chart out the roadmap in ensuring that NCF is granted the required facilitation and accessibility to both the executive and legislative arms of the Transitional Federal Government banking on the experience of IFCC and its cordial relations with all the transitional federal institutions. In circumstances that the Parliament's Constitutional Committees might not adequately facilitate the meeting between the parliamentarians and NCF officials, IFCC had promised to spearhead the facilitation process.

An IFCC official claimed that they had some difficulties in achieving much in the meetings attended by both members of parliament and other members of society. To the surprise of many the reasons he gave were because these two parties do not trust each other and cannot therefore frankly discuss issues under one roof.

Since NCF's immediate plan is to visit some of the regions in Somalia to collect the views from the local society groups, the issue of security concerns was raised. Selection of areas to visit must be informed by the security conditions prevailing in the particular area and the relevant authorities must be informed of NCF's planned visit and activities.

In towns controlled by hostile authorities and strict Islamic militia, forum objectivity and the safety of research personnel must be tactfully achieved by careful selection of discussion topics and interview questions in order not to antagonize any group.

Measures such as meeting with the different focus groups in different venues and conducting low profile sessions are some of the security precautions that NCF will undertake.

DISCUSSION ON THE PROPOSED RESEARCH METHODOLOGIES

The two parties having gone through the interview questions agreed to accommodate any legitimate concern by re-designing the structure of the interview questions. For example, on the topic of National Resource Management and Distribution, some IFCC officials have suggested that a question on whether the Somalis need a land policy should be among the interview questions. A question on the need to have a land policy was latter added to the list.

Interview questions on agricultural land in specific terms were opposed by some IFCC members who wanted the inclusion of questions on land in general. This concern was also addressed by re-designing those interview questions.

The topic of The Relationship between Shariah and Democracy attracted many deliberations. Considering the sensitivity of this topic, it was agreed that the interview questions on this topic be re-structured afresh and be made as straight forward as possible. The questions must be very simple and seek precise feedback and the wordings must also be carefully chosen.

It was agreed that the interview questions translated into the Somali language. The use of fewer questions that tackle the general principles in each topic instead of being numerous and repetitive have also been recommended.

After the final design of the interview questions, the next step is to select the focus groups that are to discuss the suggested topics. Following a lengthy discussion on the criteria of selecting the various focus groups, a four-tier system was adopted:-

- A) Transitional Federal Institutions. Included in this tier are:
 - i) Parliamentary Constitution Commissions
 - ii) Ministry of Constitution and Reconciliation
 - iii) Ministry of Religion and Justice Affairs
- B) Civil societies
- C) Professional bodies on the sectors of law, health, education, agriculture and livestock
- D) Religious leaders and elders. Included in this list are the preachers, clerics, Islamic lectures and community elders.

ANNEXES

NB: Items in this section include:-

- a) Pictures (Get from the coordinator)
- b) List of the participants (Also get these from the coordinator)
- c) The interview questions (Get these from Dr. Hodan)

Constitution Making Support Project: Progress Report

Prepared by:	Wambui Kihiu
Date (MM/DD/YYYY):	02 06 2011
Reporting Period:	May 2011

1. Narrative

The researchers congregated in Nairobi from 11th May and left for Mogandishu on 17th May. During their short stay in Nairobi, the researchers held a meeting with representatives of IFCC to iron out important issues. Three members of the research team (Dr. Hodan Isse, Dr. Yusuf Nur, and Mr. Farah Abdulkadir) and NCF executives namely director Dr. Abdullahi Haider, Mr Abdi Mohammed, Mr. Ahmed Ugas and Ms. Wambui Kihiu met with representatives of the IFCC in Nairobi on May 16, 2011. Views were exchanged on the best way to carry out field research in Mogadishu for the CDC project. The IFCC team imparted to the research team methodology suggestions, which proved valuable in the field.

The research team also consulted with NCF committee which is overseeing the task. For the findings to be balanced the team suggested a workshop in Nairobi consisting of Somalis from the regions of Punt land and Somaliland, immediately they were back from Mogandishu.

In Mogandishu the research team held workshops where they conducted focused group discussions on the four topics. When the team came back to Nairobi it also held workshops and conducted focused group discussion with Somalis from Punt land region. The Somalis from Somaliland shied away from the discussions claiming that their country had a constitution thus no need to be involved in the ongoing discussions.

See attached annexes of focused group discussion reports and NCF-IFCC meeting report in the following order:

- NCF-IFCC consultative meeting report.
- Workshop reports in Mogandishu and Nairobi on the four topics namely;
 - The Nexus between Shariah and Democracy: Questions for Constitution Making Process in Somalia
 - Citizenship
 - National Resource Management and Distribution in Somalia, linking the ‘is’ and the ‘ought’
 - Political Structures and Participation in the context of the Somali Constitution
- The lead researcher progress report



National Civic Forum

Monthly Status Report

May 2011

REPORT OF CONSULTATION WORKSHOP

ON

SOMALI CONSTITUTION MAKING

CONDUCTED BY NATIONAL CIVIC FORUM (NCF)

FACILITATORS:

**Hodan Isse &
Yusuf Ahmed Nur**

Reportaur: Hashi Abdullahi Abdi

18 May 2011

A) INTRODUCTION:

1. Overview

This workshop was organized by the National Civic Forum with the aim of gathering relevant views from the Somali people on the current federal constitution. This is in the spirit of making the constitution making process as participatory as possible.

2. Workshop Objectives

The workshops objectives are:

- Pull different Somalis together and discuss the Federal Constitution making process
- Gather relevant views on the constitution from the Somalis
- Generate ideas over resources distribution to complement the constitution process

3. Participants profile

Participants of this workshop were groups of professionals representing different parts of the society. Consultants to government institutions and international organizations were included together with higher officials from the TFG ministries. Women, business representatives and senior army generals were also engaged in the workshop. The participants reflected diverse fields of expertise and presented constructive ideas for the constitution consultation process.

B) WORKSHOP PROCEEDING:

1) Focused Group Discussion:

The day session commenced with the brief introduction by the facilitators on the nature of the discussion as the group engaged in the discussion was different. Subsequently, introduction by the participants followed with each person introducing themselves by name, current occupation and the institution represented for the discussion to proceed smoothly.

From this point, facilitators made brief coverage of the constitution consultation process and the importance of gathering views from the citizens at large. Facilitators explained how the session was going to run, first written the questionnaire and then crucial discussion on agreed specific questions. The views generated will enrich the current constitution writing process. Questionnaires covering Land Policy, Natural resources, financial resources, Human resources and Foreign Aid were distributed for the participants to fill in.

2) Special questions:

After filling in the questionnaires, facilitators asked the participants to generate relevant questions for discussion and they came up with the following:

- Q1 Human Resource
- Q2 Foreign Aid
- Q3 National revenue
- Q4 Natural Resources
- Q5 Central bank

Facilitators emphasized that the discussion should be relevant to the theme in discussion and Participants covered the selected questions in sequence.

A) Human resources

Discussion on this question was quite interesting and participants concentrated on the importance of human resource and the need for developing quality human resource. The protracted civil war depleted the human resources and the constitution should consider recovering the path. The suggestions made were;

- ◆ Formal education should be enshrined in the constitution
- ◆ Systems of non-formal education installed
- ◆ Technical and vocational training
- ◆ Special skills training for women as a priority
- ◆ National gender policy
- ◆ Education should be mandatory in the constitution
- ◆ Human resource is available in Somalia but be given upgrading
- ◆ For realizing equal opportunity for employment and education, the four and half clan based quota should be abolished.

B) Foreign Aid

Discussion on foreign aid question activated similar interest to the aspects of receiving and administering the money. Most of the discussion points concentrated on:

- ◆ Somalia needs foreign aid for the time being
- ◆ The central government should be the principle recipient and then distribute to the three levels of the government (national, regional and district).
- ◆ The central government should be linkage of the national levels
- ◆ Foreign aid should be directed to 50% and 50% distributed to the effective regions
- ◆ Independent commission should be established to oversee the aid program
- ◆ Regional and government representatives should collectively be part of the bodies making oversight of the aid
- ◆ Remittance accounts for important part of the national income

C) National revenue

Regions develop their plans of income and expenditure then:

- ◆ If there is deficit, the central government supports
- ◆ If there is excess of revenue over expenditure the central government takes the surplus
- ◆ The revenue collection is at two levels: national and local
- ◆ The local government collects some revenue (inland & other)
- ◆ Federal government collects most of the revenue
- ◆ Local takes 50% and the rest to the federal government
- ◆ Local governments that have no resources should be supported
- ◆ Percentage cannot be steady for regions that are not having revenue
- ◆ Revenue distribution to local governments should be need based

D) Natural resources

Natural resource discussion received most diverse views on the basis of resources control, allocation to districts, regions and the federal government. The discussion finally generated the following suggestions from the group members.

- ◆ Regions producing resources should be given 30% and rest 70% to the government
- ◆ Resources should be divided to locality, region and central, one third each
- ◆ Excess locality resources to help in infrastructure and pollution control
- ◆ Locality should be given minimum 10% and the state 10% and rest to the federal government
- ◆ Common natural resources 80% should be given to the locality
- ◆ Globally localities producing oil are richer than other localities
- ◆ Federal government should manage the natural resources
- ◆ Give the locality reasonable percentage of the resources
- ◆ Every resident should have equal opportunity created by the resource share
- ◆ The locality gets improved infrastructure creating employment opportunity and economic stimulus
- ◆ If resources come out from somewhere, it is equal to the Somali people for national development
- ◆ The negative effect of the resource producing localities should be considered

E) Central bank

To the central banking systems, participants contributed the following suggestions to be considered in the constitution writing process:

- ◆ The bank boss is nominated by the president
- ◆ Independent for monitoring monetary policy working with ministry of finance
- ◆ It is the treasury of the government
- ◆ It has no absolute authority of the money (just a custodian and monetary policy setting)
- ◆ President nominates after the proposal of the council of ministries
- ◆ The parliament endorses the nomination
- ◆ Regulates money circulation and preserving monetary value
- ◆ Preserves commercial banks
- ◆ The bank head if there is deficit, the central government supports
- ◆ Should ensure remittance companies make collateral system
- ◆ Central should have branches in the regions
- ◆ The bank should have jurisdiction in the regions

3) Other key comments:

As the consultation was on the constitution process, some of the participants raised questions on whether federalism has already been accepted or a question of ownership. Comments particularly highlighted how the constitution process was formulated as Somalis were under circumstance with no option but that of the current.

Strengths:

- ◆ It is the follow up of the current transitional Charter
- ◆ Its led by Somalis
- ◆ It is timely and depends on the Somali people
- ◆ Whatever the circumstance, the constitution is actually for Somalia
- ◆ The constitution is a bridge for transition

Weaknesses:

- ◆ The funding depends on foreign sources
- ◆ Initial thoughts were not initiated by Somalis
- ◆ Degree of constitution committee is freedom limited
- ◆ People are not able to think wise
- ◆ Ambiguity in the view whether we are federal or not
- ◆ Somalia still in transition to federal or not

4) Conclusion and Sum up:

The workshop concluded with all participants agreeing on the points they contributed to be considered for the constitution making process. Participants highlighted at the end that the final constitution package will be relevant to the Somali people while the facilitators showed appreciation for the participants' contribution.

Workshop participants:

SN	Participant Name	Institution	Tel.	E-mail
1	Mohamed Ahmed Amir	IT expert Ministry of Finance		
2	Ahemd Haji Abdullahi	Public finance Ministry of Finance		
3	Abdi Jama Gedi	IOM Consultant		
4	Harun Kulmiye	IOM Office Mogadishu		
5	Abdirahman Osman Mohamed	Budget Analyst Ministry of Finance		
6	Su'ad Mohamed Hassan	Women Business representative		
7	Abdullahi Sheikh Mohemd	Bandir Administration		
8	Abdiaziz Ali Molhamed	DG of Planning Ministry		
9	Abdukar Haji Warsame	Adviser to the Defense Minister		

NCF Focussed Group Discussion Workshop Report Held on June 8th, 2011 at the Meridian Hotel in Nairobi from 10.00am to 4.00pm.

Theme: Focussed Group Discussions on:

- a) The relationship between Democracy and Shariah**
- b) Federalism and Political participation**

TABLE OF CONTENTS

Executive Summary..... 1

Introduction.....2

Participants’ Views: The relationship between Democracy and Shariah.....3

EXECUTIVE SUMMARY

National Civic Forum (NCF) partnered with UNDP-Somalia on the Constitution Making Support Project to get the views of the Somalis on four topics related to the Consultation Draft Constitution-CDC. NCF research team which had been on the ground for sometime now, are researching on these four topics and collecting the views of the people. So far, the team held various discussions in Mogadishu and Nairobi and gathered the views of the participants.

Invited to the workshop were participants representing Puntland drawn from various society groups to discuss two of the four research topics. NCF's efforts to collect the views of the Somalis from all regions were thwarted by the failure of participants from Somaliland to honour the invitation. The NCF research team would collect the participants' views and combine with the views gathered from focussed groups in Mogadishu.

Sub-topical questions had been designed to guide the participants' responses and to also generate specific feedback.

The report attempts to capture the unfolding of the entire discussion and keenly observe the views and comments of the participants and the final outcome of this workshop will further be used to enrich the research.

INTRODUCTION

This forum brought together NCF research team and focused groups from Puntland. Although it was initially planned to hold the focused group discussion in Garowe (Puntland's capital city), logistical constraints necessitated Nairobi to host this particular meeting.

