

# **Strengthening the Role of Parliament in Constructive Conflict Management.**

## **Case study of Somali Experiences. Draft 25 July 2005**

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## I. INTRODUCTION.

This case study focuses on some Somali experiences with parliamentary structures and their functioning. It does not cover the parliament of the Transitional Federal Government, which resulted from the two-year long Somali National Reconciliation Conference that took place in Kenya. This omission is not an ‘oversight’ nor does it represent in any way a ‘political statement’.

When this research study was being planned and undertaken in early 2005, there simply was not as yet much ‘to study’. The major achievements of the Transitional Federal Parliament by then had been to nominate a new President for Somalia, and to contest the way in which he had initially nominated his Cabinet. The President subsequently re-nominated a Cabinet in accordance with the required procedures. The main challenge for the Transitional Federal Government during the time this study was conducted, was its relocation from Kenya to Somalia. Not the relocation per se but how it was to be implemented became a politically contentious issue within the Transitional Government in the first half of 2005, that eventually led to a virtual split between two politically aligned blocks. This split affects both the Cabinet and the Parliament. Already in November 2004, AWEPA (European Parliamentarians for Africa) initiated a project in support of the Transitional Federal Parliament of Somalia. Clearly, the current conditions of political split and antagonism hamper the ability to provide such effective support. Similarly, conducting a ‘study’ of the Transitional Federal Parliament was not deemed a constructive endeavour at this time and under those conditions. It is hoped however that this important gap can be remedied in future.

The current case study therefore focuses on the Somali experiences in north-east (Puntland) and northwest Somalia (Somaliland). This is valid and highly relevant. It is valid because we see here two examples of attempts at rebuilding the institutions of a democratic state driven by Somali initiative. Indeed, there has been very limited international support for this. In both areas, the Somali people themselves are also seeking to make progress towards democratization of their polity – in a struggle to overcome a legacy of military mindsets and clan-based violence. The experiences in these two regions are important and relevant for the Somali people at large. They are also relevant for international assistance actors, as they take place in what has become one of the most long-lasting situations of state collapse. Strategically, attempts to rebuild the state – in a way that contributes to peacebuilding rather than to renewed structural or open violence- can attempt three pathways: top-down, bottom-up or a combination of both. Since the collapse of the Somali state in 1991, international efforts to restore a functioning state in Somalia have consistently tended to rely predominantly on a top-down approach. It is to be hoped that the most recent attempt, the Somali National Reconciliation Conference which gave rise to the Transitional Federal Government, this time will succeed. It is clear however that peace building and state building in the Somali space cannot succeed without simultaneous bottom-up initiatives. In that context, the experiences in northeast (Puntland) and northwest (Somaliland) Somalia merit being documented.

A word on northwest Somalia / Somaliland. This 'entity' corresponds to what during colonial times was British Somalia. It became independent in 1960, a few days before the Italian-administered northeast and south-central Somalia became independent. Almost immediately, both newly independent countries decided to enter into a 'union' of their own volition to create one Republic of Somalia. Following a military coup in 1969, the rule of law was hollowed out and bad governance spawned resistance movements which in 1991 led to the defeat of Siad Barre's force and the collapse of the state. Then the people of northwest Somalia made efforts to pull together and restore peace and basic governance institutions. They withdrew from the union with the rest of Somalia that continued to suffer a state of clan-based violence and anarchy. Fourteen years later, and notwithstanding a relapse into violence in the mid-90s, they have made great progress. 'Somaliland' has not been recognized internationally, and as a result the progress made can be largely attributed to their own efforts. Similarly in northeast Somalia people started pulling together in the mid-90s and in 1998 created their own 'Puntland' administration. This too went through ups and downs, including a relapse into violence between 2001-2003, but overall there too the trend has been towards gradual stabilization and responsible governance. Puntland has positioned itself differently from Somaliland, in that it sees itself as a component of a future national government.

This case study has simply attempted to study what 'exists', notably in terms of the experiences that the Somali people have had and continue to have with 'parliaments', in a highly conflictual environment. These experiences are valid and merit being documented for the reasons stated above. Documenting them should not be seen as an expression of any political position about contentious issues that ultimately the Somali people have to solve among themselves.

## **II. CONTEXT AND HISTORICAL BACKGROUND.**

### **1. Context, Values, Identity and Social Dynamics.**

The Somali people inhabit a vast semi-arid or arid environment in the Horn of Africa that covers the area of the collapsed Republic of Somalia, the Somali Region 5 in eastern Ethiopia, parts of northeastern Kenya and parts of Djibouti. Historically this environment has been mostly suited to animal husbandry. Somalis share not only this legacy of a pastoralist lifestyle, but also the experience of a century of colonial rule (notably by the British, Italian and French empires); a common language, a common religion (Islam?); a pervasive political culture made up of highly segmented lineage social order; and also boast a rich oral literature with various styles that act as a powerful tool in influencing public opinion, political and social conflicts and groups' coexistence. These common cultural roots create a strong sense of "Somali identity". Nevertheless the struggle is still going on to transform this into a viable nation-state.

These fundamental elements of the clan with its segmentary lineage system, universal Islam and traditional pastoral life style, shaped the values and norms that distinguish Somali society and had a great imprint on the traditional legal system. The customary law (Xeer) of the clan was the main political and legal instrument by which inter-clan and

intra-clan issues addressed, conflicts resolved and resources managed. Sharia law was introduced by Islam’s penetration in this part of Africa from the 11<sup>th</sup> century onward. Somali traditional culture and Islam fused into a conservative Islamic society, managing a resource-scare economy for centuries.

Traditional structures of governance and their authority and legal system and their application operated within the clan culture as the dominant mode to structure and relationships between groups. Traditional structures of governance, therefore, were an expression of the society’s culture and tradition, which were maintained and perpetuated by the clan’s hierarchical order.

Traditional governance or authority consisted of a paramount chief or King and hierarchical clan heads operating under the chief’s authority. When the paramount chief (Boqor or Isim) and his sub-ordinate lieutenants or sub-clan heads (‘Aqil or Oday’) sit in assembly (Shir) to deliberate decision on issues that affect and influence clan’s interest; they constitute an “Assembly of the Clan’s Council”, which is the highest political and legislative body.

Traditional Governance Structure

Clan Paramount Chief (Isim)	Clan Council: Collective Decision Making Assembly
Sub-Clan heads	

All clan members are obliged to abide by the decisions of this clan council. For this to work, three fundamental principles must be maintained:

- a. *Clan members’ cohesion* in the face of any challenge. Such challenges may be political (e.g. election of politicians and competition with other clans for power ascendancy); or pertain to economic, security, social or moral issues such as access to pasture and control of grazing land, water sharing with other clans, livestock rustling, raping of women, a physical clash between camel herders or the threat of external aggression
  
- b. *Clan members obedience* of customary laws (Xeer) that provide law and order among clan members, establish principles for external relations with other clans and provide a framework for conflict resolution. Respect for the customary laws also demands respect for specific treaties, accords and agreements entered into with other neighbouring clans on the use of natural resources and the maintenance of security and on procedures of blood compensation (Diyah) and other issues of relevance.

- c. *Clan members' recognition* of the hierarchical authority bestowed upon the members' traditional head (paramount chief) and sub-clan elders. Sitting together in assembly, they enjoy full power bestowed by the clan's male members, to debate and decide on all matters that affect or influence the group interest. The lower echelon of the clan male members cannot challenge the elders' decision.

For the majority of Somali people the clan is a social organization in which everyone is a member by birth. It is the source of security and social insurance. In return every member is obliged to must defend his clan interests. Male members defend the honour of their clan and of its members as well as their properties. They must always defend the political stand of the clan and whatever political and social positions the clan has acquired or earned. In the inner thoughts and psychology of the Somali, the pro-clan feelings are and generally remain deeply-rooted.

## **2. Precolonial and Colonial Governance**

When the European colonial powers (the British, Italians and French) conquered Somali lands, they found some semi-state small kingdoms, scattered along the shores of the Indian Ocean and the Gulf of Aden.

The most notable of these were the Bimal Sultanate at Merka (some 100 km south of Mogadisho) on the shores of the Indian Ocean the the banks of the Lower Shebelle River; the Geledi Sultanate in Afgooye (some 30kms west of Mogadisho) benefiting from a strong agricultural basis and using slave labour; a northern Majerteen kingdom (1809-1917) at the very tip of the Horn of Africa where the Indian Ocean and Gulf of Aden meet; a southern Majerteen sultanate of Obbio (Hobyo) in the Mudug region, the Warsangeli kingdom bordering the northern Majerteen kingdom along the southern shores of the Gulf of Aden, and the northwestern kingdom of the Issa also encompassing parts of what is now eastern Ethiopia.

These kingdoms which had their capitals at the sea-shores, acquired much experience from their relations with the overseas peoples, who were more advanced and had politically better structured systems of governance. The other few land locked Somali kingdoms (chieftains) were simpler and lesser complex in social organization and in governance. All of them however shared one thing in common: Each king was surrounded and supported by a team of wise men, well experienced elders and traditional leaders, Islamic scholars and pious worshippers forming a sort of a royal court and council on political, social and security issues.

These various kingdoms and sultanates were systematically dismantled by the colonial powers, with the kings, courtiers and family members forced into internal (Mogadisho) or external (e.g. Seychelles islands) exile, or drastically reduced to a salaried little chief, bereft of all dignity and authority. At the same time the colonial powers (notably the British and Italians) created a new, parallel structure of authority. They hired from every sub-clan an ambitious man, who served as a channel of communication and contact between the sub-clan and the colonial administrations and who received from them a

monthly salary (the Aqil). Naturally, enmity grew out between the old camp of the king and his loyalists and the new camp of the Aqil and his supporters and as a result the clan became divided. A system of 'divide and rule' that served the objectives and interests of the colonial powers.

Towards the second half of the 20<sup>th</sup> century, the Italian and British colonial administrations began to introduce new models of local authority, beginning with the municipality councils in the major towns of the country. We must assume that the experiment gave relatively positive results, because both administrations moved forward to establish and institute some sort of National Councils, partly elected, and partly appointed. In the northern regions (British Protectorate Somaliland) the first National Legislative Council was established in 1960. In the southern Italian Trusteeship Administration (1950-1960) the first territorial council was established in 1952. Its members were appointed by the colonial Administrator General, and consisted of members from foreign communities residing in Somalia (Asians, Arabs and Italians) and clan elders and political party's representatives. The creation of this territorial council was an introduction to creating a National Assembly whose members were elected from all regions in the South, which took place in 1956. There the Somali Youth League, a pro-independence movement, won a majority of seats and moved to form the first national self government in the history of Somalia,

### **3. 1960: The Republic of Somalia and its National Assembly.**

The northern region, i.e. the British Protectorate won its independence on June 26—1960 from Britain. By that time it had a national government and a 33 member parliament. The latter had been elected in February 1960. The election had been contested by three political parties namely the Somali National League (S.N. L) which obtained 20 seats, the United Somali Party (U.S.P), which got 12 seats and the National United Front (N.U.F) which ended up with only one seat.

In 1950, the United Nations had fixed July 1<sup>st</sup>, 1960 as the independence day of the Italian administered south. The United Nations had entrusted the Italian government to prepare its former colony (south Somalia) for full independence within a period of ten years. During this period southern Somalia had also gone through a gradual process of political development with the municipal elections experiment, the territorial legislative councils and finally the election of a parliament with 90 seats. Different political parties had contested each other in these development between 1956 and 1959.

On 1 July 1960, the two ex-colonies, the one in the south and the other in the north; winning their independence and becoming two separate sovereign states, joined together in a free act of union to form a new sovereign nation, the Somali Republic. By subsequent administrative act the assemblies in the south and in the north were put together under one roof in the new national capital Mogadishu, thus forming the new first National Assembly (Parliament), molded on the models of western parliaments.

