

## The predicament of the 'Oday'\*

The role of traditional structures in security,  
rights, law and development in Somalia

FINAL REPORT  
by Joakim Gundel

Somali counterpart: Ahmed A. Omar Dharbaxo

Illustrations by Dharbaxo

\* Oday is the Somali word for an elder,  
or elderly person.

Danish Refugee Council & Novib/Oxfam

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## List of abbreviations

<b>APD</b>	Academy for Peace and Development
<b>CRD</b>	Centre for Research and Development
<b>COSV</b>	Committee for the Coordination of Volunteering Organisations
<b>DRC</b>	Danish Refugee Council
<b>ECHO</b>	European Community Humanitarian Office
<b>FSAU</b>	Food Security Analysis Unit
<b>FGM</b>	Female Genital Mutilation
<b>HR</b>	Human Rights
<b>ICRC</b>	International Committee of the Red Cross
<b>ICU</b>	Islamic Courts Union
<b>IDP</b>	Internally Displaced People
<b>IHL</b>	International Humanitarian Law
<b>INGO</b>	International Non-Governmental Organisation
<b>NGO</b>	Non-Governmental Organisation
<b>NRC</b>	National Reconciliation Committee
<b>OCHA</b>	Office for the Coordination of Humanitarian Affairs
<b>PDRC</b>	Puntland Development Research Centre
<b>PSS</b>	Puntland State of Somalia
<b>SL</b>	Somaliland (Republic of...)
<b>SLPF</b>	Somaliland Police Force
<b>SNF</b>	Somali National Front
<b>SNM</b>	Somali National Movement
<b>SPU</b>	Special Protection Unit
<b>SSDF</b>	Somali Salvation Democratic Front
<b>TFC</b>	Transitional Federal Charter
<b>TFG</b>	Transitional Federal Government
<b>TFI</b>	Transitional Federal Institutions
<b>TFP</b>	Transitional Federal Parliament
<b>TNG</b>	Transitional National Government
<b>ToR</b>	Terms of Reference
<b>UN</b>	United Nations
<b>UNCAS</b>	United Nations Common Air Services in Somalia
<b>UNDP</b>	United Nations Development Programme
<b>UNDSS</b>	United Nations Department of Safety and Security
<b>UNHCR</b>	United Nations High Commission for the Refugees
<b>UNICEF</b>	United Nations Children's Fund
<b>UNOPS</b>	United Nations Office for Project Services
<b>UNOSOM</b>	United Nations Operations in Somalia
<b>USAID</b>	United States Agency for International Development
<b>USC</b>	United Somali Congress
<b>WFP</b>	World Food Programme

## Executive Summary

For the past fourteen years, clan elders have played a major role in terms of security, rule of law and enforcement in the Somali lands<sup>1</sup> and have further consolidated their traditional role as dispute mediators and enforcers of the *xeer* - the customary laws that regulate most aspects of social life within and between the Somali clans. As such the traditional leaders in Somalia are not only the prime force for stability and continuity in terms of regulating access to pastures water and conflict resolution between clans but also, especially in Somaliland and Puntland, have been instrumental in establishing relatively stable structures of governance, jurisprudence and security.

Given the central and legitimate position of the traditional structures in the organisation of Somali society, it seems obvious that they should be involved in the future formation of state structures, and that their *xeer* and the official judicial systems should be realigned rather than continuing as two parallel systems. Traditional structures can arguably contribute positively to the constitutional processes that should be at the foundation of building any new state in the Somali lands. This study provides a critical assessment of the historical and current role of traditional structures in providing security and in the development process, and analyses how the Somali traditional structures can interlink and be matched with formal governmental structures and principles of good governance (incl. human rights & international humanitarian law). Finally, the study formulates a framework on how development agencies can work with traditional structures as development partners.

The research team met with elders in Somaliland (Hargeisa, Burco, and Borama), Puntland (Bossasso, Garowe, Las Anood, Galkayo, and Goldogob), and South Central Somalia (Beled Weyne, Baidoa, Merka, Mogadishu, Jowhar, and Luuq) and in the Dadaab refugee camp in Kenya. Meetings were also held with Women and Youth organisations, Government and Local Government authorities in Somaliland and Puntland, members of the TFP, the National Reconciliation Committee set up by the TFG, and local experts on traditional structures and researchers.

### Background:

A general description of the Somali traditional structures can analytically be divided into three core elements:

1) *Their traditional social structure:* The segmentary lineage system or clan structure remains the bedrock foundation of the pastoral Somali society, and the primacy of clan interests is its natural divisive reflection at the political level.

The viability of the blood compensation paying group (*mag*-groups) depends primarily on how wealthy the members are, and to what extent they could replace the group with individual savings, insurance or pension schemes which, in principle, can 'release' them from their clan-bonds. As long there is a social need for the *mag*-paying group, the traditional structures will persist.

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<sup>1</sup> The "Somali lands" refer to the various administrations and areas inhabited by Somalis, such as Somaliland, Puntland, South Central Somalia etc.

2) Their customary laws – the *xeer*: Though the Somali customary laws, the *xeer*, are based on strong and even conservative norms and traditions, they are not static. Rather, they are dynamic within the framework of the lineage system. *Xeer* can be contracted into - and out of - and, according to need, contracts can be abrogated, modified, rescinded or new ones made. Today the *xeer* are particularly important in rural areas where the presence of modern political institutions is weak. They are however also applied in urban areas with local administrations and even here the *xeer*, instituted through traditional elders, is usually the first recourse in dispute management, settlement and reconciliation among both ordinary citizens and between business people.

The importance of the *xeer* is indisputable, as the *xeer* are applied in solving perhaps 80-90% of all disputes and criminal cases. The *xeer* and the customary practices are usually described in general terms, but as revealed through the focus group meetings with the traditional elders, traditionally *xeer* has always been concrete specific contracts entered into bilaterally between clans, primary lineage groups, and above all between *mag*-paying groups who have a historical relationship of interaction. Still, the *xeer* are not static, but constantly changing and changeable, which is the opening that makes progressive interventions together with the traditional elders a plausible option.

The *xeer* in the South Central parts of Somalia face deeper problems than in the North. First, the number of criminal acts has increased substantially, and the elders who used to make decisions based on detailed knowledge of local events no longer know many of the individuals that sit before them - or what activities those individuals have been involved in. For some clans, the death toll from the civil war has resulted in enormous *mag* obligations that virtually no group is willing or able to pay.

While it is simultaneously a force for justice and social cohesion, *xeer* may also conflict with both international human rights standards and Islamic Sharia law. In general, the collective responsibility imposed on *mag*-groups by the *xeer* is seen as removing responsibility from individual perpetrators of crimes. Indeed, the fundamental challenge for the International Community is that the *xeer* is based on a collective rather than an individual rights and responsibility principle. As long as the Somalis are dependent on their kinship lineage for security and protection; responsibilities, duties, rights and liabilities will continue to be perceived along collective rather than individual terms. Hence, the clan will remain collectively responsible for actions of its individual members, and rights of women and children will continuously be seen in the context of the interests of maintaining the strength of the male-based clans. Human rights advocacy in Somalia may therefore easily turn into a cultural clash between stern defenders of tradition in terms of collective rights of the clan and the advocates of individual human rights.

The *xeer* is efficient for the regulation of inter-clan affairs, but less so between individuals. Two persons may not have the same rights and protection, because *xeer* is linked to clans and their area. There is no individual citizenship as such, and newcomers to an area have to try to settle an agreed position with and in relation to the different dominating clans residing in the area, which often is the case with IDPs in Somalia today. Any support to the traditional structures must therefore be in parallel to support to other Somali agents who critically, but constructively, can raise difficult and controversial issues linked to the *xeer*.

3) *Their traditional authorities or judicial-political structure*: Since the civil war in 1990 the traditional authorities have regained considerable importance, especially in creating peace, security and law and order after the state collapsed. Their primary role is still the regulation of access to shared resources such as grazing areas and water. The role of the clan elders in this can not be overstated, as they are simultaneously act as legislators, executors and judges. Decision-making is led by the male clan elders on the basis of consensus – factors which both subordinate the interests of individuals to the interests of the clans, and severely marginalise women in decision-making.

Historically, especially in the South since the colonial era, their role has been undermined by centralised colonial and post-colonial administrations. After independence, the elders were perceived as being as corrupt as the Somali government; who tried to manipulate them and buy their loyalty. In this sense the crisis of the traditional system stems from the forced changes that began with the colonial times, and that legacy remains.

However the status and legitimacy of the elders underwent a renaissance during and after the civil war, and with that a renewed respect derived from their successes in solving conflicts and managing clan affairs - even in a situation of stress owing to a lack of capacity to adapt to the rapid social changes produced by the civil war.

While the elders' efforts in Somaliland and Puntland to come together and lift crisis resolution to the higher level of regional and national peace was successful; in the Central/South these efforts were consistently undermined by political manipulation of the faction leaders, often supported by outside influences. This has been an important source of the proliferation of elders (see below), as faction leaders/politicians/warlords were successful in splitting sub-clans groupings into sub-sub-clans to force the selection of a new elder that would be loyal to the given faction leader.

The South-Central is ethnically more diverse than the North, and this is reflected in the social as well as traditional political structures - though the nomadic-pastoralist culture is perhaps now dominant, through the use of force. While the *Raxanweyn/Digil-Mirifle* and the other minorities maintain different structures, they have adapted the dominant nomadic culture and *xeer* to their own societies and entered into a peaceful coexistence with them.

### Development of Governance

Successful sustainable post-conflict development requires building stable polities and representative political institutions. This can only be done if there is meaningful popular participation in decision making processes - with transparency, accountability and responsiveness to ensure efficient policy-implementation. Furthermore, stable and good governance must also be legitimate, socially inclusive, respect human rights, be based on rule of law and division of powers, which all in theory are related to modern governmental institutions. However, the argument in this study is that the Somali traditional structures do possess aspects of good governance, and can complement modern institutions with legitimacy and checks and balances.

In Somaliland and Puntland, the elders were instrumental in establishing governments, which only functions owing to an extensive interaction with the traditional authorities. The strength of both these governmental formations is their hybrid construction - linking modern and traditional forms of governance, politically as well as judicially - as both

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forms need each other in order to fully engage in peacekeeping and law and order. Today the traditional authorities themselves emphasise that they can't stand alone in the long run, and need a functional government to ensure that their *xeer* (or a state law endorsed by them) is enforced.

Given the de-facto, even if informal, institutionalisation of the traditional structures in both Somaliland and Puntland, it is tempting to simply provide the traditional authorities with more support and funding to enable them to fulfil their legitimate roles in society. However, an uncritical application of such an approach would amount to a kind of neo-traditionalism - which risks an institutionalization of the clan-based and negative aspects of the *xeer*, which could further constrain the path towards more stable polities for the Somalis.

In the framework of modern government, the main role of the traditional authorities is to ensure the political stability and accountability of the executive. However, evidence shows that the involvement of traditional elders in governmental politics has a tendency to undermine their authority, and in worst case corrupt them. Nevertheless, the complementary capacity of traditional authorities to modern formal government seems obvious, with the prime example being a House of Elders, such as the *Guurti* in Somaliland, which can back-stop, prevent escalation and solve political conflicts in government; using the traditional conflict resolution mechanism.

### Challenges

Somalis have increasingly reverted to their traditional structures because of the failure of the central government to build functioning structures that served all of the public without the marginalisation of any one clan. In this sense, the reliance on traditional norms and rules can be quite rational....there has no better alternative. However, the main function of Somali traditional leaders (settling disputes between and within the clans based on their *xeer*), has since the collapse of State been under constant pressure as they adapted to the very difficult new circumstances of conflict, lack of rule of law and a rapidly changing socio-economic environment.

The main conclusion of this study is that the revival of traditional structures has produced a paradox: On one hand the traditional authorities have been increasingly seen as the creators and guarantors of the relative peace and stability that exists in Somaliland, Puntland and locally in South/ Central and their *xeer* is the glue that prevents a collapse into anarchy. On the other hand, this very system is in trouble and risks fragmentation if it is not stabilised. Hence, the paradox is constituted by a renewed dependency on the traditional authorities for peace and stability at a time that their very structure is in crisis.

One source of this fragility has been the proliferation of elders, as faction leaders/politicians/warlords were successful in splitting sub-clans groupings into sub-sub-clans to force the selection of a new elder that would be loyal to the given faction leader. This has made it increasingly unclear as to who are the legitimate traditional leaders. This has been combined with a legitimate reason for selection of new elders - massive population increase, which has led to an increased need to split *mag* groups into two or more as they became too big for the *aqil* or *nabadoon* to manage.

In any event, the system can hardly cope with the demand in terms of the number of issues it is expected to address - because of both a lack of resources and of knowledge

about how modern governance and business sectors works. Further stress is caused by the rapid social changes that Somalia is undergoing (urbanisation, youth culture, and globalisation).

### The Way Forward

The traditional system in Somalia is not just conservative and backwards, it is also modernising and changing...in its own way..... It is into this process that any intervention with the traditional elders must enter. A possible way forward in working with the traditional authorities and to support their development is shown by the DRCouncils counterpart in Somaliland, the local NGO 'Haqsoor' which was founded by traditional elders (Justiniani 2004) who have chosen to support mainly the *aqiil* or *nabadoon* level of elders, as the most important and potent 'agents of change'.

The primary focus must be set on changing and formalising the *xeer*, and then ensuring that new *xeer* are shared multilaterally between the clans on a regional or even nationwide basis, rather than via the present bilateral basis between neighbouring clans who have a historical relationship between them. The objective must be to create change, not just by targeting the elders, but by enabling them to improve their *traditional practices* based on their *xeer*, and align them with human rights standards.

The suggested methodology is in fact simple. Resources can be channelled into facilitation of meetings (*shir*) between the elders of a region, or of larger clan groups – where workshops can be organized, and advocacy can be applied. The aim of such meetings would be similar, but at a larger scale, to the traditional *shir* meetings, where issues between clans or within clans are solved and new *xeer* may develop. Furthermore, this methodology can simultaneously assist the elders to specify how the traditional authorities can function as development partners at national, regional as well as community levels. This process could be institutionalised by assisting the elders to establish inter-clan traditional authority centres/associational houses in every region (ie: compounds with an acacia tree.) These can anchor associations of traditional elders - enabling them to meet more often on a multilateral clan basis.

The first step in a possible plan of action could be to initiate meetings/workshops with traditional leaders in a given region, with an aim to identify priority steps for strengthening their roles and functions, and to establish a network of traditional elders who are actively interested in developing their institutions across clan lines.

The second step could be related to physical assistance in building associational centres. It is important that all physical support must be based on principles of sustainability - meaning that maintenance of physical structures must be possible within the available local resources, and are not dependent on external aid.

A third step, could be support for peacetime meetings (*shirs*) - enabling elders who usually only meet in the event of conflict - and who otherwise do not have resources to cross vast distances to meet regularly with each other. This is seen as an important factor for conflict prevention, as the better the elders know each other, the less inclined will they be to lead their clans into conflict with each other. This could also increase the chance and viability of establishing formalised multilateral *xeeers*, or reconfirm new and old *xeer*.

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The fourth step could be to identify indigenous funding mechanisms for the elder's daily work as a law and order institution in society, which primarily should be based on locally generated sources.

### Limitations

While recognising the important role of the traditional structures in Somalia, it is also recognised that supporting them can be seen as a threat to attempts to re-establish national authorities in a failed state environment. There are three elements that need to be observed in this regard:

Firstly, there is the risk of institutionalising the traditional structures. However the point in this respect is that they already are a sociological and de-facto institution, albeit not in the modern formal sense.

Secondly, external interventions must not lead to a political role of the elders, which would contradict the positive role they possess in terms of peacemaking and safekeeping stability. Hence, it is critical that the formation of elders associations does not create another partisan political force, but solely a forum where elders can cross their clan differences and raise issues of common concern and interest vs. a vs. formal governance structures.

Thirdly, financial support may very well corrupt the image of the elders, and hence undermine their legitimacy. Hence, it is crucial to avoid direct economic support to them and ensure that any programming is based on their needs and ideas only, and not an adaptation to the agenda of a development agency in anticipation of personal benefits.

## 1 Introduction

Somali clan leaders have for the past fourteen years largely taken over the roles of the state in security, law, and have consolidated their traditional role as dispute mediators and enforcers of the *Xeer* (the customary laws that regulate most aspects of social life within and between the Somali clans). As such, the traditional leaders in Somalia are not only the prime force for stability and continuity in terms of regulating access to pastures, water and conflict resolution between clans. They have also been instrumental in establishing relative stable structures of governance and security especially in the Northern parts of Somalia.

Apart from maintaining a primary role in terms of local conflict resolution and upholding of customary laws, the traditional leaders are generally perceived as the most legitimate leaders by their clan members. Civil society in the Western sense consisting of NGOs is also a new concept in the Somalia context and the legitimacy of NGOs among the local population is not as strong as that of the clan leaders.

Given the central and legitimate position of the traditional structures in the Somali society, after the state collapsed in 1991, and as shown by the elders in Somaliland, it seems obvious that they should be involved in the actual formation of the Somali state. Furthermore, their customary laws and the official judicial systems could be realigned rather than continuing as two parallel systems. Hence, the traditional structures can arguably contribute positively to constitutional processes at the foundation of building a state.

The acknowledgement of the importance of the traditional structures for life and death among the Somalis since the collapse of the State of Somalia in 1991, and the practical experiences of the Danish Refugee Council (DRC) who together with the local NGO 'Haqsoor' working on a human rights advocacy programme with the traditional elders in Toghdeer region of Somaliland (Justiniani 2004), forms the background for DRC and Novib/Oxfam initiating this critical study on the roles of traditional structures and their potentials as development partners and crucial participators in the ongoing constitutional processes.

The overall objective of this study is to critically assess the historical and current role of the traditional structures in the development process in Somalia, and analyse how the Somali traditional structures can interlink, and be matched with formal governmental structures and principles of good governance (incl. human rights & international humanitarian law). The analysis explores the current status and challenges facing the traditional structures and their potential role in security, state building and development. Finally, the study formulates a policy framework on how intervening agencies can work with traditional structures as development partners.

The team met with *aqiil*, *nabadoon*, other *odayaal* (elders), *Suldaan and Issim*, women and youth organisations, Government and Local Government authorities in Somaliland, Puntland, South-Central Somalia and in the Dadaab refugee camp in Kenya, and intellectual experts on traditional structures and researchers from APD, PDRC and CRD.

## 1.1 Approach: Beyond the tradition - modernity nexus

Since the modernisation theories of development became dominant in the 1950's, the view has been that traditional structures are to be rolled back as modernity progresses. However, today it is increasingly recognised that traditional structures are often more legitimate than the modern state. This study moves beyond this tradition – modernity dichotomy.

In Somalia, the traditional structures developed and changed hand in hand with the socio-political structures established by the colonial rulers. For instance, the terms used for the concept of elders are either non-indigenous, such as the word *Aqil'* which is an Arabic word first introduced by the Egyptian administration on behalf of the Ottoman Empire and later applied by the British Colonial administration, or of very recent origin such as the word *Nabadoon'* which is Somali for 'peacemaker' introduced by the Siad Barre regime during the 1970's in its effort to control and transform the traditional authorities into proselytes of the regime.

The attempts by the modernising independent Somali state to suppress and eradicate the traditional authority structures failed because the traditional social structures of the Somali clan system remained vital for the survival, protection and cultural identity of the Somalis. On the other hand, the Somalis increasingly reverted to their traditional structures because of the failure of the central government in building functioning structures that served all of the public, without marginalisation of anyone clan. This showed that to rely on traditional norms and rules can be quite rational, especially if there is no better alternative. If the state is unable to improve people's lives substantially on an everyday basis, it is not surprising that people continue to live according to their traditional structures and rules without taking much notice of the central government. Hence, the distinction between tradition and modernity may indeed be a false one from the Somali perspective.

## 1.2 Traditional authorities

Traditional authorities are usually defined as the leaders of traditional communities with reference to historic roots of leadership, which legitimises their execution of power. Hence, such definitions refer primarily to the socio-political and politico-religious structures that are rooted in the pre-colonial period, rather than in the creation of the colonial and post-colonial states. In contrast, modern socio-political structures are often seen to be based on democratic principles manifested in democratic elections. Elected representatives execute power and are given the task of making legislation, while bureaucrats and administrators are expected to implement them. This is in many ways an unreasonable definition as the industrialised and individualised modern society with its democratic forms is just one among several possible political structures. Still, the legitimacy of traditional leaders is often juxtaposed to modern structures, and hence defined as not being rooted in constitution and electoral processes, but in inheritance or other historical mechanisms of leadership selection. This too is flawed when applied to Somalia, because here, traditional authorities are just as often elected - maybe not directly in ballots by the entire population above a given age, but most often by all the adult male members of the clans. Hence, the practices in the Somali pastoral democracy are not far from the legitimacy of leadership in modern societies, which is based on elections and embedded in constitutional and legal procedures and rules.

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In a modern society, *the state becomes a substitute for the family system in providing social security*. However, modern state structures in contemporary Somalia are either non-existing, as in South-Central Somalia, or very limited as in the Northern administrations of Somaliland and Puntland. The traditional structures therefore play a very important role in regulating the expanding 'modern' private economic sector, as well as developing and regulating conflicts within the state itself. The traditional structures in Somalia are at the crux of the challenges and dilemmas of the processes of societal change and modernisation. The extended family and lineage system in Somalia, the clan structure, is the core institution of all basic societal functions stemming from the pre-industrial pastoral society. The household or family is the centre of production, and has inherited rules of redistribution between both the productive and non-productive members, which guarantees that children, the elderly and disabled persons are given care. The same system defines marriage and family norms. Education primarily means familiarization with the inherited traditions and cultural rules - the *xeer*. The clan elders play a vital role in safeguarding law and order, within and between the clans.

## 2 The Somali traditional structures

The key to an understanding of the political constitution of the Somali society lies in kinship and their specific kind of social contract. Their kinship structure is based on agnatic lineage type (that is descend on fathers side) – known as *clan*. The social contract is a kind of treaty defining the terms of the collective unity within and between the agnatic (or patrilineal) clans. Genealogies define the belonging of kinsmen to certain clans, according to the ancestor from whom they stem. The Somali political contract, or *xeer* can to some extent be compared to the notion of social contract as defined by the political philosophers and is overseen by the lineage elders (Lewis 1961: 3). Hence, a general description of the Somali traditional structures can analytically be divided into three core elements: 1) Their traditional social structure: The segmentary lineage system or clan structure; 2) Their customary laws – the *xeer*; 3) Their traditional authorities or juridico-political structure.

### 2.1 The traditional social structure

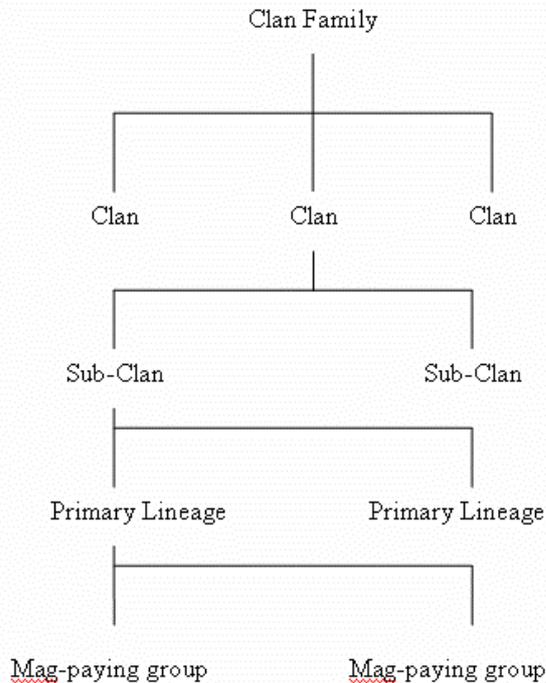
To understand the social basis of the Somali societies, one must grasp its traditional social structure, which is based on the unique Somali segmentary lineage system, or clan-structure, which was first described in depth by the British anthropologist, I.M. Lewis in 1961 (Lewis 1961). The clan system is well described by I.M. Lewis, hence only a general description will be provided here.