It was the turn of the researcher who was researching on the topic of the **Relationship between Democracy and Islamic Shariah** to facilitate the discussion. A core founding member of NCF, the researcher is a well known scholar who specializes in Islamic Shariah and its relations with democracy in reference to the making of constitutions. After an opening prayer, the forum would not start without asking the participants to introduce themselves.

The facilitator reminded the participants that the common question many people ask is why the civil war in Somalia when the Somalis are people of the same race, religion, language and tradition? He again juxtaposed the above scenario with Kenya's tranquility irrespective of its citizens who are of different races, religions, languages and traditions. He attributed the political order in Kenya to the existence of a solid supreme law which is acceptable to all. It is against this backdrop that the researchers are dedicatedly engaged in the efforts of researching on the four constitution topics with the aim of aiding the getting of a new constitution for Somalia.

The facilitator requested the participants to form four discussion groups and each comprising of four members. Each group was given the same set of five questions (written in both English and Somali) on the **Relationship between Democracy and Islamic Shariah** where the group was expected to present their views through the group leader at the end of the session.

After lengthy discussions and much brainstorming, the participants finally reached consensus in many fronts and the following are their views and answers to each question:-

THE RELATIONSHIP BETWEEN DEMOCRACY AND ISLAMIC SHARIAH

A) How can the Shariah law be enshrined in the constitution and how can the government be ensured of preserving the Shariah?

GROUP 1

- The constitution must stipulate that no any other law shall contradict the Shariah and if so, that particular law is deemed to be null and void.
- An independent commission must be established through either appointment or election that would safeguard the Shariah.

GROUP 2

- The constitution must have a provision that forbids the making of any other law (s) which is/are contradictory to the Shariah teachings.
- A commission of religious jurists whose mandate is to safeguard the correct implementation of the Shariah provisions in the constitution must be formed. These commission members should be either appointed by the executive or directly elected by the people but they must be finally endorsed by parliament.

GROUP 3

- A good Shariah-sourced constitution implemented by rotten leaders is an exercise in futility. In this light, the country's top leadership must be people of high integrity with sound religious background.
- An independent commission composed of religious scholars that vets these leaders must be put into place.
- All the three arms of government should be entitled to safeguard the implementation of the Shariah provisions in the constitution and the constitution as a whole.

GROUP 4

- All the articles in the constitution must be grounded on the Shariah teachings.
- The constitution must be drafted in a way that it does not contradict the Shariah.
- There should be an independent institution headed by Islamic jurists which has the overall power to safeguard the implementation of the Shariah provisions in the constitution.

B) What do you understand by the term democracy?

GROUP 1

- Democracy is a foreign term which contradicts the Shariah.
- Islamic democracy should be adopted.

GROUP 2

- Democracy is a political model used in sharing power.
- It is useful as it is antagonistic to autocracy and it is also perceived differently by different societies.
- It is good to adopt it when it fits the society's tradition.

GROUP 3

- All democratic ideals such as elections criteria that are in harmony with the Shariah ought to be entrenched in the constitution.
- Democracy entails some evil ideals that contradict the Shariah teachings and thus the Somalis develop some phobia against it. Therefore the term democracy should not be mentioned in the constitution.

GROUP 4

NB: This group combined questions 2 and 3 hence presented a single answer for the two questions.

- It is a concept of short freedom that sometimes contradicts the Shariah.
- Democracy is a dynamic model which is not universal as it has different values in different societies.

C) How do you see the similarities and differences of Shariah law and Democracy?

GROUP 1

- Democracy and Shariah agree on elections criteria.
- They disagree on matters of personal freedom as their limits on this are at variance.

GROUP 2

- One of their similarities is that they all advocate for the people to elect their leaders.

GROUP 3

- They are similar on the grounds of advocating for proper political representation.
- They agree to respect the need and the wishes of the people in leadership circles.

GROUP 4

NB: This group combined questions 2 and 3 hence presented a single answer for the two questions.

- It is a concept of short freedom that sometimes contradicts the Shariah.
- Democracy is a dynamic model which is not universal as it has different values in different societies.

D) What is the relationship between the Shariah law, personal freedom and the preservation of human rights?

GROUP 1

- The Shariah law grants personal freedom and preserves human rights.

GROUP 2

- Islamic Shariah itself provides the necessary personal freedom and human rights values.
- However, the problem arises from the different ways in which different societies understand and interpret the concept of human rights.

GROUP 3

- Personal freedom is strictly limited to the Shariah's teachings. For example, a child has no absolute freedom.

GROUP 4

- Since God has blessed humanity, the Islamic Shariah safeguards the human rights and grants necessary personal freedom to the individual.

E) How do you see the relationship between the Shariah implementation and the rights of women?

GROUP 1

- The Shariah is the only law that gives women their deserved rights.

GROUP 2

- The Shariah grants women their full rights.
- A man marrying many wives is a way of ensuring women gets their rights to marry contrary to the criticisms levelled against polygamy by the west.

GROUP 3

- The Shariah holistically addresses women rights and it is the Somali tradition which men use to dominate women and violate their rights.
- It is paramount to differentiate between religious and traditional practices so that cultural practices that do not respect the rights of women are thrown out.

GROUP 4

- Women rights are adequately and sufficiently addressed by the Islamic Shariah.
- There is no competition between men and women as everyone has his or her separate roles to play.

REPORT OF CONSULTATION WORKSHOP

ON

SOMALI CONSTITUTION MAKING

CONDUCTED BY NATIONAL CIVIC FORUM (NCF)

FACILITATORS:

**Hodan Isse &
Yusuf Ahmed Nur**

Reppporteur: Hashi Abdullahi Abdi

19 May 2011

A) INTRODUCTION:

1. Overview

This workshop was organized by the National Civic Forum with the aim of gathering relevant views from the Somali people over the current federal constitution. In regard to the reflections from the Somalis in which some citizens' voice for the constitution to be more participatory, there was a need to seek diverse views from the sections of the society about the constitution writing process.

2. Workshop Objectives

The workshops objectives are:

- Pull different Somalis and discuss the Federal Constitution making process
- Gather relevant views on the constitution from the Somalis
- Generate ideas over resources distribution for complementing the constitution process

3. Participants profile

This workshop pulled together significant number of university students mostly those studying business administration and economics as their first degree in Mogadishu. Female university students accounted for significant number in this session. Among the participants, there were civil society activists and other citizens interested in contributing their thoughts to the constitution consultation process. Business sector was also represented in the discussion group.

B) WORKSHOP PROCEEDING:

1) Focused Group Discussion:

The sessions of the day started with participants' introduction where each person introduced themselves by name, current work and position, thereby enabling participants to be at ease in knowing each other. Then, the facilitators made an overview of the workshop focusing on the theme and the discussion proceedings. The facilitator further highlighted the Somali Federal Constitution making process and the views sought from the different sections of the Somali society. The outcome of the discussion will be a significant contribution for the constitution to be based on participatory input and enabling the committee to see the strengths/weaknesses from the eye of the people.

The facilitators distributed a questionnaire for the participants to fill covering Land Policy, Natural resources, financial resources, Human resources and Foreign Aid. The facilitators highlighted that important discussion on key issue will follow. Participants were informed that this is a research on constitution related issue and will be confidential. Participants filled the questionnaire resulting to further discussion on some issues.

2) Special Questions:

The next session started with the facilitators asking participants to come up with most sensitive questions on resource distribution on the basis of the questionnaire. From the brainstorming for a while, participants listed five key questions for discussion as follows:

- Q1 How to share resources?
- Q2 How to manage foreign aid?
- Q3 How the central bank is to be?
- Q4 How to get better Human resources?
- Q5 How to ensure gender awareness?

Participants deliberated on these questions and gave the following views:

Question one: Resources sharing

- Resources should be shared and distributed according to population size
- The central government should distribute the natural resources with special development allocation to the resource locality
- Resources should be distributed by the regions
- A census should be carried out, assess needs and then distribute resources equally
- Resources should be shared in percentage, largest to resource location
- Local resources should be need based
- Resources be spent on people's priority needs - education, health, agriculture etc
- A fixed percentage should be given to local tax collection and then the federal government
- Resources should be distributed fairly and equally
- Resources should be monitored by an independent commission

Question two: Foreign aid

Discussion on foreign aid was equally interesting and all comments and suggestions were common around:

- Foreign aid is now needed
- Justice and effective government
- Government receives foreign aid but there should be checks and balances
- Foreign aid should be governed by an independent commission including civil society, government and business community
- Foreign aid should be distributed in equal and fair manner
- Experts should be involved in the distribution of foreign aid including the Somalis in Diaspora, local intellectuals and international media
- Donors must be accountable and interest attached be known
- Food aid should not replace local production
- There should be accountability, transparency and effective government to manage foreign aid

Question three: Central Bank

The discussion on this question focused on the way central bank should be and all comments focused on:

- Independent central bank that cooperates with the federal government
- Central government must be independent
- The president of the central bank must be nominated by president and endorsed by the parliament
- Board must come from all regions
- At least Four branches must be established
- The governor of the bank must have vast expertise

Question four: Human resources

In the course of the human resources question discussion, participants highlighted that human resource is the most important aspect of development. They also emphasized that Somali people in Diaspora account for greater share of the nation's human resources. However, participants came up with following points from their discussion on human resources.

- Use of Somali people in the Diaspora as important human resources
- Policies should put be in place for Somali Diaspora to return and work in Somalia
- Dialogue should be enhanced amongst people in the Diaspora and those in Somalia
- The constitution must give equal opportunity for employment and education
- There must be national employment creation strategy for the youth
- The government should have a policy on vocational training & skills development
- Employment should be merit based not clan based
- Retirement age should be extended indefinite because of effective human resources shortage

Question five: gender

The issue of gender attracted much discussion from the participants particularly women whose representation was significant. During the discussion, participants' suggestions to be considered in the constitution were:

- Education of women must encouraged
- Women should be educated in order to stand side by side with men
- Elimination of traditional rules that harm women's development
- Anti-discriminatory policy should be developed where women will enjoy fully
- Secure safe policy should be established for women without fear or sexual violence
- Employment should be gender based
- Women must be given maternity leave policy

3) Conclusion and Sum up:

The workshop was concluded by the participants summing up the points and comments that were meant to input to the constitution writing process. The participants voiced their desire for the constitution to be more consultative to finally sort out any ambiguity. Some of the participants pointed out the Federal system will be in question and federalism may spark conflict on resource sharing.

The facilitators appreciated the interactive discussion on the issue of the constitution consultation, resource sharing theme and highlighted that the views gathered will be relevant to the constitution and finally to the Somali people at large.

Workshop participants:

SN	Participant Name	Institution	Tel.	E-mail
1	Liban Abdi Mohamud	Mogadishu University		Liibaanc1@hotmail.com
2	Mustafa Mohamed Ali	Mogadishu University		mustafhaajii@hotmail.com
3	A/risak Mohamed Jim'ale	Business man		
4	Aisah Mohamud	Citizen		
5	Jihan Ali Hassan	Mogadishu University		jihaancali@hotmail.com
6	Amal Abdullahi Mohamed	Mogadishu University University/Economics		
7	Badra Bashi Mo'alın	Mogadishu University		
8	Hassan Basri Osman Abubakar	Mogadishu University		
9	Zakaria Ali Mohamed	Mogadishu University/Economics		
10	Abubakar Abdullahi	Mogadishu University Economic		
11	A/risak Mohamed Osman	Mogadishu University		
12	Abas Nur Mohamed	Mogadishu University		
13	Ahmed Dahir Gure	Mogadishu University		
14	Mohamud Sh. Hassan	Civil Society Activist		
15	Zainab Abdullahi Mohamed	Mogadishu University		
16	Sirad Ali Mohamed	Mogadishu University		
17	Arafad Abdullahi Abdi	Mogadishu University		
18	Abdukadir Ali	Citizen		
19	Hashi Abdullahi Abdi	Reporteur		

SUMMARY OF THE WORKSHOP OUTPUT 15th JUNE 2001

1) PARTICIPANTS:

- ◆ Members of parliament (MPs)
- ◆ Civil servants
- ◆ Traditional & religious leaders
- ◆ University lecturers
- ◆ University students
- ◆ Teachers

2) DISCUSSION QUESTIONS:

A) POLITICAL STRUCTURES:

Question 1: Somalia has three branches of government. What do you think their relationship should be?

Question 2: What do you like/dislike about federalism and why?

Question 3: If a region decides to stand alone, should we give regional autonomy?

B) POLITICAL STRUCTURES:

Question 4: what do consider political participation to involve?

Question 5: Does the proposed federal constitution give full opportunity for political participation.

3) DISCUSSION/GROUP OUTPUT:

PART I: Political Structure:

Question 1: Somalia has three branches of government. What do you think their relationship should be?

Group1

- ◆ The three branches of the government should be independent from each other and work according to the law
- ◆ Their conduct should be controlled by the legislative council

Group2

- ◆ The prelateship of the government should be three equal powers
- ◆ There must be check and balance

Group3

- ◆ Clearly stipulate the powers of every constitutional branch of the government
- ◆ The legislative branch should not interfere the powers of the executive branch
- ◆ The powers of the constitutional branches of the government should be parallel
- ◆ The judicial branch is the organ that solves constitutional disputes of the other two

Question 2: What do you like/dislike about federalism and why?