In the 1960 general political elections, the 123 parliament members came from south and north. They were elected by a multi-party system, though the air was not completely clean from the clan smell. At that time the number of political parties in the whole of Somalia was less than ten. The candidates were selected by a party committee. The campaign was conducted by party organizations. The clan influence was concealed and less apparent; though its spirit existed; still it was shy and veiled. Among the 123 national parliament members, there was no a single woman and that was because of the clan system, which influenced party leaders not to include women in the candidature lists. This clearly reflected men's perception about and attitude to women's role in the society.

In the general political elections of the year 1964, the clan breath was more apparent than before. The Somali Youth League party in the south, and the Somali National League party in the north, that once shone in the Somali political arenas also fell prey to clan influence. Because of the influence of the clan system and because of the clan waves that began to rise high again, and not for ideological or programmatic reasons, the number of political parties by then had doubled. Many energetic Somali voluntary and benevolent social organizations became equally subject to clan-politics.

Year after year the Somali National Assembly (national parliament) came to resemble ever more a gathering of men, representing different camps of different clans, disguised under the labels of political parties. Finally in the general political elections of the year 1969, 78 separate crowds were waving party flags and banners. Each claimed that its big logo represented a political platform, a political movement. In reality they represented the interests and aspirations of a certain sub-clan. There were no real political parties. Instead, there were sub-clans. The outcome was not a real parliament as all those who won seats in the election then joined the ruling Somali Youth League (SYL) in order to have ministerial positions on behalf of their respective clans. From 78 so called political parties the number was suddenly reduced to only two parties, with 99% of seats held by the ruling party. The opposition became one member- a former prime minister. The product was a hollow skeleton of a parliament, void of all national political principles, concerns and considerations.

That was the sort of government and parliament the armed forces had overthrown in October 1969. The latter replaced it by a military dictatorship that lasted 21 years (October 1969-January 1991). In this military period there existed a so called "parliament" with 176 members appointed by the political bureau of the only party that existed in the country, the Somali Revolutionary Socialist Party, whose Secretary General was also President of the Republic, Head of Government and Supreme Commander of Armed Forces. The Parliament members were party functionaries and government civil servants, who had no political voice except obeying the Party and the President's instructions. Under the guise of socialism and national salvation slogans, Siad Barre's authoritarian and military regime continued to play clan politics, spawning various armed resistance movements. The end-result was civil war, the collapse of the state and the destruction of the nation. When the political and military crisis broke out in latter part of 1990, members of that Parliament shifted their allegiance to their clans, and fought along with them against other clans.

#### **4. The collapse of the Somali State and the Emergency of Regional Administrations.**

On 26 January 26 1991 General Mohamed Siyad Barre, the long time dictator of Somalia fled Mogadishu. For 8 years the Somali Salvation Democratic Front (S.S.D.F) largely drawn from the Majerteen Clan (a branch of the Darod) had been leading an armed opposition. A similar armed struggle had been waged by the Somali National Movement(S.N.M), as the vehicle of the Isaac clan in the northwest. While having played a key role in the defeat of the military dictatorship, these relatively old opposition movements seemed exhausted at the time. It had been the relatively new and energetic United Somali Congress(U.S.C), the armed opposition movement of the Hawiye clan, that had been the direct force that practically ousted the old dictator and his regime.

Although each of these three major armed opposition movements had inclusive names, they failed to create a new national government to replace the deposed dictator. In the absence of a shared political vision and platform, they turned against each other. Other clans also mobilized militia. The result has been persistent violence and anarchy in large parts of Somalia for much of the past 14 years. What were originally inter-clan wars became intra-clan wars, and finally turned into violence between strongmen over the control of profitable assets and strategic positions. Greed followed grievance as driving force in the violence.

##### *4.1. 1991: The creation of Somaliland*

While intense factional fighting raged in the south, a different picture was occurring in the north. On the 18<sup>th</sup> of May 1991, in an Inter-clan Conference in *Burco*, Somalia's Northwestern region declared itself independent as the Republic of Somaliland. The region essentially withdrew from their 1960 unification with Italian Somaliland and re-introduced the old boundaries put in place by the British colonisers.

The *Burco* Conference brought together more than a dozen *Garaaddo*, *Suldaanno* and *Ugaasyo* (titled traditional leaders) representing the Isaaq, the Harti and the Dir clans, along with their delegations. They were joined at the conference by participants from other sectors of society, including artists, intellectuals, and business people (who provided most of the financing) as well as delegates from the diaspora. Their deliberations, which included the secession from Somalia were presented to a subsequent meeting of the SNM Central Committee and endorsed.

Secession had never been a stated goal of the Somali National Movement (SNM). However, under popular pressure during the Burco conference the SNM leadership was forced to reassert Somaliland's sovereignty (Drysdale, 1991). Other factors that contributed for the declaration of independence were (Bradbury: 1997):

- ❖ The formation in February 1991 of an interim government in Mogadishu by the USC (United Somali Congress) went against a previous accord between SNM, USC and SPM.
- ❖ The people of the northwest, particularly the Issaq who formed the backbone of the SNM, feared that any further relationship with the South would lead to a repeat of the repression they had suffered under Siad Barre's military rule.

The Burco conference has also led to the cessation of hostilities between Isaaqs and non-Isaaq clans in North and the formation the first post-conflict administration. The Somali National Movement (SNM)'s central committee with the inclusion of members from the other clan served as the legislative body. Somaliland's first interim President was Abdulrahman Ahmed Ali *Tuur*. *Tuur* served from 1991 to 1993 and his administration assumed the task of forming a functioning government. In his term it was hard to attain concrete progress and factional fighting in 1992 undermined the hopes of independence. Hostilities were stopped that year by another more local peace conference in the town of Sheikh, which in turn sparked a national reconciliation known as the *Boorame* Conference.

The *Boorame* Conference commenced on the 24<sup>th</sup> of January 1993 with the aim of addressing issues of reconciliation, security, and state creation. The conference was mainly sponsored by the communities of Somaliland and lasted for several months with over two thousand people expressing their views. In the end, a council of elders adopted a Peace Charter and National Charter. The Peace Charter was a direct response to reconciliation and security issues that surfaced after independence. It essentially helped to set a structure in which demobilisation could occur and law enforcement and a judicial system could be established. It set out a clear code of conduct, which the council of elders and people of Somaliland were to follow, so that harmony and security could exist as desired at independence.

In turn the National Charter addressed the need of establishing a state. The charter was to function as a two-year constitution for Somaliland and created an executive office, a two tier legislative system consisting of an assembly of 75 elders/*Guurti* (the upper house) and assembly of 75 representatives (lower house), and an independent judiciary. In essence the Charter established a government rooted in a clan system with a fusion of the western system. The arrangement allowed every sub-clan, with the exception of women and minorities to be represented in the legislative body, and promoted consensus politics.

In June 1993, the delegates and the elders at a national conference in Hargeisa elected Mohamed Haji Ibrahim Egal as the next President of Somaliland. The incoming government was given the task of drafting a national constitution to be endorsed within two years, while emphasis was placed on the assembly of elders as peacemakers.

Egal's administration was able to achieve much more within its first two years in office than *Tuur*'s administration. Under his guidance, ministries were re-established, government buildings were restored, the central bank re-opened with a new currency, working hours were introduced, and a civil service agency was created. A national army,

police force, customs officers, and judicial system (both regional and local) were set up. Within the capital, Hargeisa, attempts were made at rebuilding the devastated infrastructure, which was thoroughly destroyed through targeted bombing by the forces of Siad Barre in 1988. The civil service was paid and budgets were formulated for the ministries by November 1994. The government held a working relationship with the rural regions in Somaliland by allowing regional committees to function under them. Regular contact was maintained between the International aid agencies and the government. The ability to carrying out much of the above progress was due to the growing revenue funds at the government's disposal. With custom fees imposed on trading at the ports and borders and the exporting of livestock to the gulf nations the government was able to generate revenue to perform some of its tasks. (Bradbury: 1997).

Inter-clan hostilities during 1994 to 1996 undermined much of the government's progress and put into question the future of the young republic. The main reasons for the hostilities were the government's attempt to control revenue generated facilities, like the capital's airport. Eventually a peace settlement was instituted at another national conference held in Hargeisa and general stability returned in 1996. President Egal was re-elected for a 5-year term in office and a provisional constitution was approved that set Somaliland on the path towards a multi party democracy (APD/WSP: 1999). The Parliament: the House of Representatives and the *Guurti* each originally comprised of 75 representative with seats distributed by clan, was increased to 82 respectively, in order to accommodate opposition and minority representatives.

In May of 2001 the people of Somaliland overwhelmingly endorsed the new constitution in a referendum. The turnout for this referendum was low in the Harti-inhabited parts of eastern Somaliland, where there is a strong sense of solidarity with Harti-kin in northwest Somalia (now Puntland). This vote helped legitimise the push for international recognition of Somaliland. In May of 2002, Egal passed away while undergoing surgery in South Africa. Upon his death Vice President Dahir Rayale Kahin was appointed as interim President.

After Egal's departure local council elections were held on December 15, 2002 and three of the six political organisations were established as political parties Udub, Kulimye, and Ucid. On April 2003, Somaliland held its first presidential elections and Udub's candidate, Dahir Rayale Kahin, won by a narrow vote to retain his office.

#### 4.2. 1998: The creation of Puntland

In the northeastern part of Somalia mainly Darod (with majority of Harti-sub-clans) populate three regions: Mudug, Nugaal and Bari. Here too instability, lawlessness and violence reigned after the collapse of the state. Armed militia had taken over many strategic points on the long asphalt road that runs through the three regions. They were hurting, harassing and horrifying people as rude highwaymen.

In 1993, religious fundamentalists of Al-Itihad waged an internal armed uprising against the Somali Salvation Democratic Front in an attempt to seize power. They were defeated by the combined forces of the SSDF and clan militias.

Meanwhile a power struggle had also been developing between two leaders of the SSDF causing the movement to split into two factions, one headed by General Abshir (former police officer) and the second by Col. Abdullahi Yusuf (former army officer). As a result the SSDF was incapable of controlling the political and security situation in the three regions. Their uncompromising and confrontational positions led to a Grand Community Conference in the town of Qardho in 1994 in an attempt to overcome this fruitless confrontation. Sadly the two factions disagreed to form an administration, and the situation of lawlessness and anarchy persisted. A second attempt was made by another Grand Community Conference, this time in Garowe, that lasted from April to July 1998. Delegations (to a total of 650 participants) from all the regions participated in the forum. Many heavy weight politicians contributed and many more important figures came from abroad as delegates. All traditional leaders were present. The conference eventually succeeded and created the foundations of the Puntland Regional Administration, consisting of:

- *A House of representatives of 61 men and 5 women (66 members)*
- *A Judiciary organ of three level courts*
- *An Executive organ of President and Vice president and sectoral Ministers.*

A provisional Charter, modeled on western parliamentary system was drawn up with the help of a Swiss expert and taking some inspiration from the Somaliland constitution, and then adopted. But the Puntland Charter also contains a firm pledge that its regional administration will strive for the restoration of the national state and a new national government.

At the time the new Speaker of the House set an ambitious agenda:

*“The central theme is to make Puntland a viable example for the future federal system of Somalia. To achieve that goal, this HOUSE has to:*

- 1. Hold a Puntland-wide referendum on the constitution of Puntland.*
- 2. Hold a Puntland-wide population census; so that the future plans of Puntland have to be based on the results of that census.*
- 3. Make ready and available all the by-laws that are required by the constitution of Puntland (About 40 by-laws).*

Independent Somali observers in Puntland questioned the feasibility of these ambitions. Objectives 1 & 2 seemed very difficult given the Puntland administration’s financial and economic resource. Moreover, census taking becomes very difficult if a significant proportion of the population is not settled. Conducting a referendum on the constitution might not be possible without a reasonable census to avoid manipulation of the votes.