Before proceeding, it should be noted that Somalia is often misrepresented as a country with an ethnically homogeneous population, culture and language. Indeed, the perceived majority of the population are composed of the ethnic nomadic-pastoralist Somalis who speak *Af-Maxaa-tiri*, which became the official language of Somalia after independence. The other big group is composed of the largely sedentary agro-pastoralist people, residing in the inter-riverine area between the Juba and Shabelle rivers in Southern Somalia, known as *Digil-Mirifle* or *Raxanweyn*. They speak *Af-Maay-tiri*, which is quite distinct from *Af-Maxaa-tiri*. Outside this homogeneity, you also find the minority 'outcaste' groups, or bondsmen known collectively as *sab*, and groups of ethnic Bantu descent, as well as of Arabic descent, such as the *Bajunis* and *Barawanis*. It is important to realise that the traditional structures of the *Raxanweyn*, the minorities, and the people of Bantu and Arabic descent are often very different from the nomadic culture. Without any in depth studies that describe the agro pastoralist, sedentary and coastal cultures, there is a risk of reproducing the mistake of extrapolating the nomadic traditional structures upon these cultures. Hence, it is primarily the segmentary clan system representing the nomadic-pastoralist people that are described in this chapter, while the varying traditional structures of the *Raxanweyn* and other groups will be described rudimentarily in sections 3 and 4.

The clan-system is the most important constituent social factor among the nomadic-pastoralist Somalis. I. M. Lewis wrote in 1961 that "*the segmented clan system remains the bedrock foundation of the pastoral Somali society and 'clannishness' - the primacy of clan interests - is its natural divisive reflection on the political level*" (Lewis 1961).

In short, the Somali society is based on a vertically oriented segmentary lineage system in which individuals take their position according to their patrilineal descent (traced through

the male line). Hence, according to Lewis, all the pastoral Somalis belong to genealogical lineages, which also function as their basic political units. The segmentary lineage system can be differentiated into categories of *clan-family*, *clan*, *sub-clan*, *primary lineage* and *mag-paying group* as divisions of varying size (Lewis 1961: 4).



The *clan-family* is generally the upper limit of clanship. The genealogical length of a clan family is not fixed and can count up to 30 generations to a common ancestor (Lewis 1961: 4).<sup>2</sup>

The lineages of the pastoral Somalis are united by a common, mythological perception of direct lineal descent from the forefather *Samaal* and the household of the prophet Mohammed, notably the Qurayshi clan, and specifically his cousin, Aqil Bin Abi-Talib. Today, this segmentary clan system is represented by three to four main clan families descending from *Darood*, *Hawiye*, *Dir* and depending on who you ask, *Isaaq*.<sup>3</sup> As mentioned earlier, the *Raxanweyn* are distinct from the pastoralist Somalis, and has a different genealogy as they stem from the forefather *Saab*. However, they still claim to be Somalis

via a similar mythological descent to the Qurayshi.<sup>4</sup> The clan-families are often so big and scattered that they seldom are very functional as political units. But in case of animosity between two clan-families, the strong clan identities come alive and define the overriding conflict lines. Hence, clan-family allegiances play a major role in the modern political history of Somalia.

The *Clan* (often 20 generations) can act as a corporate political unit, and do tend to have some territorial exclusiveness, following their regular seasonal movements for pasture and semi-permanent settlements. Clan-members derive their identity from their common agnatic descent rather than the sense of territorial belonging. The clan is in other words the upper limit of political action, has some territorial properties, and is often led by a clan-head, but remains without centralized administration or government. The most distinct descent group within the clan is the '*primary lineage*', defined as the lineage to which a person describes himself as a member (most often between 6 and 10 generations).

<sup>2</sup> Memory can vary and links can change if politically convenient, but only within the limits of genealogy, i.e. skipping an inconvenient link if necessary.

<sup>3</sup> Already in 1961, IM Lewis described the Isaaq as a clan family in its own right, because the Isaaq so regard themselves despite other Somalis group them with the Dir. Furthermore, they do act as a separate clan-family. According to IM Lewis (1961) the Isaaq claim to descend from Ali Bin Abi-Talib and not his brother Aqil as the other clans claim. However, this is a contentious issue which also plays into the present perceptions of the right of the Isaaq to claim independence in Somaliland versus the 'others' perception of belonging to the Dir and hence duty to join the family of a greater Somali union.

<sup>4</sup> Some describe the Rahanweyn, Digil-Mirifle clans as politically marginalized (Gardner & El Bushra 2004). Their assimilation to the nomadic Somali clans may be a historical socio-political alignment to the expanding warriors of the Somali clan families.

Marriage is usually outside the primary lineage, and links them together, which functions to reduce the otherwise endless feuds between primary lineages (Lewis 1961: 5).

The most basic and functional lineage unit is the *mag-paying group* or *diya-paying group* as they are mostly known in English language. *Diya* is the Arabic word for blood-compensation. *Mag* is the Somali word and will be applied here. The *mag-paying group* is above or beyond the uterine family (*qoys* or *xaas*), and is the most important level of social organisation for each individual. It is a small corporate group of a few lineages who reckon descent to a common ancestor some 4 to 8 generations, and is sufficiently large in numbers (few hundred to a few thousand men) to be able to pay the *mag* (according to Sharia: 100 camels for homicide) if need be. Hence, all men are defined by their belonging to a *mag-paying group*, and their social and political relations are defined by contracts called *xeer* – the Somali customary laws – that are entered within and between *mag-paying groups*. In conjunction with the *xeer* (contract), the *mag-paying group* forms the basic and most stable political and jural unit in the Somali pastoral society, as well as being the basic unit for protection and social security/insurance.<sup>5</sup> Hence, through the *xeer*, members of a *mag-paying group* are obliged to support each other in political and jural responsibilities, especially in paying and receiving compensation for acts committed by members of one group against another - even over vast distances, since it is the kinship that bonds them. It is the responsibility of the elders (*oday*) of the *mag-paying groups* to oversee that the terms of the *xeer* are honoured (Lewis 1961: 6).

It should be noted that the described segmentary lineage system is not absolute, but rather in a constant process of relative change. This is due to population growth whereby the number of primary lineages grows too. Hence forth, the primary lineages and even *mag-paying groups* will eventually split, and when they do, every ancestor in the genealogy is in principle a point of potential division, as well as of unity. In the daily, contemporary life of this social structure one must first grasp which of the main clans an individual belongs to by patrilineage, and second to which *mag-paying group* he belongs to. The latter is the most important for the social security of the individual. It is within this very wide system of manifold political groupings of the clan-system that the *mag-paying group* appear as the most stable jural and political unit. Hence, in assessing the present importance of the Somali traditional structures, we need to consider the institutional viability of the *mag-paying groups*, which is founded in their ability to collectively meet the blood-debts (*mag*) of their members. To this end, Lewis suggested some factors of importance for their stability (forces that tend to hold them together), or instability (forces which tend to make them split into separate units), which still seems to have validity (Lewis 1961: 183ff):

- The most overriding rule for the unity of *mag-paying groups* is that all other conditions usually are subordinate to the need to maintain solidarity in the face of an external threat. However, the **need for collective security** may in some case be met by a *mag-paying group* splitting up and the new constituent segments strike new *xeer* alliances.

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<sup>5</sup> It is only through membership of a *mag-paying group* that an individual has any political and jural status. An individual cannot himself act as a viable and independent political unit, i.e he can't alone pay 100 camels, without the assistance of others. In this way a man is forced to sub-ordinate himself to the collective rights and interests of the *mag-paying group*. Below the *mag* group there is a further sub-division called *jiffo* or *rafiso-paying group* (40 or 33 camels depending on the area) and below that again you find the *jilib* or *raas-paying group* (20 or 11 camels).

- **Size:** in terms of male strength and livestock wealth, is important for the ability (or perceived ability by the group itself, as well as other neighbouring groups) to retaliate, defend, and to pay/exact *mag* compensation. In practice, you seldom see mag-groups of less than 200-300 men. Other things being equal, the larger a group the greater its strength and ability to pay *mag*, and the less each individual member has to contribute. While large size is obviously beneficial, it tends ultimately to lead to internal friction, especially when the external threat is removed. Disagreement over division of *mag* is most often the immediate cause for splits of *mag*-paying groups.
- **Geographical distance:** may also have influence, as a group belonging to one sub-clan, may join a different sub-clan because they have come to pasture close to the new sub-clan far from the one they originated from. Henceforth, genealogically distant groups may ally together in *mag*-paying groups due to their geographical proximity. Small scattered communities living in proximity of strong clans may be forced (voluntarily) to form *xeer* alliance with these stronger 'patrons'.
- **Quality of leadership:** One or few dominating strong leaders may be able to hold an otherwise weak cohesion in *mag*-paying group together. But the presence of several energetic and ambitious leaders may often lead to disruption of stability.

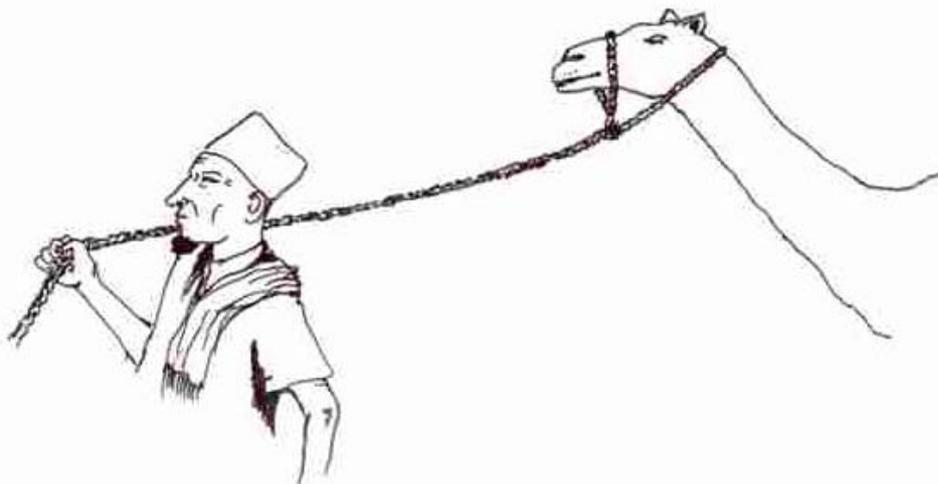
Hence, the ultimate criterion for the viability of these arrangements rests with their power to meet blood-debts without impoverishing the joint resources of the group. Their viability may today be challenged further by the very scale of blood compensations, which due to the combined level of conflict and killings, and the loss of livestock due to droughts and environmental degradation cripples their ability to meet their obligations, with the fatal consequence that they no longer can contain revenge killing cycles and inter-clan fighting.

## 2.2 The customary laws - the *xeer*

*Waa is ku xeer* - men of the same contract

*Xeer baa innaga dhaxeeya* - there is an agreement between us

When men are related to each other by kinship and are parties to the same *xeer*, the Somalis speak of belonging to a *tol xeerleh* (agnates bound by treaty) (Lewis 1961: 161). *Tol* (clanship, lineage) means bound together by kinship, or lineage as in a rope of knots, and *xeer* means contract or agreement, usually entered bilaterally between two *mag*-paying groups.



Therefore, every *mag*-paying group has its own body of law embodied in its *xeer* code. Hence, the *xeer* is a set of agreed codes that regulate the interaction between men belonging to a *tol*, and are entered by them or accepted as a legacy from their ancestors. This brings us to the second core element of the Somali traditional structure, namely the *xeer*, or customary laws.

Generally speaking, the Somali *xeers* are unwritten agreements, passed down orally from one generation to the next, entered bilaterally by elders representing clans that live and migrate adjacent to one another. Inter-clan *xeer* originally concern the sharing of resources, especially grazing and access to water between pastoralists.<sup>6</sup> The *xeer* is a customary code and procedure founded upon contractual agreement, and denotes a body of explicitly formulated obligations, rights and duties. It binds people of the same treaty (*xeer*) together and defines their collective responsibility in external relations with other groups (Lewis 1961: 161). However, as Le Sage points out, *xeer* is not a strictly 'rule-based' system because a clan's political and military strength relative to its rivals, which is based on size, has always been a factor in reaching an enforceable consensus (Le Sage 2005).

Islamic *Sharia* is to a large extent integrated in the development of *xeer*, mainly influenced by the *Shafi'i* school of Sunni Islam that has historically predominated in Somalia. However, the *xeer* did not fully adopt *Sharia*. Rather, many elements of *Sharia* have been subordinated to clan tradition, particularly in matters of collective responsibility taking precedent over personal liability, and the nature of punishments and family issues (Le Sage, 2005). Furthermore, Somali sheikhs and religious leaders, known as *wadaad*, did not play a direct role in Somali political affairs, which were the domain of the elders, but functioned more in support of the efforts of the elders by blessing their decisions.

The *Xeer* holds the entire *mag*-paying group collectively responsible for a crime committed by one or more of its members (PDRC 2003: 26). One rationale for collective responsibility may be that nomadic individuals have too few personal resources to pay for

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<sup>6</sup> The study by PDRC shows that the *xeer* not are applied to pastoral resources, but also for forest, water and frankincense usage and today also for sharing of marine resources (PDRC 2003).

a given obligation. Hence, if *mag* is not paid, the aggrieved clan may opt to kill the criminal or members of that persons' clan. The unfortunate result is that the clan will lose a valued (economically and militarily) member, set-off a cycle of revenge killings and persistent insecurity. Moreover, another convincing rationale for collective responsibility is that the number of men must be protected and sustained because the perceived strength and wealth of the clan depends on the size of the clan. Hence, the very notion of private property has to be subordinate to the clan interest, and becomes part of the 'collective property' of the clan to be shared within various levels of a clan and between clans. Thus, there is an in-built conflict of interest between the individual and the collective clan, which may explain that members of a *mag* group may resist paying their obligation for another member's infraction.

The *Xeer* has never been formally fully codified and remains an oral law passed down through generations.<sup>7</sup> Although *xeer* is both guarded and implemented by respected elders, known as the *xeer beegti*, it is widely open to interpretation. Most *xeer* are about collective defence and security and political cohesion in general. The contractual obligations are typified in the *mag*-paying groups. Nevertheless, there are some generally accepted principles of *xeer*, which are generally applied with only minor variations from lineage to lineage, and informs the reciprocal rights and obligations of the individual, such as the welfare of guests, protection of the weak and vulnerable, and sharing of natural resources such as grazing pastures and water. According to Andre Le Sage (2005), these are referred to as *xissi adkaaday*, that is, the most fundamental, immutable aspects of *xeer* that have unquestionable hereditary precedents, and include the following:

- Collective payment of *mag* (blood compensation, usually paid with camels and other livestock) for death, physical harm, theft, rape and defamation, as well as the provision of assistance to relatives.
- Inter-clan conventions on protection and security, especially in times of war. Fighters were expected to observe strict rules during a battle, including treatment of captured and wounded opponents. To maintain inter-clan harmony conventions also denoted untouchable groups who should be immune from attack, known as *biri-mageydo* (spared from the spear), which include the elderly, women, children, your in-laws, the sick, the religious men known as *wadaad*, poets and guests (including men who come to seek protection in your home, doctors and sheiks especially if they cannot be replaced) and the traditional elders especially the *Issimo* or *Duub* (*Sultaan, Garaad etc.*) who must intervene to create ceasefire in good faith.
- Family obligations including payment of dowry (*yarad, dibar, and mahar*), the inheritance of a widow by a dead husband's brother (*dumaal*), a widower's rights to marry a deceased wife's sister (*higsiisan*) etc.
- Resource-utilisation rules regarding the use of water, pasture and other natural resources; provision of financial support to newlyweds and married female

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<sup>7</sup> Attempts at formalising *xeer* was made in 1968, when the government established a National Advisory Council made up of traditional leaders and other knowledgeable individuals, drawn from all regions and districts of the country, to advise it on constitutional matters and application of particularly customary law (PDRC 2003: 25). However, political turmoil – particularly the 1969 military coup which brought Siad Barre to power – prevented the government from considering and acting on the Council's suggestions. Instead, Law No. 19 of July 1974, opened for a formal acceptance of 'extra-judicial conciliations concluded between the parties spontaneously', which in practice meant that customary practice was tolerated (PDRC 2003: 29, 152).

relatives; and the temporary or permanent donation of livestock and other assets to the poor.

In addition to these general principles, it is commonly agreed that *xeer* can be divided into two broad categories, *guud* and *gaar*.

*Xeer guud*, applies to the settlement of grievances and disputes at different levels of the lineage segments, and includes aspects that regulate common, day-to-day social interactions, civil affairs, and means of dispute settlement within a clan and between different clans. The *xeer guud* can be sub-classified into the *Xeer Dhiig*, the penal section, which deals with serious crimes such as killings, injury and rape, and the *Xeer Dhaqan* (social conduct), the social or civil code dealing with theft, banditry and family related issues such as domestic violence, marriage, divorce and inheritance (PDRC 2003).

*Xeer dhiig* can be broken down further into categories recognized as general and common to all *mag*-paying groups, but the amount of compensation payable and the proportions in which they are paid varies (Lewis 1961: 161ff). The important categories of *xeer dhiig* include:

- *Dil* (homicide) relates to *mag* blood compensation
- *Qoon* (wounding) relates to *qoomaal* compensation (*Arabic haq, also used for right, justice and equity*)
- *Dalliil* (insult) relates to *haal* compensation

Compensation for physical injuries and homicide is based on Sharia, and assessed by the sheikhs, traditionally according to the Shafi'ite standards. Sharia tariffs are applied with local variations, and the specific compensation rates are embodied in the *xeer* treaties between the different clans, which may vary because they are entered on bilateral basis. In case of *dil*, homicide, the *mag* is generally valued at 100 camels for a male, while the life of a female is valued at 50 camels (in practice most often translated into currency equivalent). In the case of a male killing, the 100 camels are sub-divided into approximately one dozen camels that must be paid immediately to the household of the immediate victim and two dozen camels that must be paid immediately to the closest relatives of the victim. The remaining camels must be paid over an agreed period of time to the victim's wider *mag*-group. Payment for the crime of an individual is made by that person's entire *mag*-group. The exact *mag* obligation varies for different types of violation and to the size and wealth of the lineages involved. Local agreements can establish lower levels of blood compensation. Blood price varies considerably from *mag-wadaag* to *mag-wadaag* (*wadaag* means 'together', or 'in concert'), or *xeer to xeer*, but is usually divided into two portions (Lewis 1961: 172-173): *Mag-dheer* (*mag* for the greater group), is paid and received by all the members of the group as a whole. *Jiffo*, usually rated at 33 (third of *mag*) camels is paid by the immediate kin of the party responsible for homicide to the kin of the victim.<sup>8</sup>

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<sup>8</sup> Immediate kin is usually defined as men descending from a common ancestor of the third or fourth ascending generation. This corresponds to the internal structure of the *mag*-paying group, where the *subsidiary jiffo-paying groups* meet all compensation due from or to them independently of each other up to the amount of *the jiffo* and the members of each unit are described as of the same *jiffo* (*jiffo wadaag*-). In payment of full blood-wealth (*mag*) the *jiffo* groups combine as *mag wadaag*. Its members are of the same treaty (*xeer*), or of the same blood price (*mag*) or of the same compensation (*haq*). A *jiffo*-groups responsibility in terms of contribution or reception of *jiffo* is assessed according to the number of male members, known a *Qoora tiris* (literally penis counting).

*Xeer dhaqan* – the social or civil code – can similarly be broken down into categories regulating to issues such as theft (*tuugo*), private property (*xoolo*), territory (*deegan*), family (*xilo*), and hospitality (*maamuus*). *Xoolo* includes rules for the maintenance, allocation and utilisation of live animals, land and materials, as well as rules governing inheritance, the giving of gifts and the status of lost and found properties. *Xilo* and *xoolo*, including marriage and divorce, are the areas of *xeer* where Sharia has been absorbed most completely.

*Xeer gaar* refers to specialised professional norms that regulate traditional economic production relations for clans and sub-clans specifically involved in pastoralism, fishing, frankincense harvesting and others economic activities (PDRC 2003: 20). See the PDRC publications 'Somali Customary Law and Traditional Economy' (2003) for descriptions of various *xeer gaar*.

Although it bears no formal institutional structure, the implementation of the *xeer* and the maintenance of order is the responsibility of the traditional elders of especially the *mag*-paying groups. The application and enforcement of *xeer* is arrived at through arbitration, called *gar*,<sup>9</sup> and determined by a jury of selected elders known as *xeer-beegti* (those who are expert in *xeer*). Once the *xeer beegti* are chosen, they are forced to sit apart from their communities to avoid biasing their decisions. Persons who have close family relations with the parties, persons who have personal grievances against either party, or persons who have previously sat in judgment of the same case, are all excluded. A claim or complaint is usually brought before an *ad hoc* panel of arbitrators, known as *guddi* (committee, also court or jury council). According to *xeer*, it is incumbent upon the aggrieved clan to make the necessary investigations into an incident and determine the harm committed before presenting their case to other clans. A *xeer* case is always heard at the lowest and most genealogically recent level of the clan that is possible. This ranges from the *qoys* (nuclear family), up through the *reer* (closest relatives), *jilib*, *laaf* (sub-clan) to the *qolo* (clan). Once an incident has occurred, a delegation of envoys, elders, known as an *ergo*, is dispatched by one or both of the concerned clans, or a neutral third-party clan, to begin mediating the dispute and preventing it from spreading. When it is agreed to establish a *guddi*, the wisest man among the elders is chosen to preside over the final judgment. The final decision is usually shaped by a variety of considerations such as type of offence, its prescribed penalty, historical or legal precedent and the broader current and historical relationship between the concerned lineages.

*Xeer* processes can either be in the form 'mediation' (*masalaxo*) or 'arbitration' (*gar dawo*). In the former, the exact laws and punishments prescribed by *xeer* are set aside in order to reach a final judgment that satisfies both parties. Most clans choose to opt for the mediation process. In it, the settlement obligation incurred by the accused is usually reduced significantly by comparison with the outcome of an arbitration process for the same case. Hence, mediation is highly advantageous to the accused, if that party is likely to lose the case. Despite the loss of compensation, mediation is often preferred by the aggrieved party. This is because the aggrieved party is aware that a ruling reached on mediation has the group's blessing and will therefore not be contested or rejected by the accused and also guarantees speedy execution of the judgment.

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<sup>9</sup> Gar means judgement, or decision, derived from the verb *garo* meaning to understand or to know.

If two clans do not have a common contract, the *guddi* do not possess any means of enforcing its *gar*. Under such circumstances settlement ultimately depends upon the readiness of the disputants to make peace and on the skill of the arbitrators in obtaining an acceptable compromise. The strength of a *xeer* is based on the need for solidarity and obligations to the contract of the concerned, which compels them to settle the issue unless one party wishes to secede from the contractual group altogether. It can be shameful for clan to break a *xeer* it has entered. There are two major decision-making criteria within *xeer*. Precedent is used when the issues faced by the concerned clan are of a kind similar to ones they have faced in the past. Jurisprudence, the informed reasoning of elders, is applied to solve new problems for which no applicable precedent exists. In difficult cases, the elders may consult *beegti* or respected religious people, *wadaad*, *sheiks* to find a solution. The strength of a decision is enhanced if it is 'orally codified' in well-known proverbs, which also increases the chance that the new decision gains status of precedence. Knowledge of proverbs and past precedent, and personal abilities in patient mediation, traditionally serve as the basis for an individual's selection as *xeer beegti* by other elders.

In case of major inter-clan conflict-, of deciding a new *xeer*-, or election of a new *Sultaan*, *aqiil* or other important issues, the elders will convene an all-clan council, or meeting called *shir* attended by all the adult males of the involved lineages to discuss the issues that need to be addressed (See 2.3 below). The rulings of the *shir* are also based on the *xeer*. The *shir* are often summoned for the occasion of making *xeer* agreements. It is traditionally after the rains that lineage group meetings and councils are called to discuss matters which have arisen during the preceding seasons and to debate future policy. This is also the time for coronation of a new clan sultan, because the appropriate entertainment and hospitality to neighbouring clans can be provided (Lewis 1961: 43). The *shir* is composed of the heads of all the families concerned, and they assemble to make a treaty to which they agree to bind themselves. They lay down in detail the delict<sup>10</sup> and punishments they agree upon, and establish the principles by which they externally will act as a collective political unit. They decide the proportions in which they will pay and receive compensation for external actions and amounts payable in internal disputes. In this way, the *xeer* in fact is a legal and political constitution for those concerned, established as an independent jural and political unit through the *mag*-paying groups. Proceedings begin and end with prayers led by a *wadaad*.

