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# POLICY BRIEF

Is the State in a legitimate position  
to claim political power in Somalia?

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## Summary

The policy brief is concerned with the analysis of the legitimacy and the challenges faced by the federalist structure of the Somali state. In a bid to understand state legitimacy in Somalia, I argue that it is not a simple question of political power distribution but a concern on the neglect to the Somali notions of communitarian organization, to which the clan is a part. It is based on this argument that the question of state building vs state formation is not clearly addressed with the bids that push for the creation of a central government. This brief provides a short analysis of the clan history, setting and influence in the Somali society.

While using the Xeer and the Issa clan as a point of reference, it makes the case that Somali will stagnate in its failing state nature if the state building project continues to overlook state formation processes. The analysis concludes that with another election coming, the clans' competition in Somalia can be used for good. Their engagement would support the state formation process which would benefit the state building project that the international community struggles to work on.

*"it is less frequently recognized that tribal movements may be created and instigated to action by the new men of power in furtherance of their own special interests which are, time and time again, the constitutive interests of emerging social classes. Tribalism then becomes a mask for class privilege. To borrow a worn metaphor, there is often a non-traditional wolf under the tribal sheepskin"*

*The Wretched of the Earth - Frantz Fanon, 1967*

## Introduction

For centuries Somalis lived under decentralized, clan-based political systems practicing what 'pastoral democracy' (Lewis, 1961). With the decline of the state authority and public law in 1542, the Issa clan for example, revived the clan law (Xeer), as a way of resolving civil wars, famine, banditry and destruction of property. This law was anchored on the traditional constitution (Xeer Cisse) incorporating power-sharing principles which bound together six clans; including three that were related by blood kinship and three 'outside' clans (Iye, 1991). The six clans came to constitute the Issa clan-family through this legal instrument. The leader, (Ilgaas) would always be chosen from the numerically smallest outsider clan. The smallest, non-threatening clan was thus given special prestige, recognition and responsibility in adjudicating claims and disputes.

In Somali society the term Xeer, often translated to include the set of norms regulating social dynamics as well as the settlement of disputes within and between the corporate

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political groups known as 'clans'. The clan is the fundamental Somali political unit that is a conglomeration of extended families coming together under those specific agreed arrangements. This is a peculiar system of social security in which relations among clans are not encapsulated into any centralized structure.

The Xeer had proven itself to be extremely relevant for achieving and maintaining social stability despite the clan's internal changes, and works in this sense as a social contract, for it regulates societal actions. The Xeer is both the sum of norms regulating the clan internally, intended as a sort of confederation of families, as well as the contract normalizing the external relations among clans, in a decentralized fashion (Lewis 2010, 24). Therefore, the clan setup as included in the Xeer should have been incorporated as formal structures that determining the legitimacy of the state that is Somalia.

## **Post-Independence Somalia**

With the independence the of British Somaliland on 26 June 1960 and Italian Somaliland on 1 July 1960, to form the Somali Republic; a democratic constitution was drafted to govern the young state (Saul 1979). This constitution lacked the sensitivity of the Issa elders. It overlooked electoral mechanisms necessary to minimize resilient clan loyalties, and channel parochial interests towards national objectives. Within a year, the north voted against it (Adam 1992, 17). Apart from the limited sensitivities in the constitution, this period was also marred by clan competition propagated by Siyaad Barre's reign. Such competition was used as a means of gaining clan supremacy and not nation formation. Siyaad Barre was not interested in building a nation state as he used every means to establish a 'state clan'.

Siyaad spread the military ethos through military training courses required for school and college graduates as well as civil servants. The process destroyed the coherence of the Somali National Army and radically decentralized military forces resulting to an introduction of armaments and militarism into most sectors of civil society. With the Somali civil society made up of clans, it was time for the decentralization to move into the clan setup that created the template for clan engagements in the political sphere in Somalia. Siyaad's forces consisted of his own Marehan clansmen and other related Darod elements - a number of them joining for mercenary reasons (Lewis 2002).