The establishment of the Puntland Regional Administration, proved a way-out for many: - for the Majerten (sub-clan of Harti), who came to a deadlock in their conference at Qardho town in 1994, and who still were revolving in an empty circle; also for Dulbahante and Warsangeli clans (Harti sub-clans), who became disenchanted by Somaliland's secessionist claims. So, the creation of a union of Harti sub-clans in all districts inhabited by Harti was inevitable for two reasons: (1) to create a larger community of many sub-clans with Puntland, and (2) to challenge the secession of Somaliland as a separate entity from Somalia.

A Puntland House of Representatives was formed with members identified and seat allocated on the basis of clan identity and power-sharing agreements between the clans. There are no political parties in Puntland. The House elected Col. Abdullahi Yusuf Ahmed as President of Puntland and Mohamed Abdi Hashi as Vice President.

A political crisis emerged again in 2001, as a result of a new power struggle, this time between Col. Abdullahi Yusuf and Col. Jama Ali Jama. During this prolonged crisis (July 2001-May 2003), the House members split into two mini Houses, each supporting one leader and functioning as a separate Parliament. The same division also happened among clan elders. The crisis, after a brief military confrontation in which Col. Abdullahi Yusuf had an upper hand, later ended in May 2003 through negotiations. These were organized by clan leaders and concluded by a signed agreement for power sharing in ministerial positions (to that effect increased from 9 to 14), high ranking military officers and civil servant positions. After the two leaders agreed to share power, the split members of the House regrouped, acting once again as one Puntland House of Representatives. What we saw during this crisis however was that, instead of alleviating conflict, the House members aggravated the situation. The reason is basically that they were selected / appointed on clan-based criteria, rather than through an open election process.

A new political crisis loomed briefly in Puntland in late 2004 when the new Transitional Federal Parliament (then still based in Kenya) elected Col. Abdullahi Yusuf to be President of the Transitional Federal Government. This happened at a time when the mandate of the executive and the legislative both were near their constitutional end. The Vice-President of Puntland took on the presidency, and its House then elected a new vice-president. There was a noted intent in both the executive and the House to unconstitutionally extend their mandate. The opposition did not want this.

In order to avoid these tensions turning violent, the Puntland Development Research Centre, an independent research institute and think tank, then successfully lobbied senior government officials to call for a Traditional Leaders Conference. During previous political crises, the elders had divided between government and the political opposition. PDRC urged the elders this time not to be divided but to reach consensus. Ten days of talks led to the broad recognition that an extension of the mandate cannot be dictated, and that within a month a new Parliament had to be nominated which then would elect a new President and Vice-President. Indeed, within the month a new House of Representatives was nominated. A committee had screened the candidates. Although set up by the government, the committee chair was highly respected and the committee's functioning

seen as fair. Of the 66 new members, 52 had been sitting in the previous (and first) parliament and 14 were newcomers. The political opposition did not think this new parliament could bring any change, but was advised to campaign among the parliamentarians. As it turned out, the previous (military) opposition leader Mohammed Muse Hirse was elected new President of Puntland. The previous vice-president (closely linked to Abdullahi Yussuf) is now finance minister in the new cabinet. This was a peaceful succession has been achieved, in which the opposition actually took over the presidency.

### **III. THE PUNTLAND HOUSE OF REPRESENTATIVES.**

#### **1. Nomination to the House of Representatives.**

As mentioned before, members of the Puntland House of Representatives are nominated and the seat allocation reflects an agreement on power-sharing between clans and sub-clans. The first nomination happened at the Grand Community Conference in 1998, according to a formula based on major and minor sub-clans. Prior to the seat allocations per clan, an Arbitration and Conciliation Committee made up of clan elders and legal experts had negotiated and settled disputes among candidates. Following the allocation of seats to the different sub-clans, the elders of each then allocate seats to each lineage within the sub-clan, using a formula based on major and minor lineages.

The names of selected candidates from each lineage had first been submitted to their Isim (paramount chief) for approval before being presented to the Arbitration and Conciliation Committee for registration and approval. The Paramount chief does not have power to reject nominations proposed by sub-clan lineages, but can advise them to review nominations if complaints come from some sections of the lineage. Generally, his role is to make peace among his subjects and narrow difference and solve conflicts, but he cannot dictate orders or forced solutions on any lineage as his greatest responsibility is to maintain cohesion and consensus building for his subjects. In return, the elders of lineages respect the chief's advice and mostly accept his proposal to review the nominations. Following approval by the Arbitration and Conciliation Committee, the selected candidates were then sworn in as MPs.

#### **2. Electing Top Officials.**

It is the prerogative of the House of Representatives to elect the Puntland President and Vice President among the competing candidates. Once elected, these will form the government and appoint Ministers from outside the House. The Cabinet Ministers proposed need to be approved by the House. It is also the prerogative of the House to approve by majority vote the members of Higher Judiciary Council proposed by the President.

#### **3. Internal Capacities.**

The Puntland House of Representatives have elected their own office bearers, namely the Chairman and a 1<sup>st</sup> and 2<sup>nd</sup> Vice-Chairperson of the House. There are 10 sectoral committees, made up as follows:

1. Constitutional & Federal Affairs
2. Legislation & Policy
3. House Affairs (internal parliamentary matters)
4. Social Affairs
5. Economic & Finance
6. Environment
7. Droughts & Natural Disasters
8. Family, Women & Children
9. Security & Defense
10. External Relations

A Committee for Peace and Reconciliation is created as and when the need arises. The members of this committee are not permanent and can change.

The ability for the House to perform its role is hampered by the financial constraints it has had to operate under. The budget of the House in recent years has approached the half a million dollar figure, but the monthly salaries of its members have remained stagnant at US \$ 300 – which is definitely not enough given the cost of living in Puntland.

FY	In SOSH (000)	As % of the Budget	USD	Monthly salary USD
2002	1,092,000	1%	58,000	300
2003	5,466,227	2%	303,680	300
2004	6,570,200	2.5%	486,770	300
2005	6,583,000	2.3	489,000	300

There has been no external financial assistance for the Puntland House so far.

Other factors influencing the ability of the House to perform its role are as the clan loyalty that is required from its members, and the lack of training of most members. As we have seen House members are selected from their own clans or sub-clans, and criteria for their selection are not based on level of education or professional skills. Therefore, a majority of MPs do not have the required skills and competencies needed for legislators. Regarding their interaction with respective constituencies, the members go back to their districts during the House’s recess and report on legislations passed, policies and development. They collect community demands, grievances and needs back to the government for action, which generally ends up with no action. The members consult with clan leaders in their districts on issues of local concern-water, pasture, education, health and security. Because the members represent their clans and are duty bound to work with them, there is actually a real ‘representational’ role for them.

#### **4. Oversight of the Executive.**

Between 1998 and late 2004, the House has had difficulty fulfilling its role of oversight of the executive. One member of the House claimed differently:

*“Puntland was a new scheme, hope-stirring and glorifying the image of its community, so; the whole population too enthusiastically co-operated with the new administration. That enabled us fulfill our tasks easily, as a new parliament. We were accomplishing our duties successfully by always avoiding escalation of controversy and seeking consensus to avoid political and military confrontation”*

Others attributed the limited achievements of the House to external factors, such as internal rivalries and occasional armed confrontations, frictions with the Somaliland administration (over the disputed border areas of Sool and Sanaag), and the disappointing experience with the previous Transitional National Government that resulted from the Somali peace conference in Arta (Djibouti) in 2000, established itself in Mogadisho but never managed to play any substantive role.

Other members however point at the strong personality of the former Puntland president, Col. Abdullahi Yussuf:

*“The President of Puntland, being a man of military background, had spent more than 40 years of his life time as a military officer and as a militia leader. In his opinion, criticism simply meant opposition, and according to his military culture a man was either a foe or a friend, and he believed that who is not with him is against him”* and

*“Whenever, the position of the parliament clashed with the desires of the president, the parliament always tried to find a way out by working out a compromise for the sake of keeping Puntland stable and safe.”*

#### **5. Legislative Achievements.**

The legislative record of the House since 1999 appears very substantive. Box 1 provides an overview of all the laws passed. Note however that it is the executive that initiates much legislative work. The House has limited internal legislative experience and capacity.

Unfortunately, although many laws were passed by the House in the past five years, the implementation of some of these laws has been either withheld or minimal. The reason is that the Executive is reluctant to enforce laws that might trigger popular opposition and offer opportunity to opposition groups to wage hostile activities to the administration. The House does not push the executive very hard to implement the laws it has passed, and has itself no capacity to ensure the public dissemination to the public, nor the authority to oversee that the laws are indeed implemented. Both the House and the Executive seem to have adopted an attitude to keep potentially unpopular laws in taciturn mood.

1. Law No.1 Government management Regulations, 1999
2. Law No. 2 Establishment of Judiciary Organs, 1999
3. Law No. 3 Internal Rules of The House of Representatives, 1998
4. Law No. 3 Foreign Investment, 1999
5. Law No. 4 Prohibition of Dangerous Materials to Health,1999
6. Law No. 7 Traffic and Road Regulations, 1999
7. Law No. 8 Establishment of Government Gazette, 1999
8. Law No.9 Establishment of Land Tax Rates, 1999
9. Law No.10 Customs Duty, 1999
10. Law No.11 Government Levy on livestock export, 1999
11. Law No. 12 Establishment of Local tax rates (Municipality)
12. Law N0. 13 Budget for FY 1999
13. Law No. 1 Security and Stability, 2000
14. Law No. 2. Pastoral Environmental Protection, 2000
15. Law No. 3 Regulation of Agricultural Lands, 2000
16. Law No. 4 Entertainment Business Regulation, 2000
17. Law No. 5 News Agency Regulations, 2000
18. Law.No.6 Public health, 2000
19. Law No.7 Establishment of Chamber of Commerce, 2000
20. Law No.8 Establishment Civil Servant Saving Fund, 2000
21. Law no. 9 Establishment of Government Bank, 2000
22. Law No.10 Not specified issues.
23. Law No.11 Government / Contracts, 2000
24. Law No.12 Fishery and Protection of Marine Environment, 2000
25. Law No 13 Media and Publication, 2000
26. Law No.14 Urban Lands, 2000
27. Law No.15 Airport Services, 2000
28. Law No.16 Establishment of New Districts, 2000
29. Law No. 17 Government Budget for FY 2000
30. Law No.18 Establishment of Highway Authority, 2000
31. Law No.19 Prohibition use of Mine and Explosives, 2000
32. Law No.20 Establishment of Water & Energy Authority, 2000
33. Law No. Provisional Constitution, 2001 (year of political crisis)
34. Law No. Revision of Puntland Charter, 2001(year of political crisis)
35. Law No. 1 Revision of Tax Structure, 2002 (year of political crisis)
36. Law No. 2 Revision of Provisional Constitution, 2002 (year of crisis)
37. Law No. 1 Tax revision for Hides, Skins and Livestock, 2003
38. Law No. 2 Revision of Port Services Fee, 2003
39. Law No 3 Budget for FY 2003
40. Law No. 4 Revision of Airport Services Fee
41. Law No. 5 Special budget for Ministry of Rural Development
42. Law No. 6 Government Policy and Program, 2003
43. Law No. 7 Decentralization of Power to Districts, 2003
44. Law No. 8 Revision of House Internal regulations, 2003
45. Law No. 1 Government Budget of FY 2004
46. Law No. 2 Extension of Government Period, 2004
47. Law No. 3 Privatization of Airport services, 2004
48. Law No. 4 General Accountant's Function, 2004

## **6. Social and Economic Development.**

It is clear from the overview of legislative products, that the House devotes attention to the budget proposed by the executive, and to various economic issues. It debates on policy issues, deliberates on public finance and calls in Ministers for questions on social, security and development issues, and investigates government financial management through a select committee.