Group1

Likes

- ◆ Creates opportunities for political participation and decentralized administration
- ◆ Opportunity of competing for development and social progress
- ◆ Creating platform for peoples' power such as knowledge
- ◆ Citizen confidence goes higher

Dislikes

- ◆ Federalism creates clan and regional disputes
- ◆ Federalism leads to disintegration of the country
- ◆ Some regions cannot economically stand alone under federalism
- ◆ Somali people are not yet ready to federal system

Group2

- ◆ The system of federalism is not workable in Somalia
- ◆ Somali people do not need federalism because of having same language, culture, religion and ethnicity.

Group3

- ◆ Because of the past conflict, federalism can be a solution for the nation
- ◆ Due to the Somali people's low awareness and readiness, federalism can cause new disputes over land and clan orientation

Question 3: If a region decides to stand alone, should we give regional autonomy?

Group1

As region demanding stand alone cannot be given autonomy because;

- ◆ Economic and defense power becomes weaker
- ◆ Destruction of different dimensions emerges

Group2

- ◆ One region standing alone as autonomous is not acceptable

Group3

- ◆ Any region decided to stand alone have the right to directly come under the control of the federal government
- ◆ This autonomy for respective region should come through referendum

PART II: Political Participation:

Question 1: What do you consider political participation to involve?

Group1

- ◆ Formation of political parties that are capable of gaining popular support
- ◆ Accumulating knowledge and experience in participating politics

Group2

- ◆ Seek confidence of political participation from your people
- ◆ No fear, no coercion and the like

Group3

- ◆ Political participation should come through use of multi party system
- ◆ Political party formation should be according to the constitution chapter which stipulates the matter clearly.

Question 2: Does the proposed federal constitution give full opportunity for political participation:

Group1

- ◆ The constitution grants equal political participation in the federal system

Group2

- ◆ The constitution gives every citizen a full opportunity for political participation

Group3

- ◆ The proposed federal constitution creates full opportunity for political participation

4) OTHER DISCUSSION COMMENTS:

Key discussion comments that followed the group work presentation have been revolving around the points below:

- The will of the people are represented by people's deputies (MPs)
- The power separation of the government organs must be clearly delineated
- Power separation is usually written in the constitution but never implemented
- The power of the government judicial organ is non-existent and it should be revived
- Dictatorship minded leadership is always a political problem
- Constitution is written and held but not even read by the leaders
- Federalism can persuade regions seeking cessation to be part of the federal system
- Federalism is quite strange to Somalia
- Whatever political system agreed, the problem is the implementation

List of participants

SN	Participant Name	Institution	Tel	E-mail
1	Raghe Ali Osman	Civil Servant	0615199662	ismaaail60@hotmail.com
2	Abdiaziz Ahmed Hersi	Civil Servant	0615661464	Cax1331@hotmail.co.uk
3	Abdinasir Haji Mohamed	Civil Servant	0615110390	abdunaserhagi@hotmail.com
4	Mukhtar Sh. Omar	Civil Servant	0615509780	Muqtaarfuyun1@hotmail.com
5	Sh. Abdikhaliq Abdullahi Hamsa	Member of Parliament	0615512560	maldosom@hotmail.com
6	Caadil Sheegow Sagaar	Member of Parliament	0699909999	Sagaar15@hotmail.com
7	Osman Adan Dhuubo	Member of Parliament	061551453	Somplc@hotmail.com
8	Mohamed Budul Abdi	Traditional & Religious Leader	0615152334	
9	Sh. Ahmed Shuke	Traditional & Religious Leader	0615260079	
10	Abdullahi Sh. Mohamed Xikam	Traditional & Religious Leader	0615529787	
11	Faduma Abubakar Ahmed	Mogadishu University	0699996858	deeqaabukar@hotmail.com
12	Faduma Ahmed Abdullahi	Mogadishu University,	0615128717	Cayni145@hotmail.com
13	Zainab Abdullahi Mohamed	Mogadishu University	0615643418	Seeba88@hotmail.com
14	Marian Abdullahi Mohamed	Mogadishu University	0615643418	Maariya09@live.com
15	Ismail Abdi Mohamed	Teacher	0615718815	Ustaad77@hotmail.com
16	Dahir Mahdi Kullo	Simad Institute	0615189629	
17	Liban Abdi Mohamud	Mogadishu University	0615509506	Liibaanc1@hotmail.co

Report of the consultation workshop

on

CITIZENSHIP

In the Somali constitution making

Organized by National Civic Forum (**NCF**)

Facilitator:

Abdulkadir Osman Farah.

Reportaur: Hashi Abdullahi Abdi

21st May 2011 Mogadishu

Contents

Introduction.....	3
Workshop objectives.....	3
Participants profile	3
Workshop proceeding	3
Focus Group, questions and responses	4
Conclusion	8
List of workshop participants.....	9

Introduction

National Civic Forum (NCF) organized one day workshop on Saturday the 21st of May 2011 on the issue of citizenship in Mogadishu. The main aim of the workshop was to gather relevant views from the Somali people on the current federal constitution, particularly the topic of Somali citizenship. In addition the workshop wanted to bring Somali voices forward with the purpose of qualifying the constitution to be more participatory. In this regard it is essential to seek diverse views from all actors and sections in the Somali society.

Workshop objectives

- The workshops objectives include:
- Bringing together different Somalis with diverse ideas, professionals, age and gender to discuss the Federal Constitution making process
- Qualifying the views at group levels
- Generate ideas on Citizenship for complementing the constitution making

Participants profile

The workshop participants represented a mixed group from the residents of Mogadishu. Among the participants were member of parliaments (MPs) some of who are members of parliamentary committees, University lecturers, traditional elders, religious scholars as well as graduated and undergraduate students pursuing different careers. Civil society organizations representatives were also part of the workshop.

The ideas presented in the workshop cannot be generalized but qualitatively the group represents the wider Somali society, particularly those with certain educational background. The participation of the youth and women also enriched the discussions.

Workshop proceeding

Opening

The workshop started with the introduction by the facilitator Abdulkadir Osman Farah who made an overview of the workshop aims and purposes. He pointed out the intentions of the meeting and the process of gathering views about the federal constitution. The

facilitator highlighted the themes for discussion during the session as citizenship aspect of the constitution.

Subsequently, self introduction by the participants followed by name, institution represented and current occupation after which the focused group discussion kicked off.

Focused Group Discussions, and responses

The facilitator led the session by giving a snapshot of the constitution process, the perception that Somali people could have it and the best ways to integrate public opinion into the process. Discussion followed on constitution and the sectors of the society and in particular the importance of the citizenship aspect. To guide the discussion four key questions were posed as follows:

Questions

Q1: What is Somali citizenship?

Q2: Who is eligible for Somali citizenship?

Q3: What are the obligations and rights of the citizen?

Q2: How can citizens lose their citizenship?

After agreeing on the above questions, the participants were divided into three groups each group tackling all the questions. The facilitator made clarifications to the groups as they tackled the questions.

The following are the group's findings:

Q1: What is citizenship?

Group 1

- Somali origin and language
- People residing the territory of Somalia
- The Muslim person

- Ethnic Somalis

Group 2

- Citizen is legal relationship between the government the person
- Persons of Somali origin

Group 3

- Every person of Somali in everywhere
- Every Somali prioritizing the nation hood
- Being Somali
- Every citizen can lose the citizenship

Q2: Who is eligible for citizenship?

Group 1

- All persons of Somali origin in anywhere
- All persons of Somali origin and speak Somali
- All persons paying tax and residing Somalia
- Any Muslim residing the country
- Person born abroad of Somali parents

Group 2

- All persons of Somali origin in anywhere
- Every person of Somali parents
- Every person residing in Somalia for years (more than) and not acting against the country law

Group 3

- All persons of Somali origin in anywhere
- Every person of Somali parents
- Every person residing in Somalia for years (more than) and not acting against the country law
- Person residing the country and contributing to the nationals betterment

- Every person with Somali parents in any where
- Every person born in Somali and grown up there

Q3: What are the rights and obligations of the citizens?

Group 1

Rights

- Security for the person and the property owned
- Proper health service
- Education and skills
- To get employment

Obligations

- Obey to the law of the nation
- Sacrifice for the nation
- Pay tax to contribute the nation
- Take part reconciling conflicts
- Promote ethical behavior
- Obey Islamic principles

Group 2

Rights

- Security for the person and the property owned
- Proper health service
- Education and skills
- Freedom of expression
- Free to elect and to be elected

Obligations

- Obey to the law of the nation
- Sacrifice for the nation

- Put national priority before personal interest
- Pay tax to contribute the nation
- Obey Islamic principles

Group 3

Rights

- There basic rights of citizenship and given citizenship
- Freedom
- Security for the person and the property owned
- Health service and education

Obligations

- Obey the law of the nation
- Defense of the country
- Sacrifice for the nation
- Obey Islamic principles
- Pay tax to contribute the nation

Q4: How a person can lose citizenship?

Group 1

- Prove that the person became citizen illegally
- Violating the law of the nation
- Crimes against the country

Group 2

- Voluntary give up of citizenship by the person
- High court disqualifying citizenship
- Single Somali parent especially mothers

Group 3

- Violating the law of the nation
- Crimes against the country

Conclusion

The discussion was lively with participants viewing the issue from different angles. Most of the comments were concentrating on all persons of Somali origin in the territory of Somalia and abroad have the right be citizenship of the Somali nation. Citizenship attracted heated discussions and some participants stressed that this matter should be very well detailed in the constitution as it bears greater importance for the Somali people at this stage.

Obviously there was disagreement on who qualifies to acquire Somali Citizenship. Certain participants said that speaking the Somali language should be a corner stone for Somali citizenship. Others suggested religion should be essential for acquiring citizenship. There was less discussion of ethnicity or race. Another important aspect which the participants spent time on was the issue of whether the younger Diaspora generation who mostly do not speak proper Somali should acquire Somali citizenship.

The workshop closed with all the participants requesting for echoing of their voice in the constitution. The facilitator thanked the participants for their valuable contribution and assured that their views will be documented in confidence, observing ethics of research.

List of workshop participants

SN	Participant Name	Institution	Tel.	E-mail
1	Abdi Hashi Abdullahi	MP	0615519350	
2	Faduma Ahemd Abdullahi	Mogadishu University,	0615128717	
3	Abdullahi Ahmed Garun	MP	0615505091	
4	Abdirahman Hassan Omar	Lecturer, Mogadishu	0699990410	
5	Adullahi Farah Mohamed	Mogadishu University,	0615195015	
6	Abdulkadir Sheikh Osmail	MP		
7	Faduma Aubaka Ahmed	Mogadishu University,	069996858	
8	Mohamed Nur Sheikh	Religious group	0615562866	
9	Ali Nur Maalin	Religious group	065899130	
10	Sheikh Abdullahi Sheikh	Religious group	0615529787	
11	Sheikh Ahmed Ali Osman	Religious group	0615260079	
12	Mohamed Budul Abdi	Religious group	0615152334	

A report on a Consultative Forum between the National Civic Forum (NCF) and the Independent Federal Constitution Commission (IFCC) Held on Saturday, May 14th 2011 at the Meridian Hotel, Nairobi from 11.30am to 4.00pm

Table of Contents

Introduction.....	1
-------------------	---

Discussions on:

1) Discussions on the Research Topics.....	2
---	---

2) Discussions on the Proposed Research Methodologies.....	5
---	---

Annexes.....	6
--------------	---

INTRODUCTION

At around 10.30 am most of the expected guests had arrived and the facilitator requested one of the participants to open the forum with a word of prayer. The invited guests comprised of the research team, research implementation committee from National Civic Forum (NCF) and Independent Federal Constitution Commission (IFCC) where the latter is the agency which is involved in the drafting of the current constitution of Somalia. Every member from the two institutions was asked to introduce him or herself before the other guests.

The facilitator took to the floor and thanked the participants for attending the session. He briefly highlighted the agenda of the meeting which was to deliberate on the research of the four topics and primarily getting the views of the Somali populace on these topics.

The topics of discussion were:

- a) The Relationship between the Shariah and Democracy; Questions for Constitution Making Process
- b) National Resource Management and Distribution in Somalia, linking the ‘is’ and the ‘ought’
- c) Political Structures and Participation in the context of the Somali Constitution
- d) Citizenship; Entitlement, Acquisition, Revocation and Legislation.

The facilitator had requested the participants to limit their discussions on these four topics and figure out the best research modalities with the aim of accommodating the input of the people at the grassroots level and other opinion leaders. He reminded the participants the significance of these topics to the constitution making process and if successfully tackled, the achievement of a constitution will be within reach.

The fact that the new constitutional dispensation is greatly inclined to a federal system of government poses a great challenge considering that the Somalis were only used to a central government since independence up to its collapse in 1991.

While acknowledging the presence of this challenge, NCF and IFCC had vowed to continue their search for an all inclusive constitution for Somalia as this is seen as the only way Somalia can recollect itself out of the ashes.

One of the IFCC officials felt that NCF should have consulted with IFCC which had the abundant experience on Somali constitutional matters before attempting to carry out a research. He argued that a research was not necessary at this point. Other IFCC officials had also echoed the same concern.

Another IFCC official wondered why federalism which is the corner stone of the constitutional debate and the most sensitive topic was not among the listed topics. However NCF officials responded that federalism would be discussed under the topic of Political Structures and Participation.