Rahanweyn clans normally shunned militarism for productive activities. However, the need to defend themselves from warlord attacks compelled them to rapidly develop a dan-family political party, the Somali Democratic Movement (SDM) together with its armed units. The people of this region were the first to propose in 1947 that a future independent Somalia be governed according to a federal constitution to minimize conflicts. The Somali National Movement (SNM) which derived its main support from the Isaaq clans of the north was established in London early in 1981 but soon moved its operations to the Somali towns and villages in Ethiopia close to the northern border of Siyaad's Somali Democratic Republic.

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The SNM played an indirect role in the formation of the United Somali Congress (USC), an armed movement based on the Hawiye clan-family which inhabits the central regions of the country including the capital city of Mogadishu. The Hawiye clan-family - made up of four major clans: the Abgal, Habar Gedir, Murursade and Hawadle. The USC was formed in 1989, two of its factions holding its founding congress partly within Ethiopia and partly, in Rome. The conflict between Ali Mahdi USC (an Abgal) and Aideed SNM (a Habar Gedir) led to warfare between the two clans for control of the capital city (Adam 1992).

When Siyaad, fired his then defense minister, the minister escaped to the Kismayu region in southern Somalia and began a war against the regime. A group of his soldier relatives from the Ogaden, sent by the Siyaad regime to fight the SNM and subdue the northern revolt, defected in 1989 and reconstituted themselves as the Somali Patriotic Movement (SPM) (Samatar 1988). Since February 1991, the SPM, allied to other Darod groupings including soldiers still loyal to Siyaad, tried at least twice to attack Mogadishu but were repelled (Lewis 2002).

The process of attack and counter-attack continued for a while with the development and creation of state building structures that were supposed to bring Somalia together. However, these processes assumed a lot about state formation. For example, the independence from the Italian Somalia and the British Somalia (Somaliland) to form the Somali Republic, in the 1960s pushed for a state building process that assumed the somewhat autonomous nature of the five regions (Adam 1992).

The five-pointed white star on light blue of the Somali flag symbolize “Greater Somalia” representing the five regions where Somalis reside: Ethiopia, Djibouti, Northern Kenya, Somaliland and Somalia. The partitioning that was also influenced by colonialism has cemented regional rivalry and transformed Somali ethnicity into a fixed political identity that is based on the clans. The imposition of hierarchical structures “froze previously fluid identities and built inequalities of power along ethnic lines into the heart of the social order” (Jones 2008, 191).

It also assumed Somalia’s best resource; its peoples. For a population that practiced a nomadic mode of life (Bradbury and Lewis, 2009), a centralized system of engagement was never an option. In fact, all the Somali were involved in the direct production of livelihood. The colonial power never interfered with this system and over time “specific institutions and values of social and political order were integrally related to securing the societal reproduction of a decentralized social order based on a pastoral economy” (Jones 2008, 188). Clanism was traditionally the basis of the organizational and legal structure of Somali society, who are majorly pastoralists (Harper 2012, 39).

It placed them in specific positions in a very dispersed society and all aspects of social life that included; welfare, matrimony, peace-making and social assemblies, adhered to this construction. Additionally, the lifestyle “carried on through many generations that formed Somalis into family clans that stuck together with fierce loyalty” (The Economist, 1999). The

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clan identity became the foundation of Somali society. Although the Somali did not traditionally form a unitary state, it is this heritage of cultural nationalism which, is strengthened by Islam, that pushes the sense of nationhood today (Lewis 2002, 16).

## **Clan Influence in political spheres**

As the result of the politicization of the existing social security and solidarity networks the question of legitimacy requires a revisiting of the clans. The Somali's way of life is "incompatible with a formal, centralized state; they tend to ignore national borders and have their own traditional social structures and legal economic systems" (Harper 2012, 117). In essence, only clan borders play a critical role in engagement, including migration and movement for resources and survival. It has been noted that in a historical context of environmental scarcity developed as a survival mechanism that created cooperation as well as solidarity networks that gave birth to clans (Mansur 1995).