The Speaker of the House and his assistants understand the role of the House with regard to economic and development issues:

*“The House co-operates with the Executive, civil society and traditional leaders to assure that development program objectives be based on the urgent and pressing needs of the population, especially rural and pastoral communities’ needs of water, health, education and food security, because without security no sustainable development can take place. Rural and pastoral communities provide 80% of Puntland economy, but receive very little in return for social and economic services.*

*The House co-operates with the Executive and civil society to maintain the law and order, so that international community, donors and local political structures can safely work together in development programs.”*

The Economic and Finance Committee follows the executive’s activities economic issues, and will question the Minister of Finance e.g. on tax collection (e.g. tax levied on imported food items deemed essential for food security). In doing so, it receives input from both the Accountant General’s Office and the Auditor General or Magistrate of State Accounts. The Accountant General’s office has the specific responsibility to ensure that expenditure remains within budget to avoid overruns and deficits. The Office reports to both the President and the House for eventual warning and action. The Auditor General or Magistrate of State Accounts is responsible for periodic and annual audits of the state accounts (including all assets), and analyses the merits and legitimacy of public expenditure and the government’s development programmes. The Auditor General responds to the House. Candidates for both these offices are proposed by the President, but need approval from the House. While valuable, it has to be admitted that both offices encounter difficulties in investigating the financial management or conduct of powerful Ministers.

A particular and longstanding source of public discontent has been the disproportionate allocation of the limited public revenue to security.

In the Financial Year 2004, the source of fiscal revenue was limited to only seven areas or sources, which are:

1. Customs duties	Rank	1	73.7 %
2. Government service charges	Rank	2	13.74%
3. Indirect Taxation	Rank	3	07.9 %
4. Income tax (very limited)	Rank	5	1.65 %

5. Production Tax	Rank	7	0.001%
6. Government Property Fees	Rank	4	2.50 %
7. Transfer & Contribution	Rank	6	0.50 %
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Total			100%

As one can see the fiscal sources above, the possibility of expanding fiscal base or sources of revenue is rather weak.

Six expenditure items (budget categories) are also shown below:

1. Salaries and allowances	Rank	1	58.0%
2. Government Services	Rank	2	11.5%
3. General service ( <u>Political?</u> )	Rank	4	12.0%
4. Payment of debts & Commissions	Rank	3	12.7%
5. Investment in Government Assets	Rank	5	03.51%
6. Grant & Reserves	Rank	6	02.3%
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			100%

It is noteworthy that the fiscal base (revenue) main source is Customs' duty (73.7%) whose income depends on the volume of goods exported and imported. As the main export of Puntland goods is livestock, which is a primary commodity, the vagaries of nature (failure of seasonal rains) can have a devastating effect on export, and by consequence highly reduce hard currency earnings to buy consumer goods, food and drugs for the population. This happens from time to time when drought affects livestock production levels and reduces pastoral population's purchasing capacity to access food and consumer goods in lean times-severe dry seasons.

Public security strengthening has always been a priority of Puntland Administration since its establishment in 1998; and this sector takes away the greatest portion of the public coffers. This policy has disinvested in building parliamentary structures and legislative institutional development and other sectors of social and economic importance.

In this year 2005, the House has had an important impact on the budget allocations. It challenged the executive on its allocation of almost 50% of public revenue to security, and urged it to reduce the number of security forces and allocate more resources to social and economic services. As a result, the 2005 budget shows an increase in Health and Education allocations from 3% to 15%.

## **6. Human Rights.**

The House has been modestly active on human rights violations, mostly in the context of violations of the rights of displaced people and with regard to human trafficking. Indeed, there has been a certain trade by criminal groups of desperate people from Ethiopia and southern Somalia by boat to Yemen. On a number of occasions the boats sank and the would-be migrants perished. The House discussed this and pressed the government of Puntland to act, after which the level of human trafficking decreased.

## **7. Role in Conflict and Peacebuilding.**

The House of Representatives sees itself as having a major responsibility in conflict mediation and peacebuilding. When needed, notably at a time of internal crisis or crisis with 'neighbours' (border areas with Somaliland, Mudug region on the southern border), it constitutes an ad hoc Committee for Peace and Reconciliation.

This committee

- *Organizes periodically consultation meetings with traditional leaders to review current conflicts or to avert fighting between clans for political reason or other motives.*
- *In co-operation with the traditional leaders and government departments, the select committee deals with local political differences that explode, from time to time, between different groups and clans. Use of traditional structures for peace building is and has been an effective mechanism to resolve conflicts of any nature.*
- *Also, in co-operation with the traditional leaders and official circles of the Puntland government, the committee gives attention, shows concern and extends blessing to the peace acts and accords that take place between groups or clans in Puntland.*
- *In the same way, in co-operation with the traditional leaders and government departments; the peace committee of the House, participates in reducing tension that sometimes emerge between Puntland and one of its neighbors (Southern Mudug or Somaliland Administration) by engaging traditional elders.*
- *Justice is, surely, one of the prime factors and one of the basic pillars for peace-building. Driven by this principle, the select committee advises government to work towards equity and equal dispensation of justice to avoid conflict, especially for those sections of the population whose rights are some times violated - minority groups and war displaced people.*

The limitations of the ability of the House to act as conflict mediator and peace builder were most evident however during the political crisis 2001-2003. Members of the House argue that they played a major role and narrate their contribution as follows:

- *In a session of the parliament held in Galkayo, in October 2001 the parliament urged the government (Abdullahi camp), to avoid, while striving to restore law and order in Puntland, any actions that may complicate the future process of peace negotiations.*
- *The parliament formed a committee to make investigation, collect information and to accompany the government war operations, to make sure that the government does not commit any misdeeds that could jeopardize human rights of both civilian population and opposition.*

- *The parliament supported, pushed forward and participated in every peace initiative. (There were many initiatives and attempts to reduce tension, enmity among clans and particularly among pastoral communities).*
- *The parliament exerted much pressure on the government asking to be always ready for peace negotiations and to be flexible in accepting compromise.*
- *The parliament assured that the Puntland government would not detain people from the other side for relatively long periods as prisoners-of-war, because such an action would escalate conflict and make peace negotiation difficult.*
- *The parliament was making sure that Puntland government give the same treatment to those who were wounded in the fighting to show compassion and responsibility, since hospitals and health facilities were managed by the administration, and not by the opposition.*
- *The parliament was putting pressure on the government, urging it to show much tolerance towards the civilians who supported the opposition.*
- *Twice the parliament made amendments of laws giving the government, permission to enlarge the size of its cabinet, so it could allow ministerial positions for the opposition<sup>1</sup>.*
- *The parliament organized a large network in Puntland regions, making sure that there would not be use of war literature<sup>2</sup> that could remain after math or could jeopardize the future peace negotiations. (poems, songs, Writings, etc).*
- *It was the parliament that was doing the job of the organizations of human rights in that situation. Protection of civilians against abuse of power by the government was one of the efforts that members of parliament, although emergency law was in place.*

Notwithstanding these claims by the members of the House, the reality is that they had become one of the contributing factors to the conflict, and subsequently had been deeply divided during the conflict and each group supported a particular leader.

Indeed, the original three years term of the first Puntland government (derived from the 1998 Grand Community Conference) and with it the term of the House of Representatives, expired on 30 June 2001. Within such mandated period the administration had to accomplish the tasks of preparing a constitution, conducting a population senses and holding a Puntland-wide referendum on the constitution for approval. The Charter also stipulated that, should the administration fail to fulfill those tasks, it shall automatically cease to exist when its term ends, the chief justice would assume an interim administration for 30 days in which period he will call another Grand Community Conference to deliberate on the future course of action.

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<sup>1</sup> Number of ministries were by Charter restricted to a maximum of 9, but extended to 14 to allow government accommodate the opposition in power sharing after the peace agreement was signed.

<sup>2</sup> Oral literature-poetry- is a powerful tool to escalate or de-escalate conflict. As majority of the population does not read, oral literature and oral communication becomes a substitute for news reading and news dissemination. Any poem that inflates victory achievement or defeat of a clan becomes part of traditional local history and leaves a durable shame-mark on the defeated part.

The administration had drafted a new constitution, but it could not accomplish the other two tasks, and by now the time was heading towards the deadline. The administration tried to take short-cut measures around the Charter, by proposing an extension of its mandate. In order to give this legitimacy, the executive organized a Puntland-wide conference of traditional leaders. Some important personalities chose not to participate in that conference; but the administration had managed to arrange substitutes for them, and as was pre-planned, this conference of traditional leaders by majority requested the House to grant an extension period for both the House and the executive's term. The willingness of the House to do so was seen as driven by their own self-interest. It ignited tension all over Puntland would result in internal armed confrontation.

Puntland's public opinion thought the parliament's act as a great mistake, provocative and irresponsible. Widespread civil disobedience occurred. The President himself had to lead an expedition to put down an armed mutiny in Bossaso airport (The commercial capital of Puntland) but was repulsed by the combined forces of an opposition alliance. After this unexpected military debacle, the President moved out of the capital city(Garowe) and made his headquarters in Galkayo town (230 south of Garowe) to prepare a military offensive against the opposition.

As mandated in the Puntland Charter, the Chief Justice then assumed the presidency of Puntland. He called a conference of elders, which elected Col. Jama Ali Jama on 16 November 2001 as President, and which formed a new Parliament. Suddenly Puntland found itself with two governments and two parliaments. The new president, Jama Ali Jama, did not enjoy his presidency in Garowe, because Col. Abdullahi Yusuf attacked him on 21 November 21 2001 and drove him out of the city. This incident marked the start of a prolonged internal political and military conflict between the two opposing factions that lasted nearly for two years, until it was ended by a power-sharing peace agreement signed in Bossaso on 17 May 17 2003.

As we have seen, the members of the House split along the opposing faction lines. After the peace agreement and their reunion into one single House, the tension subsided, but did not fully disappear. Some members of the House who at the time sided with the Abdullahi Yussuf faction explain their position as follows:

*“Of course, every parliament represents the interests and the aspirations of its people in general, still, among the interests and aspirations of every people, in any given specific period of time. There are central pillars of all priorities. The role of a parliament during violent conflict is to stand by the central pillars. In the case of Puntland, in 2001, Col. Abdullahi Yusuf (Incumbent president at the time) was defending the central pillars of Puntland; the other camp was about to destroy these central pillars of Puntland; and for that reason, it was an obligation and a duty, the parliament to support Col. Abdullahi Yusuf and not the otherwise.”*

*“Yes; during any violent internal conflict the parliament (Any parliament) must support the side that is defending the central pillars of the aspirations of the*

*people it is supposed to represent it, and that is, exactly, what Puntland parliament had done during the violent conflict among the warring factions. The majority of deputies are in full agreement with that notion”.*

In retrospect then, we must observe that faced with especially serious internal political crises, the ultimately constructive role has been played more by the traditional elders than by the members of the House.

### **8. Women MPs and Gender.**

Five women have been appointed to the House as MPs from their clans. Property rights for women in Puntland are guaranteed by customary law as well as by state law. Inheritance is regulated by Sharia. The House Select Committee on family, women and children is tasked with a focus on economic, social and development issues associated with the family, and can be expected to pass legislation strengthening the protection of women, children and the family. So far however, it has not proposed, deliberated or achieved any substantive legislation in this regard.

### **9. Decentralisation and Federalism.**

Instigated by the Puntland Development Research Centre, the House of Representatives is currently undertaking focused work regarding the legal framework that can enable the creation of local councils in Puntland, as well as a critical examination of the relationship between Puntland and the new Transitional Federal Government.