NCF's restriction of the discussion to the four topics was also questioned by an IFCC member who preferred the chronology of chapter by chapter discussions but it was communicated that NCF was only operating under the framework stipulated by UNDP-Somalia and therefore had no authority to change the schedule.

A participant suggested that the two teams collaborate more closely in the future as their partnership is vital to the process of constitution making in Somalia.

DISCUSSIONS ON THE FOUR RESEARCH TOPICS

The following are the research topics to be discussed:-

- i) The Relationship between the Shariah and Democracy; Questions for Constitution Making Process
- ii) National Resource Management and Distribution in Somalia, linking the 'is' and the 'ought'
- iii) Political Structures and Participation in the context of the Somali Constitution
- iv) Citizenship; Entitlement, Acquisition, Revocation and Legislation.

Most of the participants commended NCF for choosing these four topics as they are very critical ingredients of the constitutional debate and comprise the main body of the constitution.

It is paramount to involve all the stakeholders at the grassroots level. For instance it was seen that the modalities be laid down to involve all the society groups in debating each topic at the grassroots level and collect their submissions

Another participant stressed the significance of gathering the views of the laymen concerning the topics on discourse. This is because the locals at the local level are likely to project sound solutions to the problems affecting them and are appropriately placed to understand issues affecting them. The adequate participation of the society groups at the grassroots level in the discussion will not only profile home grown solutions to the pertinent problems facing the locals but will also make the constitution a people driven one.

Considering the experience of IFCC in the process of constitution making in Somalia, their members promised to avail all the required technical and advisory support to NCF in the spirit of partnership and collaboration.

NCF's technical and research teams were invited by IFCC's Consultation Analytic Unit to share their documents. Some of the important documents that are at the disposal of IFCC's Consultation Analytic Unit are the submissions forwarded by the various society groups interviewed at the grassroots level. Such submissions are very important to NCF's research team as they can help it anticipate the nature of submissions that are expected and may be improve or amend the question structures previously used by IFCC so as to draw attention to areas unsatisfactorily covered by IFCC's research.

The close collaboration between IFCC's Consultation Analytic Unit and NCF's research team will allow NCF to understand the challenges that are likely to be faced at the local level when commissioning and moderating the public participation. Having anticipated the impending challenges, NCF's research team is expected to improve and build on the research methodologies employed by IFCC by making necessary adjustments.

In particular, it was agreed that ample time should be given to all the target groups at the grassroots level to deliberate on the different topics. That is to say, for example, that religious leaders, clerics and Islamic scholars will be accorded more time to discuss the topic of Shariah and Democracy. And these arrangements ought to be reflected in the proposed research methodology.

A member of the IFCC's Consultation Analytic Unit had narrated that experience taught him that it is cumbersome to always engage directly with the members of parliament whenever you are seeking their views on topical issues. This is because they are first unlikely to attend all the scheduled sessions as some go for other parliamentary or official duties while others claim to attend to their personal commitments. Secondly, not all the legislators you invite can meaningfully contribute to the ongoing debate since they might be hindered by the lack of knowledge and information on that particular field as some are not experts. The IFCC member suggested that it would be highly fruitful to engage the legislators through the Parliament's Constitution Committees.

Such committees will facilitate the meeting between NCF and the members of parliament that are involved and have background knowledge on the constitution making process.

The IFCC officials have pledged to chart out the roadmap in ensuring that NCF is granted the required facilitation and accessibility to both the executive and legislative arms of the Transitional Federal Government banking on the experience of IFCC and its cordial relations with all the transitional federal institutions. In circumstances that the Parliament's Constitutional Committees might not adequately facilitate the meeting between the parliamentarians and NCF officials, IFCC had promised to spearhead the facilitation process.

An IFCC official claimed that they had some difficulties in achieving much in the meetings attended by both members of parliament and other members of society. To the surprise of many the reasons he gave were because these two parties do not trust each other and cannot therefore frankly discuss issues under one roof.

Since NCF's immediate plan is to visit some of the regions in Somalia to collect the views from the local society groups, the issue of security concerns was raised. Selection of areas to visit must be informed by the security conditions prevailing in the particular area and the relevant authorities must be informed of NCF's planned visit and activities.

In towns controlled by hostile authorities and strict Islamic militia, forum objectivity and the safety of research personnel must be tactfully achieved by careful selection of discussion topics and interview questions in order not to antagonize any group.

Measures such as meeting with the different focus groups in different venues and conducting low profile sessions are some of the security precautions that NCF will undertake.

DISCUSSION ON THE PROPOSED RESEARCH METHODOLOGIES

The two parties having gone through the interview questions agreed to accommodate any legitimate concern by re-designing the structure of the interview questions. For example, on the topic of National Resource Management and Distribution, some IFCC officials have suggested that a question on whether the Somalis need a land policy should be among the interview questions. A question on the need to have a land policy was latter added to the list.

Interview questions on agricultural land in specific terms were opposed by some IFCC members who wanted the inclusion of questions on land in general. This concern was also addressed by re-designing those interview questions.

The topic of The Relationship between Shariah and Democracy attracted many deliberations. Considering the sensitivity of this topic, it was agreed that the interview questions on this topic be re-structured afresh and be made as straight forward as possible. The questions must be very simple and seek precise feedback and the wordings must also be carefully chosen.

It was agreed that the interview questions translated into the Somali language. The use of fewer questions that tackle the general principles in each topic instead of being numerous and repetitive have also been recommended.

After the final design of the interview questions, the next step is to select the focus groups that are to discuss the suggested topics. Following a lengthy discussion on the criteria of selecting the various focus groups, a four-tier system was adopted:-

- A) Transitional Federal Institutions. Included in this tier are:
 - i) Parliamentary Constitution Commissions
 - ii) Ministry of Constitution and Reconciliation
 - iii) Ministry of Religion and Justice Affairs
- B) Civil societies
- C) Professional bodies on the sectors of law, health, education, agriculture and livestock
- D) Religious leaders and elders. Included in this list are the preachers, clerics, Islamic lectures and community elders.

ANNEXES

NB: Items in this section include:-

- a) Pictures (Get from the coordinator)
- b) List of the participants (Also get these from the coordinator)
- c) The interview questions (Get these from Dr. Hodan)

The Final Narrative Report- Constitution Making Support Project on Public Consultation

Introduction

NCF was contracted by UNDP-Somalia to get the views of Somalis on four topics related to the Consultation Draft Constitution namely;

1. The Nexus between Shariah and Democracy: Questions for constitution making process in Somalia.
2. Citizenships
3. National Resource Management and Distribution in Somalia, linking the 'is' and the 'ought'.
4. Political Structures and participation in the context of the Somali Constitution.

After drawing its work plan and sharing it with UNDP-Somalia, NCF BODs together with the research committee recruited the research team whose positions had been advertised earlier when the organization commenced the partnership process. Dr Yusuf Nur was picked to lead the team while Mr.Farah Sheikh Abdulkadir, Dr Abdulkadir Farah Osman, Dr Hodan Isse and Prof. Hassan Mahadallah were selected as the researchers of the above four topics respectively. The selection process was purely on merit and NCF members certified that the team was competent enough to execute the task.

At the NCF secretariat, the project was being directed by Dr. Abdullahi Haider who was also then NCF executive director and was assisted by the coordinator Mr. Abdi Mohammed and assistant coordinator Ms. Wambui Kihiu

Research Process

Initially the task was planned to be executed in four months from January –April 2011. However this was not possible as the researchers were in the middle of teaching semesters in their respective institutions of higher learning. The project director in consultation with UNDP project consultant adjusted the work plan to suit the researchers.

Mean while the researchers carried out literature review, desk top research, research methodology identification, development of questionnaire and pretesting of the same. They shared several drafts of these with the lead researcher who shared the final drafts with NCF secretariat. The project director visited Mogadishu to identify the venue and together with the IFCC the identified the interviewees.

In May, 2011 the researchers congregated in Nairobi before taking off to Mogadishu where they conducted the focused group discussions. In Nairobi the team met with the IFCC and shared with them the questionnaires they were to use in Mogadishu to gather the views of the Somalis on the four topics related to the CDC. Having been on the ground, IFCC gave very important insight which the researchers incorporated to their tools. In Mogadishu, the researchers conducted several FGDs with different groups of Somalis who included students from the universities, members of parliament, youth and women groups and religious leaders. The researchers realized that they were missing the voices of Somalis from Somaliland and Puntland and due to logistics constrains they could not travel to these regions. This

necessitated FGDs workshops in Nairobi with participants from these two regions. The workshops eventually took place in Nairobi, but without representatives from Somaliland who claimed that they were an independent state thus not party to what was taking place in South Central. Validation workshops were also carried out in Nairobi.

Though the public consultation was being carried out by a consortium and NCF attended the workshops organized by the members especially the Media, none turned up for NCF workshops despite the invitation. UNDP however attended all the workshops they were invited for.

After gathering the views of Somalis, through FGDs, sharing preliminary findings and incorporating the comments from the interviews the researchers finalized the data analysis and shared the findings with the lead researcher who after editing handed over the final report to NCF. NCF shared the report with UNDP-Somalia.

From the consultation it was apparent that the Somalis were thirst for a system of government that would get them out of the protracted conflict among other things. NCF requested UNDP-Somalia to extend its public consultation partnership with some cost so as to get the views of Somalis on the system of governance suitable for Somalia as it was one of the issues that arose from the previous consultations. After the extension with cost was granted, NCF BODs picked Dr Yusuf Nur and Prof. Hassan Mahadallah to carry out the task. This is because they are a command in the governance discipline, their familiarity with public consultation process having implemented the first phase of the process and the limited time that was given to execute the task.

While still in their institutions of higher learning where they teach, they carried out literature review, desk top research, methodology identification and developed the questionnaire and pretesting of the same. They shared the output of this with the research committee and NCF secretariat who updated UNDP-Somalia regularly. Due financial constrains, the FGDs could not take place in Mogadishu like in the previous consultation.

Mean while the secretariat organized for FGDs and validation workshops in Nairobi. The participants for these workshops were drawn from the Somalis residing in Nairobi specifically from South central and Puntland. Due to their busy teaching schedules the researchers were available in March, 2012 when they came to Nairobi. They conducted the Focus groups discussions and after analyzing the information they shared the preliminary findings with selected participants who gave their input. UNDP-Somalia was invited and attended the FGDs.

The researchers incorporated the comments and concerns of the participants and handed over the final analysis report to NCF research committee who edited it and handed it over to UNDP-Somalia by the end of March 2012.

Conclusion

Apart from the engagement with UNDP-Somalia, NCF started engaging the Somalis immediately the Consultation Draft Constitution was released in to the public in July 2010 for debate. It conducted public forums and panel discussions where the participants took time to study the draft and make recommendations. These deliberations were shared with IFCC.

NCF members Dr Yusuf Nur and Dr Abdkadir Osman Farah have been facilitating the constitutionalism debate informally in the USA and Denmark respectively. The organizations' intellectuals, civics and professionals continue to follow the steps the TFG takes towards the realization of a new constitution ensuring that their voices are audibly and clearly heard.

NCF looks forward to the next level of educating the public on the Constitution after taking into account their voices in this document.

Citizenship

Contents

INTRODUCTION	1
DEFINITION OF CITIZENSHIP	2
FROM RESTRICTED CITIZENSHIP TO EXPANDED CITIZENSHIP	3
FROM COLONIAL CITIZENSHIP TO FRAGMENTED CLAN AND REGIONAL CITIZENSHIP	7
DIASPORA, TRANSNATIONALISM AND RELIGIOUS CITIZENSHIP	9
METHODOLOGY	11
REFERENCES.....	16

Introduction

The Somali proposed draft constitution links citizenship to people and not just to territory. This implies that people who comply with the country's obligations qualify to access numerous rights such as political and property ownership rights. In return citizens will have to contribute to the country's security and prosperity by, for instance, paying taxes and, if requested, by fulfilling national service duties.

Somali citizenship can be acquired at birth or people can apply directly to relevant authorities in the country or representatives of the Somali Republic abroad. Somalia had in the past granted citizenship to all ethnic Somalis living in Ethiopia and Kenya (Herbst, 2000:236). Due to the millions of Somalis in Diaspora, Somali citizenship qualifications will have to be revised to accommodate Somali Diasporas relationship with the homeland and countries of settlement. This paper argues that the proposed Somali constitution follows the modern restricted formal approach to citizenship rather than the expanded post-modern global approaches that have emerged in recent years as the result of globalization and complex political, social, and economic restructuring of nations and states.

This paper consists of four sections. In the first section a brief review of the existant literature is presented. This section will cover first the classical modern restricted conceptualization of citizenship. Then the section will expound on how this citizenship perception changed as a result of global wars and decolonization processes in the developing world. The second section looks at the different kinds of citizenship options African states and societies have experimented with. The third section discusses how Diaspora, transnationalism and religious movements across national boundries challenge the national and territory-based citizenship formalization and status. The final section proposes questions that will be used to explore citizenship views of Somali respondents. Among other issues, the questions will cover the need for expanded citizenship status and the accommodation of citizenship wishes for the estimated 2 million, many of them the most resourceful, who currently reside outside the Somali Republic (Horst, 2008:44).

Definition of Citizenship

Citizenship is a formal recognition by a state or a society that an individual is a free member of that state or society. Citizenship entails equal rights in the democratic governance of the country as well as its political system. In most countries it is clearly stated in the constitution of the country who should be entitled to be a citizenship of the country. For instance the American constitution determines that all persons born or naturalized in the country are citizens of the country (Saye,1979). This is a citizenship, similar to the Somali one, that can be acquired at birth. There are nonetheless exceptions as people born outside the country must contact the authorities and declare their intension to be citizens of the country. There was a time in the US when citizenship could also be acquired through annexation (Colegrove,1921:5).