The clan structure itself, which today dominates the sociopolitical analyses on Somalia, has presumably emerged originally out of the necessities dictated by the environment, rather than from the alleged blood affiliation of its members (Kusow 1995). Clans came out of the necessity of defense and the sharing of scarce resources, affirming themselves as organized communities ensured better survival and welfare for these extended families (Mansur 1995). Clans provided communities with the myth of common origin, which is highly necessary to foster the sense of identity in any human community.

The clans can be very dynamic, fragmented and fluid, making them infinitely adjustable to the political situation in the country. Consequently, whenever a political system is introduced it is "almost immediately transformed by the clan, which is the stronger and more durable than any other form of authority" (Harper 2012, 11). The conflicts strengthen clan loyalty as they create a stronger sense of identification as "the most clearly defined political unit in Somali pastoral society," (Lewis 2002, 11).

Clans serve as the basis for the judicial system and rule of law even in the presence of a federal government we witness today. The clan is embedded in the Somali lifestyle and provides a form of assurance and a ready social structure with trusted ties for commerce to other social transactions (Gimeno 2017, 11). They were equipped with myths of origin as well as over-stressed blood ties that have subsequently exacerbated social constructions responding to the 'us-and-them' paradigm. The clans conferred political meaning to social security arrangements, transforming the individual's belonging to one of these institutions for conflict settlement and cooperation into a space for political competition (Zoppi 2017).

Through the clan, the individual members were caught in a net of community connections, responsibilities as well as obligations that permitted the development of neither a detached identity from the rest of the group nor a civil society as understood in the West (Gimeno 2017). The politicization of solidarity got even worse after state institutions were established,

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as clans treated and appropriated this foreign-imposed entity in ways that benefited the welfare of the extended family rather than the welfare of the entire Somali nation.

## **The Federal State**

Beneath clan politics and beyond colonial legacies lies a society that has been capable of establishing systems of reciprocity and cooperation in the past. This society has been managing coexistence between its wide-ranging occupational segments, which include nomad pastoralism, coastal fishing, and sedentary farming (Ahad 2014, 54). Yet there is an omission of clan from all the other sections of the constitution, such as those concerned with the Federal Parliament (Chapter Six), the Executive branch (Chapter Eight) or the Judiciary (Chapter Nine) (Ahad 2014).

These chapters clearly shows that there is little prospect for clan incorporation into the governance structure, while only the federal government are fully entitled to hold and redistribute power. The question of legitimacy may be better addressed with a review of state legitimacy in the society. As a required precondition for every political community, which is, however, quite often taken for granted in Somalia. This understanding calls for re-framing regarding the adoption of a federal structure as the ideal arrangement for Somalia (Zoppi 2017).

Researchers, have already underlined the benefits of allowing for bottom-up, indigenous governance rather than resorting to Western ideals of liberal democracy imposed from above (Leonard and Samatar 2011; Menkhous 2014). In fact, current political dynamics, not least the federalist impasse currently witnessed, indicate that the state is still not perceived as a fair and impartial partner which could surrender or even share part of the local authority. That is because the state is neither part to the social negotiations developed by the Somalis, nor to the set of norms handed down from generation to generation.

The state is seen as an instrument of accumulation, intrusion and violence by a few people against all the others (Menkhous 2003, 409). Membership in a clan is a primary source of identity and security for the community, and the missed fulfillment of obligations led to social isolation from the state (Gough 2004, 34). This sense of identity is also not witnessed in the current federal system. As defined by a scholar, citizenship is 'full membership of a community', the social dimension of citizenship (Leisering and Barrientos 2013); is characterized by its focus on the individual's participation into community activities by means of resources and with the aim of ensuring recognition from the others.