Despite that the *xeer* are based on strong and even conservative norms and traditions, they are not static, but dynamic within the framework of the lineage system. *Xeers* can be contracted into - and out of, and according to needs, contracts can be abrogated, and modified, rescinded and new ones can be made. Some changes may reflect fragmentation of *mag*-groups that have become too large and unwieldy to continue as manageable units. Others derive from quarrels over *mag*-distribution, or rivalry for political control amongst leading elders (Lewis 1961: 176). Indeed, the *xeer* are constantly being revised in the light of new conditions. This may explain that nearly all the elders met during the field study didn't see any obstacles in changing old negative *xeer*, or had any objections against establishing new *xeer* stipulating rights and obligations between parties in a development partnership. Today, the *xeer* are particularly important in rural areas where the presence of modern political institutions is weak. But they are also applied in urban areas with local administrations. In addition, the *xeer* is instituted through traditional elders, usually the

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<sup>10</sup> Delict means the act by which one person, by fraud or malignity, causes some damage or tort to some other.

first recourse in dispute management, settlement and reconciliation; and also between business people (Le Sage 2005: 9).

### 2.3 The traditional authority structure

*Illaahay hadal gaf ah wuu kaa yeedhsiiyaa kaamase tago  
abeesona dhul u eki bay, kugu dishaa, Culimana dad u eki*  
People believe that in wrong doing or not obeying  
the elders may bring Allah's Anger.

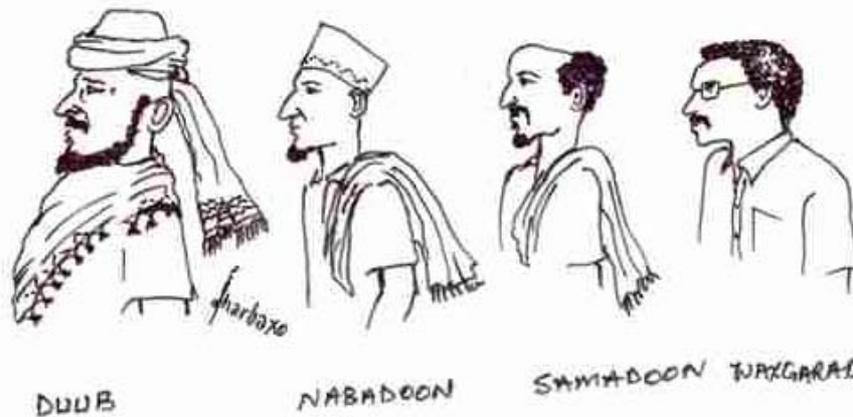
Despite being subject to political repression, the basic structures of the traditional authorities in Somalia are still more or less the same. However, based on the preliminary findings of the present study, we can state that since the civil war in 1990, they have gained importance, especially in securing the fragile peace, and restoring a level of law and order. In spite of substantial regional differences, their primary role is still the regulation of access to shared resources such as grazing areas and water, which still is based on the *xeer*. The role of the clan elders in the *xeer* cannot be overstated, as they are simultaneously considered its legislators, executors and judges. Decision making is led by the male clan elders on the basis of consensus – factors which both subordinate the interests of individuals to the interests of the clans, and severely marginalise women in decision-making. This brings us to the third element of the traditional structures, namely the *juridico-political structure, or the traditional authorities*.

Somali pastoral society is traditionally divided into two categories: Those who devote their life to religion (*wadaad*) and those who take up worldly affairs – warriors (*waranleh* - spearbearers). Anyone who practices religion is a *wadaad*. All others are *waranleh*. *Wadaad*'s are in principle excluded from participation in fighting, and are supposed to stand outside clan politics. Their ideal role is to reconcile rivalries and mediate in disputes between the *waranleh*. In addition, they also sanction decisions made by the *waranleh* elders spiritually (Lewis 1961: 27-28). The *waranleh* elders may, however increase their prestige and respect by showing knowledge of religious affairs and Sharia. Lack of any stable hierarchy of political units is still a characteristic of the Somali social system.

Clan-lineages (*tol*) and the *mag-paying* groups do not have any official political leadership attached to them, but consists traditionally of a group of elders who are close kinsmen. Men of 'outstanding' character tend to have greater influence than others, and become the unofficial leaders of the group. For this reason, the *xeer* are in the first instance managed by the elders heading the *mag-paying* groups, called *aqiil* in Northern Somalia or *nabadoon* (term also used by *Majerteen* in Puntland) in South-Central Somalia. The *aqiil* system in Somaliland is not purely a traditional system of governance, but in fact represents a hybrid form of governance between modern and traditional forms of governance, created during the British colonial administration. Today, the *aqiil* and *nabadoon* are head of the *mag-paying* group, and functions as decision makers, judges and conflict-mediators between the lineage groups.

At the level of the clan-family there is a clan-head, known as *Suldaan* or *Garaad* in Somaliland, referred to as *Issim* in Puntland and *Duub* in South-Central Somalia. Hence, the clans and their *xeer* are overseen by this higher level of traditional authorities. I will

here use the word *Issim* as the common denominator for this category of elders. The *Issim* is an older institution than the *aqil*, and were initially bitterly against the *aqil* system introduced by the British because they interpreted it as an infringement of their authority (Lewis 1961: 203). Their fear was overcome, but their role was severely limited after independence, and has only been partly revoked as a result of the state collapse in 1990. The *Issim* position corresponds to the segmentary level of the clan as a social unit. While *Suldaan*, *Imam* and *Malaakh* (*Melik*) are of Arabic origin, the titles of *Boqor* (referring to the belt that binds clansmen together in unity), *Ugaas* and *Garaad* are of more clear Somali origin. These different titles usually correspond to each other interchangeably, except amongst the *Daarood* who seem to retain a former hierarchy in titles. Hence in descending order you have the *Boqor* (traditionally the head of the *Daarood/Majerteen 'Ismaan Mahamuud* lineage, who has nominal jurisdiction over the *Harti* division of the *Daarood*), then the *Garaad*, *Ugas* and lastly *Islaan*.



Although the *Issim* is a symbol for the unity of the clan, the office is not indispensable, and not every clan has an *Issim*. Generally, the *Issim* is a symbol for the clan and solidarity between its members. The basis of this is the sense of unity transcending the divisions of the clan, stipulated by the contracts, *xeer*, between its *mag-paying* groups. Hence, they represent the corporate political unit of the clan and its relative territorial exclusiveness, which is ritually responsible for the prosperity and well-being of the clan members and their livestock. In the face of external threat the *Issim* is the symbol that the clans may unite behind, underlying his specific role in representing his clan in external relations. The *Issim* are ideally the most important arbitrator, mediator and peacemaker in inter-, as well as intra-clan relations, and is regarded as *biri-mageydo* (untouchable) during armed conflict (Lewis 1961: 205).

At every level of segmentation, lineages are led by their elders (*oday*, pl. *odayaal*), and all men have the right to speak at the *shir* meetings. The *shir* are summoned by the *aqil/-nabadoon* elders or the higher level *Issim* according to need. This can happen at every level of segmentation (*jiffo*, *mag*, etc.), and can be attended by all adult men, or their representatives chosen at smaller lineage *shirs*, if the *shir* compromises a larger clan-segment with a very large number of men. Wealth, prestige (inherited), oratory skills, skills in poetry, age, wisdom and other personal characteristics that may vary from clan to clan provides the views of certain men with a greater weight in the *shir*. *Sab* and other

minorities and women are excluded from direct participation. All adult males have an equal right to speak at the *shir*.

Hence, as described in the previous section, in case of a dispute between individuals of the same *mag-group*, it is taken before an open council (*shir*) of the elders concerned. The *shir* is the most fundamental institution of governance in the Somali pastoral society. There are no formal positions attached, and no specific time of meeting except when specifically agreed upon. There may be a certain tree, or other locations that is preferred for the *shir* gathering. Agreements are reached by majority decision following the direction taken by the consensus of the members at a meeting. They may agree on forming a committee or court (*guddi*) to decide guilt and make judgement. Members are appointed on account of their knowledge of the common *xeer*, their reputation as wise judges (*xeer beegti* - those who are expert in *xeer*), and acceptability by both parties (Lewis 1961: 228). In addition, *xeer* contracts may be defined or changed, peace-treaties may be made, and decisions of uniting against another group, preparations for engaging a fight/war are also made at a *shir*. A *shir* can also be used to debate formal government policies, or even government constitution.

Next to the *shir* the elders' *Guurti* can be defined as the governing body of the family, clan or community comprising the elders at every social unit of the participating lineages or community of lineages. The *Guurti* is based on the nomadic democracy that has its own procedures and code of conduct (*xeer*), and its communal governing responsibilities are: Nominating the different units of the population, and heads of the nomadic encampment (*reer*), nominating the *aqiil* in the *mag-paying* structure, crowning the Suldaan, Garaads, etc., nominating delegates for conflict mediations, follow up on matters of common concern, maintaining Islamic and cultural values, policing public resources, infrastructure, water, pasture, etc, to be best utilized and shared fairly. A decision made by a *Guurti* is called *Guurti Ka Hadh* (a decision no one can deny).



### 3 The current role of traditional structures

The aim of this section is to critically assess the role of the traditional structures in the geographical areas inhabited by Somalis (except Djibouti). The above general description of the traditional structures is used as a basic point of departure that largely is still valid. The variations in roles, responsibilities and legitimacy of the different layers of traditional authorities, since the collapse of the central government, will be examined and set in relation to other authorities and leaders (including formal or semiformal government, religious leaders, officials, politicians, warlords, UN, I/NGOs). Variations in the *xeer*, and the relationship between the *xeer* and existing conventional law systems and Sharia are also investigated.

Generally speaking, in areas outside the immediate control of Somalia's regional administrations, the *xeer* continues to be the predominant justice system. Both Somaliland and Puntland are evidence of the revival of the traditional structures after the state collapsed in 1991. However, this revival happened in various ways from region to region and within different historical trajectories, hence leading to variations in prominence and structure of the traditional authorities as well as the placement in the formal political structures, which they themselves contributed to the initiation of. Hence, traditional leaders formed the basis for the establishment of Somaliland in 1991 and Puntland in 1998. Even in South-Central Somalia, traditional leaders did attempt to create peace between their clans and establish new administrations based on the traditional structures, but failed to unite in building a hybrid state form as in the Northern parts due to a combination of factors including warlordism, land occupation, freelance banditry, greater variations in cultural heritage and ethnic composition of peoples, the colonial legacy, the impact of the UNOSOM intervention as well as other external attempts to build peace and re-establish the collapsed state of Somalia.

#### 3.1 Somaliland

The traditional structures were the only thing that did not collapse in Somaliland, as they provided the only protection people could get. Furthermore, the dependency of the armed rebel movement, SNM, upon the traditional elders made it seem natural that the establishment of the new state of SL was largely driven by both the SNM and the elder's *Guurti*. Hence, SL was founded on a series of grass-root based peace conferences called *shir beeleedyo*, from 1991 to 1997, which drafted a national charter with the aim of building a home-grown democracy (Farah and Lewis 1993).<sup>11</sup> Thus, SL was formed by the *Guurti* of traditional authorities, which functioned as the democratic base of the SNM movement, and not power hungry warlords or politicians.

##### 3.1.1 The *Suldaan*, the *Guurti*, and the political system

The *Suldaan* are still in principle the highest ranked traditional leaders in Somaliland (SL). However, their role is sidelined by the SL government,<sup>12</sup> which since 1991 has been the highest political institution. In 2001, a new democratic constitution was agreed upon, and endorsed by a referendum. As a result, today there are two parliamentary chambers: The

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<sup>11</sup> SNM was entirely reliant on its own population (*Isaaq* clan), and remittances from their people abroad, as well as local livestock collected to feed the fighters. SNM needed the traditional system as a link between SNM and the people. This role continued into the peace process after 1991.

<sup>12</sup> In Somaliland the highest level of elders, are mostly referred to as *Suldaan*, hence this term will be used in this section.

House of Representatives, which now is democratically elected on the basis of a three-party system (Abokor et.al. 2006) and the House of Elders (*Goolaha Guurtida*), known as the *Guurti*. Despite being instrumental in setting up the *Guurti* through their participation in the *shir beeleedyo*, it is far from all the *Suldaans* that has a seat in the *Guurti*, because it also provides space for other categories of elders, and men and intellectuals who are simply respected for their insights and experiences in SLs culture, history and politics. Thus, the *Guurti* is nominated by clans residing within SL, and is only partly composed of *Suldaan*. Women are eligible to the parliament and as cabinet ministers, but not the *Guurti*, because they are not allowed to become elders in the traditional system.

Thus, the political role of the *Suldaan* is primarily relegated to the hybrid political institution of the *Guurti*. The *Guurti* still guarantees the peace and stability in SL. Its strength and legitimacy is based on its clan representation and the trust the population has vested in its political conflict resolution abilities. The term of the present *Guurti* is now over and a pending question on what its future role is going to be, eligibility to the new *Guurti*, and how the election/nomination criteria should be is ongoing. The significance and importance of the *Suldaan* in SL is however decreasing due to a variety factors. The symptom of this is an apparent proliferation in numbers of *Suldaan* over the last decade, which is related to increased politisation following their political roles during the SNM struggle and the establishment of SL. While an increase in the number of *Suldaan* is a natural function of population growth leading to an increase in the number of primary lineages who eventually will need a *Suldaan* of their own, the increase can also be attributed to the fact that being a *Suldaan* has become a way of gaining access to the political centre. The ironic result is that the influence and legitimacy of the *Suldaan* is decreasing because more sub-clans want to be represented more directly in political conferences, parliament, and at the *shir beeleedyo*.

The temptation to enter politics requires a form of behaviour that is detrimental to the traditional values attached to the *Suldaan*, including corruption. A common complaint is that the *Suldaan* go to these political conferences in their own interest, disrespecting decisions made by their *aqiil* and lineage *shir*. Instead they seek spoils for themselves. Thus, while they are supposed to represent the clan-lineages unselfishly, a number of them are found to play a political role in their own interest, resulting in disgruntled sub-clans deciding to nominate their own *Suldaan* prematurely. Accordingly, the main importance of the *Suldaans* today is their symbolic role in displaying unity and respect between the clans, and the notion of good governance. But if they lose their role by becoming politicised, they may become irrelevant.

Despite the introduction of a multiparty (three-party) system in SL in 2001, the clan elders still play an important role in politics in ensuring that their clan in any case is proportionally represented, and that their preferred candidate is elected. Consequently, all the three parties are internally carefully clan-balanced, although they may have a weight towards one of the major clan-groups. The clan elders will try to decide on a certain candidate, and quite often, that candidate gets the most votes from the clan. They may shift party if that suits them best. Women in this system are often disadvantaged; because the male elders will prefer a man who they trust is fully loyal to their clan.

### 3.1.2 The *Aqiil*

While the *Suldaan* are more political and ceremonial, the most active traditional leaders remain the *aqiil*. The *aqiil* seem to enjoy enormous respect of hardworking elders doing their job as peacemakers.

SL has to a large extent re-established the British colonial administrative system which links institutions of central government with the traditional structures. In the present system there is a *Chief Aqiil*, who is chief of between 5 and 10 *aqiil*, and functions as a go-between the *aqiil* and the regional governor. The *aqiil* are foremost the functionaries of the *mag*-paying groups, and are registered at the Ministry of Interior, who issue them with ID cards. Below the *aqiil* you find the village headmen, who are described to cover settlements within a circle of about 5km. They work at district level and with the district council and the local Mayor, who are elected through multiparty elections. There may be variations on this description depending on the size and extend of the various family trees.

Hence, the *aqiil* are an important part of the SL state system. They are registered, and perform vital roles for the state especially in security, law and order where they solve at least 80% of all cases. But, also in other social areas they are the main interlocutor between rural communities and the district, regional and government authorities, especially in cases of conflict, drought, and other environmental disasters. The regional and district authorities generally praise the work and cooperation with the elders in law and order and local development, and see themselves (the local authorities) as being at their service. However, this does not rule out friction, which often may be caused by a combination of lack of capacity in the public governance institutions and corruption. With support, the *aqiil* could address their grievances over the public sector, and they could become an important entity in checking corruption and ensuring accountability within the SL state.

Due to weaknesses in the urban judiciary, businessmen, in the urban areas, tend to trust the *aqiil* and the *xeer* more. The traditional system is simply seen as faster and cheaper. What they can provide is their expertise and logic in reaching a fair and just solution. When it comes to technological and business related issues that they have no knowledge about, they will simply call in experts. The *aqiil* may also be tempted by bribes from wealthy persons, since they have limited resources. Hence, it does happen that an *aqiil* will keep the money he received from a businessman to solve a case. But, if an *aqiil* does something unethical, he risks being denounced by his clan. However, it is common that when this happens, the immediate lineage of the given *aqiil*'s will protect him, hence the other lineages may opt out and choose a new *aqiil* for themselves.

This is one of the reasons for proliferation of elders in SL. Hence, the legitimacy of the *aqiil* rests with their performance as 'functionaries' for their *mag*-paying groups, and how well they serve the interests of their lineages, especially their capabilities in terms of conflict and dispute resolution. While the *aqiil* in SL still are expected to be just, fair, honest, truthful, unbiased, patient, peace-loving, and can remember the *xeer* well, there is a trend towards elders changing from being *Xeer Yaqaan* (those who know and remember the customary laws and know how his clan was living in history and dealt with others clans) towards being *Madax Dhaqameed* (meaning traditional leaders).

### 3.1.3 The risks of institutionalising the traditional structures

The prominent role of traditional structures and their authorities in SL, does give rise to concern among SL academics and politicians. They may fear that they become too powerful, and further that institutionalising them would work to the detriment of the modernisation of SL. While this concern may have valid points, it also reflects the old concern of the modernisers, that traditional structures are conservative and backwards. This may not necessarily be the case.

Firstly, the traditional structures in SL are already institutionalised, albeit in many respects in an informal manner. The traditional authorities and their *xeer* are both de-facto and de-jure a juridico-politico institution that is integrated with the State in SL: They are involved in making laws (*Guurti* & the local *xeer*); they enforce law; and perform social functions for the public. The government of SL need the traditional structures because they solve problems for them and save them money. But, the need is mutual as elders also need government to help them. Secondly, they are not uniformly conservative, as some traditional elders can be very sophisticated, modern and progressive. Much of the conservative reactions to change are rather coming from the religious sphere, than the traditional elders as such. In fact, they are an important active and living institution.

While it must be acknowledged that too much institutionalisation may make it difficult to change the traditional structures in the future, the observation is that this concern may be mitigated by realising the effects of the ongoing rapid social changes, which inevitably will be a challenge to the traditional structures. For instance, women are increasingly gaining a stronger position in society, especially because they have become the main bread winners, which make them important contributors to *mag*-payment. In addition, while the youths acknowledge and appreciate the traditional authorities' role in keeping peace and resolving conflicts, they rarely see themselves as becoming elders, because they do not dream about spending their lives as hard working altruist volunteers. Rather, they dream about lifestyle and of becoming successful and independent individuals. To this end, it does not help that the elders are not including the youths in their decision making. While urbanisation and modernisation of the Somali community in itself poses a major challenge to the traditional structures, and as long as the government is too weak to effectively broadcast its power to the urban and rural areas, there will be a demand for the continued services of traditional leaders.

More than institutionalisation, the concern should be addressed towards the patrilineal character of the traditional system, which structurally excludes women primarily, and secondly the youth. The challenge is how to maintain the role of the traditional authorities in keeping peace, security, and ensuring rights, and at the same time maintain their integrity in terms of legitimacy, identity and trust. Any support to the traditional structures in the case of SL, must be careful not to create an institution that will compete with the development of the state. Rather, it is necessary to strike a balance and consider them as complementary. Furthermore, support should also be directed towards the formal governmental institutions and their ability to cooperate with the traditional structures.

### 3.1.4 The customary laws (*xeer*) today

The law system in SL today is a three-tier system consisting of the secular, Sharia and Customary (*xeer*) laws (APD, 2002). Within this system Sharia is mainly applied to family issues. The *xeer* is the most widely used and is preferred in most other cases. The function of formal secular courts is primarily to register verdicts made by the traditional elders, and is beyond that mainly applied in the urban areas. The procedures of the *xeer* generally follow the traditional ways described in section 2. The general practice in case of homicides is described in this way: The *aqiil* will arrest the perpetrators with the help of people. Then the traditional conflict resolution procedure will begin. If a crime concerns gangs out of control of the clans - then the case will be taken to the formal court. Homicides are usually solved through agreement on *mag* compensation. The courts simply formalise the decisions reached by the traditional elders. If there is a crime against the state, then it is the penal code that will be applied. If there is a crime against a person/civil cases and the parties agree to use the *xeer*, then the case will be solved on clan-basis by the traditional leaders.

The *xeer* is in other words respected by the courts, and decisions are registered by the public notary. In case of injuries, the valuation of the damage will be done according to Sharia by the sheikhs/religious leaders, and the formal judges to assess the level of compensation. If clan elders can't agree, the case will be reverted to the formal courts. Note that customary law also largely follows Sharia. When a case has been finalised by the traditional elders, and it has been registered with the public notary, then it is final, and there are no more appeal opportunities. But, if the terms of the agreements between clans are not fulfilled, then the court can get involved in the case. In cases of collective clan issues, then it is the clan who collectively pay *mag* and are therefore collectively responsible, because the clan contribution is the only insurance people have. The *aqiil* collect and administer the *mag*, but can take a man who refuses to pay his *mag* to the court to demand that person to pay up.

The *xeer* is adaptable to crimes in the urban context, because *mag* today is valued in terms of Camels, but paid in cash. There are local variations from general procedures and level of *mag*. For instance, according to Haqsoor, it seems that it has become common in different parts of SL to increase the level of blood compensation. This creates problems and tensions because it makes it more difficult for the *mag*-paying groups to actually pay. Haqsoor is therefore trying to bring the cost of *mag* back to 100 camels, and make the elders change the *xeer* in ways that can prevent revenge killings in other ways than increasing the *mag*. Another problem related to the inefficiency of *mag*, mentioned in Toghdeer, is that the *aqiil* may decide to execute a killer on the spot when they catch him and thereby finalise the case. But, this can only happen if the *aqiil* of both victim and perpetrator lineages agree. The police will then be informed that the issue is resolved completely and there will be no need for further investigations. Usually, the victim family is given the right to choose either to kill or receive *mag* payment or forgive.

The *aqiil* in Hargeisa complained that its relationship with the secular courts is one sided, and not always good with the traditional system because the *aqiil* have to inform the courts about their decisions and register them, but the courts do not inform the *aqiil* about their decisions which can be just as important if they are to play their role in terms of keeping the peace and accepting the courts decisions. They also suggested that the secular courts ought to invite the traditional elders to resolve cases, because they are often more

informed than the courts about the specific cases. They also complained that the secular courts delay decisions, are corruptible, and are not sufficiently qualified. In contrast, the *aqiil* can process more cases in a shorter time. The relations between Sharia and customary *xeer* are seen to be good because the Sharia courts consider the traditional system, and vice versa, and Sharia has more credibility than the secular system.

### 3.1.5 Revenge killings

Revenge killing is one of the main risks against peace and stability in SL, because of their inherent character of escalation in which a conflict between individuals from two sub-clans can develop into a major inter-clan conflict. This fear of escalation, and wish to end the phenomena of revenge killings was one of the main motivations behind the decision of elders to seek international agency support to their efforts at bringing the Toghdeer elders together to prevent revenge killings. They formed the NGO Haqsoor, and found support in the DRC advocacy programme (See Justiniani 2004). The DRC/Haqsoor programme turned out to be an interesting and successful experiment. Through a series of workshops from 2003 to 2004, the elders gathered and addressed the negative *xeer* as well as a number of rights issues, especially concerning women's and children rights.