From restricted political and legal perspectives, citizenship includes rights and obligations of the people who are members of a sovereign country. This was not always the case as in the old Greece any member who lived in the city qualified to obtain citizenship, which at the time included the right to participate in the political debate. Some cities have nonetheless demanded that people should demonstrate descent relationship to the city if they wanted to become a citizen (Dellolio, 2005:19). Women and slaves were excluded from this privilege. With the emergence of democratic and more inclusive systems in Europe, the concept of citizenship expanded from its narrow classification in pre-modern times to include earlier excluded groups such as women, ethnic and other economically marginalized groups. With emergence of welfare societies, citizenship came to signify the right to access the services provided by various organizations and institutions (Kremer,2007:26).

Bottomore (1993) differentiates formal citizenship from a substantive citizenship. The first signifies a person's membership of a nation state, while the latter implies 'the possession of a body of civil, political, and especially social rights'. In many countries, particularly developing countries, it is the formal citizenship that is the standard citizenship that gives right to fully participate in the political system, meaning to elect representatives and to be elected and many other practical benefits such as obtaining national documents such as passports, etc.

From restricted citizenship to expanded citizenship

In classical city states, such as Greece and also those in Asia and Africa, people acquired citizenship if they lived in the cities. Industrialization, urbanization and Western revolutions, particularly the American and the French, expanded the concept of citizenship. These political, economic and social developments transformed societies making their members more active citizens conscious of individual freedom and participation in the democratic process. The establishment of modern European states formally linked state territories with nations, meaning that each nation was given its own designated territory. The Westphalian state construction¹ considered a citizen a person who resides in a particular territory and belongs to a particular nation (Babu, 1996:4). The action was justifiable at the time as Europeans strived to overcome decades of brutal religious and tribal wars. Hence they concentrated on the creation of state and citizenship forms that could prevent future religious conflicts. They saw the linking of state, territory, and citizenship as the most suitable solution.

With regard to the acquisition of citizenship, it is not certain where to put the emphasis; the legal, the economic or the social. Should citizenship entitlement concentrate on a particular territory or beyond? In the current more globalized world, prosperous countries argue that their social dimension of citizenship is under threat from immigrants and “open borders”. There is also more focus on the economic dimension of citizenship. Instead of providing service for the citizens, governments create associations and communities where they expect people to self-govern. They create new territories and relationships whereby people no longer directly deal with governments but with each other. Some consider this as a power manipulation and as an indirect rule and management of the citizens (Rose, 1996). Furthermore, contemporary democratic practices in the West focus on deliberative democracy that builds on three main criteria: Inclusivity, deliberation, and citizenship². But critics suggest that such citizenship roles are not formalized. They call for a formalization that can be done through the creation of citizen juries that, in their opinion, might improve the so-called deliberative democracy. The institutionalization of democratic

¹ In the city of Westphalia, Germany, European kings, nations, warlords and many use to fight religious and tribal wars met in 1648 to construct the nation state form that the world knows today.

² The three terms are somehow connected to each other since through inclusion people will have an opportunity to participate in public deliberations that enhance the role of citizens. It is through inclusion and debates that people demonstrate their ability to be part of the society

debate will lead to an enhanced decision making processes. The problem is that such a jury requires some kind of social capital that in the end might benefit powerful constituents more than less powerful ones. The process of selecting and appointing such a jury can also lead to the selection of experts rather than ordinary citizens (Smith & Wales, 2000). That might undermine the original idea of citizenship which is to include and empower ordinary citizens.

The industrialization of the West led to global expansion and colonization by western powers in the rest of the world. This colonialization process additionally complicated citizenship as Europeans had to decide whether to provide or not citizenships for people who did not live in Europe but were engaged in colonial expansion in Asia or Africa (Spinkard, 2005:8).

The post-World War Two order transformed citizenship conceptualizations and approaches. The most significant was the so-called Marshal paradigm, which introduced the new term of “social citizenship” (Isin & Wood, 1999;26). From this time on citizenship was no longer restricted to political legal rights but also included economic and social components. This was a process where the state undertakes social and economic development activities to provide and improve welfare services for citizens. Europe was devastated by two destructive wars and the countries and their peoples needed reconstruction. Americans led this process and Europe was rebuilt giving citizens expanded economic and social rights.

The so-called Marshal paradigm of social citizenship has been in decline in recent decades due to intense technological and economic transformations. Social citizenship was not a free-ride approach. As Turner (2001) informs us, citizens were required to become “work citizens, warrior citizens and parent citizens.” But the world has since changed as people do not need to work to acquire citizenship and they don’t need to be warriors to maintain citizenship. Instead governments have introduced concepts such as “social investment” where the state argues it will invest in citizens’ education and health. Opponents say that such future investment are not about the improvement of the citizens education and health as such. The social investment approach aims at creating future “citizen worker” for the future, making citizenship construction a process of rational economic calculation (Lister, 1967). In developed stable democratic countries, citizenship becomes an integral part of the political governance where, through innovative procedures, governmental systems

create civil society institutions that not just deal with the state but also go beyond the state. In such constructions the market acquires a dominant role that eventually leads to a democratic deficit (Swyngedouw, 2005).

Welfare citizenship came under pressure from two quarters. Firstly, the decolonization processes that took place following the end of WWII. This led to intense transformation including forced and voluntary migration from colonised to formerly colonial countries. In addition to that, many subjects from the colonies participated not just in the liberation of Europe but also in its reconstruction. Many of them decided to stay and become citizens of their colonial mother country. Consequently migration from Asia and Africa to the West increased, additionally complicating and gradually globalizing the acquisition of citizenship.

Secondly, the processes of globalization and technological advancement made the concept of citizenship much more fluid and complex and difficult to define (Adams and Carfagna, 2006:127). Under globalization with intense mobility and connections, it is not easy to maintain the traditional citizenship of classical political and legal inclusion and social welfare opportunities. Consequently the definition of citizenship has to be expanded to take into account the particular condition of where people are and what type of requirements they might have.

Recently a number of interesting citizenship conceptualizations have emerged. In the past citizenship was considered a direct relationship between the state and citizens. The state was required to provide rights and obligations, and citizens were expected to access those rights and fulfill the obligations. With the emergence of civil society constellations, an intermediate structure emerged mediating the citizen and the state. The state no longer has monopoly to provide services and rights, but society itself can play a role in who gets what, when and where. Nonetheless civil society organizations were accused of consolidating the dominant state. Instead of saying the state has to give rights to citizens, states and governments delegate to the citizens and their organizations the responsibility of making the rules and determining the role of citizenship.

Citizenship is not just about rights for the members of the political system; it also entails obligations, which include citizenship responsibilities such as compliance

with the law, loyalty, and political participation. The approach assumes that citizens are responsible to maintain the system and the state in compromising and accepting the will of the majority and those that it rules. Within this top-down citizenship, citizens have to accept the conditions the leaders and state lay down.

Citizenship is also a political construction that is continuously modified. A case in point is the the third way, which is an attempt to reconstruct the citizen as a moral subject of responsible communities. The third way citizenship philosophy assumes that there are no first and second way of manging the society. People should not claim that they are ruled by a dominat state or elite. Likewise people should not expect to unilaterally rule others. The alternative is the third way which is based on the idea of ruling together. The problem is that the third way favours the middle class. Citizens are required to move the third way (the civil society approach) and those who have civic capabilities are left behind (Rose, 2000). Such processes reflect the government's attempt to construct the unity of the nation and manage the internal diversity of the society. This is again a top-down approach presented as an inclsuive process to empower citizens. The government sells the project as an attempt to delegate power and decision to the people, but it is just the opposite that happens. Citizens might get disempowered in the process as they follow an ingenous process the authorities designed to that end (Clarke, 2005)

In some countries people who commit crimes can also get some sort of citizenship rights that, for instance, allow riminals to elect representatives and express their views and wishes while in prison (Holsten J., 2009).

From colonial citizenship to fragmented clan and regional citizenship

Africa is a continent colonised and brutalized by European colonialists. In colonial times Africans were subjects of their colonial masters and far from free citizens. Therefore people did not have access to similar rights as those exercised by colonialists and their associates. After independence the changes implemented by post-colonial leaders remained insignificant. Many African countries just copied the colonial formulation of citizenship rules, with minor symbolic modifications. Countries in West Africa maintained the colonial legacy of citizenship where there was no clearly differentiation between the French and the African citizenship forms. Citizens of some African countries, Senegal, for instance, continue up to today to consider themselves as citizens of both France and their home country. (Chafer, 2002:48).

In some Africa countries governments see citizens as economic resources in stressing economic citizenship such as taxation. This has frequently instigated civil disobedience specially when such resources disappear in excessive government corruption. In addition many African governments do not have public legitimacy (Roitman, J., 2007). After obtaining independence some countries made such minor changes as moving from a citizenship based on the territorial model inherited from colonial powers and the colonial division of Africa to a citizenship resting on patrilineal descent. In traditional Africa, before colonialism came to the continent, matrilineal descent defined community affiliation. Feminists argue that citizenship based on patrilinealism will undermine women as they will continue to suffer from patriarchal citizenship rules (Cheater, A.P., Gaidzanwa, R.B., 1996)

In the post-independent era Africa tried to emulate Europe by bypassing the state and pursuing the third way and the civil society approach of decentralization. But this is a process that excludes non-organized groups (Ceuppens, B., Geschiere, P., 2005). There are also questions whether imported types of NGOs and civil society structures can improve citizenship development in Africa in the transition from authoritarian regimes to more democratic inclusive societies (Fowler, 1993).

African dictatorships have complicated the process of citizenship when they turned their countries into personal fiefdoms. They used to give citizenship to anyone that complied with their political dictates and denied citizenship to anyone who opposed them. This was a pure monopolization of citizenship to the extent where a single citizen and a group of elites exclusively determined who qualifies to acquire citizenship and who does not. In some countries public citizenship debates emerged but this was also monopolised by power constituents and the governments. Critics were silenced. Later African dictatorships paved the way for devastating ethnic and tribal civil wars leading to the de-nationalization of these countries. Currently many of them are trying to overcome this grave ethnic tribal framing by reintroducing national citizenship. The problem is that Africans, due to resource scarcity and political disagreements emanating from colonial legacies, compete and unilaterally introduce sub-national and regional citizenships excluding people from a particular region from accessing resources and citizenship rights. This creates a fractured and dysfunctional tribal homeland spaces of regional citizenship with sub-national identities and resource competition (Kraxberger, B., 2005). There are some African success stories, such as Rwanda, which seems to have learned from the brutality of ethnic civil wars (Mamdani, 2002:17). Through bottom up reconciliation processes, Rwandans are about to redefine the citizenship status to move beyond colonial and post colonial invented citizenship categorizations based on tribal allegiances such as Hutu and Tutsi classifications. Instead Rwanda has constructed an identity resting on Rwandese national affiliation (Buckley-zistel, S., 2006).

Another important dimension of the pursuit of suitable citizenship frame in Africa is the need for inclusion of often marginalized groups such as women, children and immigrants. Women and children are normally not included in the citizenship rights, at least not in the political and legal dimension (Roche, J., 1999). This raises questions about what kind of citizenship rights these groups should be given and who will give them.

Diaspora, transnationalism and religious citizenship

Exclusive national citizenship does not confront only globalization and technological advancement whereby people's citizenship can no longer be limited to a particular territory or nation. This type of citizenship was possible in the past but no longer attainable, because diasporic communities, through homeland oriented organizations and mobilizations, are eager to differentiate formal citizenship from ethnic and nation belonging. Diaspora communities operate at transnational levels and are often linked to communities through complex networks both in the homeland and in the host country and beyond. In essence they routinely engage in multiple relationships that further complicate the core issues of belonging and citizenship.

Diaspora had in the past the option of either assimilating or suffering from citizenship exclusion leading to community victimization and marginalization. In the current world most diasporas don't need to assimilate due to the globalization and transnationalization of the world (Baubock & Faist 2010:300-301). Diaspora communities can and do preserve and reinvent ties with host and homeland societies. On their part states have also abandoned the idea of forcing and demanding complete loyalty from diasporas. In the process new types of citizenship forms such as multiculturalism, dual and transnational citizenships emerge to better accommodate diasporas multiple priorities and connections (Cohen, R., 1996). What makes the conditions of diasporas more complex is the existence of two main citizenship related paradoxes. These concern the inter-connectedness between rights and identities. People often aim at pursuing particularistic claims in public spheres where proponents try to legitimize universalistic discourse. It happens through the mobilization of identity and practicing citizenship through which diasporas try to combine mobilizing ethnicity and practicing citizenship in transnational space (Soysal, 2000). For instance such communities are interested in acquiring citizenship privileges such as passports of, say, a western country. But that does not mean they are interested in the basic national identity of the host country. Their agenda is to

instrumentalize citizenship for practical reasons and not for identity reasons. A Somali for example insists to remain Somali at the identity level, but at the practical level the individual utilizes the benefits of having an American passport and citizenship. That is why immigrants as well as their homeland and host states are interested in the acquisition of external citizenship (Bauböck, R., 2009). There are also countries that provide such citizenship as it gives them a power of extraterritoriality.