The creation of local councils is seen as an opportunity to increase participation in governance and create a governance system and culture that is more responsive to local concerns and demands. The current President of Puntland was so much in favour, that civil society leaders had to urge him not to rush through the creation of such councils, but to proceed in a step-by-step fashion, starting out with the major urban centers.

As for the Puntland-National (Federal) Government relationship, we have already mentioned that Puntland has always positioned itself as a building block for a restored national administration. This was recently re-affirmed by the Speaker who stated that the House must

- *See that the Puntland laws are coherent with the federal constitution and its laws;*
- *Assist the National Transitional Federal Government in its effort to rebuild Somalia as a viable democratic federal republic in which regional or federal states enjoy autonomy to manage their internal affairs;*
- *Assist the National Transitional Federal Government with whatever facilities Puntland can provide it;*
- *Work jointly with the Transitional Federal Parliament towards reconciliation of the Somali people, and closely cooperate in peace building with the National Commission for Reconciliation (to be*

*created), which is constitutionally mandated to undertake this national important task.*

When PDRC presented a comparative analysis of the Puntland and Transitional Federal Government Charters to the Members of the House, and pointed out that there are discrepancies and contradictions, the House created a committee (also including 2 members from the executive and competent individuals from outside the Puntland government) to study this in detail.

This comes at a particularly opportune time, because questions of power-sharing and no less importantly sharing of revenue (mostly derived as we have seen import-export levies, and centered around key economic infrastructure such as sea and airports) between the Transitional Federal Government and the Puntland administration have now appeared as a political reality – to be studied and negotiated. Notwithstanding the good intentions on all sides, friction and tensions are likely to emerge from this, which in the still volatile Somali politics can escalate into violence if they are not well handled.

## **10. Conclusions.**

The Puntland House of Representatives so far has not been very effective. Although it has quite an impressive legislative record, there is not always the political will or perceived political possibility to implement the laws. Although it claims to play an important role in conflict prevention and conflict resolution, we have also seen that at times of serious political crisis the House split along the confrontation lines. At the most critical moments it have rather been the traditional elders who – sometimes after initial failures- were key in eventually brokering a solution. Not surprisingly, the House of Representatives is not held in high public regard in Puntland. Most people of Puntland know little if anything at all about it and the House has no means or strategy to make its workings better known.

This modest performance is partially due to its limited capacities, both financial and in terms of human resources and competencies. But the more fundamental causes lie in the political culture. Clan-dynamics remains a powerful factor in Puntland politics and, being nominated on the basis of a power-sharing agreement between sub-clans, members of the House of Representatives inevitably are held to this. Additionally, there is the legacy of military strongmen that has pervaded Somalia since the military coup in 1969, and that was perpetuated by the first President of Puntland. This is not an environment conducive to the flourishing of parliamentary debate and effective checks and balances between the institutions of governance.

However, we also see that in 2005 the House of Representatives has become very engaged on public expenditures, on decentralization and on constitutional review. This is promising. It appears that the Puntland House can benefit from substantive and facilitating support by Puntland civil society organisations, and Puntland and international thematic expertise. It probably can also benefit from some material assistance and basic training. It is noteworthy in this regard that it has been the Puntland

Development Research Centre that has been holding workshops for members of the house on internal functioning (committee work, procedures, record keeping, discussion and debate management etc.), the relationship between the House and the Executive, the individual responsibility of members of the House to constituencies and citizens the importance of fiscal policy as instrument of socio-economic development management, democratization and broadening participatory governance. At the same time, PDRC has facilitated the contact with international expertise esp. regarding constitutional matters. This is a different approach from e.g. direct work with the Transitional Federal Parliament by AWEPA. There is merit in both, and space for both. The point is that developing some specific training capacity in one or more independent and impartial Somali institutions, is one way of strengthening ownership and ensuring continuity.

At the same time, the capacities and performance of the Puntland House would be well served by the creation or strengthening of other public institutions such as an independent Auditor-General's office, a Supreme/Constitutional court etc.

The ultimate challenge however lies in the transformation of the political culture in Puntland. This cannot be done by 'outsiders', but needs to derive from a broad-based debate among the various stakeholders in the Puntland 'body politic'. That will be a gradual process – as we can see in the Somaliland experience that now follows.

#### **IV. THE SOMALILAND PARLIAMENT.**

##### **1. Restoring Functional Government and Steps towards Democratisation.**

Though Somaliland remains unrecognised by the International community since re-claiming its independence in 1991, it has developed a functioning administration with essential state features. The country was able to hold two rounds of elections: local councils and Presidential elections to move the country from clan-based system of governance towards a constitutional democracy. The election of local councils is an opportunity to establish a more decentralised structure of governance, which enables citizen rights to be upheld.

With little help from the international community, courtesy to remittance from Somalis abroad and the revenue generated by the resumption of livestock export in the 1990s, much of the urban and the basic social services infrastructures that were destroyed during the war have been re-established. The return of peace and stability to the area allowed normal patterns of trade and other economic activities to resume, while thousands of refugees in neighbouring countries returned, and local NGOs increased in number, as they played critical role in the rehabilitation and rebuilding process.

Currently although Somaliland has had an enduring level of stability it still has many challenges that remain to be tackled. In politics the issues that need to be attended are international recognition, expanding the administration to Eastern Sanag and Sool

regions, holding the Parliamentary elections in order to complete the democratisation process, equity- (perceived regional disparity) and wider public participation particularly among the rural population and women. On the economic front a host of challenges that need to be addressed are the overwhelming dependency on livestock trade, environmental degradation and unproductive private sector competition particularly in the telecommunication sector. Finally, challenges in the social arena are the need for sustainability of social services, addressing rural-urban disparity and the alarming issue of HIV-AIDS.

The difficulties of these challenges multiply, if the leading institutions of the country are weak-particularly the Parliament, which are the key players in dealing with these challenges. Certainly, in its current status the Somaliland Parliament does not have the capacity and the political will to address these formidable problems. So, strengthening the capacity of the Somaliland Parliament is another challenge itself.

## **2. The Structure of the Transitional Parliament.**

On April 1993, the transitional Charter adopted by the inter-clan conference of elders led to the establishment of Somaliland's Parliament. Somaliland's Parliament is perhaps one of the longest serving transitional legislative bodies in the world. What was conceived in 1993 as an ostensible two-year period of transitional Parliament is still in function. In the mean time the country has had two crucial elections: local councils and presidential elections, that have begun to transform Somaliland's post-war system of government, from clan-based power sharing system to a constitutional government based on multi-party democracy. The first parliamentary elections, now scheduled to take place mid-September 2005 (only for the House of Representatives, not for the Guurti) is the final step to complete this formal transformation process.

The Somaliland parliament comprises two houses: the House of Representative (*Golaha Wakiiladda*) and the House of Elders (*Golaha Guurtida*). The current members of both chambers were selected through a nomination process based on clan affiliations. It consists of 82 members. A parliamentary election was to take place before May 2005 in which all members will be directly elected by secret ballot in a free general election.

The House of Representative includes a three person Chair (the Speaker and two Deputies) a Secretariat, a Standing Committee of 17 members, and 5 sub-committees. Every member is obliged to participate in one of the sub-committees, listed below:

- ❑ Foreign Affairs and International Relations
- ❑ Internal Affairs and Security
- ❑ Justice
- ❑ Social Affairs
- ❑ Economic Affairs

The House of Elders (*Guurti*) will retain its current composition in a clan based representational formula. The legislation governing the nomination of members of the

House of Elders is not yet complete. The issues of who is going to nominate the members are not resolved. How is going to be allocated among the clans is undecided. Probably it is going to be one the issues need to be addressed after the election of House of Representative. One proposal that is floating around is the House of the Guurti should be the safe net to accommodate those clans loose out their representation or feel underrepresented aftermath the Lower House elections.

The notable distinction between the two chambers is that the *Guurti* deals exclusively with the issues of peace and culture and has no role in the budgetary process. The term of the *Guurti* is six years, wheresd that of the House of Representative is five years term. Moreover, the *Guurit* manages any row between the government and the lower House.

### **3. The Role of the Guurti House of Elders in Peacebuilding.**

Among the most important cases of relevance to Somaliland's process towards peace building are the 1991 *Burco* conference, the *Boorame* National Conference, all of which the *Guurti* had a role to play as peace brokers. In *Burco* Conference, the Clan elders (*Guurti*) were able to reconcile among the warring clans in the North, without any major retribution. In October 1992, in a meeting held in *Sheekh* town, the elders were successful to broker a ceasefire between two warring factions in Somaliland and decided to hold a National Conference in *Boorame*.

As the *Guurti* (elders) were successful intervening in conflicts, they were institutionalised in *Boorame* as House of Elders (*Guurti*). Their duties under the National Charter were to foster peace and security, uphold Somaliland's customary law and Islamic faith and partake in the demobilisation campaigns.

The *Guurti* were instrumental in the demobilization process, as they rallied kin and militias to lay down their arms and return to civilian life. Many SNM fighters did return to normality immediately after the conflict. However, there were many fighters who stayed armed under clan and sub clan affiliations. With differences and conflicts evident the armed militias needed to be fully disarmed for peace to take hold. The most notable disarmament and demobilisation took place at Hargeisa's football stadium, in which clans paraded their weaponry and disarmed

As a formal body, the members of the *Guurti* continued to play a critical role in managing conflicts and maintaining the peace around the country. They had been successful in resolving various sub-clan conflicts throughout the nation. Whenever conflicts happened in the country that could not be settled locally and that were in danger of escalating, carefully selected members of the *Guurti* were sent to resolve the disputes, and they have been very successful. These included issues over land ownerships disputes, killings and thefts.

The first major test for the institutionalised *Guurti* in preventing conflicts was the confrontation between the government and clan-based opposition in 1994. Despite numerous attempts by the *Guurti* to resolve the conflicts, they failed to spare the country

from another civil war- a failure that has tarnished severely their reputation among many Somalilanders, since its inception. The opposition and some quarters in Somaliland society accused the *Guurti* of being bias towards the government that pays them salaries.

As the conflict was fought largely along clan lines, that has split members of the *Guurti* into two camps. Some remained in Hargeisa (which was seen as indication for supporting the government), whereas, others left to join the opposition side with the exception of a prominent elder from the opposition who sided the government position in the conflict.

### **Source of failure:**

The nature of the conflict had combined local as well as international factors. Local issues that held back the efficiency of the *Guurti* was the unresolved question of whether the conflict at hand was either a political matter or a clan related issue. The Somaliland administrations viewpoint was that the conflict was a political matter that required a political solution coupled by force. Furthermore, the government portrayed the conflict as being between pro independent and federalist, and thus claimed the moral high ground (Bradbury, 1997). On those bases, the government rejected any *Guurti*, involved without the explicit endorsement from the government.

For the opposition, the conflict was clan struggle and that the ‘federalist’ position was limited to a few politicians. To prove their case, the opposition has raised these clan related grievances: under-representation in government and commercial interests in government relative to other clans, and alleged violations of the National charter (Bradbury: 1997). On these ground the opposition portrayed the conflict as being clan-based and required the immediate intervention of the *Guurti*.

The conflict had also other dimensions such as competition over Somaliland’s resources, (particularly trade and currency<sup>3</sup>), the support of General Aideed to the opposition, and the interferences of the international community through the United Nation. Despite of that, The *Guurti* continued with its efforts to quell the conflict. Various members of the *Guurti* clandestinely travelled back and forth to the opposition territory to negotiate a ceasefire. And they were able ultimately to bring the violence towards a close at the 2<sup>nd</sup> National Conference in Hargeisa. In the Conference, the *Guurti* increased as mentioned earlier the seats Parliament from 134 to 150 to accommodate the grievances of the government opposition and the minorities.