The first declaration from these workshops was signed in September 2003, and was basically an agreement of commitment between the *aqiil* to curb the main causes of inter-clan conflicts, and addressed the aspects of their *xeer* that violate Islamic Sharia and human rights. This declaration was followed up by an awareness campaign, where the *aqiil* in cross-clan groups visited more than 100 villages in Toghdeer. The workshop was followed up by a conference in Burao, where a final resolution was signed effectively abolishing the negative aspects of the existing bilateral *xeer* related to revenge killings, and agreeing on a new multilateral *xeer* enabling the *aqiil* to bring killers into government policy custody, ensure that the *mag* remains at the level of 100 camels, and that it should go entirely to the family of the victim. Finally, it endorsed the rights of a widow to inherit and marry a man of her choice.

The resolutions also contained an environmental provision, which among other issues aimed at stopping new settlements on grazing lands, and the cutting of trees for building and charcoal purposes. However, this latter part of the resolution took more the form of intent than actual change of *xeer*. The most important thing was that the *aqiil* themselves showed commitment to the issues raised. This was a vital opening showing that the *aqiil* are far from being conservative and reactionary. On the contrary, they showed interest and ability in change. According to the *aqiil* in Toghdeer, the impact of the declarations in terms of reducing revenge killings has been significant, and they claim that the changes in the *xeer* produced positive results because there now is punishment for breaking the *xeer* itself, which is regarded as shameful for the entire clan.

### 3.1.6 Women and the *xeer*

The extent to which the rights of women are followed were more difficult to determine. However, by engaging the elders in Toghdeer, it was possible to open up a debate on the rights of women, children and minorities, which in itself is a significant achievement. More can be done in terms of aligning the *xeer* with human rights, and ensuring openness to debate such issues in workshops. At present, lifestyles in cities are changing the times: women work outside their homes, and have become traders. If any of those women

becomes subject to a crime 'outside' their home, (especially rape is a major un-recognised problem in urban Hargeisa) many men will consider that they do not have any right to justice. That is a challenge for the *xeer*, especially in the urban context where the out-working woman will have to be considered as an individual according to the formal laws of the penal code, and the rights she can find within Sharia as well. Nonetheless, she still has to stand up against everyone and public prejudice on her own, which is the reason many women in the end find that they will be treated with more discretion, and may even gain more within the context of customary law, because here they will at least have some collective protection from their own clan elders. This was confirmed by young women from NGOs such as HAVOYOCO, who find that in principle the constitutional courts are best in the urban setting because the woman can express her grievances as an individual. However, the courts may expose the confidentiality of the woman in public. Hence, since the *xeer* do exist in urban areas, women mostly turn to their elders to deal with their issues, especially in family relations, because the elders respect their confidentiality.

## 3.2 Puntland

*Mindida Maalin Howleed ayaa la tabaa*  
Nabadoon are like the "*mindida*"<sup>13</sup>

After the civil war and the collapse of the state, the *Issim* and *Nabadoon* took over the responsibilities of relations between the clans. Their main challenge was the collapse of security. The *Issimo* played a direct and important role in the establishment of the Puntland administration, formally called Puntland State of Somalia (PSS). Unlike Somaliland, Puntland did not create a *Guurti*, but only one parliament, which however is appointed by the clan elders.

### 3.2.1 Roles and legitimacy of the *Issim*

The traditional authorities are the most important reference for the political system in PSS. The *Issimo*, are the highest level in the political system and even the President is ultimately under the traditional system, however not formally. This is an aspect, which remains a source of confusion and frustration in PSS, as the governmental structures are established and appointed by the traditional elders and in that sense are under them. They also have to respect their decision in cases of governmental or political conflicts, which the formal system cannot solve themselves. Hence, the *Issim* are the founders of PSS. They were forced to become political/or to make peace and form PSS because of the State Collapse, and they are still performing a political role. But they are not formally integrated into the political system as they are to some extent in SL. Below the *Issimo* are the *aqil* and *nabadoon* who basically are the functionaries of the *mag*-paying groups.

In PSS the traditional structures maintain a high level of respect and importance within society: The focus group interviews in Puntland revealed that governmental authorities, youth and women in Puntland all agree that strengthening the traditional authorities is the only way to bring peace between the Somali clans. In Goldogob they strongly expressed that the traditional leaders are considered to be the real leaders.

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<sup>13</sup> A *mindida* is a ceremonial slaughterknife that is forgotten after use until it is needed again.

The *Issimo* are playing a very active political role, as well as being highly active in their traditional role as representatives of their larger clan groups and as the first inter-mediators in inter-clan conflicts as well as in intra-governmental conflicts. Today, they are not playing a direct role in government, but are highly active in politics 'behind the scenes'. Only exception is when there is a deadlock in governmental politics. In such cases the *Issimo* will publicly step in to ensure the stability and find a resolution to the political crisis.

Peace and stability is primarily maintained by the traditional authorities. The traditional leaders solve up to 90% of conflicts and disputes between clans and administer diya from the biggest to the smallest injuries (Governor of Bari). Most cases are resolved by the traditional authorities before they reach government. If the traditional leaders in, say Bosasso, make a decision, then that is what the government implements.

The government report both to the parliament and the elders. The *Issim* can mobilize people to follow what the governor wants. However, they can also suggest alternatives. Interaction between government and the traditional authorities is mainly based on dialogue. Decisions are based on consensus. In case of dilemmas, the final decision is left to the traditional authorities. In principle, the *nabadoon* come under the authority of the regional governor. Nevertheless, as a result of the informal relations between government and traditional structures, the regional governor in a sense also comes under their authority as it is not wise to contradict the elders. The regional authority supports the traditional leaders in handling crime issues and conflict resolution. They support them with fuel, vehicles and with security forces. The government is not in a position to cover all the needs of the traditional authorities. In such cases the government seeks resources from the businessmen, or the *nabadoon* themselves acquire the needed resources from them.

Puntland has experienced a proliferation of *Issim* due to an increase in the population. Clans split when their *mag*-paying group becomes too big and a new *aqil/nabadoon* is elected, or they may elect another one to manage the increasingly large clans. Collection and distribution of *mag*-compensation within clans that are increasingly spread out geographically is another factor that makes the work of especially *aqil/nabadoons* more time and resource consuming. In addition, lack of capacity as well elders covering greater distances to address conflicts, or chase down perpetrators has also contributed to the same. Finally, they also increase because of manipulation by the more resourceful politicians in attempts to bribe the elders to their side. This may result in dissatisfaction with that elder from his clan, and they may choose a new one. Moreover, the politician may try to manipulate a split in the clan to make them elect a new elder which can be a proselyte for the politician. According to Markus Höhne, the Dhulbahante clan for example had about 14 *issimo* in 2004 as compared to only four in 1991.

### 3.2.2 The *xeer* in Puntland

Generally, the *xeer* in Puntland follows the tradition as described in section 3.2 above. The traditional *xeer* is generally perceived to be based on Islam. Hence, the customary law is interpreted as being close to Sharia. However, there are contradictions, that is, womens' right to inheritance contradicts Sharia. The informants claimed that those codes that are not applicable to Sharia are not practiced today, i.e. *dumaal*. While not exactly reflecting

the reality in Puntland today, such views do indicate a general trend towards alignment of the *xeer* towards Sharia.

Other deviations from the generally described *xeer* are only natural in the customary practices in Somalia, as each sub-clan may have its own by-law (*xeer hoosaad* – innercode). But, the informants in Puntland suggested that there is need to have the *xeer* upgraded to a level agreed by all the clans on a multilateral basis rather than the traditional bilateral practice. There is a great likelihood that Sharia increasingly will be the primary source for harmonisation of the *xeer* between the clans in Puntland. There is also need for reforms of the *xeer* in order to address some of the challenges that the pastoral-nomadic lifestyle is facing today, hence, increased conflicts over grazing and restrictions on migration patterns require reforms of the grazing *xeer*, and related to that there is a dire need for new environmental *xeer*. Based on the focus group interviews in Puntland, we can identify some of the main positive (*wanaag*) versus negative (*xumaan*) aspects of the *xeer* in here, which can be useful as points of departure for possible improvements:

### 3.2.3 Meeting the changing context since civil war

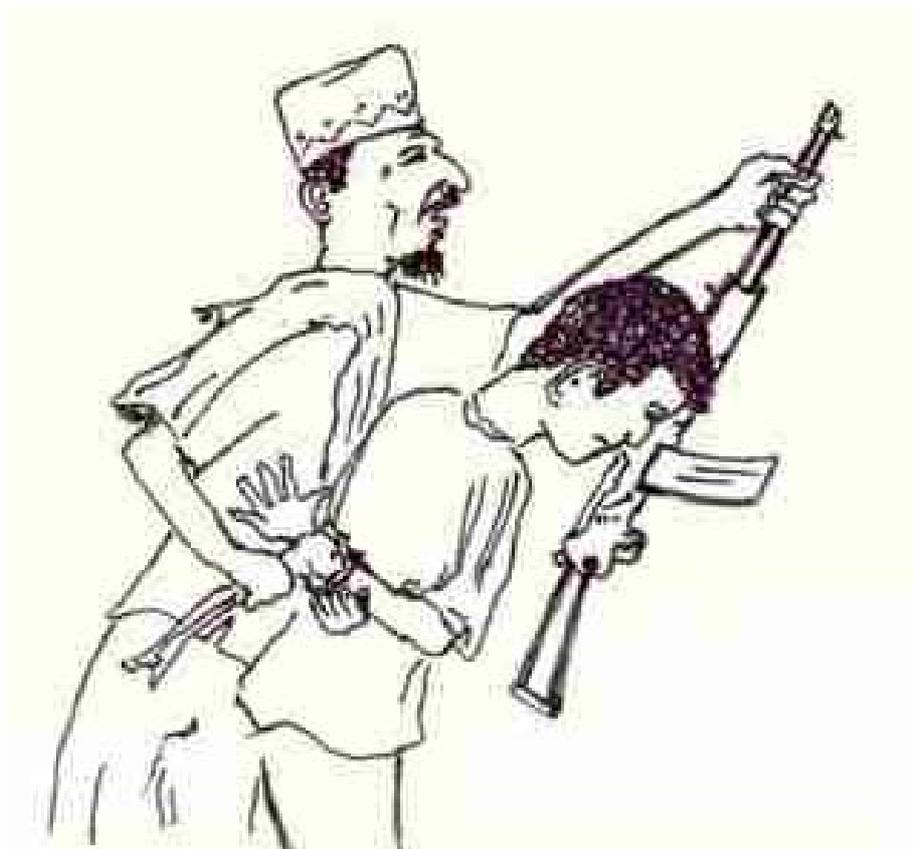
Inter-clan conflicts, and revenge killing cycles and increases in common criminality due to unemployment and poverty in combination with the absence of effective governmental law-enforcement places a heavy burden on the traditional elders, especially the *aqiil* and *nabadoons*. Despite their achievements in creating peace and stability over the last decade, the *nabadoons* and *aqiils* today find it difficult to keep up with the pressure, and they lack resources to do so. Furthermore, they also have to face the challenge of dealing with issues of crime and conflict that arises from disputes with migrants from Ethiopia and IDPs from Southern Somalia, whom do not have a jural status with clans in Puntland, because they are not party to any *xeer*. Changing patterns of pastoral practices the last ten to fifteen years has changed the nomadic life. The main change is that clans cannot move for pasture in the same way as before. This is because there are more conflicts between the clans. The most important threat, or challenge to peace in Somaliland today include killings, revenge killings (called *aano* among the *Dulbahante* and *Issaq*, and *Dakano* among the *Majerteen*), injuries (especially ones coming from car-accidents), rape, land disputes, business conflicts, checkpoint/roadblock-related disputes, divorce/marriage conflicts (including *Dumaal* and *Higsiiisan*, grazing, water conflicts (*berkads*), and animal thefts.

### 3.2.4 Revenge killings

Somali revenge killing is an old Somali cultural practice used to enforce a non-compliant clan to pay compensation. However, today the effects of revenge killings are far more devastating because of the spread of small automatic weapons. Arms are in the hands of people especially the young men. Deliberate killings happen due to the irresponsible and immature behaviour of young men who possess guns. This has been worsened by *khat* chewing, which makes them unable to control their emotions. Killings also happen in connection with other crimes such as looting of property. Previously, blood killing was a big issue and unusual. It has now become a common occurrence. The biggest problem is gangs of young armed men. The root cause of this kind of armed criminality is: a) absence of law and order; b) revenge looting; c) poverty and unemployment.

There are two kinds of gunmen: The bread winners (looters, kidnappers etc.) and the men who defend the clan against revenge killings, or perform them for the clan.

Revenge killings in Puntland are localised to the most conflict prone areas, around Galkayo in Mudug region and Las Anood in Sanaag, while other areas such as Goldogob rarely experience them. The revenge killings cycles in Mudug and Sanaag is a heavy burden on the society and has become increasingly difficult for the traditional elders to tackle.<sup>14</sup> Hence, a revision of the *xeer* in terms of strengthening the elder's capacity to contain revenge killing cycles is much needed.



### 3.2.5 The *xeer* in the urban and modern context

Somali *xeer* are based on the pastoral society, and conflict resolution, *Dhowtro* (bring milk), is still practiced in the traditional way: Elders meet under a tree (*shir*) and share camel-milk. However, modernization, globalization (internet is widespread in Somalia despite the lack of state) and urbanisation is now changing the life forms. This is a challenge to the elders, their *xeer* and their pastoral organisation, which need to adapt to rapidly changing context. Interestingly, there are signs of adaptation to the urban economic sector, where businessmen and government politician do go to the elders to solve disputes and conflicts between them. In Galkayo, a local NGO, Somali Peace and Development Organisation (SPDO), works to update elders on modern society and politics, and other 'modern' issues

<sup>14</sup> Often related to grazing, water and livestock conflicts – usually they start with retaliation to a violation, known by the Arabic word 'qisas'.

to which the elders do not have any tools. Some of these tools can be applied through the elders' traditional practice of consulting 'experts' in a given field of dispute in which the elders do not have any expertise or knowledge. This enables them to apply the dispute and conflict logic to areas outside their traditional realm. Furthermore, the Somalis do practice professional norms known as *Xeer Gaar*, which usefully could be expanded to new trades. An important reason for businessmen's choice of elders rather than formal courts is that they are perceived to be more trustworthy and expedient.

### 3.3 The traditional structures and *xeer* in South-Central Somalia

The traditional structures in South Central Somalia are different and more composite, fragmented, weakened and confused than in the North, for a range of reasons: First of all, as mentioned in the introduction to section 2.1, the ethnic composition of people are very different due to a heterogeneous mix of sedentary agriculturalist, agro-pastoralist, old urbanised cultures along the coastline and pastoralist people - all with differing cultural heritage and traditional structures. Secondly, the history including the colonial experience is different and with that a diverse historical social construction of the traditional structures. Finally, the dynamics of the civil war in the South differed as well, resulting in an equally different impact on the traditional structures. Hence, the common attempts to superimpose, or project the well-described northern traditional structures upon the societies in the South are wrong.

#### 3.3.1 People, culture and the historical Southern Sultanates

Apart from the coastal Arabic 'city-states', whose ancestors today are known as the *Benadiri* and *Bajuni* communities, the past Sultanates in the South were inland and in several cases established as a result of the merging dynamics of the *Af-Maxaa-tiri* speaking pastoralists migrating southwards from northern Somalia, who either conquered land from, or integrated with especially the *Af-Maay-tiri* speaking agro-pastoralists known as the *Raxanweyn* (or *Digil – Mirifle*).<sup>15</sup> They also came to dominate the agriculturalist *Bantus* (such as the *Jareer*, *Shiidle* and *Gosha* communities). These indigenous interriverine sedentary people combine rain-fed farming and cattle herding. From the Northern pastoralists, they learned to combine with camels as well. They tend to live more or less permanently in villages. In some places, they entered alliances with the incoming pastoralist clans. For instance in Afooye the *Geledi* of the *Digil* entered an alliance with the *Wacdaan* sub-clan of the *Hawiye*, as the *Geledi* and *Wacdaan*. Together these two groups effectively defeated and pushed out the *gaalo madow* (black infidels) or *Warday* who lived along the banks of the river before them. In the same way, the *Biimaal*, and the *Hawiye* pushed away the *gaal madow* south of Afooye.<sup>16</sup>

This historical process of migration, adoption, conquest, and integration produced a very mixed composition of people in especially the present day regions of Middle and Lower

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<sup>15</sup> Most of the Somali pastoralists in the South migrated here from the North, and was part of a historical migration pattern from North to the South. In this sense, the recent civil conflict in the South reflect this historical trend, as the large numbers of Hawiye clans people from Mudug and Galgaduud used the civil war to migrate southwards to the fertile areas there.

<sup>16</sup> The migration of the *Biimaal* is thought to have begun some 700 years ago due to conflicts with the *Danakil* (in the present area of Djibouti). The migration process towards the south took some five centuries. Now the *Biimaal* has resided in the present area for the last 2-300 centuries.

Shabelle, as well as in Gedo, Middle and Lower Juba, while Hiiraan is clearly dominated by the pastoralist clans, especially the *Xawaadle*. Hence, the sedentary communities in the South have always survived in a precarious security environment, and been subject to regular invasions by hostile nomadic clans.

According to Lewis (1961) and Luling (2002), the sedentary and agricultural life forms, as well as the ethnic and clan mixture of the *Digil* and *Mirifle*, led to the formation of more hierarchically structured political systems, which stand in contrast to those of the non-hierarchical segmentary pastoral clans. This happened especially in connection with the emergence of the towns of Afgooye, Awdheegle, Buurhakaba, Baydhabo and Luuq, which also were the main connecting trading centres linking the Arabic seaports at the Indian ocean with the interior. Two past sultanates seems to be particularly influential in terms of making a difference to the Northerns traditional structures, evidenced by the terminology on the traditional structures today. One of them was the *Biimaal* Sultanate, which was located behind Merka and southwards. The other was the *Geledi* Sultanate.

The Geledi Sultanate was founded in the late 18<sup>th</sup> century after the *Ajuuran* dynasty and their *Hawiye/Silcis* allies were defeated, and the Sheikhs of the *Gobroon* lineage of the *Geledi* had assumed the title of *Suldaan* (Luling 2002). Similarly, and roughly during the same period, lineages of the *Biimaal* of the *Dir* clan arrived and began to establish a Sultanate in the area behind the coastal town of Merka in present day Lower Shabelle, after they revolted, and defeated the Sultan of *Ajuuran*. Both of these sultanates maintained armies, courts, prisons, and were highly dynamic and out seeking eager to link with global trade. They invited experts from India and elsewhere to train their people in skills such as weaving, textile industry, milling and agricultural production, and topographical surveys used to make irrigation canals. This development was however stopped by the Italians.<sup>17</sup>

The Italians undermined the Sultanates and changed the traditional structures in the South Central by retitling the elders *capo qabiil* and incorporating them into their administrative system (CRD 2005). The good norms and historic customs in the South were effectively destroyed, as the Italians were specifically intend on colonising the riverine and inter-riverine parts of South-Central Somalia. After independence, the traditional system, as transformed by the colonial rule, persisted until the Siad Barre regime (1969 to 1991) attempted to do away with the traditional structures. According to Abdikaff Maalim Hassan (TFG minister of Post and Telecommunication) the destruction of the traditional structures by the Siad Barre regime had its greatest impact in the South. Today, the rules of the *xeer* persist, but the traditional authority structures have been confused, and too many claim titles to which they do not have any traditional right. Despite these blows, remnants of the traditional structures survived.

### 3.3.2 Impact of the civil war

The civil war, and the ensuing total collapse of the state, prompted the Somalis to turn to and revitalize the role of traditional governance. In the South, this even happened in the urban areas of Mogadishu and Kismayo despite these two cities being more modernised than the rest of the country. Hence, the application of *xeer* re-surfaced and traditional governance came into a more important existence, albeit in the context of unclear

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<sup>17</sup> When the Italians began their colonisation, both Sultanates were weakened by 30 years of conflict between them. After that, the Biimaal resisted the Italians from 1894 to 1910.

governmental authorities. Unfortunately, especially in the South, the faction leaders (war lords) continued many of the practices of the previous regimes, such as manipulation of the traditional elders. Corruption was another. Hence, like Siad Barre, the faction leaders and warlords tried to win the support of the clan elders by giving privileges to them. The internationally sponsored peace-processes contributed to this evolution, because their top-down approaches tended to focus on the faction leaders who in return used the attention and money they received to manipulate the elders. Indeed, both Arta and Embagati brought in 'false' and corrupted elders.

Since June 2006 most of Southern Central has come under the authority of the newly established Islamic Court Union (ICU) while the internationally supported Transitional Federal Government (TFG) is barely in control of more than Baidoa town. At the time of writing this report, it is yet unclear as to determine what the position of the traditional authority structures will be versus the emerging theocratic kind of political structure that is being developed by the ICU. Hence, today one can identify the following different authority systems coexisting in various combinations and degrees of effectiveness and social acceptance in the south central regions of Somalia:

- At the district level, remnants from the regional and district councils established by UNOSOM II in the first part of the 1990s can still be found.
- Governance structures established by the local communities, often by the traditional and religious leaders, can be found in Diinsoor, Garbaharrey, Luuq and Belet Weyne.
- Various political factions and militia leaders had established a number of 'fiefdoms' with rudimentary administrative structures. Amongst these, you still find the administration of Lower Shabelle. The rest has since June 2006 been defeated and taken over by the ICU.
- The TFG is based in Baidoa, but has yet to set up any functioning institutions. In Baidoa they co-exist with a new local regional administration set up on the basis of a peace agreement between the *Raxanweyn* elders, supported by the UNOPS District Peace Building and Reconciliation project.
- Administrations set up by the Islamic Courts, now represented by the ICU, hold a high level of control in Mogadishu and all the way along the Mogadishu – Belet Weyne road. Belet Weyne in itself is still in the control of the Belet Weyne Guurti, in an observant alliance with the ICU. There are also Islamic Courts in control in Galguduud and South Mudug.
- In some areas, there are no formal administrative structures. However, elders in these areas have managed to keep peaceful relations between and amongst the communities, using the traditional *xeer* system.

### 3.3.3 The *Raxanweyn* today in Baidoa, Bay and Bakool regions

The Sultanate, or city state (Afgooye), of the Geledi, was amongst the most hierarchical in the history of the Somali region. Many of the traditional political and legal institutions and concepts that remain today in the South originates from this Sultanate and has to some extent been reinvigorated to various degrees, especially among the *Raxanweyn*. The remaining institutions of this vanished *Digil* hierarchy as observed by this study will be described in the following. The sources are the elders met during the field research, and

are supported by Virginia Luling's excellent research, described in her book *Somali Sultanate* (Luling 2002).

The *Geledi* Sultanate was ruled by a *Suldaan* from the *Gobroon* lineage of the *Geledi*. The *Suldaan* and his *Sultanate* was already in a weakened position by the time the Italians began their colonization of South-Central Somalia in the late 19<sup>th</sup> century. Marked by internal squabbles, the Sultanate had been split into two as a brother to the *Suldaan* established the *Gasaar Gude Sultanate* in Luuq. Furthermore, the rivalling *Biimaal Sultanate* had defeated the *Geledi* and killed their *Suldaan* during their 30 year conflict in the latter half of the 19<sup>th</sup> century. Hence, while the title of *Suldaan* once was the ruler of all the *Digil* and *Mirifle (Raxanweyn)*, it is now limited to his own clan only. Below the *Suldaan*, in this past *Geledi* hierarchy, you would find the warleaders titled *Malaakh*. They were the commanders in chief, and responsible for communication between the *Suldaan* and the clan he was heading in case of war. Today, in the absence of a strong *Suldaan*, all the major clan-groups of the *Raxanweyn* have their own *Malaakh*.

One of the most important systems of the *Geledi Sultanate* that still exist, albeit in lesser versions, is the council of *akhyaar*, which consisted of the elders of a lineage group, who were called *ul-hay* (staff holders), or *ul-guduud* (an expression also used in Luuq, referring to the red colour of a staff after years of coffee-bean oiling indicating the owners senior age). The *akhyaar* took care of internal clan affairs, and served as a consultative link between the *Suldaan* and the clans. A similar system existed for the *Gasaara Gude* Sultanate in Luugh, as well as among other *Raxanweyn* clan groups such as the *Xubeer*. Each lineage group would select which of its *ul-hay* or *ul-guduud* should become member of the *akhyaar*. Large groups may have had the right to select more than one. There were no formal procedures for election or nomination for the *akhyaar*. But a man became an elder by virtue of the respect he gradually won from his fellow lineage members, and recognition by the other *akhyaar* (Luling 2002: 185).