Similarly the concept of transnational citizenship, where people access multiple citizenships, can help one better understand the diasporic conditions. Under such conditions immigrants place themselves in an intermediate position and thereby call for alternative forms for belonging (Faist, T., 2000). The link between transnationalism and citizenship involves the instrumentalization of citizenship. Through the strategic use of citizenship and migration, people plan mobility, optimizing financial opportunities in many countries (Waters, J., 2003). Because it is possible to claim citizenship without claiming identity Diaspora disrupts the assumption that there exists a direct link between citizenship, state and nation. There is a need to explore new forms of citizenships with multiple identification opportunities that people can negotiate and into which they can place themselves (Nagel, C.R., Staeheli, L.A., 2004).

Finally the issue of religion is relevant for citizenship. In Islam the concept of citizenship is linked to the maintenance of membership in the Ummah (the community of believers). Anyone who is a member of the Ummah should, according to Islamic principles, acquire citizenship and protection in any Islamic territory where Islam rules (Darul-Islam) (Suryadinata, 2000:134). So in Islamic understand citizenship is not based on nation and national descent but on religion. The apex of Islamic civilization occurred before the introduction of western European state model that propagated the modern form of citizenship based on nation and territory. Islam also gives citizenship rights to non-Muslims if they comply with basic citizenship requirements (Ghannushi, 1993).

Religion is particularly important for the Diaspora. Transnational Islam gives Diaspora opportunities to operate at global level – by creating transnational public

space and contesting the political citizenship (Bowen, J.R., 2004). The wish of the Muslim community to acquire and pursue transnational citizenship creates tensions and fear, mainly based on stereotypes. People are mainly worried about the ambiguous loyalties such a situation engenders. In this regard Diaspora Muslims might contribute to the construction of post-national and multicultural citizenship frames (Werbner, P., 2000)

Citizenship formulation represents an attempt of identity construction by the state and powerful elites. That is probably why the issue of identity and religion entered the forefront of national and international political conflict around citizenship. National identity, Islam and ethnicity are important for Diaspora but Diaspora is not a static phenomena. There exist a generational difference as the younger generation are more host country oriented and have stronger citizenship attitudes towards the host country rather than the country of origin (Hussain, Y., Bagguley, P., 2001).

Recent transnational studies have shown that we need to distinguish between transnational processes and mobility and diasporic forms of consciousness. For instance Muslims in Europe can construct a solidarity and citizenship discourse based on Euro-Islam as a post-national public sphere of citizenship (Alsayyad & Castells, 2002) (Bowen, J.R., 2004). For Muslims the debate is more political citizenship rights (Ong, 1999). De-territorialized citizenship forms with embedded cosmopolitanism might accommodate such prioritizations (Seidman, G.W., 1999).

Methodology

This study of citizenship in the Somali constitution uses the qualitative interview complemented by the conduct of focus groups and workshop discussions. Quantitative data collection and processing is currently not possible. The main reason is that, in the Somali context, it is not possible to formulate and distribute a questionnaire, particularly in conflict torn areas. It is nonetheless possible to conduct interviews and discussions in order to find out people's concerns and priorities in relation to the acquisition and entitlement of Somali citizenship. The preliminary stages will therefore focus on finding a sample of respondents reflecting the demographic diversity of age, gender, class, education and regional background. In

addition, 10-15 members of the Diaspora will be interviewed to capture the attitudes and the ideas of Somalis with possible dual and multiple citizenships.

The application of focus and discussion groups aims at improving the validation and reliability of the overall data and the individual interviews. The data will be compared internally and externally connected to existing studies for rigorous interpretation. The study will constitute part of the citizenship section recommendation for the Somali constitution making process.

In pre-colonial times Somalia did not have a unitary state but had classic city states where people who resided and lived there qualified to be inhabitants. Colonialism divided Somalis and ruled them as subjects, at least those that accepted colonial domination. Post-independent regimes, whether civilian or military, failed to find proper citizenship frames for the country. There was a question mark on their legitimacy as these regimes mainly controlled and centralised citizenship services to major cities or the capital.

Table 1.1 Brief on citizenship and Somali Constitutions and transitional charters

Somali Constitution	Citizenship
Somali Constitution 1960	<p>The people consists of all the citizens. The manner of acquiring and losing citizenship shall be established by law. No person may be denied citizenship or deprived thereof for political reasons. Equality of the Citizens All citizens, without distinction of race, national origin, birth, language, religion, sex, economic or social status, or opinion, shall have equal rights and duties before the law</p>
Somali Constitution 1979	<p>Citizens have the right for employment, education, security, political and legal rights The law determines who gets and loses Somali citizenship. Somalis abroad who obtain other citizenships and their children will not lose their Somali citizenship</p>
The transitional Federal Charter 2000	<p>Citizens have the right for employment, education, security, political and legal rights The law determines who gets and loses Somali citizenship. Somalis abroad who obtain other citizenship and their children will not lose their Somali citizenship</p>
The Transitional Federal Charter 2004	<p>Every person who at the time of the coming into force of this Charter was a citizen of the Somali Republic shall be deemed to be a citizen of the Somali Republic. Every person of Somali origin shall be entitled to citizenship of the Somali Republic provided that: - (a) He/she was born in the Somali Republic; or (b) His/her father is a citizen of the Somali Republic; A person who is a citizen of Somalia under this Article cannot be deprived of that citizenship. Every Citizen of the Somali Republic shall be entitled to retain their citizenship notwithstanding the acquisition of the citizenship of any other country. Parliament shall within twelve months pass legislation regulating matters relating to citizenship.</p>

Following the collapse of the central government, Somalia saw the emergence of clan and regional fiefdoms. Therefore Somalis need to imagine and construct a citizenship formula that is not just a continuation of earlier citizenship formulas, but a dynamic bottom-up formula that includes all Somalis, those in the country and beyond. What is needed is a citizenship formula that incorporates formal citizenship dimensions as well as substantive dimension with additional rights for the citizen.

The study therefore asks respondents to reflect and discuss the following main questions:

Table 1.2 Citizenship questions

Main questions: Formal and substantive citizenship
<ul style="list-style-type: none">• Who should Qualify for Somali citizenship?• What kind of rights should such citizenship include? (political, legal, economic and social)• What kind of duties should such citizenship include?• What kind of citizenship should be given to Somalis in the Diaspora?• Should the country expect them to have the same rights and duties• How do you see the link between citizenship and Islam?

References

- Scott John and Marshall Gordon (2009). *A Dictionary of Sociology*. Oxford University Press 2009.
- Abu-Laban, Y. (2002). "Liberalism, multiculturalism and the problem of essentialism" *Citizenship Studies* 6 (4), pp. 459-482.
- Adams J. Michael & Carfagna Angelo (2006). "Coming of age in a globalized world: the next generation" Kumarian Press.
- Adejumobi, S. (2001) "Citizenship, rights, and the problem of conflicts and civil wars in Africa" *Human Rights Quarterly* 23 (1), pp. 148-170.
- AlSayyad Nezar & Castells Manuel (2002). *Muslim Europe or Euro-Islam: politics, culture, and citizenship in the age* Lexington Books.
- Babu, B. Ramesh (1996) *Development strategies for Africa and Asia in the new global structure* Academic books
- Bauböck, R. (2009). "The rights and duties of external citizenship". *Citizenship Studies* 13 (5), pp. 475-499.
- Bowen, J.R. (2004). "Beyond migration: Islam as a transnational public space". *Journal of Ethnic and Migration Studies* 30 (5), pp. 879-894.
- Buckley-zistel, S. (2006). "Dividing and uniting: The use of citizenship discourses in conflict and reconciliation in Rwanda". *Global Society* 20 (1), pp. 101-113.
- Ceuppens, B., Geschiere, P. (2005). "Autochthony: Local or global? New modes in the struggle over citizenship and belonging in Africa and Europe". *Annual Review of Anthropology*, 34, pp. 385-407.
- Chafer Tony(2002)..The end of empire in French West Africa: France's successful decolonization?. Berg.
- Cheater, A.P., Gaidzanwa, R.B. (1996), Citizenship in neo-patrilineal states: Gender and mobility in Southern Africa, *Journal of Southern African Studies* 22 (2), pp. 189-200
- Chipkin, I. (2003). "Functional' and 'dysfunctional' communities: The making of national citizens". *Journal of Southern African Studies*, 29 (1), pp. 63-82.
- Clarke, J. (2005). "New Labour's citizens: Activated, empowered, responsabilized, abandoned?" 2005 *Critical Social Policy* 25 (4), pp. 447-463
- Cohen, R. (1996). "Diasporas and the nation-state: From victims to challengers". *International Affairs*, 72 (3), pp. 507-520.
- Colegrove, Kenneth Wallace (1921). *American citizens and their government*. The-Abingdon Press.
- Dwyer Peter (2005). *Understanding Social Citizenship: Themes and Perspectives for Policy* University of Bristol.
- Faist Thomas & Bauböck Rainer (2010). *Diaspora and Transnationalism: Concepts, Theories and Methods*. Amestardam University Press.
- Faist, T. (2000). "Transnationalization in international migration: Implications for the study of citizenship and culture" *Ethnic and Racial Studies*, 23 (2), pp. 189-222.

- Fowler, A. (1993). "Non-governmental organizations as agents of democratization: an African perspective". *Journal of International Development*, 5 (3), pp. 325-339.
- Ghannushi, Rashid (1993). *Xuququl muwadina: Xuquq geyrul muslimiin fi-mujtamac-alislami* (Citizenship rights: the rights of non-Muslims in Muslim society). International Institute for Islamic thinking.
- Graham, J.W. (1991). "An essay on organizational citizenship behavior". *Employee Responsibilities and Rights Journal* 4 (4), pp. 249-270.
- Herbst, Jeffrey Ira (2000). *States and power in Africa: comparative lessons in authority and control*. Princeton University Press
- Holsten J. 2009. "Dangerous Spaces of citizenship: Gang talk, rights talk and rule of law in Brazil". *Planning Theory*, 8 (1), pp. 12-31.
- Horst, Cindy (2008). *Transnational nomads: how Somalis cope with refugee life in the Dadaab camps*, Berghahn Books.
- Hussain, Y., Bagguley, P. (2001). "Citizenship, ethnicity and identity: British Pakistanis after the 'riots2005'". *Sociology* 39 (3), pp. 407-425.
- Insin Engin Fahri & Wood Patricia K. (1999). *Citizenship and identity*. Sage Publications Ltd.
- Kraxberger, B. (2005). "Strangers, indigenes and settlers: Contested geographies of citizenship in Nigeria". *Space and Polity* 9 (1), pp. 9-27.
- Kremer, Monique (2007). *How welfare states care: culture, gender and parenting in Europe*. Amsterdam University.
- Lister, R. (1967). *Investing in the citizen-workers of the future: Transformations in citizenship and the state under new labour. SOCIETY AND DEMOCRACY IN GERMANY*.
- Mamdani Mahmood (2002). *When victims become killers: colonialism, nativism, and the genocide in Rwanda*. Princeton University press
- Mattausch, J. (1998). " ". *Journal of Ethnic and Migration Studies* 24 (1), pp. 121-141.
- Nagel, C.R., Staeheli, L.A. (2004). "Citizenship, identity and transnational migration: Arab immigrants to the United States". *Space and Polity*, 8 (1), pp. 3-23
- Ong, A. (1999). "Muslim feminism: Citizenship in the shelter of corporatist Islam". *Citizenship Studies* 3 (3), pp. 355-371.
- Roche, J. (1999). "Children: Rights, participation and citizenship". *Childhood* 6 (4), pp. 475-493.
- Roitman, J. (2007). "The right to tax: Economic citizenship in the Chad Basin". *Citizenship Studies* 11 (2), pp. 187-209.
- Rose, N (2000). "Community, citizenship, and the third way". *American Behavioral Scientist*, 43 (9), pp. 1395-1411.
- Rose, N. (1996). "The death of the social? Re-figuring the territory of government". *Economy and Society*, 25 (3), pp. 327-356
- Saye, Albert Berry (1979). *American constitutional law: cases and text*. West Pub. Co.
- Seidman, G.W. (1999). "Gendered citizenship: South Africa's democratic transition and the construction of a gendered state". *Gender and Society*, 13 (3), pp. 287-307.
- Smith, G., (1999). "Transnational politics and the politics of the Russian diaspora". *Ethnic and Racial Studies*, 22 (3), pp. 500-523, Smith, G.
- Smith, G., Wales, C. (2000). "Citizens' juries and deliberative democracy". *Political Studies* 48 (1), pp. 51-65.
- Soysal, Y.N. (2000). "Citizenship and identity: Living in diasporas in post-war Europe?" *Ethnic and Racial Studies* 23 (1), pp. 1-15.