One reason for the confusion about role of the *Guurti* is that the changing nature of its traditional role. The *Guurti*, which is supposed to be a traditional and apolitical body has become increasingly politicised, pressured and manipulated by the government. As rule of thumb, *Guurti* role and independency diminishes, as the government gets stronger, thus, hampering its efforts to manage conflicts. Furthermore, it has not remained as a static body as one would have hoped. It is affected by exposure to other culture, increased urbanisation and involvement in daily political events.

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<sup>3</sup> The introduction of new Somaliland currency in Hargeysa coincide with the out-break of the war in Haregysa.

In order to be a member of the Guurti one must be well versed in Somali tradition and in the Islamic faith and be chosen among their kinship. However, since its formation there has been a relaxing of rules leading to a change in the old guard for new, younger, and political members to join the house. Recently the controversial appointment a politician to the helm of the Guurti after the former Chairman died last year has only intensified the politicisation of the Guurti undermined the traditional role of the *Guurti*.

The new chairman was not a member of the Guurti, when the former of chairman died. Since the law and procedure are flexible to accommodate clan interests, Guurti member from his clan vacated his seat for him with the consent of the Guurti members and later on when he became Guurti member he was elected by the members to the chairmanship.

The debate on the political role of the *Guurti* as the country moves towards constitutional democracy certainly will continue. In any event, the political relevance of the *Guurti* depends upon their ability to transcend the divisions between clans, classes, political parties and generations, and to represent Somaliland as a whole. Even, they can achieve that neutrality; certainly there will be political disputes- as the country move towards multi-party system, in which the *Guurti* intervention would not be accepted, particularly, election disputes. So the future role of the Guurti (as a formal institution) will have to be re-examined as that of the clan -based system of governance had been before.

#### **4. The Role of the House of Representatives in the Transition Process.**

During the *Tuur* administration the *Guurti* was not institutionalised and the legislative body that was created never had a chance to operate.

#### **Constitution Drafting**

Somaliland's political transition was not without its own hurdles. By declaring independence from Somalia it had lost international allies and subsequently was not granted international recognition. Nevertheless, Somaliland set upon its chosen path and assumed the overwhelming task in creating a constitution that would govern in its interests. Hurdles encountered in the progression of the constitution were on the question of who should draft it. Both the President and the House of the Representative claimed the constitutionality of drafting the constitution.

As specified under the National Charter the House of Representatives in 1994 set up a House committee to oversee the draft of a constitution. The committee comprised ten members who where also guided by consultative body of 20 members. These members were drawn from political, religious, legal experts and traditional leaders in order to have a broader level of public participation at all levels in society. The executive branch seeming powerless in influencing the procedure decided to recruit a Sudanese constitutional expert to draft a version more befitting to them. This decision brought the legislative branch at odds with the executive branch over drafting rights and lead to two separate constitutional drafts (APS/WSP: 2005).

By hindering House funds allocated towards public inclusion in the process both version soon became one-sided drafts that favoured the interests of either branch. The executive version of the draft endorsed the retention of executive powers, while the legislative branch hard-pressed for concrete powers and oversight. To help resolve the outstanding issue the matter was debated at the 2<sup>nd</sup> National Conference in Hargeisa. At the conference the two drafts were joined into one single provisional constitutional draft to be passed at a general referendum (APD/WSP: 2005).

However, this too had done little to win over concerns aired by the executive branch. Not until 2000, when a government produced a revised provisional constitution and submitted it to the House to endorse it. The House debated these proposed amendments and then endorsed it with minor modifications. With the executive branch upholding most of its power, and the legislative branch gaining financial oversight and the right to endorse and oversight executive appointments. One notable change that has been re-instated was Article 9.2, which limits the Political Parties to three only, rejected the government proposal for unlimited parties.

### **The Referendum**

In March 2001, the Parliament passed the Constitutional Referendum Bill (*Xeerka Aftida Distoorkai*) thereby scheduling a referendum on the constitution on May 31, 2001. The Organisation of the referendum was entrusted to a six-member committee chaired by the First Deputy Speaker of the House of Representatives.

### **Electoral Process**

After the referendum, the Parliament enacted a host of laws, to move the transitional process forward. The enactment of Law Number 14 in August 2001 has legalised the establishment of political parties. A month later the parliament has passed an electoral law pertaining to the Local councils and the President elections, after excluding from the bill a controversial and divisive clauses pertaining to the allocation and distribution of Parliamentary seats. Since there was no reliable census, no region or clan would accept any proposed arrangements, thus putting on the process in jeopardy. A compromise was reached to omit the unresolved provision to pave the way for the local council and Presidential election. Both local council and presidential elections passed with relative ease; nonetheless, the unresolved issue of seat allocation proved to be the Achilles' heel of the electoral process.

### **House of Representatives Electoral Law**

The completion of Somaliland's transitional process depends on holding the forthcoming Parliamentary election. That hinged on the enactment of the electoral law by the Parliament. Differences over the allocation and distribution parliamentary seats has once again put parliament, the government and political parties at odds on how best to settle the affair. Lack of reliable consensus, made it difficult to come up with a compromise

acceptable to all. The appointment of an international consultant to try and navigate a solution to parliament's electoral law has met with little resolve.

In February of this year, unexpectedly both Houses of the Parliament passed in two third majorities an electoral bill that made impossible to hold the election within the remaining time frame. The bill contained such provisions: Holding national census before any Parliamentary elections, no distribution of seats without reliable census, the election must take place in the whole country and holding the elections without these mentioned provision will be considered as "act of treason".

The move by the Parliament generated an outpouring public condemnation and denunciation and considered the members of Houses as people who are there for their self-interest but not for public interest. The public as well as the politicians saw it as a desperate move on the part of the Parliament to prolong their tenure. The members of the Parliament, who miscalculate the public opinion and sentiment on this issue, find themselves in a difficult position and gave the president the moral high ground, as he was repeatedly accused of stalling the elections. Since the President cannot veto the bill, he referred the bill to the Supreme Court. The Supreme Court ruled in favour of the government and nullified the four controversial clauses on the ground that they are denying the voters to exercise their voting rights.

After the Supreme Court ruling, the President forwarded to the House of Representative proposed amendments to the electoral bill. One of the proposed amendments was an arrangement to resolve the controversial issue of seat distributions. The proposed seats allocation was based on pre-agreed arrangement by the three political parties facilitated by the Electoral Commission. The House has endorsed the proposed amendments to the electoral bill with the exception one, to pave the way for the House of Representative election but the election won't be possible to take place on 29<sup>th</sup> of March as it has been scheduled. Now the election is scheduled to take place on 15 September 2005.

## **5. The Role of the House of Representatives in Peacebuilding.**

### **The House Role in Somali Peace Conferences**

Much of Somaliland foreign policy is centred on its right for self-determination and independence from Somalia. Taking the lead role in the campaign is the executive branch. Yet, parliament has started to take a keen interest in also shaping the course of events with targeted legislations that favour the independence of the state. With constant attempts made by the International community to revive and re-establish the Somali state, Somaliland watched that with a keen eye. Although most endeavours were futile, one that was of a particularly concern to the Somaliland government and its citizens was the Somali Reconciliation Conference held at *Carta*, Djibouti. Somaliland believed that Djibouti was hosting a conference that was considered to be against existence of Somaliland state. In an effort to address public sentiment parliament passed legislation that prohibited citizens of Somaliland in participation in the *Carta* conference deeming it as an act of treason. Parliament also made sure that individuals they deemed to be

working against the cause of Somaliland, like the UN Secretary General's Somalia representative Mr David Stephen, were declared persona non grata. In was a period that the House was preoccupied with foreign affairs issues.

The House had the same stance towards the Mbagathe process. The legislation that barred Somalilanders to attend such conferences was still in effect.

### **Parliaments Role in the issue of Sool and Sanaag**

Somaliland's eastern border regions, inhibited mainly by the Harti clans (Dhulbahante and Warsengeli) have long been problematic. Despite having signed both the 1991 declaration of independence and its reaffirmation at the 1993 Boorama conference, the Harti leadership remains ambivalent about Somaliland's claim to separate statehood. At present, both Somaliland and Puntland claim the territory of these regions and the inhabitants have divided loyalties.

The Somaliland lawmakers have been divided on dealing with this nagging issue. The *Guurti*, preferred and advocated to resolve the issue on *Guurti* level (i.e. clan elders) even if they fail to reach a final settlement, at least would maintain the peace through this level of engagement. In the House of Representative, almost all MPs have been very critical of government policies towards the Sool and Sanaag, but for different reasons. Some have been accusing the government of being too lax in dealing with the Sool and Sanaag predicament and not using its military power to secure the Somaliland borders and sovereignty. On the other hand, other lawmakers have been condemning the government for not doing enough to win the heart and soul of the people in those regions. Other than criticising the government the lawmakers in the House of Representative have been unable to come up with an alternative of their own to deal this predicament and the issue remains unresolved. The previous two elections did not take place in most of the parts inhabited by the Harti, and the prospect of having the House election in that part the country remains virtually impossible.

### **6. The House as Independent Body.**

There have been some indications that House has been maturing and showing some independence, as stated above, challenging the president in the constitution making process and pushing their concerns to the forefront. The Lower House has been the source of regular challenges to the executive, and to at least some degree it has begun to take up its role as an independent branch of government (Logan: 2000). MPs have often been vocal in their challenges to the executive; there has been real debate, conflict and negotiation between the government and the House of Representative on many issues.

In an unprecedented move the House took the stance against the President and motioned a no confidence vote against President Egal for breaching the constitution in 2001. He escaped narrowly by a couple of vote.

On some occasions, the House called the cabinet to account for their policies and actions, while vehemently debating President Nominees and turning down several of his

nominees. Another notable challenge to President was blocking the president from making the Minister of Justice as the chairman of Justice Committee instead of the President of the Supreme Court as stipulated by the constitution. Such a breach of the constitution would have also directly comprised the judiciary's independence, but was not overlooked by the House who compelled the President to withdraw his actions (APD: 2002).

The prime flaw of the House is that it never developed into an effective legislative body or working house of representatives that is able to manage Somaliland's political rivalry and wrangling, able to counter-balance the power of the executive, act as a forum to debate the socio-economic challenges and priorities, able to fight corruption and safeguard the respect for human rights. In the eyes of the public, their sporadic challenges to the Presidency is seen as an act of self-interest and not out of public interest and more often than not the executive branch tends to get the upper hand in disputed matters.

Though the constitution provides the House of Representative with host of powers to oversight over the executive, the only leverage over the executive, which the House make use of it is approving the yearly budget of the government, and this exercise has been simply to legitimise government spending. Because, over fifty percent<sup>4</sup> of the national budget is spend on the security sector and the lion share of this fund goes to salaries and food rations for the security forces. The public and the international community believe that this figure is unjustifiable as the country relatively at peace and the number of the security forces is over inflated. So the instead of holding the government and the Security sector accountable, the House just approves it without verifying the number of security forces in government payroll.

Furthermore, the Somaliland Constitution recognised three national forces: Army, police and custodial corps, there are however another internal security service that is in function and their influence is also believed to be growing. The late President Egal through a presidential decree has created this security service. It is a clandestine organisation, which evades parliamentary oversight and makes them only accountable to the president. According to a former Minister of Finance, the security-services budget during the Egal era was included in the vice president budget<sup>5</sup>.

One obvious reason of the concern over the high spending on the security is that, it deprives the necessary funding to other sectors particularly the social service sector (health and education), which receives only 8% of the national budget. The House has been unable to boost the budget shares of these crucial sectors, which contributes to the social well being of the general public. Issues related to socio-economic developed are rarely debated by the House, though the House has sub-committee on Social Affairs and Economic respectively.

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<sup>4</sup> According 2004 budget, the national budget is estimated to be 24 million us Dollar

<sup>5</sup> Both the president and vice-president's salaries are not yet fixed or specified by the Parliament as demanded by the constitution article 87, both their budgets does say what is for salaries what is not salaries.