In 1969, the Siad Barre regime abolished the *capo qabil*, which was the name the Italian administration gave to the *ul-hay* and *ul-guduud*. But, in practice they simply reinstated the same elders under the new name: *nabadoon*. Hence, the rural village committees installed by the Siad Barre regime, in effect remained the council of *akhyaar* (Luling 2002: 196). Hence, from the old sultanates, what remains is the combination of the *Malaakh* and the council of *akhyaar*, whose individual members now may no longer be called *ul-hay* or *ul-guduud*, but *nabadoon*. Interestingly, the study found that the term *akhyaar* today is also applied by the pastoralist in South Central Somalia. The *akhyaar* is today the most important entity in handling the daily affairs of the clans. It functions as the interlocutor between the given clan community and whatever authority there exist be it regional administration, transitional government, warlord, sharia court or even external humanitarian aid agencies.

The *Malaakh* are still very aware of their traditional organisation. Hence, they described their traditional structures in the following way, which however does not mean that they are practiced exactly in that way everywhere any longer: According to *Malaakh* Mukhtar of the Lesen (Laysaan) clan group of the *Raxanweyn*, the *Raxanweyn* people differ from the pastoralist by their agricultural practices, language, clan structure and religion. Because of their sedentary agriculturalist practices, location, language and religion matters more to them than other Somalis who are more pre-occupied with their lineage. They emphasise

that the *Mirifle* traditionally are Koran scholars, and that most other Somalis learned the religion from them. The *Digil* specialised in Sharia codes. Hence, unlike the pastoralists the social structure of the agro-pastoralist *Raxanweyn* is less concerned with their genealogical lineage, as their location as sedentary farmers is more important to them for their living, identity and belonging.

The social structure of the *Raxanweyn* tends to be segmented at the larger unit of the clan, which essentially is a land-holding group (Luling 2002: 78). Members of such groups can move freely within their territory, but newcomers must become attached to the resident clan in terms of *xeer*, to be allowed to settle. This can happen either by alliance or by adoption. As mentioned earlier, historically, the peaceful sedentary communities welcomed and let entire northern nomadic clan lineages fleeing hostile situations in their areas of origin to settle and integrate with them. This type of integration happened to such an extent over the centuries that all the inter-riverine clans now consist of lineages assembled from a variety of sources, with each lineage having recognised genealogical ties with its branches among the nomadic clans. Moreover, there are core branches that were there prior to the invading nomadic clans. Consequently, according to Luling, the *Raxanweyn* have two simultaneous 'systems: The 'real' genealogical system held to represent the biological descent, and the adoptive one which is an 'admitted legal fiction' (Luling 2002: 79). One consequence of this process is a lack of clarity of lineage-descent, and a 'disappearance' of the original *Raxanweyn* sense of descent and identity. In a sense, the invasions by Somali nomads from the dry central regions of Somalia and their conquests of the land of sedentary Southerners, during the civil war and its aftermath, is a continuation of this historical migration process.

The segmentation at the larger units of the clan is one of the important features that make the *Raxanweyn* social organisation different. Their clans are composed of 4-7 *jilib* that pays *diya* together. Hence, the *diya*-paying group structure of the *Raxanweyn* is different as they pay *diya* collectively at a much higher level in their lineage structure than the pastoralists do. Their lineage structure is also different, as they are characterised by an in comparison lack of clear memory of past lineage to a common ancestor. Rather, they tend to describe their structure hierarchically beginning with the *Malaakh*. Hence, the *Malaakh* represents the entire clan, that is, the *Malaakh* of the Laysaan, -of the Harin, - of the Elay etc., and is as such also the head of the *diya* paying group. Originally, there were very few *Malaakh*, and they represented larger clan alliances. Below him you find the *Gob* (also called *nabadoon*),<sup>18</sup> or in plural *Gobyar* or *Gobi'r*, who is heading the *jilib*, which is the the group paying  $\frac{1}{4}$  of *diya* corresponding to the *jiffo* among the pastoralists. *Gob* is also a title used for vice-*Malaakh*, or simply vice-chairman, as they second the *Malaakh*. Today, you may sometimes find elders at this level calling them selves *Malaakh*, reflecting the disruption of the traditional structures among the *Raxanweyn*, first by the Italians, then by the Siad Barre regime, and finally the manipulations by politico-military leaders of the post-civil war period.

Lastly, you find the group or council of elders called *Akhyaar*, which today sometimes is referred to as *Gobyar*, because of its composition of *Gob* and the other elders called *ul-hay*

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<sup>18</sup> To increase the confusion: Sometimes the term *nabadoon* is today applied to the *Malaakh* and *Samadoon* to the *Gob*. Perhaps because that would equal the *diya*-paying group heads with the ones from the pastoralist clans. This however is not exactly reasonable as the *Malaakh* in fact represents the entire clan, as the *Issim* or *Duub* do among the pastoralists.

or *ul-guduud* as described above. All these elders are influential members of the community, such as wise men from the clan, intellectuals, commanders, businessmen etc. According to the *Raxanweyn* elders, *Guurti* is a term used by the pastoralists. Instead, they use the terms *Guddi*, *Akhyaar* or *Gobyar*, which are used interchangeably. In comparison with the Northern pastoralists, they say that the *Guurti* among the *Raxanweyn* is what they call the *Malaakh iyo Gobyar*, which is the most supreme council or *Guddi* of a *Raxanweyn* clan group. The *Guddi* is not a permanent institution as such, but meets ad.hoc to address urgent issues. The *Malaakh* instructs the *Gob*, who assembles the *Guddi*, which functions as the decision making body for the one or all of the *jilib*. Minor issues such a theft, domestic issues etc. are solved by the *Gob*. Major issues such as killings, war and conflict are referred to the *Malaakh*. Dispute resolution follow a bottom-up path, where the 'higher' level only gets involved if the former can't resolve the issue themselves.

The *Malaakh* is elected by all the *jilib* that comes under him. The *Gob* is elected by the members of the given *jilib*. Traditionally, the election of a *Malaakh* was between 3-4 candidates. All the members of the clan participate, including women and children by going to the *Malaakh* they want and lift him up in the air. The one lifted by most people will become the *Malaakh*. If a *jilib* is dissatisfied with their *Gob*, they go to the *Malaakh* who then can form a *Guddi* with the purpose of choosing a new *Gob*. The criteria for a good *gob* include the following: He must be a Muslim with good knowledge of their religion; a wise man; tolerant and patient; generous; responsive to people, and a good listener; must not be a dictator; settled with family, may have property but should not do business; just and fair; must accept to handle all issues of importance for the families in the *jilib*, including family affairs, school issues, farming issues; should behave well, not flirt with women, and must not take gifts (must not be corrupt).

The *Raxanweyn xeer* are primarily formed around the traditional *waaro* water-catchments, or rather regulations related to them, and are therefore intimately linked to their relatively hierarchical management structure. While these structures may no longer be functioning in the way described by the *Malaakh*, it may still be instructive to forward their description here as an ideal type over which variations and remnants are still being practiced in the rural side of *Raxanweyn* inhabited land. The *waaro xeer* and management structures play a vital role for the *Raxanweyn* because water in Bay and Bakool is a very scarce and vulnerable resource. They depend heavily on them for their agriculture.

The traditional management structure of the *waaro* is called *Warayhirin*, and has the following structure: A chairman titled *Aw*, 3 vice-chairmen titled *Gob*, then 3 daily caretakers titled *Sagaali*, and finally there is a community work-force whose members are those who reside adjacent to the water catchments and benefits from it. They do the digging and fencing, and are called *Yogor*. If a dispute or a rule (*xeer*) on the use of the water catchments is broken the procedure is to go bottom up. I.e. if the lower level can't resolve the issue, it is taken to the next higher level. Finally, accountability takes full circle, because if the case reaches the *Aw* and he makes a mistake, then he will be accountable back down to the entire community. Sanctions are usually either a fine, or in worst case a ban from using the water catchments. If none of the four grades or levels of authority can't solve the conflict, then the case will be taken to the *Malaakh*. Interestingly, often before the issue is taken to the *Malaakh*, the *Aw* and *Gob* of neutral neighbouring water-catchments may intervene to try to solve the issue. In cases of conflict between the *Gob* and *Sagali*, the

*Aw* will close the catchments and bring the neighbouring *Aw* in for arbitration and persuade the parties to reconcile.

The criterion for an individual in achieving access to a *waaro* is: 1) he must be a member of the community that decides to construct it; 2) he must contribute to its construction. Hence, a beneficiary must participate in the digging and construction of the water catchments when required. Refusal will lead to a ban from usage. A newcomer or someone other who did not take part in the initial construction can join provided he brings a *fur* (kind of dowry) to the *Aw*. This can for instance be 4 goats, which will be shared by the three highest categories of *Warayhirin*. To the *Yogor* category he will bring a cow for slaughtering. Each part of the cow will be distributed according to a specific code. Then they will mark an area for the newcomer to expand the water catchments. If he does not fulfil the expansion within one year, he will have to do the entire procedure all over.

Apart from the water catchments structure (*Warayhirin*), there are similar structures for the following functions: Leadership, or support group to the *Malaakh* (political functionaries or administrators) called *Gobhirin*; Defence and social cultivation group called *Barbarhirin*; The Koran reading group taking care of religious matters called *Olumohirin*; The group of artisans and handicraft trades who construct houses, builders of other constructions, tailors and weavers, blacksmiths etc, called *Eymarhirin*; Gravediggers called *Oggihirin*; and finally the poison makers (weapon makers) called *Miiridhirin*. Each of these seven groups probably does not fully exist any longer.

After the civil war, the consultative system of the *akhyaar* became important again in places such as Afgooye. However, their independence was disrupted by the occupation of their land by the *Habr Gedir/Cayr* and *Sa'ad* sub-clans of the *Hawiye* from 1995 to 1999, under the SNA leadership of General Aidid. In 1999, the Raxanweyn Resistance Army (RRA), with Ethiopian military assistance, managed to liberate most of their land from the *Habr Gedir*, and except for the central authority set up by the RRA, the local affairs returned to the *Malaakh, gob*, and the *akhyaar* system. Hence, it is the latter three elements that are most functional still, while the various *hirin* may not function as such any longer. But the language and concepts are still there, and are important for any good governance building among the *Raxanweyn/Digil-Mirifle* because it is the language that forms the basis for their understanding of governance.

Poverty among the *Raxanweyn* has impacted heavily on their *diya* paying practices. There are different *xeer* between the various clans; hence they are bilateral in same manner as among the pastoralists. They often don't pay full *diya*, but 2-5 million Somali Shillings equalling 2-3 camels. This is because of poverty following conflict and droughts, where the clans has lost most of their camels, hence camel price don't work – clans can't be forced to pay 100 camels because they may simply not exist. Today, the *xeer dhiig* is paid mostly in cash, and then some camels. On *xeer dhaqan*: *Dumaal* and *Hiigsiiisan* is practiced by a few clans, mostly the ones that have been integrated with nomadic clans over the past 200 years. Voluntary *dumaal* is sometimes practiced by women because they want to protect their children. *Godobtir* is not practiced. Their *xeer* do deviate from Sharia in some respects, for instance in demanding a very high *dowry* for marriages, and killings.

### 3.3.4 The *Guurti* and new *xeer* in Luuq, Gedo region

Luuq, which is located in the Southern region of Gedo, shares much of the history of the *Raxanweyn* and the *Geledi* Sultanate as their *Gasargude* Sultanate was closely linked with the *Geledi*. Here too, you find that nomadic clans have settled and mixed with the sedentary people, however here the nomadic element was primarily represented by the *Marehan* from the *Darood* clan family. Today, they have formed a *guurti*, which they claim is like the one in Somaliland. They would like a system like that in all of Somalia. The chairman of their *Guurti* is Ugas Adan Manow who represents the *Raxanweyn* in Luuq. The traditions among them stem from the *Gasargude* Sultanate, and say that if the *Ugaas* dies, they will simply use the tradition of electing the eldest person of the clan, and not the son. The *Marehan* are also part of the *Guurti*. The highest ranking elders among the *Marehan* in Luuq is the *Ugaas* of the *Marehan/Howrarsame*, and the *Suldaan* of the *Marehan, Rer Hassan* lineages. These two represent all the *Marehan* in Luuq, and replace each other when the other is absent. The role of these *duub* in Luuq is to chair all the *shir*, and ratify decisions made by the *nabadoon*.

The *nabadoon* take care of the daily activities of sub and sub- sub clan issues. However, all serious matters and issues that they cannot solve go through the *duub*. In the same way, their politicians cannot work without ratification from the *duub*. Hence, the *duub* represents the community or the clan, and a politician cannot represent the clan if he is not supported by the *duub*. Their main problem is the strong politicians, businessmen and warlords who financially can control the 'gun holders', which is a power the traditional authority of the *duub* cannot compete with as long as there is an abundance of young men whose only livelihood is to be a gunman.

The *Guurti* in Luuq, in the absence of TFG institutions or the like, were the ones who formed the District Council, and they have recently entered a new *xeer*. This new *xeer* illustrates how the elders, once they get the opportunity with no external manipulation, can use their traditional capacity to establish a level of law and order and local governance. This also includes provision for international agencies working there.

The *Leysan* and *Marehan* clans has historical relationship in Luuq and environs and hence also a *xeer*! Hence, without Central Government or related police forces, Luuq managed to maintain even if rudimentary their own police, jail, court, administration, and *Guurti*. But they do need assistance to improve the arrangement, and especially create development for the militias who now remain outside the town, but may come back if a new livelihood strategy is not created for them. Today the peace rests with the income that Luuq administration can create from taxation of vehicles passing through their two official checkpoints. The immediate assessment is that this structure enjoys a high degree of respect from the residents of Luuq. However, it is a fragile arrangement as their ability to control the erratic local warlords or upset young gunmen is weak. The elders play a vital role in keeping a health system in place in cooperation with the Gedo Health Consortium. Their challenges and efforts to do something about their predicament are well illustrated by the following statement given in June 2006:

"We are Luuq community. All the Somali clans residing here are all brothers and relatives. We developed a new *Xeer*, and we have now a peaceful security environment, and have improved a lot security wise. We the elders are very committed to ensure the implementation of this *xeer*. No one can carry a gun without permission, there are no road

blocks, and no one can harm international agencies. No one clan can make violence to anyone. Any deliberate killing, we kill under our Sharia court, if not deliberately killed we will use our customary law. We have poverty, no government, and TFG is still not here. Now farming season, and because of poverty we cannot do enough farming. The militias have contributed to the poverty. We therefore appeal for any income generating activities to these militias, which will remove them from poverty. Please spread the message that the community is committed to peace, and that we have put our personal interests aside!"

### 3.3.5 The *Biimaal*, *Benadiri* and *Hirab* in Merka, Lower Shabelle

The old sultanate of the *Biimaal* around Merka has all but disappeared. Since their defeat to the Italians, the lineage of the *Biimaal Suldaan* has lived a quiet existence. Furthermore, the *Biimaal* people suffered a heavy set-back during the civil war as much of their land was taken over by non-resident *Hawiye* coming from northern regions, and many *Biimaal* either fled or was killed. Today, the *Suldaan* is still the highest rank for the *Biimaal* in and around Merka, and in Jaamame, where many *Biimaal* also reside.

After the civil war the *Biimaal* revived their *xeer* system. For example, the first attempt to create more peace and security in Merka area involved a meeting of traditional elders who established the first new *xeer* between them. Each district then established a committee of elders and intellectuals with the purpose of overseeing the peace on one hand, and to interlocate with international humanitarian agencies on the other in order to address social welfare issues. However, they did not have military or strong policing power, which meant that they could not handle the armed freelance militias who erected extortive roadblocks and who were outside the control of the traditional leaders. Prior to the civil war, all *Biimaal* paid *mag* together. However, after the complexities of the civil war, each sub-clan formed its own *mag*-paying group! This is perceived as a good development, because it gives more pressure to the most immediate family to control its members as *mag* becomes more expensive when it is a smaller group that has to pay it.

The *Benadiri* community is one of the oldest groups residing in the South. They are of Arabic descent who in the past settled in the sea trading city states along the coastline from Mogadishu (Shangani and Hamar Weyne), over Merka, Brava to Kismayo. They were sailors, tailors, weavers, carpenters and blacksmiths. Presently, they are a suppressed minority dominated by the pastoralist Somalis and their norms and culture. Nevertheless, they do try to protect their identity and history mainly by peacefully adapting to circumstances.

Clan or family (*qabil*) does not matter so much for the *Benadiri*. They describe themselves as business people for whom clan matters are less relevant. But, they do have family trees. Thus, in Merka there are 18 *qabil*, which are the lineages of the *Benadir* people, also called '*Beelood*'. Their elders are different from the pastoralists because they are not lineage or clan based. However, they have adapted to some extent. Hence, each of the 18 *qabil* have an elder called *duq* or during Italian time, *capo qabil*. Each *Benadiri* community along the coast have a similar committee, which in Merka is called the 12 *koofi* (hats) and 6 *Mashaik* (religious elders). *Koofi* is the title given to the *duq* from families that do not have any specific religious functions, whereas *Mashaik* represents families with specific religious practices. The 18 however all come under one *aqil*. Interestingly, the *Benadiri* apply the

term *aqil* and not *nabadoon* as is usually done in the South, nor do they use any of the other Somali terms applied for a high level elder.

The responsibilities of the *duq* include marriage, dowry, minor family conflicts etc. However, due to lack of government over the past 16 years their responsibilities have increased. Today, much of the (limited) power of the *Benadiri* is attributed to the fact that it is the tax from their business people that largely fund the peace and stability in Merka. They consistently try to support the side that works for peace in the region, and in conflict resolution between feuding clans. However, the *Benadiri* has been pressured to submit to the dominant *Hirab* alliance of the *Hawiye* clans in Lower Shabelle. Since the civil war they had to accept their *xeer* in all crime disputes and conflict issues. Since they do not have camels, they have to compensate in cash. Hence, during the last 16 years they have been forced to 'act as a clan'. In the first years of the civil war, if the victim was from the *Benadiri* community, his demand would not be considered by the pastoralist clans at all, as they would see them as being outside the jurisdiction of the Somali clans. Therefore, they had to enter *xeer* with them. However, they always try to apply Sharia in connection with deliberate killings. If the victim is *Benadiri*, they have decided always to forgive, reflecting their consistent efforts at keeping peace. Today, the *Benadiri* do have some influence in the regional administration as one of the two vice-governors is from their community.

The dominant people in Lower Shabelle are however no longer the *Biimaal* or the *Benadiri* but the *Hirab*, especially the *Habr Gedir/ Ayr*, who maintains power via the position of Governor of Lower Shabelle held by Inda'Adde. *Hirab* is the common term referring to the *Hawiye* clans residing in Lower Shabelle. *Hirab* is a less known ancestor among the *Hawiye*, and is referred to as the common denominator forming an alliance of the *Abgaal*, *Murosade*, *Shekhal*, *Mudulod*, *Habr Gedir/ Ayr*, *Gugundabe* and *Duduble*.

Generally the *Hirab xeer* follows the traditional pastoralist way. Their layer of elders is: *Imam* at the top, then *Ugaas*, maybe *Malaakh* and *Suldan*. The heads of their *mag* paying groups are called *nabadoon*, traditionally *duq*. They handle the social affairs between the clans, and only if they cannot, they take the case to their *duub*. At the sub-division, you find the *samadoon*. Amongst the *Hawiye*, the *Nabadoon* are elected. Only the *Imam* and *Ugas* are found by heritage. They follow the tradition that when an elder is elected, then they have a ceremony where all other neighbouring clans are invited. This ceremony functions as the recognition of the new elder given by the neighbouring clans. They claim that elections involve all members of the given clans, who include women.

The *Hirab* lived in a peaceful relationship with the *Biimaal*, *Benadiri*, and *Digil* in the region prior to the civil war. But, during the civil war, their cousins came from the central regions with arms, taking land, demanding payment in 100 camels in case of fatalities, and made the original locals adapt to their ways. According to the *Hirab* elders in Merka the *xeer* varies a lot bilaterally from clan to clan in the south. The main challenge today is how to curb robberies, rape and killings, which basically comes down to how to control the many young men armed with guns (*mooryan*). The elders have only little logistical support, and sometimes have to face situations where they have to move to solve a problem, without even being able to feed their own children.

When the Sharia courts moved into Lower Shabelle from Mogadishu in 1999, and removed the roadblocks and the *Mooryan* (the young gun men), they were generally

welcomed. The power of these Sharia courts was based on their militias funded by the business community in Mogadishu. Their interest in clearing the road to Merka was strategic in ensuring safe access to the port landing in Merka. After the ARTA peace conference in Djibouti in 2002, and after several years of unrest, banditry and inter-clan feuds, the local intellectuals, religious leaders, elders and others found that they had to unite all the clans residing in the region. Hence they formed a new administration in Lower Shabelle region, which replaced the Sharia court leaders who had 'disappeared' as they decided to become members of the new TNG parliament. The TNG endorsed the new administration and installed Indo' Adde as new Governor. While this description avoids the part of the history that involves certain local actor's real military power in the formation of the administration, it does tell about a change to the better. Today, the administration claims that one reason for its relative success is that they primarily rely on their own resources, only complemented with vital assistance from INGOs in the health, social and education sectors. The administration works closely with the traditional elders, without whom they would not have been able to reach their achievements. The elder's function is first most to advise the administration. On all social concerns, elders are called upon for consultation before any decisions are made. There is no council of elders due to limited resources, but the administration claim that they know who the right elders are, and that they are registered.

### 3.3.6 The *Abgaal* and *Shiidle* minority in Jowhar, Middle Shabelle

The *Abgaal* clans in Middle Shabelle rank their traditional leaders as follows: Highest elder is the *Imam*, and then comes the *Ugaas*, *Malaakh*, the *duub* and then *nabadoon* who heads the *Jilib*. The *abgaal* largely functions along the lines of the other pastoralist clans. Hence, the emphasis here will centre on the *Shiidle* minority and their relations with the *Abgaal*.

The *Shiidle* is an agricultural people who resided along both banks of the Shabelle River in Middle Shabelle long before the Somali pastoralists arrived. However, their exact origin is not quite clear. Whether they originally came from the area or are Bantus imported by the Arabs from further south in East Africa is still an open debate. Nevertheless, they have always been sub-ordinated by other stronger people, and often treated as slaves. Their *xeer* are therefore the result of a long historical adaptation to their coexistence with the pastoralist *Abgaal* clans and the agro-pastoralist *Mobleen*. The *Shiidle* has a *Suldaan*, and has adapted the nomadic structure by also having *Nabadoon* and *Samadoon*, and finally an *Akhyaar*. They do speak *af-maxatiri*, which however certainly is not their original language. They have adapted their *xeer* to the nomads, however internally they never pay *mag* nor kill a perpetrator. Instead, the family of a perpetrator is only fined to pay for the funeral costs of the victim.

An interesting practice in Middle Shabelle is how the pastoralists and agriculturalists traditionally share the vital water from the Shabelle River. While the nomadic *Abgaal* clans needed access to the river water for their livestock during drought, the *Shiidle* did not want their crops destroyed by the livestock. Hence, they developed a water sharing *xeer* called *biya cab*, in which the nomad who wants access to the river water had to slaughter a bull to the river guardian, called *Baxaar* (king of the crocodiles). Once he had done that, he would be allowed to the river through certain designated passages called *helo*, which restricts the livestock from trespassing into the cultivated land. In return, the livestock of the nomad are protected from attacks by the crocodiles in the river. After the state collapsed,

the nomads disregarded this custom completely, and just trespassed through cultivated land, and went to the extent of raping *Shiidle* women with impunity. The nomadic clans called the *Shiidle* for *loomaa ooye* meaning 'the ones no one cries for' and *loomaa aare* meaning 'the ones no one will revenge'. This was largely the background that made the *Shiidle* welcome the regime of Mohamed 'Dheere', to whom they paid taxes in exchange of protection and re-establishment of the old *xeer*.

In Jowhar, the capital of Middle Shabelle region, the regime of Mohamed 'Dheere' was generally praised, because of the improvements in security that his regime introduced, especially for women and the agriculturalist minorities who suffered severely from the arbitrary attacks and domination by the *Abgaal* pastoralists. They accepted the heavy taxes they paid to Mohammed 'Dheere' in exchange for the security he could provide. In exchange he received high taxes, and a high income from the resulting increase in agricultural production. Security was tightly controlled as in a dictatorship regime, and was based on a rule of fear. He established a council of elders of all the various communities residing in the Middle Shabelle.