- Spickard Paul R. (2005). *Race and nation: ethnic systems in the modern world*. Routledge, Taylor & Francis group.
- Staeheli, L.A., Thompson, A. (1997). "Citizenship, community, and struggles for public space". *Professional Geographer*, 49 (1), pp. 28-38.
- Suryadinata Leo (2000). *Nationalism and globalization: east and west*. Institute of South East Asian studies.
- Swyngedouw, E (2005). "Governance innovation and the citizen: The Janus face of governance-beyond-the-state". *Urban Studies*, 42 (11)
- Simon Blackburn (2008). *The Oxford Dictionary of Philosophy*. Oxford University Press.
- John J. Patrick, Richard M. Pious, and Donald A. Ritchie (2001). *The Oxford Guide to the United States Government*. Oxford University Press.
- Turner, B.S. (2001). "The erosion of citizenship". *British Journal of Sociology*, 52 (2), pp. 189-209.
- Waters, J. (2003). "Flexible citizens? Transnationalism and citizenship amongst economic immigrants in Vancouver" *Canadian Geographer* 47 (3), pp. 219-234
- Werbner, P. (2000). "Divided loyalties, empowered citizenship? Muslims in Britain" *Citizenship Studies* 4 (3), pp. 307-324.
- Werbner, P. (2002). "The place which is diaspora: Citizenship, religion and gender in the making of chaordic transnationalism". *Journal of Ethnic and Migration Studies* 28 (1), pp. 119-133.
- Werbner, P. (2005). "The translocation of culture: 'Community cohesion' and the force of multiculturalism in history". *Sociological Review* 53 (4), pp. 745-768

Contents

2.	THE NEXUS BEWEEN SHARIA AND DEMOCRACY	2
2.1.	SHARIA: THE ISLAMIC LEGAL SYSTEM.....	2
2.1.3	Characteristics of Sharia	3
2.2.	Sharia in the constitutions of Muslim Nations.	4
2.3	Sharia in the constitutions of Somalia.....	6
2.3.1	Superiority of the Sharia Law	8
2.3.2	Sharia law priority in the context of the constitution	8
2.3.3	Compatibility of legislature with Islam	8
2.4	Sharia in Non-Muslim Nation States	8
3.	DEMOCRACY	8
3.1	Majoritarian Democracy	9
3.2	Consensual Democracy.....	10
4.0	SHARIA AND DEMOCRACY.....	10
4.1	Compatibility of Sharia and democracy	11
4.2	Incompatibility of Sharia and Democracy	12
5.	Reference	14

2. THE NEXUS BETWEEN SHARIA AND DEMOCRACY

2.1. SHARIA: THE ISLAMIC LEGAL SYSTEM

2.1.1 Definition of Sharia

The literal meaning of *sharia* in Arabic is “the path to the source of water.” According to Sheikh Qardawi, a prominent Muslim Scholar, Sharia means all that God has established for his worshippers as an act of faith. This implies that sharia is the source of life for Muslims, and has come to mean the “divinely mandated path” that one must follow in life so as to submit to the will of God. While the term Muslim means one who submits to the will of God (Dan Jahn, 2006).

Sharia basically refers to the Islamic system of law and the totality of the Islamic way of life. As such the *sharia* is central to any Islamic society. For the Muslim Sharia is an ‘Eternal Law’, in that it derives mainly from revelation, and is in fact the embodiment of God’s will and justice. It is authoritative due to its two textual sources. The first source is the *Qu’ran*, which Muslims believe to be God’s word revealed to the prophet Muhammad (peace be upon him – P.B.U.H.) over a period of 23 years. The second source is the *sunna*, that is the practices and sayings (wisdom) of the prophet Muhammad (P.B.U.H.) which became the norm for Muslim behaviour and were thus preserved in written form, becoming a collection of traditions (*hadith*) passed down through the centuries since prophet Muhammad’s (P.B.U.H.) death.

The modern definition of *Sharia* is the comprehensive body of Islamic laws that should regulate the public and private lives of the Muslims.

2.1.2 Sources of Sharia (Islamic) Law

The sources of Sharia are:

- The *Qur’an*, which, as the word of God, is flawless; The *Qur’an* differs from the Bible, in that it is not disputable, as the entire text was received by prophet Muhammad (S.A.W) through Angel Jibril, over a definite period of time, and thus has a historical integrity.
- The *Sunna*, which entails the traditions of Prophet Muhammad (P.B.U.H.)

- The *Fiqh* (the Islamic Jurisprudence), which is the understandings of a body or individuals of Muslim jurists that became a collection of legal provisions. Some of these rulings are spelled out explicitly in The *Qur'an* and *Sunna*. When an injunction is not unequivocally stated in the *Qur'an* or *Sunna*, Muslim jurists arrive at legal rulings by exercising reflection and careful thought based on the principles and objectives of the religion (Kelly, 2010). In this category the methods used to arrive at rulings include: Analogy (*Qiyas*), consensus (*Ijma'*), consideration of public interest (*Maslaha*), consideration of customs (*Urf*), and legal precedents of people of the book, i.e., Jews and Christians (*Shar'u man qablanaa*) as long as they are consistent with the principles of Islam.

2.1.3 Characteristics of Sharia

Muslims consider Sharia to be divinely ordained, since its main sources, the *Qur'an* and *Sunna*, are sources that are linked to ALLAH. In this regard Sharia is different from any conventional "law" which are rules created and enacted by men. On the other hand, Sharia is equally a system of rules and guidelines, usually enforced through a set of institutions. It shapes politics, economics, and society in numerous ways and serves as a social mediator of relations between people. Sharia addresses broad aspects of social stability, personal relations, and even goes farther and addresses welfare and treatment of animals. Qardawi (1991) writes, "The immutability of Sharia depends upon two characteristics. The first is that its general principles are universally valid, and the second is that it is flexible enough to accommodate changing social needs."

Sharia's demands on its adherents are practical and feasible. It does not place unnecessary burdens on people. For instance, Sharia makes it mandatory on adherents to perform pilgrimage (*hajj*) once in a lifetime. However, the obligation is conditional on one having the necessary means. If one does not have the necessary means, the obligation to perform *hajj* is no longer required until such time when the means become available. Sharia equally applies to all its adherents and their subjects. It does not allow any form of discrimination. Sharia provisions complement one another and never work at cross purposes. The actions, ethics, values, principles, and expectations

it engenderare honest, truthful and precise. Sharia covers a wide range of laws that apply to all aspects of life.

2.2. Sharia in the constitutions of Muslim Nations.

A constitution is a set of legal norms that define the fundamental principles or established precedents according to which a state or other organization is governed. The constitution provides the overarching legal framework for a country. It is the highest form of legal authority in a state, and no other laws enacted by the government can contradict it. Constitutions are usually, but not always, written documents (Hart, 2004). A constitution contains the fundamental principles of government and enshrines the basic rights of individuals in relation to the state. It also establishes the basis for legislative and judicial systems. Constitutions vary widely in structure and substance (Shoemaker, 2005). Therefore there is no single format of a constitution that can act as the perfect document for all countries; however, there is a general agreement that a constitution should represent core values, including fundamental freedoms, human rights and a separation of powers within the government.

Muslim scholars, argue that Islam obliges its adherents to implement Islamic teachings in their lives and in the state. The Prophet himself established the Madinah state in 627 by issuing the "Madinah Constitution" (*mithaq al-madinah*, considered by observers to be the first written constitution in the world.) The Prophet was entrusted with a mandate from God to guide his people (*ummah*) in how they conduct their lives, so that he is not only an executive of God's commands in the Qur'an but also a legislator (*al-shari*). His followers' loyalty to him was absolute, yet he conducted mutual consultation (*shura*) with them in making public policy and treated them justly and humanely. As stipulated in the Qur'an (4:59), Muslims should first obey Allah (SW), then the Prophet (P.B.U.H), and then those who have authority over them (*ulu al-amr*), i.e., their leaders, as long their decisions and policies are in accordance with God's injunctions (the *Qur'an*) and His Prophet's tradition (Mortimer, 1982).

In modern times the relationship between state and religious institutions has been an essential concern in the study of the Islamic societies. In the constitutions of Muslim countries, many provisions may relate to Islam. There are invariably deferences to the

Islamic religion, ranging from the establishment of the state religion to the foundations of legal courts.

Quite often one hears that state and religion are inseparable in Islamic culture. This statement mainly corresponds to the historical realities that have developed in the Islamic world during its existence. According to Tashkent (2003) such a proposition does not constitute an analysis of the contemporary realities in the Muslim world (Tashkent, 2003).

As previously mentioned, Muslims believe that Islam is not merely a theological system, but also a way of life that contains a number of ethical and moral standards as well as legal norms implementable at the individual, societal, and state levels. In Islamic history, most of the Islamic doctrines were implemented in personal, social, and political lives of Muslims from the prophetic period until the coming of Western colonialism. The implementation of Islamic teachings made Islam a world civilization. Gibb, a Scottish orientalist, wrote, "Islam is indeed much more than a system of theology. It is a complete civilization." Edward Mortimer concurred, "Islam, we are told, is not mere religion: it is a way of life, a model of society, a culture, a civilization." In fact, Prophet Muhammad was not merely a prophet, but a head of state, a judge, and a military commander. That is why Muslims not believe in the separation of religion and state.

Today most Muslims unanimously agree that Islam is more than a mere recognition of the One God and his messenger Muhammad: faith is a call to action. Islam is the basis for a way of life in which religious values are transformed into worldly acts. Religious ethics cannot and should not exist without a social component. These values invariably find their way, in one way or another, into politics, which are based on societal values, expressing society's world outlook. In consequence, Islamic societies are said to be fundamentally different from western societies. As Lapidus (1996) maintains, western societies are presumed to be built upon a profound separation of state and religious institutions.

Sharia, or Islamic law, influences the legal code in most Islamic countries, but the extent of its impact varies widely from country to country. Most constitutions in the Muslim world express the role of the Sharia in their constitutions. For Example,

Article II of the 1980 Egyptian constitution states that Islam is the religion of the state and "Islamic jurisprudence is the *principal* source of legislation." Iraq's interim constitution, passed under the U.S. led occupation, makes Islam "a source of legislation" and stipulates that **NO** law may "contradict the universally agreed tenets of Islam." Article IV of the Iranian constitution states that "all civil, penal, financial, economic, administrative, cultural, military, political, and other laws and regulations must be based on Islamic criteria." And Article 227(1) of the Pakistani constitution reads, "All existing laws shall be brought in conformity with the injunctions of Islam as laid down in the Holy *Qur'an* and *Sunna* ... and no law shall be enacted which is repugnant to such injunctions."

2.3 Sharia in the constitutions of Somalia

In June 1961 nearly a year after independence, Somalia adopted its first national constitution after it had been approved in a countrywide referendum. During the early post-independence period, political parties in Somalia were a new phenomenon lacking basic political ideologies. During the military regime a new constitution was drafted in 1979 under the leadership of Siad Barre. Following the collapse of the Barre regime in 1991, which led to the still raging Somali civil war, various peace agreements that served as 'Charters' or 'Constitutions' have been drafted outside Somalia. The northern regions, 'Somaliland' and 'Puntland,' have also drafted and passed their own constitutions inside the country..The current constitution-making process draws its mandate from the Transitional Federal Charter (TFG) agreed upon by the Somali participants at Mbagathi in September 2003 (Ibrahim, 2010).

Both 1960 and 1979 constitutions concur that Islam is the religion of the state. However, this did not deter country from the use of colonially inherited western laws. In the first Somali Constitution of 1960, Somalis were to be governed in accordance with "the general principles of Islamic *Sharia*" (article 1:3). It further affirmed that "the tenetsof Islam shall be the main source of laws of the state" (article 50) and "laws and provisions having the force of law shall conform to the Constitution and to the general principles of Islam" (article 94:1). The second Somali Constitution of 1979 was secularized in line with the socialist ideology of the military regime and only

superficially touched upon the Sharia. As Baadiyow (2010) state, it only offered lip-service to Islam reconfirming that “Islam shall be the state religion” (article 1:3).

The National Charter adopted in the 2000 Arta, Djibouti, Conference equally reinforced the stipulation that “Islam shall be the religion of the state and no other religion or ideas contrary to Islam may be propagated in its territory” (article 2.2). Moreover, the Charter stated, “The Islamic *Sharia* shall be the basic source for national legislation” and “any law contradicting Islamic *Sharia* shall be null and void ” (article 4:4). The current Transitional Federal Charter that was adopted in 2004 resembles the 1979 constitution for it shies away from the Islamic articles in the Charter of Arta. This is partly due to foreign interference. This new charter just reaffirms that “Islam shall be the religion of the Somali Republic” (article 8:1) and “the Islamic *Sharia* shall be the basic source for national legislation”(article 8:2).

In the breakaway Somaliland constitution Islam and sharia occupy a pivotal role in the constitution. Article 5:1 reads, “Islam is the religion of the Somaliland state, and the promotion of any religion in the territory of Somaliland, other than Islam, is prohibited.” Article 5:2 further states that “the laws of the nation shall be grounded on and shall not be contrary to Islamic Sharia.” While article 5:3 states, “The state shall promote religious tenets (religious affairs) and shall fulfill Sharia principles and discourage immoral acts and reprehensible behavior.”

The same is true for the semi autonomous Puntland state of Somalia. However, article 6 that addresses religion is silent on sharia but strongly refers to Islam as the state religion. It reads, “Islam shall be the only religion of Puntland State of Somalia. No any other religion can be propagated in Puntland State, while the Islamic Religion and the traditions of the people of Puntland are the bases of law.” Article 11 seems to be designed to appease the international community in that it starts with the UN charter and international law then states Islamic sharia. “Puntland Regional Government recognizes and applies the UN Charter and the International Laws and respects the International Appeals for human rights, not contrasting the Islamic Sharia and Puntland Laws”. Sharia is referred to in a number of articles like article 18 on women rights and article 32, which deals with rights to personal freedom, etc.

Based on the above analysis, the following three tenets stand out in the integration of Sharia law into the constitutional process of Somalia:

2.3.1 Supremacy of Sharia

The issue of supreme authority has been and still remains one of the key problems in the theory and practice of Islam. As Diehl (2009) argues, an essential part of the issue of supreme authority in Islam is the dichotomy between religion and secularism, religious conviction and politics.