Somaliland has financial procedures that provide the required legislative oversight. All government revenues and expenditures transactions go through The Accountant General. His office also has the copy of national budget to make sure that all government expenditures are in line with national budget. At the end of the fiscal year, it is the Auditor General to submit to the House the final financial statement after checking for any discrepancy. But so far, the House has been unable to exercise its legislative oversight, whether these financial procedures are followed. Even, if the Auditor General forwards the final government expenditure statement, they rarely debated it. According to former official in ministry of Finance, “We have fantastic financial procedures in Somaliland, unfortunately, there is no the necessary oversight to ensure everyone complies with them.”

In 1999, Somaliland House of Representative repealed the public order law number 21 of 1963, through resolution GW/KF-08/99/99 01/08/9. This law allowed existence of Security Committees, which have an extra judiciary power. In Somaliland, the laws of the previous Somali administrations are still in effect. Former president Egal’s government had re-established the Security Committees and began to use them, which prompted the Parliament to repeal the act. Unfortunately, these infamous committees are still in function and source of many human rights abuses and violations. The “National Security Committee” can detain citizens without charge for up to 90 days and has the power to sentence people to jail terms of up to one year

The process of drafting new legislation proved to be a contentious issue. The Executive Branch has initiated all bills passed by the Parliament. This practice has been a source of concern for many Somalilanders, and this is in part a reflection of the fact that most Somaliland MPs know little about law making.

### **The Constraints**

There are several plausible explanations for the House’s inability to act as independent legislative body. Some of them are related capacity and socio-political constraints and lack of political will or interest.

First, parliament is under funded when compared to the executive branch (see table 1). All revenue sources are under the control of the executive. Since the year 2000 onwards parliament’s budget has been on the rise. However, what funds that are allocated are all but used to pay MP’s salaries and no sufficient funds for other essential support for MPs to perform his duty. Increased funds and a better allocation system of those funds could help establish vital legal resources and or training programmes of beneficial use to the members of parliament (MPs). The Budget of the Presidency has no break down and the salary of the President is not specified. Furthermore, there are funds, which are at the President’s disposal that are not budgeted. It is stipulated by the constitution (Article 87) there will be a law to specify the salary of the President; so far, the House is unwilling to do that.

Table 1: the Budge allocation of the House of Representative and the Presidency

<b>House of Representatives Budget Allocations</b>				
	2000	2001	2003	2004
<b>Total</b>	1.7	1.7	2.5	3.1
<b>Salaries</b>	1.1	1.2	1.9	1.9
<b>Presidency Budget Allocations</b>				
	2000	2001	2003	2004
<b>Total</b>	2.6	2.4	3.3	3.3
<b>Salaries</b>	N/A	N/A	N/A	N/A
<b>NB:</b>	<b>Billion</b>	<b>Somaliland</b>	<b>Shillings</b>	
	<b>oneusdollar=6,200 sl sh.</b>			

Sources; the Ministry of Finance

Second, Article 37 section 2 of the constitution states that, “the structure of the state shall consist of three branches, which are: the legislative, the executive and the judiciary. The separation of the powers of these branches shall be as set out in the Constitution. Each branch shall exercise independently the exclusive powers accorded to it under the Constitution”. But in reality the separation of power has already proven to be one area in which the constitution is deficient (ICG: 2003) and the constitution favours the executive and this is evidently clear in the constitution powers given to executive branch.

In practice, powers that are actually given to House are not utilized by its members, such as the right to call for a full accounting of executive allocation of budget resources, which to date has not been done. Despite parliament push for equal and or complementary powers to the executive it seems that they are still overpowered by the executive. A common reason for this is House’s nature to resolve issues through concessions, so as to avoid clashes that may hinder stability<sup>6</sup>.

Third, parliamentarians lack both the understanding of their role and functions; with only a few having previous experience or relevant credentials. Among the qualifications required to be nominated as a member in the House of Representative, is the possession of an educational qualification at the secondary level. Though, all members have furnished such qualifications (as illustrated below) it is hard to assume that all academic diplomas are genuine, especially as most institutions were destroyed during the civil war (*Jimcaale: 2005*).

<sup>6</sup> that is according to the First Deputy Speaker of the House

Table 2: MP qualifications

Secondary education	Equivalent	Graduates	Post Graduates
26	34	13	9

Source: APD, 2005

And largely members have little or no parliamentary experience, and most have learnt what they can in their long terms of office. Whether this is adequate and relevant is still to be determined. Legal and technical expertises for drafting of legislation is abysmally inadequate, parliamentary procedure is poorly defined, and or poorly understood. Only two members have legal experience with limited access to legal material, which explain why parliament has been limited to approving government legislations and restricted to producing a few legislations of their own (APD: 2002).

Fourth, MP's are unaccountable to the public, or for that matter the clans they claimed that they represent. They are often nominated by urban-based self-appointed people, without transparency and genuine public consultation; therefore they are disconnected from their respective clans. Traditional elders and the methods of nomination have become politicised and more often under-represents the rural interests, as MP's are all based in urban settings (*Jimcaale: 2005*).

The clan power sharing governance that has helped to underpin the peace that has largely prevailed in the territory since 1991, has also hampered the development of a functional parliament. The politics of kinship pervade all government institutions including the parliament. Furthermore, clan nomination limits a merits based process, and accountability. Any move or censorship against a particular MP would be seen as clan motivated act, thereby making very difficult to hold MP accountable for their short comings.

Clan nominations also deny the participation of women. Since women have no formal role in clan-based politics, no clan would nominate a woman to represent the clan interests. In patrilineal society, it is unclear whether a woman would represent the clan of her husband or that of her father. The other group, clan nomination discriminates against are the monitories (the occupational group) such as *Gabooye, Tumaal, and Yibir*<sup>7</sup> caste, who undertake menial occupations. These groups have found it hard to have their interests put forward and are looked down upon by other members of society. Although the constitution does acknowledge the rights of women and minorities in reality it is hard to effectively include their concerns due to innate traditional values and norms on their societal roles (APD/WSP: 1999).

The most significant weakness that faces parliament is the lack of international recognition, which has denied Parliament the necessary international aid for progressive

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<sup>7</sup> In casual speech, these groups are often referred to as *Beelaha Gabooye*, although members of the various sub-groups do not necessarily accept this appellation. For the purposes of brevity, the term *Beelaha Gabooye* is used in this paper to refer to the *Gabooye, Tumaal, and Yibir* together.

capacity building. Such vital assistance would help resolve many of the above-mentioned flaws facing parliament. However, any kind of political assistance might be seen as a gesture of support for Somaliland's recognition and therefore hinders any political aid that is seen to depict such a picture.

Surely these above mentioned constraints have weakened the effectiveness of the House as legislative body, but in the eyes of many observers, lack of political interest or will on the part of the lawmakers, have also contributed to their inability to counter-balance the executive and deal with issues such as socio-economic developments, human rights and rule of law.

## **7. Representation and Decentralisation.**

Clan based power sharing in Somaliland has been inclusive in terms of clan representation. Thus making the numerically larger sub-clan to be under-represented in the Parliament, while smaller sub-clans are over-represented. This issue has been at the heart of the controversial electoral law. Larger clans, who feel that they are under-represented in the current arrangement, are supporting the electoral process and feel one man and one vote would play to their advantage. Similarly, the smaller sub-clan are reluctant to support the process fearing of losing out their representations to larger clans.

Another issue that complicated the question of representation and seats distribution is clan and regional constituency. For instance, predominately clans in Hargeysa region argued that since forty-five percent of the voters were from Hargeysa, as indicated by the last two elections, Hargeysa should get forty-five percent of the seats. However, the problem is Hargeysa's population- since it's the capital, comprises from all Somaliland's clans, so if Hargeysa gets 45 percent of the seats who is going to run for these seats. To the indigenous clan, candidates from the indigenous clans should run for these seats, and in the process disfranchising large of number of people from other clans who live in Hargeysa. In another words, the clan you belong to would determines one's constituency not where he/she lives or resides.

On the other hand, women that have been excluded from clan representation have supported the electoral process. As the principle of universal suffrage enshrined in the constitution would give them the right to vote and hold public office. The question is whether a constitutionally based democracy would resolve thorny issues of representation and decentralisation entirely?

The local election was the first step to move the responsibility of selecting government from clan-nomination to individual voters. Political organisations have given the priority to the dominant clans in each municipality; consequently major clans dominate the elected local councils, with no minority representations. During the elections women voted in large numbers, but they too, voted along the clan lines. Two councilwomen were elected out of 330 councils, as no political party would put women on the top list.

This is clear indication, that one man and one vote would favour larger clans<sup>8</sup>, if it was to be applied in the House election.

So, the challenge of accommodating one person and one vote, but allowing every community (*Beel*) including women and minorities to be represented in the forthcoming House representative elections has been formidable. Minor modifications in the electoral law: proportional representation electoral system that at the same time allows direct voting to candidate in the list- has given fairer chance to the smaller sub-clans. The voter will vote directly to one candidate, but his or her vote will be counted twice: one time for the candidate's party and the other time for the candidates. First, the seats of each region will be divided to the parties proportionally, and then the seats of each party will be awarded to the top vote getters.

It looks that the formation of the political parties has not ended or minimised clan-based politics. The changes in the electoral were not enough to guarantee women and minority candidates. The political parties are facing enormous pressure from clan elders to allocate the party lists to the clans, so that each clan would nominate its candidates-that means no women and minority's candidates. In another word, it is not the party who is deciding the party nominations, but it is the clan leadership, who is dictated to the parties. The emergence of the clan-based political parties has upset many people in Somaliland-particularly women and had flared up heated political debate and analysis in the country to ascertain who is at fault. Is it the political parties who running away from their responsibility and turning back the country to clan-based politics? Or it is clan-politics a reality that the political party can't ignore? Both side of the debate are faulting each other. Women, minorities and the progressive minded people are blaming the political parties for this mess, and returning the country back to clan-based politics. Whereas, the leaderships of both the clans and the political parties feel that these groups are idealists who are ignoring the reality on the ground and argue that the clan-politics is reality to be reckon with for foreseeable future. For now, clan-politics is the determining factor in party nomination process, with the possibility of token women and minority candidates.

The local council election was also the first move to decentralise the government and to allow wider public participation. Though the election allowed the people to have a "say" in the selection of their local leaders, instead of the central government nomination, the development of functional councils remains a major challenge. Power and revenue collection remains overwhelmingly centralised. Lack of the legal<sup>9</sup> and the policy framework on the part of the central government to implement the program of decentralisation have put the process in confusion. And there are shortages of skilled labour that can effectively manage the responsibilities of the local governments.

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<sup>8</sup> That could be a source of destabilisation for Somaliland-perceived inequity

<sup>9</sup> Right now the Parliament is debating a piece of legislature designed to define the role and responsibility of the local councils. APD along with working group on decentralisation have reviewed this act, and found it a sub-standard piece of legislature that contradicts the Somaliland constitution on Decentralisation. We propose to the Parliament to halt the act and seek professional help and leave the issue to the incoming Parliament.

## **8. Situating the Somaliland Parliament among Other Actors & Stakeholders.**

This section focuses on the role of other actors in determining the progressive development of Somaliland's Parliament:

### **The Executive**

As is the case for most developing nations power is often held and or centred on the executive branch of government. Somaliland is no exception to this rule, as it has just emerged from 3 decades of centralized rule, thus making old habits hard to die. Both the late President Egal and his successor President Rayle have wielded authority towering over all formal institutional bodies whether political, administrative or judicial. .