Within this context, the elders continued to resolve ongoing conflicts in the rural areas, according to the customary practices. The administration endorsed their decisions, and supported their conflict resolution efforts when requested to do so by the elders. In June 2006, the ICU defeated Mohamed 'Dheere' and established an Islamic Court in Jowhar. It is yet unclear what the relation of this new administration towards the elders is. An assumption could be that the traditional elders are still the most important entry point to the communities in Middle Shabelle.

### 3.3.7 The *Guurti* and *xeer* in Hiiraan region

*Aan wada hadalno waa aan heshiino*  
if we talk together, we agree.

In Hiiraan you find the clans of *Xawadle*, *Gaaljeel*, *Jajele* and *Badde Adde*, and some *Habr Gedir* and *Abgaal*. The common word used for the highest ranked elders here is not *issim*, but *duub*. For this highest level of elders the following terms are used: The *Jajele* clan use *Dagordi*, *Baade Adde* use *Wabaar*, *Xawadle* and *Gaaljeel* use *Ugaas*. The *Hawiye/Habr Gedir* sub-clans of *Ayr/Murosade/Saleeban* and the *Hawiye/Abgal* use *Imam*. Interestingly, the *Habr Gedir/Sa'ad* does not have any elders at this level. These elders are found by heritage.

The responsibilities of the *duub* in Hiiraan are described to be 'policymaking', and 'monitoring, reviewing and endorsement' of the decisions and activities of the *nabadoon* by giving them their blessings. The *nabadoon* are described as 'ministers' of the *duub*, and are elected or nominated by their sub-clans. An *Islow* is a member of the *duub's* family. The lineage of the *Ugaas* of the *Xawadle* is very stable, and it seems that tradition is very strong and stable among them. They have not been subject to the level of proliferation of elders as other clans have, despite political manipulation attempts by warlords and politicians which accelerated with the Arta and Eldoret/Mbagathi peace processes. The *Jiffo* are the *mag-paying* groups headed by a *nabadoon* or *oday*, who even sometimes are called *akhyaar*. Below the *jiffo*, comes the *jilib* (literally knee) which is headed by the *samadoon*.

The *Ugas* and the *Nabadoons* are the only ones who consistently have kept the region together since the state collapsed. Transitional governments and regional administrations have come and gone, often as something installed from top-down and outside-in. In 1991, when there was so much lawlessness, the East and West communities decided to establish a common *Guurti* for effective conflict resolution. Every clan became proportionally represented in this new *Guurti*. The official name of this *Guurti* is: *Guddiga Golaha Wakiilada Dhaqanka ee Gobolka Hiraan* (Central Committee of Representatives of all the Clans in Hiran Region or the *Guurti* Council of Hiran region). The common name is *Geedka Webiga* meaning the tree by the river, which is the place where they meet regularly. Some people loosely call this group the *marjac*, which is Arabic meaning "to refer to". It has 63 members representing all the clans of Hiraan region proportionally.

They are seen as the real decision makers, making rules according to Sharia, the pastoralist *xeer* and *caado* (tradition). They function as the judge in conflicts. They refer their decisions to the *Ugaas* for final approval. The functions of the *geedka webiga* are to a) oversee and maintain security; b) ensure integration of resident clans; c) prevent clan clashes; d) protect the weak according to the codes of sharia; e) bring back looted property; f) promote relations with neighbouring regions. They meet 3 times a week. They also hold extraordinary meetings. An important meeting is the Friday meeting after prayer under their tree in Belet Weyne, which they call the *Geed Jimcaal* - Friday Tree. These meetings function as conflict preventive meetings. The claim is that this is one of the reasons that the level of revenge killings is quite low in Hiiraan.

The *xeer* in Hiiraan is based on traditional ethics, and are as such strong. Their weakness is law enforcement, which is important as the many armed elements do not respect the traditional ethics. Hence, as elsewhere in the South, the main problem is the *mooryan* and people who no longer respect the traditions and the elders. On the other hand, the elders too must make sure that they live up to the moral and ethical expectations to them, such as always being fair and transparent, increase the inclusion in their decision making process, and make themselves more known and seen to the people.



Prior to the DRC Workshops in 2005 and 2006, there was varying *mag* paying practices, which were not helpful for preventing retaliation. They have now decided to abide by the Sharia standard of 100 camels, and if the situation is very bad they can agree on higher *Rafiso* (than the standard 12 camels), which is the part of the *mag* that has to be paid immediately to defuse further tension and escalation, and avoid revenge killings. Usually payment is made in cash, not camels, but according to the value of the camel, which is currently about 1 million Somali Shillings. The *xeer* says that it is the immediate family of the perpetrator that has to pay the *rafiso*. But if it is impossible for them, their clan may help them. Women do not participate in the distribution of *mag*, but wealthy women may be asked to contribute to the *mag*. Execution of killers does happen, but mostly when both clans decide to refer the case to the Sharia courts. To stop a conflict from developing, the elders and the *duub* can decide to forgive and forget a killing in order to start a new page and stop more revenge killings. In contrast to what women say, the elders claim that only consensual *dumaal* and *hiigsiisan* is practised in Hiiraan. *Godobtir* is rarely practised.

In June 2006, the *Ugaas* and Nabadoons accepted the existence of the Sharia courts, but are observant on their development. They maintain their *Guurti*. The *Ugas* and *nabadoon* in Hiiraan are ready to hand over their control once a legitimate and stable government is in place. They think that any regional administration should be build from the bottom up.

### 3.3.8 Youth perspectives on the traditional structures

Everywhere in the South, the youth acknowledge the role of the traditional elders in creating peace and stability and positive inter-clan relations. In Belet Weyne, they even acknowledge that the real power is with the traditional leaders. However, there are also objections. In Hiiraan, the youth emphasised the following negative aspects of the traditional structures:

- Youth does not have a role in traditional decision making;
- The capacities of elders are often limited, that is, they do not take minutes, and knowledge is mainly limited to nomadic life;
- The elders do not adapt to social change, which leads to 'clashes' between the needs of the youth and the old 'codes';
- Some elders manipulate with the *mag* payments.

There was also a sentiment against the collective responsibility of the clans in respect to the actions of its individual members. Hence, they reflect their approach to individualisation. This reflects the fact that many young men fall out of the traditional codes and respect for their clans when they commit crimes, such as phone theft, which sometimes leads to killing. The existing traditional *xeer* are often not equipped to deal with such issues because it does not make sense to deter an entire clan collectively when it is rogue individuals that need to be deterred from committing crimes. This kind of complex is similar to that experienced in connection with car accidents: How to define who are responsible for the damage?

In Merka, the youth stressed the negative aspects of clannism, because it works against development and educationary promoted change. Hence, they are against customary practices that foreground protect clan specific interests contrary to the interests of common

development. In relation to clannism, they stressed the negative aspects of traditional elders who mislead people and are corrupted and manipulated by politicians, warlords and business people. The result is that such traditional leaders follow their private and particular interests and not the wider interests of the community as such.

### 3.3.9 Women's perspectives on traditional structures

The elders' role in peacemaking is recognised by the women in general. However, the women emphasise their often neglected role in pushing their men to initiate peace and reconciliation efforts in the first place. Women also point out that, while the elders have filled the big gap after the state collapsed, they are now stretched to their limits and it is increasingly difficult for them to assert their authority because they are not sufficiently powerful nor respected and don't have the resources to adapt to the changing times, level of conflicts and the high number of unemployed youth. The youth are increasingly becoming restless and problematic and who do not respect the traditions as their parental generation did.

It is clear that women have become the main breadwinners in Somalia. At the same time they are the most vulnerable group when it comes to fighting, drought and other disasters, but are not given corresponding voice and decision making powers. Women in Middle Shabelle pointed out that they carry the greatest burden of insecurity and survival, but are not being heard. Sometimes, they were even the ones who first intervened between fighters, and only then would the elders take action. Women as well as elders typically describe their avenue to influence as being indirect through their men, husbands etc. Women in Hiiraan were exceptional to the norm by pointing out that it was Sharia and not custom that was the main reason for their exclusion. This is because; according to Sharia men and women cannot sit together. Some women found that their increased importance in society should be rewarded by letting them sit in under the tree. In contrast, in Merka, the women emphasised Sharia as positive, because they say Sharia gives women the right to go to school, and is against the negative traditional practices such as FGM.

### 3.3.10 Mogadishu and the Islamic Courts

The traditional structures were not strong in the 'modern' context of pre-civil war Mogadishu. After the civil war, the conditions changed dramatically. Firstly, the multiclan character of Mogadishu largely vanished as nearly all clans fled, except for the *Hawiye*, especially the *Abgaal* whose home has been in the northern Mogadishu for at least the past 150 years. Many of the *Benadiri* people remained as well. The vacuum left by the fleeing clans was filled by the *Hawiye* from the central regions of Mudug and Galguduud, especially the *Habr Gedir/ -Ayr* and *Sa'ad* who largely came in with the USC militias led by General Aideed, and the predominantly *Raxanweyn* IDPs who fled their hunger stricken regions of Bay and Bakool (the hunger was caused by the fighting and pillaging between forces of the USC (*Hawiye*) and Siad Barre's faction the SNF (*Marehan* and *Ogaden*). Secondly, the composition of elders and their perceived relative strength and dominance between the clans changed with the changing composition of clans. Thirdly, while the traditional elders in Mogadishu did come to play a more significant role in the efforts to solve conflicts and disputes after the state collapse, and UNOSOM did try to address and support them, they suffered several serious set-backs and difficulties. For instance, in the highly political and warlord dominated environment, they were manipulated by the political faction leaders and warlords, and several of them became part of the problem. It didn't

help that the American contingent of UNOSOM managed to kill several of the *Hawiye* elders in 1993.

The frustrations and hopes about the traditional elders in Mogadishu can be illustrated by the following statements collected in Mogadishu in April 2006:

*Our traditional leaders are no longer effective, because – they spoiled their dignity after they handed over their responsibilities to the faction leaders. They turned to their personal interests, and misused the mag they received. In addition, every clan now has many elders and people are confused about who is in charge.*

*Our traditional elders participated actively in the civil war, and that is why they are not respected as before. Meanwhile the elders in the North did not commit any similar crimes. Still the traditional leaders support the civil conflicts directly or may be indirectly. Somalis say: “Cudurka kaa galo fardaha haddii laga gubo dameer dawada lama gaarayo” which means if a horse get sick and you treat it with donkey medicine it will never get healed.*

*There is still a chance to revive the role of our traditional leaders through advocacy and communities' declarations for the values of our good past traditional system.*

The vice chairman of the city council for Mogadishu, Mr. Sherrif Hussein Robow, found that the elders are still the key power in Somalia, and are the only group that can challenge the warlords. This statement was however made before the Islamic Court Union (ICU) had taken full control of Mogadishu. To what extent the elders in Mogadishu fully stand behind the ICU today is as of this writing still unclear. But, it should be noted that the original Sharia Courts in Mogadishu were established as joint efforts between community leaders, business people, religious leaders and the traditional elders. So far the traditional elders have been supportive of ICU, and will probably continue so provided the ICU concentrates on safeguarding the achieved peace and security. It is however doubtful that the ICU in the long run will be able to keep the peace and solve the never ending internal clan squabbles without the traditional elders. In other words, they too will have to recognize their potential role and importance in the Somali fabric.

### 3.4 Bordering Kenya

In Dadaab refugee camp, meetings were held with elders from the Darood clans there (*Ogadeen/Abdallah, Ogaden/Makabul, Harti/Dulbahante, Harti/Majerteen*), Gaaljeel, and the *Galgalo* minority.

Most of the refugees from these clans arrived in Dadaab during the civil war, and has remained since. Some of them, especially the Harti clans from Kismayo have tried to go back, but did not succeed, and the ones who did came back again because security in their area of origin (mainly in and around Kismayo) had not improved, and they had lost all their property there. Interestingly, they reproduced their traditional structures in the camps, despite the loss of many of their original elders, and also the fact that many of their high level elders stayed behind in Somalia. When they arrived, the elders from the various clans held a *shir* where they agreed on *xeer* that should regulate inter-clan affairs in the camps. Their *xeer* functions, in principle, according to the pastoralist *xeer*. However, they

have to run in parallel to the 'block/sector'-structure, which UNHCR established in the camps. There was a lot of dissatisfaction with these block structures, as the claim was that they had become dominated by local Kenyan-Somalis. Nevertheless, in cases where there is trouble between members of clans that had entered a *xeer*, they use their traditional ways of arbitration and resolution. However, if the case involves someone outside the *xeer*, for instance refugees of other nationalities, or Kenyans, then they must refer to the camp structure, the Kenyan Police and courts. In the camps, *mag* is paid, but only in cash as they are derived of their livestock.

The *Galgalo*, a minority clan, presented an interesting history. Their flight from their *Abgaal* oppressors in Middle Shabelle to Dadaab was an example of how a weak group may assume the lineage affiliation of another by claiming a common agnatic origin in order to achieve protection. Hence, they claimed to be *Marehan* or *Majerteen*, in order to flee with them in a larger protected group. This gave problems later on in the camp, when they decided to reclaim their old identity.

Meetings were also held with elders from the local Kenyan *Ogaden/Aulihan* clan in Dadaab. The traditional structures of the Kenyan Somalis have since the time of the British Colonial Administration been more or less integrated with the administration. In response to the drought, water related issues, and insecurity stemming from small arms and banditry from the border regions to Somalia and Ethiopia. The Kenyan government created hybrid structures involving formal governmental authorities, and the traditional structures and elders, in new security, water users, and education Committees. Hence, these committees have improved the local capacity in reducing crime, and have helped to manage and mediate internal conflicts once they erupt (See Menkhaus 2005, for more on this). There is still a lot of potential in building on the traditional structures in the border regions, on both sides of the Kenyan – Somali border, through mediated governance structures such as the above mentioned committees, and by letting elders meet across the border to mediate and negotiate conflict resolution.

### 3.5 Bordering Ethiopia

According to Hagmann, Somali *guurti* elders ('council of elders') were formally incorporated into regional and local administration of the Somali region in Ethiopia in the year 2000. Salaried elders advise the local government in matters of peace and security and assist in mediating violent clan conflicts. Institutionally, the establishment of the *guurti* elders reflects an application of Ethiopia's post-1991 'ethnic federalism' and ethnic-based decentralisation to Somali customary authority (Hagmann 2006). Hagmann concludes that the *guurti* elders play a vital but not uncontested role in a peacemaking process (2006). Although the state codifies the outcomes of blood compensation agreements, customary clan agreements (*xeer*) remain flexible. Ultimately, the Ethiopian state accepts to partly substitute its constitutional order with Somali customary law in an attempt to uphold political stability within its troubled pastoral lowlands.

At our meetings in Goldogob, Las Anood and in Hargeisa, it became clear that the traditional elders, from clans on all sides of the borders are involved in conflict settlement on all sides of the borders in the triangle area between Somaliland, Puntland and Ethiopia. The reason is simply because the clans reside on both sides of the borders, their traditional

transhumance pattern to Haud crosses the borders, and finally, traditional conflict resolution requires the involvement of elders from neutral clans, which sometimes only can be found amongst clans in the neighbouring countries. Hence forth, cross-border conflict resolution mechanisms in this entire region is a necessity – and support for that is perhaps a requirement for keeping peace and stability in that entire region.

### 3.6 Conclusions: The current status of the traditional structures

The role and status of Somali elders was revitalised after the civil war and the resulting state collapse. Traditionally, their role was paramount in: (i) pressuring conflicting parties to adopt a ceasefire; (ii) initiating negotiations between the parties; and (iii) passing a judgment according to their *xeer*. This is now again the case in Northern Somalia and largely in South Central as well. However, there is a paradox to this renewed importance of the traditional structures, as these same traditional structures are facing a crisis.

#### 3.6.1 There is a paradox

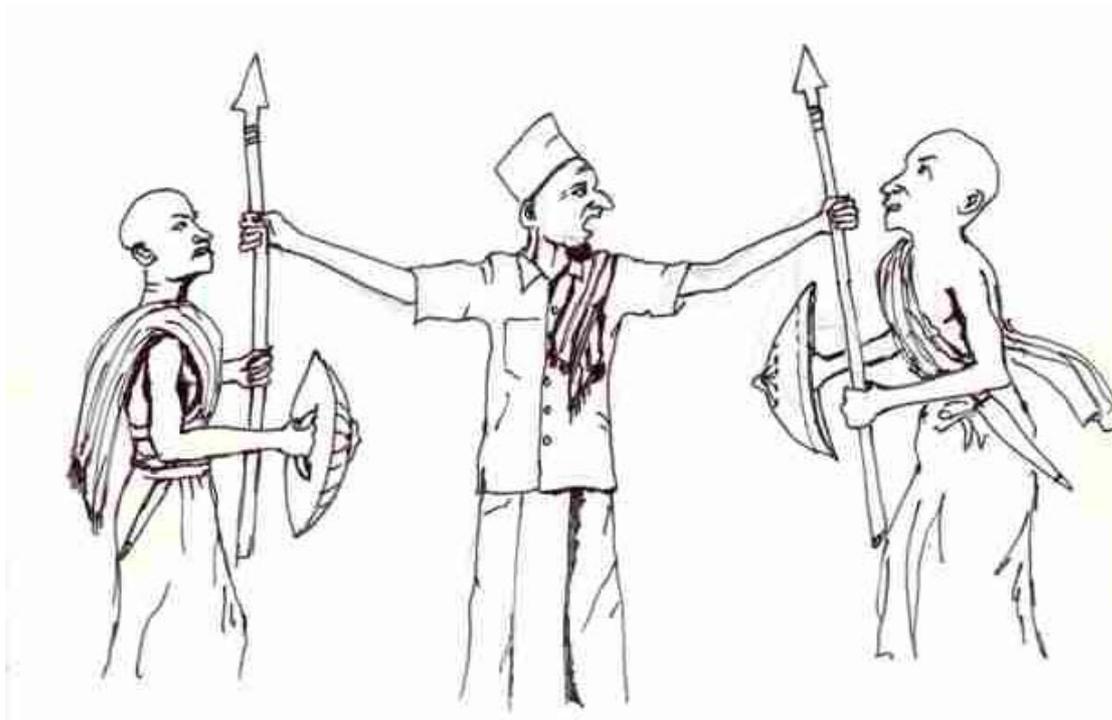
The main conclusion of this study is that the revival of traditional structures has produced a paradox. On one hand, the traditional authorities are the guarantors and creators of the relative peace and stability that exists in Somaliland, Puntland and locally in the South Central and their *xeer* is the glue that prevents a collapse into anarchy. On the other hand, the very traditional system is in crisis and risks fragmentation if it does not stabilised. This is evidenced by the proliferation of elders, especially the *Issim* level of elders. Hence, the paradox is constituted by a renewed dependency on the traditional authorities for peace and stability, while at the same time the very structure of the traditional system is in crisis.

The proliferation of elders, makes it increasingly unclear as to who are the legitimate elders, is a symptom of this crisis. Furthermore, the elders can hardly cope with the demand in terms of the amount of issues they are expected to address, because they lack resources, and knowledge about how modern governance and business sectors work, as well as of the rapid social changes that Somalia is undergoing (urbanisation, youth culture, and globalisation).

The ground for the crisis and weaknesses of the traditional structures include the following main observations:

Especially in the South, and since the colonial era, their role has been undermined by the modernising centralised administration (colonial and post-colonial). In addition, the elders themselves began to be perceived as corrupt as the Somali government tried to manipulate and pay them into loyalty. In this regard, the crisis of the traditional system stem from the forced changes that began during the colonial times, and that legacy remain.

However, the status and legitimacy of the elders underwent a renaissance during and after the civil war, and with that renewed respect. The paradox is that despite this renewed status derived from their successes in solving conflicts and managing clan affairs, it moreover increased the demand on them, a demand which they hardly could meet because they did not have the full capacity to adapt to the rapid social changes produced by the civil war.



Furthermore, except for SL and PSS, their ability to come together and lift crisis resolution to a higher level of regional and national peace was consistently undermined by the political manipulation of the faction leaders. This is an important source of proliferation of elders as sub-clans split into sub-sub-clans in order for them to choose a new elder that would be loyal to the given faction leader.

Another source of the proliferation of elders is the natural demographic factor of population increase, which happened at a more rapid pace than previously leading to an increased need to split *mag* groups into two or more, as they become too big for the *aqil* and *nabadoon* to manage. Consequently, many new elders were elected, who may not always possess sufficient knowledge of the *xeer*. Instead of splitting *mag*-groups, the strategy of choosing a second *aqil/nabadoon* is sometimes applied, which also leads to more elders.

### 3.6.2 The various layers of traditional elders

The different regional histories in the contemporary Somali lands have resulted in differences in the specific forms of traditional authorities. Indeed, the juridico-political structures are not uniform throughout the country. In general terms, the traditional layers of authorities with a high level group of lineage elders representing the clan family level, and a level of elders representing the *mag* paying group, are still found. However, the proliferation of elders has somewhat confused the clear distinctions between the two layers for elders.

Hence, there are variations in the titles used from one clan-group to another, from one region to another, and between the north and the south. In SL, they mostly use the term *Suldaan* for the clan family level of elders and *aqil* for the *mag*-paying group of elders. Apart from *Suldaan*, *Garaad* is also used for the high level elders. In Puntland, they have introduced the term *Issim* for the high level elders, which they title *Boqor*, *Suldaan*, *Garaad*,

*Ugaas*, *Islaani*, and *Beel Daje*, while they use *nabadoon* for the *mag-paying* groups. In the south, things are more complex and diffused; where the nomadic clans generally follow the same title structure as in the North, albeit with specific variations. In Hiiraan, for instance the *Xawaadle* call their high ranked elders are for *Ugaas*, while the Hawiye clans use *Imam*. Several of the agriculturalist minorities apply *Suldaan*. The agro pastoralist *Raxanweyn* people are now using the *Malaakh*, as their *Suldaan* no longer has the past status. The *Biimaal* still has a *Suldaan*, like their *Dir* and *Isaaq* cousins in the North. In the south *nabadoon* is mostly applied for the lower level of elders.

### 3.6.3 The relative importance and legitimacy of traditional leadership

Clearly, in Somaliland and Puntland, the traditional authorities gained new power, and their fundamental role in keeping peace and security is the back-bone of the relative stability of both administrations. However, their prominence and the structures that emerged in the process are evolving differently. Markus Höhne argues that the price of the rise to power of the traditional authorities is their popular legitimacy (2006). While this seems to be true for the level of *Issim* in Puntland, it is less so for the hard-working *aqiil* and *nabadoon* who are the daily managers of the *mag-paying* groups, whom the individual Somalis, and the formal government or not, simply cannot do without.

The immediate impression is that the level of *Issim* in Puntland is more important and respected than the same level is in SL. In SL, the *Suldaans* and *Garaads* have on one hand become more involved in politics, and have sought for influence as 'politicians' where-by they have lost much respect among their people, who still expect very high moral standards from their traditional leaders. On the other hand, they are no longer involved in solving the inter-clan conflicts as their colleagues seem to be in PSS. The *aqiil* seem to be more important relative to the *Suldaan*, who still are important, but have become political, while the *aqiil* are the important elders in the daily work. The *Issim* in Puntland were also directly involved in politics and the establishment of PSS, but have not institutionalised their power in a parliament, as is partly the case in SL.

The South-Central is ethnically more diversified, which is reflected in the social as well as political traditional structures there. However, the nomadic-pastoralist culture is perhaps dominant through force. While the *Raxanweyn/Digil-Mirifle* and the other minorities maintain a different structure, they have also adapted to the dominant nomadic culture and *xeer* to enter a peaceful coexistence with them. In a sense, the traditional structures are even more important for people in the south than in the north as there is an absence of government. On the other hand, they are often more manipulated and corrupted by political faction leaders and warlords. The TFG has yet to be institutionalised, and the elders were not the driving force in the creation of the TFG in the summer as they were in the establishment of the governments in SL and PSS. Hence, the elders' relationship to the TFG cannot be determined as yet. The same thing goes for the ICU, which since June 2006 control most of the South Central Somalia.