In the new Somali constitution the sharia law remains to be the only source of legislation and no any other law is acceptable or admissible. This implies that sharia remains the only normative force. For instance, Saudi Arabia has no any other form of legislation apart from Sharia law hence the country has no formal constitution.

2.3.2 Sharia law priority in the context of the constitution

An absolute majority of the Somalis embrace the idea a constitution based on the sharia is a non-negotiable requirement for the establishment of the Somali state.

2.3.3 Compatibility of legislature with Islam

The requirement here is that no legislation should contradict the basic tenets and principles of Islam. For instance in Afghanistan article 3 of the constitution reads that no laws should be contrary to the beliefs and the provision of the sacred religion of Islam. It's the same for the constitution of Iraq.

2.4 Sharia in Non-Muslim Nation States

Most of the non-Muslim states do not have a provision of Sharia in their constitution. However, a number of them have established Sharia compliant jurisdictions that address issues relating to Muslim needs at the family level that include marriages, divorce and inheritance. In Kenya for instance there are special courts for Kenyan Muslims headed by a chief Kadhi who is equivalent to a high court judge. Another example is Canada where Sharia tribunals have been established (Berger, 2004).

3. DEMOCRACY

According to Webster's Dictionary, democracy is defined as "government by the people; especially, rule of the majority." Other definitions include: government by the

people; a form of government in which the supreme power is vested in the people and exercised directly by them or by their elected agents under a free electoral system. The term comes from the Greek: δημοκρατία – (*dēmokratía*) "rule of the people", which was coined from δῆμος (*dēmos*) "people" and κράτος (*Kratos*) "power".

Generally there is no specific, universally accepted definition of democracy. However, equality and freedom have been identified as important characteristics of democracy. These principles are reflected in all citizens being equal before the law and having equal access to legal redress. For example, in a representative democracy, every vote has equal weight, no restrictions can apply to anyone wanting to become a representative, and the freedom of its citizens is secured by legitimized rights and liberties which are generally protected by the constitution (Dahl, 2003).

Citizen participation in the political process through elections is one of the most important features of a democratic system. The mere holding of elections, however, is not a sufficient qualifier for democratic credentials. Authoritarian regimes, feigning democracy, regularly hold elections. As Gause (2004) demonstrates, there are several varieties of democracy, some of which provide better representation and more freedoms for their citizens than others.

This paper will discuss the two most prominent forms of democracy - the majoritarian democracy and consensual democracy.

3.1 Majoritarian Democracy

Majoritarianism is a traditional political philosophy or agenda which asserts that a majority either by religion, race, language, social class, or any other identifying feature of the population is entitled to a certain degree of dominance in society, and has the right to make decisions that affect the society. In a majoritarian democracy, decisions are generally taken by the majority while the minority has to yield (Maravall, 2003). Majoritarian democracy usually agitates for an electoral system based upon the majority principle. This form of democracy is only viable where the fundamental values, principles, and assumptions about what a society stands for are not contested. Diehl (2009) contends that this type of democracy has come under growing criticism. Thus such democracies have increasingly included constraints in what the parliamentary majority can do in order to protect fundamental rights of

minorities. There are a number of movements and organizations that argue against majoritarian rule.

3.2 Consensual Democracy

Consensual democracy is the application of consensus decision making to the process of legislation in a democracy. According to Lijphart (1999) consensual democracy is characterized by a decision-making structure which involves and takes into account as broad a range of opinions as possible, as opposed to systems where minority opinions can potentially be ignored by vote-winning majorities.

4.0 SHARIA AND DEMOCRACY

The nexus between Sharia and democracy in the present-day is intricate. The Muslim world is not ideologically monolithic. It presents a broad spectrum of perspectives ranging from the extremes of those who deny a connection between Sharia and democracy to those who argue that Islam requires a democratic system. In between the extremes, in a number of countries where Muslims are a majority, many Muslims believe that Sharia supports democracy even though their particular political system is not explicitly defined as Islamic (Voll, 2007).

The idea of the coexistence of Sharia and democracy has raised heated debates: on the one hand, those who are critical of sharia point out that in Muslim countries democracy is either weak or non-existent. The culprit, they claim, is Islam and its Sharia. Others suggest that religion cannot be used to explain democratic development. Hence, they attribute the lack of democracy in Muslim countries not to Islam, but to other factors. Western countries whose culture and civilization is dominant in today's world are mostly classified as democratic. Western countries claim that they would like to see the spread of democracy around the world. They consider democracy as a vital modern ideal that, they contend, is a necessary condition for attaining modern aspirations of life (Farooq, 2002)

Farooq (2002) in his article "Islam and democracy: perception and misperception," reveals that "Democracy is identified as a cornerstone of western civilization and it is strongly prescribed for the rest of the world and humanity. Indeed, sometimes it is even promoted as a panacea. Discourses involving Islam, the Muslim World, and

democracy are proliferating. But what really is the relationship between Islam and democracy? Are they compatible or incompatible?"

4.1 Compatibility of Sharia and democracy

The argument about whether or not sharia and democracy are compatible has dragged for some time now. For instance there are non-Muslims both individuals and institutions that believe that Islam is quite compatible with democracy and, in the interest of global peace and prosperity. In the same context there are Muslims who also concur with their counterparts among non-Muslims. These Muslims do not see any conflict between Islam and democracy. Some would even go further and argue that democracy is integral to the Islamic way of life. Some extend the argument to affirm that under the conditions of the contemporary world, democracy can be considered a requirement of Islam. In these discussions, Muslim scholars show the congruity of historically important concepts from within the Islamic tradition and the most basic concepts of democracy as understood in the modern world.

There are a number of prominent Muslim leaders including Sheikh Yussuf Qardawi, Hasan Turabi, and Rashid Ghanoushi whose voices convincingly make the case that Islam and democracy are not just compatible; rather, their association is inevitable, because Islamic political system is based on *Shura* (mutual consultation).

There are a number of specific concepts that Muslims cite when they explain the relationship between Islam and democracy. In the Qur'an, the righteous are described as those people who, among other things, manage their affairs through "mutual consultation" or *Shura* (42:38 Qur'an). The concept of *shuras* elaborated upon in the traditions of the Prophet and in the sayings and actions of the early leaders of the Muslim community. This argument leads to the conclusion that it is obligatory for Muslims to engage in mutual consultation when managing their political affairs.

On the other hand a number of westerners and non-Muslims are of the view that Sharia is not an impediment to democracy. According to Robin Wright, neither Islam nor its culture is the obstacle to political modernity. John Esposito in his book *Islam the straight path* contends that adhering to Islamic tenets leads to good governance.

4.2 Incompatibility of Sharia and Democracy

There are voices both within Muslims and non-Muslims who are of the opinion that Sharia and democracy are two warring factions that will never reconcile. Some non-Muslims and several Muslims largely agree - albeit for different reasons - that Islam and democracy are incompatible. The non-Muslim nay sayers believe that Islam is inherently despotic and it lacks the philosophical and historical basis for nurturing any viable democratic tradition. The Muslim detractors of democracy believe that democracy is a corrupt, manipulated system of the West to defraud mankind of any good.

Traditional Muslim thinkers argue that Islam and democracy are incompatible on the grounds that Islam calls for the absolute sovereignty of God and total submission to His will and anything short of that is never acceptable and would constitute *shirk* or polytheism. Traditional Muslim thinkers further believe that the sovereignty of the people that forms the basic doctrine of democracy contradicted this fundamental principle. They basically find any idea or institution of western origin to be unpalatable. They hold the view that democracy is a way of vilifying Muslims and Islam and only favours the west.

A number of Muslim movements in Somalia such as Alshabab are of the view that democracy is a western tool to deceive the less fortunate and the developing world. They view democracy as a new colonialism and a way of imposing hegemony for the legitimization of the killing of Muslims.

Some non-Muslim scholars hold similar views. Elie Kedourie wrote: "The idea of representation, of elections, of popular suffrage, of political institutions being regulated by laws laid down by parliamentary assembly, of those laws being guarded and upheld by an independent judiciary, the ideas of the secularity of the state . . . all these are profoundly alien to the Muslim political tradition."

Many in the west are of the assumption that Muslims have one creed (Islam), and thereby one culture, and they collectively share a disdain for modernity and reject democracy as a formula of governance. For some the term Sharia invokes images of corporal punishment, veiling and subduing of woman and harsh rules of social

conduct. According to Samuel Huntington, 'Islam has not been hospitable to democracy.' Daniel Pipes claims Muslims are not inclined to engage in participatory politics. 'Nearly all Muslim subjects kept away from politics and became actively engaged only when they had a chance to apply the law or battle to non-Muslims,' he writes. Lewis (1993) similarly argues that Muslims' 'dominant political tradition has long been that of command and obedience, and far from weakening it, modern times have actually witnessed its intensification.' According to Lewis and those of his view, Sharia can never be compatible with democracy since Islam is a political faith. Islam countenances no separation between the sacred and the secular. Everything is religious, and everything is political.

5. Methodology

This research study will employ structured, semi-structured interviews, and focused group discussions to collect the views of Somali stakeholders on those aspects of the constitution that touché upon Islam and Sharia. Here is a partial list of the questions that will be asked:

1. Should Somalia have a constitution, considering that it is a Muslim country and since some Somalis contend that the Qur'an should be the constitution of the country?
2. How can the sharia and the constitution be reconciled?
3. Are you satisfied with the way the **old** constitution tackles the relationship between state and religion?
4. Are you satisfied with the way the **new Draft** constitution tackles the relationship between state and religion?
5. What should the constitution say about freedom of religion and freedom of conscience?
6. How should the constitution incorporate human rights and reconcile those with Sharia?
7. How should the constitution tackle constitutional issues pertaining to women?
8. Does sharia apply only to religious matters or should be all encompassing in the way some Somalis contend?
9. What are your perceptions of Sharia? Could there be multiple interpretations of Sharia?
10. What are your perceptions of democracy? Is there only one interpretation of democracy?
11. Are sharia and democracy compatible?
12. What are some of the issues related to Sharia and/or democracy that the constitution should avoid?
13. What issues related to Sharia and/or democracy that should be explicitly included in the constitution?
14. Should the constitution include a provision a Sharia Compliance commission?

6. Reference

1. Abdillah, Masykuri.(1996). *Responses of Muslim Intellectuals to the Concept of Democracy (1966-1993)*. Hamburg.
2. Baadiyow.(????). Application of Sharia Law in Somalia.
3. Barak, A. (2006).*The Judge in a Democracy*, Princeton University Press, p. 40, Google Books link
4. Berger, Maurits. (2004). “Sharia Law in Canada, also possible in Netherlands”
5. ConstitutionoftheRepublicofSudan. (1998).
http://www.mpil.de/shared/data/pdf/sudanese_constitution_of_1998.pdf
6. Dahl, R. Alan,I. Shapiro, J. A. Cheibub. (2003).*The Democracy Sourcebook*, MIT Press, [ISBN 0262541475](https://doi.org/10.1017/CBO9780511527000), Google Books link
7. Esposito, John L., and John O. Voll. (2007).*Islam and Democracy*.
8. Farooq, M. O. (2002).*Islam and Democracy: Perceptions and Misperceptions*.
9. Gibb, H.A.R. (1950).*Mohammedanism: An Historical Survey*, London: Oxford University Press.
10. Hart, Vivien. (2003). “Owning the Constitution: A Path to Peace?” Senior Fellow Project Report. United States Institute for Peace. Washington DC. 30 April. 5 September 2004
http://www.usip.org/fellows/reports/2003/0430_RPThart.html
11. Hart, Vivien. (2004). “Democratic Constitution Making,” Special Report 107. Washington, DC: US Institute of Peace. September 5th.
<<http://www.usip.org/pubs/specialreports/sr107.html>>.
12. Hénaff, M. ,T. B. Strong, *Public Space and Democracy*, University of Minnesota Press, [ISBN 0816633878](https://doi.org/10.1017/CBO9780511527000)
13. Horn of Africa bulletin, May (2010)
14. Huntington, S. P. (1984). ‘Will more countries become democratic?’ *Political Science Quarterly*, 99
15. Jahn, Dan.(2006).*THESHARIA Backbone or Achilles’ Heel of an Islamic State?*
16. Kelly,Michael J. (2010). “Islam & International Criminal Law: A Brief (In) Compatibility Study.”
17. Lapidus, I.M.(1996). *State and religion in Islamic societies*.

18. Lewis, B. (1993). 'Islam and liberal democracy,' *The Atlantic Monthly*, February, pp. 54–55.
19. Lijphart, A. (1999). *Patterns of Democracy: Government Forms & Performance in Thirty-six Countries*. New Haven: Yale University Press.
20. Max-Planck institute of comparative and international law (2009)
21. Mortimer, Edward. (1982). *Faith and Power: The Politics of Islam*, New York, p. 16.
22. Pipes, D. (1983). *In the Path of God: Islam and Political Power*. New York: Basic Books, p. 144.
23. Princeton University Press.(2006). *The Judge in a Democracy*, , p. 26,[Google Books link](#)
24. Przeworski, A., JM Maravall. (2003). *Democracy and the Rule of Law*,p.223I NetLibrary
25. Qardawi, Yusuf. (1991). *Islamic Law in the Modern world*
26. Tashkent.(2003). *Islam and the Secular State*