Both houses of Parliament have been limited in their constitutional roles due to indifference to their duties and to executive pressure to influence their decision making process. The current structure of the executive undermines the fruitful role that parliamentarians can play in checking and balancing the powers of the executive. It can be stated that one the key factors that undermines the effectiveness of the parliament is the executive office determination to maintain some control over them.

### **The Judiciary**

The Somaliland constitution stipulates the separation of power and the existence of an independent judicial system (Article 97.2). In reality, the judiciary is subordinate to the executive. The funds of Judiciary are controlled and administered by the Minister of Justice. Of the three branches of government it is the most diluted and least operational branch of government: ill-equipped to enforce the rule of law and to protect civil liberties. It rarely arbitrates in any the political disputes among competing institutions. Neither did it review the constitutionality of Parliamentary statues and the action of the executive branch. The two occasions, the Supreme Court's presence was felt was when it ruled on the closely contested presidential election and its recent nullification of the controversial provisions in the electoral bill.

### **Political Parties**

The public endorsement of the Somaliland constitution, has led to the formation of political parties, for the first time since 1969. Since they are relevantly new, the three political parties<sup>10</sup>, machinery is weak and underdeveloped. They suffered from inadequate funding, lack of internal democratic rule and insufficient training for party members. The opposition political parties are loose, in disarray and lack visions to be worthy opponent and viable alternative to the government in power. Neither of the three, has the capacity to tackle the multiple challenges facing Somaliland.

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<sup>10</sup> The three political parties are : UDUB (the president party), Kulmiye and UCID

Since the political parties are absent from the Parliament, they have no direct role in the policy-making process of the country yet. Right now, their function is relegated to being as a “pressure group.

### **Traditional elders**

Traditional elders have been and still are play a central role Somaliland society. Clan interests are traditionally expressed through clan elders known us in Somali *Suldaanno*, *Ugaasyo*, *Garaaddo*, *Cuqaal* (APD/WSP 1999) and they represent and define the interests of fellow clan members. These Traditional leaders maintain links to their respective clans. Regardless of the current transition to a multi party democracy, clan loyalty is strong and can be influenced by traditional leaders in instructing which political party /candidate to or not to vote for, or which piece of legislature to support and not to support.

### **Civil Society**

Active civil society as pressure group has bearing on the policy formulations and the effectiveness of the lawmakers to deliver. Civil society in Somaliland so far has been on the sideline when it comes to governance issues. Somehow they are unable to shift from project implementing pre-occupation to political and social activism. It is not very common to see civic organisations that are actively lobbying for direction actions, legislative reforms or translated their demands into concrete political actions. Lawmakers and other political leaders do not take into consideration any civil organisation agenda seriously.

### **Media**

The constitution of Somaliland guarantees freedom of expression and the press. The Media do enjoy considerable freedom but they are still underdeveloped and concentrated in Hargeysa areas. The privately owned press’s editorials are very critical and hostile of the government, and considered the Parliament as rubber stamp. Whereas, the government owned one is very supportive of the government. The radio<sup>11</sup>, which is the broadest medium in Somali society, is under the control of government and serves as their mouthpiece. Though the law allows the ownership of private radio stations, the government does not allow private radio stations. Probably, the privately owned Somaliland TV could be characterised as neutral medium, but it lacks the professional editing of raw footages.

### **National Electoral Commission (NEC)**

Though there are independent institutions in Somaliland such the public persecutor and the auditor general, there is only one independent Commission in the country- the Electoral Commission. The NEC was created as an independent body to prepare for and

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<sup>11</sup> Recently Radio Horyaal (the voice of the public) began broadcasting Somali programs for Somalilanders. The government assumes it is Kulmiye Radio and considers it illegal.

oversee the elections. The President, *Guurti* (the upper House) and opposition parties selected the seven commissioners. The President selected three members, the *Guurti*, choose two and the opposition the other two. The commission, without prior experience or training in planning, organising, monitoring, implementing, or evaluating democratic elections, has done a very good job of managing two elections in an extremely difficult environment and they are set to manage the third one: the House of Representatives election.

### **Diaspora**

One group that their contributions have been felt throughout the country is the Somaliland Diaspora; mainly through the remittance they send. Their contributions, however, has not been confined to send cash, they have contributed directly to rehabilitating and re-building process in many places in the country. Politically, through Somaliland Forum-a Somaliland Diaspora organisation, they proposed changes and amendments to the Parliament pertaining to the constitution and the electoral law. Somaliland Forum also, asked the president and Parliament to abolish the infamous “Security Committee”, which has been engaged in extra-judiciary activities.

### **The Academy for Peace and Development.**

The Academy for Peace and Development (APD) with the help of WSP International has been undertaking since 1999, a program of participatory action research on Somaliland’s key challenges in post-conflict rebuilding. The APD was able to held numerous workshops that bring together a wide range of actors to discuss the most critical issues on governance, economic and social and build consensus around possible solutions. Some of these workshops were decentralisation, representations, constitutional and electoral reviews and the participants of these workshops included officials from the central and local government, MPs and member of the *Guurti*, women, rural people, minorities and local and international NGOs. Participants from outside the government have welcomed such consultative process and have encouraged their continuation. Through such participatory consultative process, APD was promoting multi-stakeholder consultative process in policy making and formulation.

### **International community**

Lack of recognition has limited Somaliland’s ability to attain bilateral aid. Limited earmarked multilateral aid has instead been channelled through international agencies and local civil society. These limited funds are directed towards humanitarian and social services development projects.

Limited political projects have been commissioned due to the political sensitivity over the Somaliland’s determination for self-governance and independence. Nevertheless, there has been very limited training was furnished to Somaliland MPs by the international agencies namely Life and Peace and UNDP. Life and Peace has conducted two training seminars to MPs in 1999 and 2000 respectively. The training was on constitutional making and conflict resolution, UNOPS and Amoud University has also conducted

training for the MPs in 2001. UNDP, has funded a study tour to Uganda, Rwanda and Ethiopia in 2002 for some MPs, the proposal of this study tour was developed by the Academy for Peace and Development (APD). The MPs found these trainings and study tour very useful.

Again with the help of the British Embassy in Addis Ababa, Ethiopia, APD has furnished a consultant to the lawmakers in the House of Representatives to assist in formulating the contested electoral law.

Though the absence of International assistance has its cost, it has also given Somaliland to the opportunity to establish it home made system of governance. Somaliland's political development has been largely an internal affair and probably if Somaliland receives international recognition, all that could change. The internal balance of power will shift dramatically (Bryden: 2003). Moreover, lack of massive international aid might have prevented serious political intrigues and patronage games that would have threaten the general stability of the country.

## **9. Recommendations to Strengthen the Somaliland Parliament.**

### *International Assistance*

This is perhaps the toughest and most critical, task to manage. On the one hand, the injection of large-scale international aid to Somaliland may have negative impacts. It may change the internal balance of power or may give too much power to the executive branch similar to the previous regime in Somalia, leading to coercive authority, political intrigues and patronage. Or to help in recreating over-bearing institutions that functions autonomously from the society. On the other hand, Somaliland needs large international assistance, like any post-conflict country for rebuilding infrastructures, holding elections, or developing institutions with appropriate capacities to perform their tasks effectively. Here there is a need to strike a balance.

### *Strengthening the capacity of the legislature*

The House of the Representative has the potential for becoming an alternative centre of power with the capacity for policy formulation, articulating and representing public interest and to check the executive power. Appropriate support for the Parliament should therefore include:

### *The legal and Political Frame work*

#### **❖ Constitutional and electoral reform**

Probably the first task of the elected House representative should be constitutional and electoral reform. The constitution has been a product of protracted compromise of two draft constitutions: one by the executive and the other by the Parliament. Therefore, many issues remain unresolved and it contains omissions and contradictions. The separation of

powers, checks and balances and the relation between the centre and the regions are not clearly articulated in the constitution. Similarly, the electoral law does not reflect the Somaliland's political and social circumstances. Therefore appropriate help would include

- ❖ Promotion of informal debate
- ❖ Public participation
- ❖ Technical assistance

#### ❖ **Public integrity and Transparency**

Effective representation must take place in an environment that ensures transparency and accountability. In Somaliland the elected local councils are not accountable to the political parties and neither to their constituents. The same thing can applied to an elected MPs. An appropriate help in this area would include:

- ❖ Political Party reforms
- ❖ Support of legislative access and Transparency
- ❖ Code of Ethics

#### ❖ **Internal Capacity**

Lawmakers need the human and financial resources to be effective representatives. Possible support include:

- ❖ Support in legislative procedures
- ❖ Constituency Relations
- ❖ Committees and Public Hearings

#### ❖ **External Capacities**

In Somaliland, the external actors (the represented) are weak and underdeveloped. They lack the capacity to effectively advocate for change in policy through the legislature and their representatives. Therefore, there is a need bolster the capacity of these actors: Programs may include:

- ❖ Civic education and citizen participation
- ❖ Civil society advocacy
- ❖ Media strengthening

#### *Strengthening the Judiciary*

The shift from a familiar, consensus-based political system to one in which there inevitably be winners and losers may lead to disputes. The weakness of Somaliland's Judiciary means that it is ill-equipped to arbitrate if disputes arise. Therefore, it is

important to strengthen the independence and impartiality of the judiciary, appropriate support may include:

- ❖ Skill and legal training
- ❖ Technical assistance on developing legal structures that support independent functioning of judiciary
- ❖ Legal research facilities and library

#### Support decentralisation to the district level

The development of functional councils will depend on the ability of the new councillors to implement their responsibilities and on the support they receive in term resources and legislation. This can be done in several ways:

- ❖ Providing technical assistance to develop the legal and policy framework undergirding a program of decentralisation
- ❖ Assist local government to improve their capacity to generate and collect revenues
- ❖ Training programs for local government staff and labour

#### Special support to Somaliland Women

Greater women participation in Somaliland's politics is very important. Constitutional suffrage won't be sufficient to guarantee women participation.

- ❖ Education and awareness raising for women regarding political participation
- ❖ Leadership skill training
- ❖ Legal reform that allow women participation and representation

Recently for example the Academy for Peace and Development organized a public 'forum' in Hargeysa on the role of women in politics, and the presence of women candidates on the lists of candidates of the three political parties. Not all political parties were immediately enthusiastic over the topic.

## **Annex 1. People Interviewed.**

### **Puntland**

Osman Dalmar Yusuf- House Chairman	
Abdirashid Mohamed Hersi-Chairman Legislation Committee	
Mahdi Mohamed Musa-Chairman Foreign Relation Committee	
Mohamed Ali Guleed	MP
Sadiq Abshir Garad	MP.
Mohamed Yusuf Ahmed	MP
Ms Safia Sugulle	Community activist
Ms.Halima Biyod	Women Activist
Abdullahi Ali Qood	Elder
Ahmed Aden Dhere	Elder

### **Somaliland**

Adbiqadir Jirde	The First deputy Speaker of the House of Representative
Mohamed Saeed Gees the APD	Former Minister of Finance and the Executive Director of
Abdilahe Ibrahim Habane	Secretary of the House of the Guurti
Mohamed Hussein Osman	Secretary of the House of Representative
Boobe Yusuf Dualeh	A researcher and SNM Veteran
Saeed Yusuf	Intellectual and Journalist
Yusuf Abdi Gaboobe	the Editor of Somaliland Times
Asmahan Adelsalam	Gender Researcher
Abdi Ahmed Nor	Forum For Peace and Governance
Kinzi Hussein Kowdan	Women Political Forum
Suad Ibrahim Abdi	Chairperson of Nagaad Umbrella
Abdilahe Saeed	UCID political party
Abdirahman Aw Ali	Kulimiye political Party
Mohamed Ismail Bulaalle	UDUB political party
Saeed Jama Ali	Third Deputy of Speaker of the Guurti
Kamal Dahir Ashuur	Minority Groups
Weli Dawud	Former official in the Ministry of Finance

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