### 3.6.4 Who is an elder, and how are they chosen

The identification of 'real' and legitimate elders is important for Somalis as well as foreign agencies that want to interact and cooperate with them, because the elders are the carriers, and caretakers of the *xeer* and *mag-paying* arrangements. However, there is no common

way that an elder is chosen. Sometimes, an elder is found by heritage. This happens mainly for the *Issim/Duub/Suldaan* level of elders. It is not necessarily that the eldest is chosen. A *shir* is gathered, which decides on the criteria and attributes they need and expect from the new elder. This is also the way *aqiil* and *nabadoon* are chosen, however, here they may very well choose someone outside the incumbent elders' lineage. Other elders, or *odaay*, emerge by respect and recognition of the attributes of the given person, who may be an intellectual. For such elders, no formal election takes place.

Given the proliferation and manipulation of elders, which have led to many elders with a dubious legitimacy, it may be difficult to prove the elders' legitimacy. In SL they have reintroduced the British Colonial system of registering the *aqiil*. Legitimate elders could also be found, as suggested during the field research, by making a survey of the existing *mag*-paying groups, which is the most stable socio-political unit in Somalia, and have them point out who their *aqil/nabadoon* is. In Baidoa a *Malaakh* suggested the following approach: "What you have to do is go bottom up, call the clans, the *jilib* and make them point out who their real elders are. These should then be registered at the new Ministry of Interior". In this way, it is possible to identify the most important elders, who at the same time also are the ones who maintain the most intimate and accurate knowledge of the individual members of the *mag*-paying groups. They are a resource, and their capacities can be very useful in making community needs assessment, making census of the population, identifying citizens, and introduction and management of ID-cards.

### 3.6.5 The status of the *xeer*, and the challenges of change

The importance of the *xeer* is indisputable, as the *xeer* are applied in solving up to 80-90% of all disputes and criminal cases. The *xeer* and the customary practices are usually described in general terms, but as revealed through the focus group meetings with the traditional elders, the *xeer* are traditionally always concrete, specific contracts entered bilaterally between clans, primary lineage groups, and first of all the *mag*-paying groups who have a historical relationship of interaction.

The *xeer* are not static, but are constantly changing, and are changeable, which is the opening that makes progressive interventions together with the traditional elders - a plausible option. The DRC experience in Toghdeer region in Somaliland is a case in point, which shows that the *xeer* can be 'lifted' from being 'bilateral' to 'multilateral' arrangements, and formalised by writing them down and having them registered.

However, the *xeer* has not continued to develop as quickly as the Somali society has changed since the civil war. The *xeer* is especially weak in urban contexts, where the new social mix of clans and sub-clans generates problems where no bilateral *xeer* exists between opposing groups. Crime in the urban context is an increasing challenge to the elders, to which they need to adapt their *xeer*. Still, the *xeer* are sporadically and ad.hoc applied in the urban context, as well as being applied in other new/modern economic contexts. *Xeer gaar* are examples of traditional professional norms, which shows that in principle *xeer gaar* could be applied to professions within the modern economic sector. However, while the *xeer* contain explicit provisions for subsistence production relations, access to and use of land, water and forestry resources, as well as farming, livestock rearing and fishing, they are largely undeveloped in terms of the recognition of private property and lack standards to regulate commercial activities.

The *xeer* in the South Central parts of Somalia face even deeper problems than in the North. First, the number of criminal acts has increased substantially, and the elders who used to make decisions based on detailed knowledge of local events now do not know many of the individuals that sit before them or what activities those individuals have been involved in. For some clans, the death toll from the civil war has resulted in enormous *mag* obligations that virtually no group is willing or able to pay. Adaptation of *xeer* has been rudimentary. For instance, collective *mag* adjudication is applied when a series of militia clashes result in large-scale killing. Secondly, the traditional authorities are in a weak position to handle the conflict issues that have arisen from the civil war, and for which no *xeer* code exists, including the irredentism of warlords seeking to take control of another clans' land, militia clashes over checkpoints and their revenues. Thirdly, many of the elements of *xeer* that helped to maintain social order and a cohesive and supportive family structure are being undermined by militia leaders, *mooryaan* (bandits), westernised returnees from the diaspora and others who disrespects their authority, which is compounded by the increasing prevalence of drugs. Fourth, because lineages larger than the *mag*-paying groups may be united temporarily in paying *mag*, the amounts paid by individual members may be infinitely small. Thus, while exchange of *mag* removes the immediate enmity between feuding clans, it may provide only a limited deterrent to continued bloodshed, and revenge killings.

### 3.6.6 Positive aspects of *xeer*: *Wanaag*

A way forward towards building strong and good governance in Somalia may be to build constructively on the positive aspects of the *xeer*. In any case, rather than introducing foreign concepts of governance, and a language, which the local people do not understand, it may be much more fruitful to embark on the basis of the traditional Somali governance terminology and concepts. The following positive aspects of the *xeer* can be a useful point of departure:

- The *xeer* are specialized in conflict management and resolution, and it is the traditional elders who possess these skills.
- The elders' ability and capacity to reach consensus is vital because when government has to accept decisions; there must be consensus between all the clans involved.
- The principle of *birimageydo* (those who are not allowed to be harmed, which is considered as *haraa*). This is seen by women as important for strengthening the elders' morale in protecting women and children, and can form the basis, or point of departure for increasing the protection of vulnerable groups, minorities and IDPs (See section 5 below).
- The traditional practice of forming clan alliances can also be used in a positive manner, as a way of creating unity as part of peacemaking. This can also be a way of providing IDPs and refugees with rights and protection within the traditional jurisprudence.

### 3.6.7 Negative aspects of *xeer*: *Xumaan*

Addressing the positive aspects of the *xeer* can be used much more constructively by the elders to live up to the Human Rights standards. However, the interventions by the DRC have so far primarily concentrated on addressing and changing the negative aspects of the *xeer*. The focus and point of departure taken by the elders in the workshops has been on the negative *xeer*, which are not in correspondence with Sharia, and which are perceived to be a hindrance for the prevention of revenge killing cycles. Nevertheless, the assessment is that they can be closer aligned with HR and IHL; apart from the negative *xeer* raised by the elders in the Toghdeer workshops. The following are the most important negative aspects emphasised by elders, youths and women, which interestingly are not so much about the *xeer* as it is about the structure of the traditional authorities in itself, and the access to decision making, which also is a *xeer* in the sense that the rights and access to influence too is determined by an unwritten code.

- Elders may also fuel conflict, and may do it indirectly through young men.
- Their memorisation of past relations, going far back in history can be as useful for war as it can for peace.
- Elders becoming politically ambitious, this politicization of the elder institution is partly due to their semi-political roles, and some elders' corruptibility. Consequences are that elders may lose their integrity, and there may be a proliferation of elders.
- Distribution of *mag* is discriminatory towards women, and can be embezzled and manipulated by the stronger.
- Women are not invited under the tree, but they still pass their views behind the curtains to their husbands.
- The practice of the clanism.
- Consensus based on inter-clan agreements is strength, but the lack of appeal in the traditional system may lead to conviction of innocents, which cannot be reversed and is endorsed by both clans. This can be basis for grievances that lead to revenge killing cycles.

### 3.6.8 The relations between traditional and formal governance

In 1961, IM Lewis found that it is mainly the threat of retaliation that may deter different *mag*-paying groups from disregarding a *guddi* decision (*daabad*), hence the ultimate sanctions that underlie negotiation are those of force and feud (Lewis 1961: 244). Even government intervention is only a little deterrent to continue bloodshed, especially if the spread of blood wealth (*mag*) means that those directly implicated only bear a little liability. This observation still remains true, and is the prime reason that modern governance cannot stand alone in Somalia. This is also the foundation for the system in the two most well functioning areas today, Somaliland and Puntland, where they have established a government which only functions on the basis of extensive interaction with the traditional authorities. The strength of these two governmental formations is their hybrid construction linking modern and traditional forms of governance, politically as well as jural. As evidenced in both places, they need each other in order to fully engage in keeping peace, law and order.

However, the traditional authorities today emphasise that they too can't stand alone in the long run, and do need governmental support functions, especially in law enforcement,

provided it is their *xeer* or a state law endorsed by them that is being enforced. Hence, the traditional authorities today are ready to assist any new government in ensuring the application of laws and maintaining peace.

In the framework of modern government, the main political and natural role of the traditional authorities is to ensure the political stability and accountability of the executive government. However, emerging evidence show that the involvement of the traditional elders in governmental politics has a tendency to undermine their authority, and in worst case corrupt them. Nevertheless, the complementary capacity of traditional authorities to modern formal government seems obvious: A House of Elders, such as the *Guurti* in Somaliland, can back-stop and solve political conflicts in government and prevent an escalation in conflict, using the traditional conflict resolution mechanism.

The effectiveness of the lower levels of elders can only be increased if they can generate additional resources of their own; the possible sources being a combination of government, business groups and organised community contributions. That would reduce their need to undertake *shahad* (or solicitation of personal financial contributions from their clan members). Many elders are reliant on *shahad* as their primary source of household income, although such 'begging' demeans them in the eyes of their clansmen and compromises their impartiality in settling disputes.

### **3.6.9 The traditional relation between religion and governance**

The Somali society is not only traditionally Islamic, but also traditionally secular as the system is based on a division between *wadaad* (those who devote their life to religion) and *waranleh* (those who take up worldly affairs – the spear bearers or warriors). This means that the religious men (*wadaad*) have to keep to religious affairs, while the daily political and judicial affairs are the domain of the *waranleh*. This division may, however, be more prevalent among the northern pastoralists than in the south. Henceforth, another important difference between the South and the North, apart from being more hierarchical, was the overlap between religious men and political office.

## 4 Linking customary laws with human rights and IHL

While it is simultaneously a force for justice and social cohesion, *xeer* also conflict with both international human rights standards and the Islamic sharia law. In general, the collective responsibility imposed on *mag*-groups by the *xeer* is seen as removing responsibility from individual perpetrators of crimes. Indeed, the fundamental challenge is that the *xeer* is based on a collective rather than individual rights principle. This is further compounded by the fact that the rights protected collectively are first most those of the *patrilineal* – that is male-based – lineage units, where women ultimately are defined merely as the property of such units. This has some important implications for the ways that traditional structures interlink and can be matched with principles of human rights and International Humanitarian Law (IHL), which underpins the international standards for protection of women, children, weak and vulnerable groups, refugees and internally displaced (IDPs).

### 4.1 Women and children's rights

Generally, the fundamental human rights in Somalia for women, children, minorities, other vulnerable groups and IDPs are not guaranteed. Gender equality is not present within the traditional system as women are not allowed under the tree, or may take part in the *guddi* when decisions are made.

A number of *xeer* practices are specifically in contrast with Human Rights standards as well as Sharia law. One example is the practice of *dumaal*, or rather the forced *dumaal*, where a widow is forced to marry a male relative of her deceased husband. This does however happen voluntarily, with the consent of the widow, because the bond of family and attachment of the children to her deceased husband's family is seen by her as overridingly important. Forced *dumaal* is however not widely practiced any longer. Another custom is forced *higsiisan*, which is the forced marriage of the sister of a deceased wife to the widowed husband. *Godobtir*, the forced marriage of a girl into an aggrieved clan as part of a *mag* payment, or to ensure a peace-deal with another clan is still practiced in some parts of Somalia.

A more serious rights violation is the practice of forcing a raped woman to marry her perpetrator. The justification for this is to protect the woman's and the clan's honour, and to ensure full payment of her *yarad* (dowry) by the attacker's clan to the victim's clan, because otherwise her value has been 'lost'. As marriage also solidifies a bond between the clans of the man and woman involved, further violence is also prevented. Domestic abuse by a husband against his wife is generally tolerated unless the harm becomes so physically damaging or persistent that it is socially disruptive. According to the chairman of court appeal in SL, one set of *xeer* applies if the woman is single, another if married and yet another if a widow. In each case, there are different levels of camel compensation, and reflects how the patrilineal clan system regards the status of women. If the woman is married with children, the compensation is 50 camels, and is given not to her but to her husband. If single, it is only 25 camels. If a widow, it is only 10 camels. If Sharia is followed, and the rapist is a married man, then he should be sentenced to death. But, if he is unmarried he will get 100 slashes.

Women are traditionally denied the right to inherit property, and to play any direct political role because women traditionally are not trusted to be sufficiently loyal to their husbands' patrilineal clan structure. Vulnerable children, poor children and orphans, may be deprived of education, forced to work to survive, and may be subject to sexual violence. Under aged, especially in the South, may also be enrolled in militias. Disobedient children may be sent to prisons, where there is no segregation between children and adults.

## 4.2 Minorities

*Ama buur ahaw ama buur ku tirso* - Either be a mountain or attach yourself to one.

One of the negative aspects of the Somali tradition is that the rights of groups effectively are protected by force, or threat of force (Lewis 1961: 242). Hence, the tenure of rights depends ultimately on the ability to defend them, by coercion if necessary. This is also the case for individual security, which rests upon their *mag*-paying groups' ability to fight, and the solidarity between the *mag*-groups of the wider clan and their fighting capability. They must therefore both be able to retaliate and pay compensation. Hence, the lack of impartial enforcement mechanisms may present problems when a militarily strong clan openly refuses to comply with a judgment that favours a militarily weak clan. As a result, Somali minority groups are heavily discriminated against through *xeer* application.

Apart from the *Benadiri* and the *Bantu* minorities such as the *Shiidle* and *Gosha*, there are several so-called out-caste clans in the Somali society, who have been regarded as inferior by the Somalis. These minorities are collectively known as *Sab*. They are traditionally bondsmen of the pastoralists and practice various but despised skills. For instance, the *Gabooye* is in the North composed of the *Tumaal* (blacksmiths), *Midgaan* (shoemakers, hunters and gatherers, poison makers, and hairdressers) and *Yibir*.<sup>19</sup> In the South, the *Yibir* are described as distinct from *Gabooye*, and in addition you find the *Galgalo* (woodcarving), *Madhiban*, *Yahar*, *Boon* and *Eyle*. Internally the *sab* may have segmented lineage systems along the Somali pattern. They can only have relations with the Somali through an *abbaan* (Somali patron). Traditionally, intermarriage between *sab* and Somali was not accepted. They are traditionally denied the right to own land or livestock, to participate in the local businesses, market economy, or politics.

In the Somali tradition, weak and scattered clans may be driven to seek protection from the stronger clans in the areas where they settle, and enter a protection status with them. Such alliances of contractual agreements between weak and strong clans are known as *gaashaanbuur* - pile of shields. Hence, minorities can seek protection by attachment to stronger lineages by joining a *gaashaanbuur* coalition (Lewis 1961: 255). There are varying degrees of adoption and of incorporation within stronger lineages. These range in degree of dependent status with associated inferiority from neighbour (*deris*), appendage (*saar - parasitic creepers*), followers (*soo raac*), to pretenders (*sheegad - those who claim to be what they are not*). In the latter version, the weak group may assume the lineage affiliation of its protectors and may claim a common agnatic origin. The flight of the *Galgalo* from Middle Shabelle to the Dadaab refugee camps in Kenya, during the civil war is an example, as

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<sup>19</sup> Members of the *Yibir* can be found along the coast in Mogadishu and in Bosasso, Borama, and Burco. They claim that they originate from the early Hebrews in the Horn of Africa. The members of this minority group collect the *Samayo* from newly-born babies and newly-married girls and do not involve themselves in any other tasks in traditional Somali society.

they found protection during their flight by assuming lineage affiliation to the *Majerteen* of Kismayo. Nevertheless, the Somali family to which the *sab* are attached protects them vis a vis other Somali; and are responsible for any damage they inflict. The extent to which the *sab* presently have managed to set up their own independent *mag-paying* groups need to be investigated further. The lesson is that adoption of weak clans does occur, and it is possible to move the stronger clans into compromise with their traditional position. When it happens, the stronger clans may even pay *mag* for the adoptives.

#### 4.3 Protection of IDPs, refugees and returnees

The situation for especially the Internally Displaced (IDP) in Somalia remains severely grave. They are often relegated to camps, or enclosed land spaces, and are deprived of most of their rights, and can only access the worst jobs if any. Furthermore, the camps in which they live are very insecure, and often subject to rape assaults, theft and other violations. In the South, this threat is especially posed by the freelance militia. In Mogadishu, Kismayo and Bossaso, the phenomenon of the 'black cats' who control access to the camps, in order to reap benefits from international aid, are notorious. The perceived majority of IDPs in Somalia in general originate from Bay and Bakool, and hence are *Raxanweyn*. Despite the severe condition, many of the IDPs opt not to return home, because they do not think they can survive back home without having some livestock. The *Raxanweyn* are agro pastoralist, and therefore need livestock to be able to re-enter their home communities, and be allowed back in to their local *xeer* there. Furthermore, they suspect that their farm land has grown over with shrubs, and claim that it is not possible to cultivate the land by hand without aid.

The IDPs do sometimes have their traditional elders with them or elect new ones, but very seldom have they been able to enter any protection *xeer with* their host communities. Their functions are therefore mainly to care for the collection of *curfin* and other funeral expenses. Based on the principle of strength, these elders are considered weak, and hence not respected. The elders of the IDP can therefore not guarantee or protect any rights of their community if it comes to a conflict between them a person from the hosting clans. Hence, there are no *xeer* between resident clans and IDPs. However, this contradicts many of the provisions in the traditional *xeer*, which says that when people seek refuge to a given area there must be a 'host' clan that protects them. The land they reside in will still belong to that clan. According to the tradition, non-agnatic guests are assigned a protected status with their hosts described as *magan*. The protecting group does not accept full responsibility for the lives of those assigned this position, but gives general sanctuary. However, infringements of the *magan's* protected status bring dishonour and shame. If the protected status is violated, their patrons are obliged to vindicate their name by seeking vengeance or compensation, which is due to the *mag-paying* group of the guest/*magan*. Often a protector is assigned to ensure the protection of the *magan*, and is referred to as *abbaan*. A fee is given to the *abbaan* for his work as a protector. This *abbaan* can represent the guests and protect their general interests.

The fact this tradition is not practiced may be explained by that the host clans may have been overwhelmed by the sheer number of IDPs, and that clan structures have not been sufficiently functional in the urban areas where the IDPs settled. Another reason is the interventions and approaches of international humanitarian aid, which discouraged the traditional norms and obligations, by not being sensitive to the local traditions, out competing them with food and shelter aid, and overwhelming the local capacities with the

aid machinery. The reactions by host clans were largely to leave their obligations to the international aid community and instead compete for the aid resources. The assessment of this study is that this can be reversed today. However, the precondition is that the international aid agencies leave their technical aid language behind, and instead enter a dialogue with local traditional elders and other community leaders with the aim of reviving the humanitarian provisions and obligations in the traditional *xeer* using their language. This can be done in tri-partite workshops between the traditional elders of the host clans, the elders of the IDPs and representatives of the international agencies, with the aim of establishing a local protection *xeer*.

#### 4.4 Conclusion

It may be that the Islamic Sharia Courts are delivering an immediate solution to the challenges facing the increasingly urbanised and individualised society, which is perhaps the most significant threat to the traditional structures today. It is therefore important to observe the ongoing changes, because the traditional structures, the combination of *patrilineal tol* and *collective xeer*, comes under threat when the Somalis, especially in the rapid expanding urban part, increasingly becomes potentially independent from their kins via their acquisition of individual ownership. Such developments have vital implications for interpretations and understanding of Human Rights and International Humanitarian Law. This is because they are based on individual rights principles, in contrast to the *xeer*, which is primarily based on a collective rights perspective. This is the predicament that the *oday* are facing today, because as long as the Somalis are dependent on their kinship lineage for security and protection, physical as well as social responsibilities, duties, rights and liability will continue to be perceived along collective rather than individual terms. Hence, the clan will remain collectively responsible for actions of its individual members, and rights of women and children will continuously be seen in the context of the interests of maintaining the strength of the male-based clans.

## 5. Elders, reconciliation and constitution

If the vital foundation of a state is that its designated citizens identify with it and believe in its constitution, then it is likewise vital to ensure their full participation in its formulation. Accordingly, the very idea of the state framed in the given constitution must correspond with the citizen's perception of what a viable state should be, including the structure of the state and its institutions, territorial delimitation and membership (citizenship). In Somalia today, there are several state-formation processes that either develop independently of each other or are linked in various ways. The role of the traditional elders herein varies accordingly.

The main international focus in terms of peace building and state building in Somalia is about rebuilding the state of Somalia that collapsed in 1991. There have been 14 past attempts at doing this, and the latest process that ended in 2004 led to the establishment of a Transitional Federal Charter (TFC), Transitional Federal Parliament (TFP) and finally a Transitional Federal Government (TFG). It is within this framework that the current constitutional process is thought to unfold. However, the TFG has had a turbulent life so far, and has not been able to establish itself institutionally, and is temporarily located in Baidoa in Bay region where it has not even been able to exercise any monopoly on coercion. On the other hand, Mogadishu, which is the designated capital, is now under the effective control of the Islamic Court Union (ICU), who in contrast is able to perform a monopoly on coercion, and has established de-facto law and order institutions.

The TFC and TFP was a process, which first of all was based on the strong politicians and warlords, and only secondarily on the traditional authorities, who were brought in to represent the clans in special flights. Hence, the TFP is based on a clan-constituency principle, known by the factor 4.5 (4 for the big clan confederations *Daarood*, *Hawiye*, *Dir* and *Raxanweyn*, and .5 for the minority groups). This principle in itself means that the traditional social structure of the Somalis is at the heart of the political structure of the TFP, and as such it is logical that their traditional elders should play an important representative role. However, this was not exactly the case as the politicians and warlords managed to manipulate with the traditional authorities to their benefit, with one consequence being a diffusion, proliferation and deligitimisation of especially the highest ranked traditional elders. An important reason this happened in this way was that the peace process itself was located in Kenya, outside Somalia, hence making it difficult for the traditional elders to control the process.

Given that the traditional elders at the local level still maintain a high degree of legitimacy and trust from their kin, it seems obvious that they should be involved in any constitutional process. Reasons include their de-facto role in keeping peace and order in rural as well as urban Somalia. Their role as an entry point to the local communities, and finally that the traditional *shir* managed by the traditional elders is the perfect forum for bringing the issues of the constitution out to the people for discussion and amendment.

Somaliland and Puntland have both undergone constitutional processes, and may very well form a useful model for the TFG-process. The most successful constitutional process so far is the one carried through in Somaliland, which significantly was driven forward by the traditional elders, through the *shir beeleedyo* in 1991. They formulated the first charter that pronounced the independence of the Republic of Somaliland (Farah & Lewis 1993).

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Several such *shir beeleedyo*, conducted in the traditional way, was held until the final constitution was drafted and sent for referendum in 2001. As mentioned, the traditional elders were an integral part of the entire process, and the final political structure of Somaliland includes and integrates the traditional authorities. Likewise, the PSS was basically founded by a *shir beeleedyo* composed of the *Issimo*. However, they are not formally integrated in the same way as in Somaliland.

For this reason, the recommendation here is that the traditional authorities can and should be involved in constitutional processes, and that the suggested methodology for working with the traditional elders in Somalia could be a useful framework for supporting their participation in such processes. The methodology can also potentially apply to add the voices of the Somali refugees located in refugee camps in Kenya. This could also be seen as a beginning of a dialogue between the traditional, national/regional government structures as well as between the civil society throughout Somalia / Somaliland.

## 6 A policy framework: Traditional elders as partners

In developing countries, such as Somalia, the state is often weak, and its presence in rural areas is often small. However, the absence of the state does not mean that there is no social and political organization. In Somalia, the traditional structures survived the colonial as well as the post-colonial period, and people maintained their traditional forms of social organisation. Hence, after the state collapsed, the traditional structures were revived as the most important socio-political structure in organizing the life of people at all levels despite efforts to re-establish modern state structures. In fact, the two most stable administrations in Somalia today, Somaliland and Puntland, are largely established on the initiative of the traditional leaders. Even where there are formal governmental structures, the traditional authorities still regulate village/community life, control access to land, and maintain security through customary conflict resolution mechanisms.