There is minimal extent from the state to providing resources, promote participation and granting recognition to citizens in Somalia. While Somaliland enacted a citizenship law in 2002 (LAW No: 22/2002), the Federal Republic of Somalia has not passed any new law, and depends on either the pre-1991 (Law no. 28 of 22 December 1962) setup that was based on patrilineal or granted by law; or the 2012 constitution that only refers to rights and Article 8 that pushes the enactment of law to the House of the People of the Federal Parliament of

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Somalia. As a result, the state is posing a direct threat to Somalis' future asking them to remove trust they granted to the extended family through the clans and confer it to the state.

The transferring of this fundamental duty to the hands of the state is probably the most delicate process occurring at the moment. Its happening provides a high risk of instrumentalization for political ends by those clans that feel excluded in the process. From this reasoning, the primary consequence of lacking legitimacy suffered by the state is the resurgence of clan dynamics: the clan system is not an impediment to build and guaranteeing governance, yet it enters into competition with the state in the attempt to provide for the security of the people (Gimeno 2017). As a result, in the short-medium term Somalis are likely to remain clan affiliates rather than becoming citizens (Marshall 1950).

The norms prescribed in the constitution alludes to a civil society that does not yet exist. The notion of social citizenship remains strictly bounded to that of clan identity and security. Therefore, the concept of state authority is viewed in Somali mind-set as a zero-sum game. The case of the establishment of a central government, state authority can be used for the appropriation of economic resources for their own benefit through their monopoly of the military and executive power. This kind of rule is the only experience Somalis have had so far. It “tends to produce risk-aversion and to instigate conflict rather than promote compromise, whenever efforts are made to establish a national government” (Menkhaus 2003, 408).

## **Conclusion**

From 1995 to 2006, major armed conflicts was between clans, making it less lethal (Menkhaus, 2003). The limited support from the clans to the warlords made it difficult for these institutions to sustain their activities. On the other had, the businessmen opted to buy off the militia from the warlord in a coup that lasted to 1999. With the set-up of the TFG, the business people shifted allegiance to the government in the 2000, leading to temporary decline of the sharia militia. With the failure of the Transitional Federal Government (TFG), the business people resorted back to forming larger security forces which they directly controlled to protect their assets from Mogadishu.

The big question however, it whether this allegiance changed or shifted with the formation of the Federal Government of Somalia? The data shows that the allegiance was short-lived. The recent skirmishes in Mogadishu show the undercurrents that will destabilize the building block approach (Bryden, 1999) that is touted as a state formation silver bullet. Somalia is a poorly understood trend with the rise of informal systems of adaptation, security, and governance in response to the prolonged absence of a central government (Menkhaus, 2003). The state is therefore not legitimate enough to claim power and political authority in Somalia.

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The actions from local communities collectively reinforce the obvious but often overlooked observation that local communities are not passive in the face of state failure and insecurity, but instead adapt in a variety of ways to minimize risk and increase predictability in their dangerous environments. Judging from the way it is combining indigenous historical and modern experience, Somaliland appears to be groping towards some kind of consociational or power-sharing democracy (Steiner, 1991). For state formation to be a reality, all activities should recognize and acknowledge ethnic, clan or religious cleavages in constituting membership of governments and parliaments, while army and civil service recruitment are conducted on the basis of proportionality.

The role of the Xeer, (for example) the legal charter in Somali society, should not be underestimated for the stability of the country, for it is connected also to questions of welfare and security (Menkhaus 2014, 155). Without including sections of the Xeer into the governance framework, Somali civil society will still be deprived of one fundamental cultural aspect, creating an asymmetry between the state's duties and the population's needs.

Secondly, such inclusion will allow for management of political risks and the perception of safeness for the future: being a citizen is also about 'the security that being in a place provides' (Sporton and Valentine 2007, 12) and the government should move towards this achievement. The process can either be in collaboration with the clan as mentioned earlier, or in competition with the clan to provide the services otherwise currently being provided by the clans. For federalism to work, the state and its local branches must work to create a safer future for the people. The engagement would include the transformation of the Somali community into stakeholders, by re-orienting their choices from the short-term security arrangements provided by the clan, to the long-term opportunities provided by the state together with its federate local levels of governance.

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