Successful sustainable post-conflict and in-conflict development is a lot about building stable polities and good political institutions. This can only be done if there is meaningful popular participation in decision making processes. Traits such as transparency, accountability and responsiveness must too be there, to ensure efficient policy-implementation. Furthermore, stable and good governance must also be legitimate, socially inclusive, respect human rights, be based on rule of law and division of powers, which all in theory are related to modern governmental institutions. However, the argument in this study is that the Somali traditional structures do possess aspects of good governance, and can complement modern institutions with legitimacy and checks and balances.

This does not mean that supporting the traditional structures is the only way forward for the Somalilands (in plural). Indeed, there are negative aspects, practices and values that are in contradiction with the values of human rights, international humanitarian law, women's rights, even with the values of traditional authorities. The latter, the *oday*, are the safe-keepers of the Somali traditional systems. However, they may at times be conservative, aggressive, clannish and even corrupt. Nevertheless, the main role of traditional structures is to regulate community life. They may not possess the social welfare mechanisms of modern states, such as redistributive administrative functions. But, the argument is that they with little support can play an important role in the development of a state, which in the Somali context is in the service of the public interests. Indeed, supporting the ongoing modernisation efforts by the traditional authorities could be far more effective than trying to establish or improve modern state structures top down.

The Somali traditional authorities are generally praised for their ability to solve disputes, and seek conflict resolution between the clans. Their unselfish and overriding efforts to keep peace and ensure compliance to the *xeer* by clans is what is generating and re-generating their legitimacy. However, clan-elders can also be seen as aggressive in waging war against other clans, which in fact make an elder legitimate in the eyes of his own clan. However, this success of the traditional structures in Somalia is also a weakness in a society that is undergoing massive social and cultural changes along processes of urbanisation and modernisation (today mobile phones are connected almost throughout Somalia, and internet and Satellite TV can be reached in all major urban centres), and their resources and capacities are stretched to an absolute limit. They can no longer meet the demand, and they get very few resources to perform their functions.

Given the de-facto, even if informal, institutionalisation of the traditional structures in both Somaliland and Puntland, it is tempting to simply devolve the traditional authorities with more support to enable them to fully unfold their legitimate roles in society. However, an uncritical application of such an approach would amount to a kind of neo-traditionalism where the risk is an institutionalization of the clan-based and negative aspects of the *xeer*, which further could constrain the path towards more stable polities for the Somalis. The *xeer* is efficient for the regulation of inter-clan affairs, but less so between individuals. Two persons may not have the same rights and protection, because *xeer* is linked to clans and their area. There is no individual citizenship as such, and newcomers to an area have to try to settle an agreed position with and in relation to the different dominating clans residing in the area, which often is the case with IDPs in Somalia today. Supporting the traditional structures must therefore be followed up with support to Somali agents who critically, but constructively, can raise difficult and controversial issues linked to the *xeer*.

Elders need resources to be able to meet across their clans. Often age-old animosities are allowed to persist simply because the clans only know each others' past negative aspects. However, if they meet more often there is a chance of closer social interaction and hence mutual understanding and respect. The corruptibility of elders is another problem that needs to be addressed, since such elders often lose their legitimate respect because their practices contradict their very value system.

## 6.1 Working with the *odayaal*

The traditional system in Somalia is not just conservative and backwards, it is also modernising and changing, in its own way. It is into this process that any intervention with the traditional elders enters, and should be sensitive to. A possible way forward, in working with the traditional authorities and support their development is shown by the DRC counterpart in Somaliland, the local NGO 'Haqsoor' which is founded by traditional elders (Justiniani 2004). Their idea is to devolve the traditional authorities, mainly the *aqiil* or *nabadoon* level of elders, as the most important and potent 'agents of change'.

The traditional system of governance is based on the *xeer*, and strong and respected figures, the *odayaal* – elders – enable it to be functioning. If this system is to contribute to a new Somali way of good governance, then the values attributed to the traditional leaders, such as honesty, accountability and fairness is not enough. The focus must be set on changing, and formalising the *xeer*, ensuring that new *xeer* are shared multilaterally between the clans on regional- or even nationwide basis, rather than the present bilateral basis between neighbouring clans who have a historical relationship between them. The objective is to create change, not just by targeting the elders, but by enabling them to improve their *traditional practices* based on their *xeer*, and align them with human rights standards.

The suggested methodology is in fact simple. Resources can be channeled into facilitation of meetings (*shirs*) between the elders of a region, or larger clan groups. Workshops can be organized, and human rights or other kinds of advocacy can be applied. The aim of such meetings is similar to the traditional *shir* meetings, where issues between clans or within clans are solved and new *xeers* may develop.

Since Rome was not built in one day, the results of engaging the elders in this way will also not show immediate results. However, the strength of the wider multilateral agreements and understanding between the Somali clans cannot be underestimated. Just as this methodology can be applied to increase security between clans, for instance by containing revenge killings, it can also be applied for other state-building objectives such as the ongoing constitutional process. Involving the elders might be the only way to construct a constitution which really is rooted in the Somali population.

The Islamic Courts Union (ICU), to the extent that they also seek legitimacy, will also have to involve the traditional structures. Hence, they too will have an interest in centers where issues of community concern and development can be addressed. However, while it is clear that the Sharia Courts of the ICU in many ways is a competitive security, law and order institution to the *xeer*, it is still unclear to what extent the traditional authorities support and work together with the ICU, and vice versa. Undeniably, in many places in South Central Somalia, the traditional leaders has opted to set up Sharia Courts as a necessary supplement to their customary practices, especially in cases where their power is too weak to enforce their decisions. As long as the sharing of *mag* is the glue that ultimately keeps the Somalis together, making the *mag*-paying groups the most important socio-political units, the *xeer* and the elders will remain a vital institution. Hence, even the ICU will have to replace this fundamental function of the *mag*-paying groups, if they want to replace the role of the elders.

The suggested methodology can also be applied for the purpose of specifying how the traditional authorities can function as development partners, at national, regional, as well as community level. The main problems of external aid in Somalia are: a) Difficulties of access when aid is perceived as culturally and politically sensitive to the Somalis, b) Access limitations due to conflicts arising from contractual disputes with the aid agencies, c) Failure of aid programs due to not being based on proper participatory local needs assessments. The elders and the *xeer* may be used in this context too, by establishing agreements (development *xeer*) on how aid should be shared, how accountability towards the beneficiaries can be maintained, and how the interests of the weak, poor and vulnerable can be ensured.

The role of *aqiil* and *nabadoon* can be strengthened by helping them to establish inter-clan traditional authority centres, houses or compounds with an acacia tree in every region, which could function as associations for the traditional elders that enable them to meet more often on a multilateral clan basis, where they can hold their *shir*, and change their *xeer*. Other purposes of the centres could be to hold training or focus-workshops that identifies ways to improve their practices and *xeer*, raise their collective associational interests towards government (without actually being government), and finally hold forums where constitutional issues can be debated. For development partnership, these centres can help international aid agencies identify the legitimate and relevant local traditional elders they should interact with.

### 6.1.1 A possible operational plan of action:

The first step in a possible plan of action could be to initiate meetings/workshops with traditional leaders in a given region. The aim is to identify first priority steps for strengthening their roles and functions, and establish a network of traditional elders who are actively interested in developing their institutions across clan lines. These meetings

should also identify and address the negative (*xumaan*) and positive (*wanaag*) aspects of the *xeer*.

A supporting agency, or another kind of arrangement, should be set up to assist the elders in facilitating the workshops, managing their affairs, building their capacities, implementing their intervention schemes, running awareness campaigns etc. In addition, to the supporting agency, a Somali legal adviser could be useful, on a regional basis, to assist the elders (and government) in understanding and addressing the three tier legal system that exist in most of Somalia. The new young universities in SL, PSS, and Mogadishu do educate lawyers at Bachelor level with a specialisation in customary law. These graduates would be ideal for such positions. The legal adviser could also be used to guide the individual members of the communities on how to address their elders if they find that difficult, discuss their cases if they are uncertain on their rights, and on how to prepare cases before going to the *guddi*, as well as guide women, and help them decide whether they are better served in the customary, sharia or in the formal legal system.

The second step could be related to physical assistance in building centres/houses for their meetings and administration. It is important that all physical support must be based on principles of minimal sustainability meaning that maintenance of physical structures must be possible within the available local resources, and are not dependent on external aid. Ideally, the construction of associational centres to the traditional elders could at the same time function as a community centre, and include buildings that have space for a big *shir* (large meeting up to 200-300 people, or even better alternatively, or additionally, a big outdoor yard preferably with an acacia tree in the middle or the like, around which the elders can assemble. Two smaller meeting rooms could be built for the purpose of *guddi* meetings, arbitration etc., an office room, bathroom, and a kitchen. The purpose of an office is to provide space for administration of their affairs, which could include registration of case outcomes, registration of *mag*-paying groups, registration of *aqiils/nabadoons*, organisation of logistics, fundraising, communication, and organisation of workshops etc.

Facilitative support for the traditional elders' activities aimed at avoiding conflict escalation and seeking conflict resolution could be given to cover their intervention and meeting (*shir*) costs. Such support should only be given in connection with a clear and transparent cost-sharing scheme, where it is clear to everyone that there is no personal benefit to the elders from the given support. The assistance could be provided for costs and facilitation of workshops that address issues of changing their *xeer* or other issues the elders find important, and training of elders in HR, IHL, good governance, Sharia and formal law. Protection of vulnerable groups, minorities and IDPs can be taken up in tri-partite workshops aimed at establishing a multilateral protection *xeer* based on the traditional codes. Workshops can also be used for purposes of bringing the wide range of elders into the constitutional debates. Awareness campaigns conducted by cross-clan groups of elders to inform their communities about decisions on changes of their *xeer*, is vital for the success of these programs and should be carried out after all workshops or *shir* that lead to decisions. Other campaigns on public issues such as environmental protection or health issues can be added at later steps.

A third step, could be support for peace time meetings (*shirs*) enabling elders who usually do not have resources to cross vast distances to meet regularly with each other. This is seen as an important factor for conflict prevention, since the better the elders know each

other, the less inclined they will be in leading their clans into conflict with each other. This could also increase the chance and viability of establishing formalised multilateral *xeers*, or reconfirm new and old *xeer*.

The fourth step could be to identify funding mechanism for the elders' daily work as law and order institution in society, which primarily should be based on locally generated sources, used to cover their need for vehicles, fuel and food in connection with their interventions. On the traditional elders' request, support could also be given to strengthen communal policing, governmental police, prisons and the standards of the governmental institutions they interact with.

The fifth step could be to assist the elders in establishing a think tank to discuss improvements and strengthening of the traditional structures, which eventually could lead to an inter-clan association of traditional elders, with its own non-state council of elders, a *Guurti Odaayal*. This should not be confused with the parliament or House of Elders in SL. The purpose should be to strengthen the common interests of the elders across clan-lines, toward political and governmental institutions and bodies as an interest association.

### 6.1.2 Potential use of elders associational centres:

- Revision of *xeer* with focus on: *Wanaag* (positive aspects ) vs *Xumaan* (negative aspects) of *xeer*, or entering new ones
- Formalisation of *xeer* (writing them down and registering), lifting them to multilateral levels, involving several or all clans rather than the existing bilateral inter-clan *xeer*.
- Align *xeer* with human rights for women, children, minorities and vulnerable groups.
- Align *xeer* with IHL especially conduct in warfare.
- Constitutional process, including the judiciary system
- Advocacy for the neglected children and IDPS
- Discuss and solve issues, and perhaps establish *xeer* related to
  - Protection and rights of vulnerable groups (especially women and children), IDPs (land, shelter, protection, return), and minorities.
  - Land disputes and land tenure.
  - Environmental protection.
  - Water management and access rights.
  - Health campaigns, touching upon cultural sensitive issues (FGM, HIVAIDS etc.).
  - Disarmament, demining and mine risk education.
  - Community management and needs assessments.
  - Peace and reconciliation process at district/regional level, and establishment of regional administrations.
  - Accountability, checks and balances in political system/governance at local and central level.
  - Negotiate *xeer* for development partnerships, including accountability and checks and balances in development partnerships from beneficiary perspective.

For the community centre, there could be attached a legal adviser who serves individuals and elders on their uncertainties about their rights in the three tier-legal system, and how to approach their cases. The associational centre could also function as a cultural revival centre where youth can gain knowledge from the elders, and discover their traditional identities.

### 6.1.3 Advantages and pitfalls in supporting elders

The traditional elders met during this study unanimously emphasised that they should be consulted in connection with aid projects in order to avoid flawed projects. The best way is to use impartial community based needs assessment models and participatory approaches, which should not be carried out by the implementing aid agencies, but by third party actors. Such approaches aim at empowering communities in terms of skills and self esteem in terms of knowing that they can develop their own plans (Ford, Abokor & Abdillahi: 2002). Furthermore, this may be the best way to solve the problems of asymmetric power between agencies and communities, who find it improbable to deny aid when it has negative consequences for them. It would also provide the *aqiil* with tools to deal with international agencies on a more equal level.

The elders are generally positive towards the idea of establishing development *xeer* with the international aid agencies. Such *xeer* could provide long range benefits for all in aid development cooperation, such as accountability, mitigate contractual conflict disputes, increase security of project staff and aid assets, increase protection of beneficiaries, improve dialogue and consultations with partners and finally address issues concerning the question: What are the rights of communities versus aid agencies, and aid operations?

While recognising the important role of the traditional structures in Somalia, it is also recognised that supporting them can be seen as a threat to attempts to re-establish national authorities in a failed state environment. This combined with the risks implicit in supporting structures that may be in significant conflict with many areas of international humanitarian law and human rights, means that such programs should be carefully planned as part of a governance strategy rather than the result of ad-hoc interventions. There are three elements that need to be observed in this regard. Firstly, there is the risk of institutionalising the traditional structures. The point in this respect is that they already are an institution, albeit not in the modern formal sense. But, sociologically and de-facto, they are. Traditional elders, especially the *aqiil/nabadoon* are intimately linked to clan structure, especially the *mag*-paying groups. As long as the latter remain as the most important social insurance system for the individual Somali, they will persist. Once they no longer are needed, the traditional structures will whither away.

The second and more critical risk is that a strengthening of the elders is seen by the political system as a threat to their power. That should indeed be avoided. The interventions must therefore not lead to a political role of the elders, which also would contradict the positive traditional role they possess in terms of peacemaking and safekeeping of stability. Hence, the option of elders associations is not to form a partisan political force, on the contrary it is to create a forum where elders can cross their clan differences and raise issues of common concern and interest vis a vis formal governance structures needed in order to achieve accountability and responsiveness in the political system.

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Finally, the most important immediate issue is that the elders' legitimacy is based on a very high moral fundament. Support, especially financial, may very well corrupt that image, and hence undermine the legitimate status of the elders themselves. Hence, it is crucial to avoid direct economic support to them and ensure that anything that happens is based on their needs and ideas only, and not an adaptation to the agenda of the intervening agency in anticipation of personal benefits.

## ANNEXES

### Annex 1: List of references

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Annex 2: Proverbs

Proverbs, poems and peace making skills are used to ease tension. They are also used in speeches related to previous conflicts and their impact is applied as lessons learnt.

<i>Ama buur ahaw ama buur ku tirso</i>	Either be a mountain or attach yourself to one
<i>Caado la gooyo carro Alle bey leedahay</i>	Abandoning tradition calls forth God's wrath
<i>Dadku waa xeeratto iyo xaqatto</i>	People are either rule makers or right givers
<i>Dhiman jirey dhaxalkii wuu yaqaan</i>	A man who has died before knows his heritage
<i>Eebow eexna hanooga tegin, aqoon darina hanagu cadaabin</i>	O God, dont forgive us for deliberate partiality, but do forgive us for omission
<i>Gaal dil oo gartiisa sii</i>	You may kill an infidel but do it justly
<i>Gar diid waa Alla diid</i>	The disobedient persons, who doesn't respect on what has been agreed upon is fined. If he again disobeys also alienated from the society or clan insurances
<i>Gari Ilaah bey taqaan</i>	Gar knows only Allah
<i>Gari laba nin kama wada qusliso</i>	Gar doesnt make two men smile
<i>Gari labo nin kama wada qosliso</i>	A jury judgement will never make both sides laugh
<i>Garna garteedaa lagala baxaa, Garna Gar kalaa lagu doonaa</i>	You use one Gar to find another one (precedence)
<i>Garta ina Sanweynaa loo geesan jirey</i>	People use to submit their Gar to a wise elder called Ina Sanweyne
<i>Gartaada intaadan geedka gayn baa lasii garnaqsadaa</i>	Before you take your grievance to the tree (court) you prepare your case
<i>Hadal waa kii horey loo yiri ragna waa hadalkuu yiri</i>	A saying is a previous saying and men are what they said
<i>Haddaan afku xumaan gacani ma xumaato</i>	Only when the talking breaks down does fighting occur
<i>Haddii talo waayeel la yeeli lahaa waraabo reerka waxar kama cuneen.</i>	If a council of elders was accepted a heyina would have not eaten the families baby goat
<i>Immisa awow yey kala tirsanayaan.</i>	How many ancestors are they counting
<i>In dood la yaqaan in dan la yaqaan ayaa ka fiican</i>	Knowing one's intrest is better than indulging in rhetoric
<i>kor waayeel waa wada indho</i>	The hat of an elder is full of eyes
<i>Maxay noqon waa jabalee</i>	What will happen if I steel the Camel
<i>Meelaadan ku xirneyn ayaa lagu xeertaa</i>	It is good to establish Xeer when you are not in conflict environment
<i>Nin gar galay eed gal</i>	He who arbitrates shoulders the blame
<i>Ninbaa yiri-- wiilkayga halaga gar helee gudoonkii ma qaatay- haa ayaa loogu jawaabay, wuxuu yiri allaylahe inaan dhalay.</i>	A man said "if people convicted my son, the remaining question is: did he accept the decision made by the council. If yes, then by God he is indeed the one I gave birth to.
<i>Ragna waa ragii hore, hadalna waa intuu yidhi</i>	The ancestors were the wise men, and their sayings was wisdom
<i>Raqba waa ku raggeeda</i>	Those present when a conflict breaks out have to resolve it
<i>Saddex baa rag ugu liitta- taladaada ma yeele, tiisan kuma meel mare tuu falaana kuma gaste.</i>	Three is the most unfortunate among men, he who denies your advise, he who decides for himself but fails, he whose action eventually implicate you (the advisor)
<i>Talada reerka ninna kuma filna laban (a is missing from labana) ku heshiin wayday</i>	A single man is not sufficient to advise the family and two will not agree upon it

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<i>Talo keen ahoow ama talo raac ahoow</i>	Be one that can give advise or one that follows advise
<i>Talo mar kuu toostaa tagooga ilmaha ku jiray tabantaabisaa</i>	
<i>Tani waa inoo xeer</i>	This will serve as precedent between us
<i>Waa is ku xeer</i>	Men of the same xeer
<i>Waayo arag waa ninkii Haariya joogey</i>	He who has been present in Haria (Severe drought in past season) is well experienced
<i>Walaalkaa haddii ay candhuuftaadu gaadho gacantaadu ha gaadho</i>	Acknowledgement of grievances of one party is a catalyst for the submission to the other side, and reaches agreements based on compromise and consensus.
<i>xaajo aan la rogrogan rag ban helin</i>	A need that is not reviewed well is not found by men
<i>xaajo geed lihi yaanay geed walba kugu dilin</i>	A need that has its own tree should not take you to other trees
<i>Xeer baa innagu deheeya</i>	There is an agreement between us

Annex 3: Vocabulary of *xeer* terms

<i>Abbaan</i>	Protector of guests ( <i>magan</i> )
<i>Anno</i>	Revenge killing by one clan or sub-clan against another in the absence of <i>mag</i> payment.
<i>Aqal</i>	Nomadic hut
<i>Aroos</i>	Wedding
<i>Baaho</i>	Not having food, being hungry, or not having means
<i>Barigooyo/badigooyo</i>	Cutting off the entire property, all a mans property will be handed over to the next of kin of the deceased
<i>Birimageydo</i>	Untouchable group, spared from the spear
<i>Bud-dhigeyaal</i>	Guarantors
<i>Cod</i>	Vote
<i>Colaad</i>	Hostility
<i>Dabaaldeg</i>	Celebaration
<i>Daqar</i>	Usufrukt
<i>Dhaqan</i>	Culture
	Aspects of <i>xeer guud</i> which apply to civil matters, including issues of family ( <i>xilo</i> ), private property ( <i>xoolo</i> ), territory ( <i>deegan</i> ), and hospitality ( <i>maamuus</i> ).
<i>Dhaqasho</i>	
<i>Dheere (Laan Dheere)</i>	Long (Long branch)
<i>Dhibbane</i>	Victim
	Aspects of <i>xeer guud</i> which apply to penal matters, including murder ( <i>qudh</i> ), aggression ( <i>qoon</i> ), and thievery ( <i>tuugo</i> ).
<i>Dhig</i>	
<i>Dhiig</i>	Blood
<i>Dibaad (Diiqo)</i>	Bride Wealth (Dowry) (Gift from affines)
<i>Dibuheshiisiin</i>	Reconciliation
<i>Diya</i>	Same as <i>Mag</i> .
<i>Diya group</i>	Same as <i>mag</i> paying group
<i>Duco</i>	Blessing
<i>Dumaal</i>	Forcing a widow to marry the brother of her deceased husband
<i>Duq</i>	Elder
<i>Ergo</i>	Envoy
<i>Gaab (Laan Gaab)</i>	Short (Short branch)
<i>Gaashaanbuur</i>	Pile of shields
<i>Ganaax</i>	Fine
<i>Gar</i>	Making judgement, decision, or filing a complaint
<i>Gar cadaawo</i>	Cruel judgement
	A <i>xeer</i> proceeding that strictly applies customary law to determine guilt or innocence.
<i>Gar dawo</i>	
<i>Gar sokeeye</i>	Brotherly court
<i>Garniqis</i>	Arbitration
<i>Garo</i>	To understand / to know
	Loosely aristocrat, or 'royal lineage', also applied as a term of praise to honour the accomplishment of admirable action, and whose deeds notably sustain the ideal values of the pastoralists
<i>Gob</i>	
<i>Godobtir</i>	Forcing a girl to marry the brother or next kin of a murdered man

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	as an additional asset to <i>Mag</i>
<i>Guddi</i>	Committee, or ad hoc panel of arbitrators
<i>Guddoomiye</i>	Chairman
<i>Guurti</i>	Council of elders
<i>Hoola tiris</i>	Animal stock counting
<i>Jiffo</i>	Closer lineage, literally the metal ferule at the base of a spear
<i>Jiffo Wadaag</i>	Of the same Jiffo
<i>Khilaaf</i>	Conflict
<i>Laan</i>	Branch
<i>Madani</i>	Neighbourhood-based 'vigilant groups' which arm themselves to provide for local security.
<i>Mag</i>	A main principle of <i>xeer</i> , this is the 'blood compensation' paid by one <i>mag</i> group to another, usually in the form of camels. Small social units that take collective responsibility for their own security, as well as undertaking an obligation to compensate other groups for any harm committed by one of its members.
<i>Mag paying group</i>	
<i>Mag Dheere</i>	The 'greater blood wit'
<i>Magan</i>	Protected guest
<i>Mahar</i>	Husbands personal gift to his bride
<i>Markhaati</i>	Witness
<i>Masalaxo</i>	A <i>xeer</i> proceeding that focuses on mediation to identify a solution that is acceptable to all parties.
<i>Maslixid</i>	Mediation
<i>Mooryaan</i>	Bandits or uncontrolled militia.
<i>Muddo iyo Madal</i>	Date and Venue
<i>Nabadoon</i>	Peace seeker
<i>Oday</i>	An elder or elderly person.
<i>Qaadi</i>	Judge
<i>Qabiil</i>	Clan
<i>Qabno</i>	To have something...
<i>Qnac</i>	Acceptance of Verdict
<i>Qoora tiris</i>	Penis Counting
<i>Qoordhiibasho</i>	Commitment of accepting what ever will be the jury's judgement
<i>Qoys</i>	Sets of families
<i>Reer</i>	Settling and moving together
<i>Shahad</i>	Solicitation of financial and material support by Somali traditional elders.
<i>Shir</i>	Council, meeting
<i>Suluh</i>	Broadly translated into English as 'resolution', it is a practice applied by Somali shari'a courts to integrate Islamic, traditional and statutory laws into a single workable decision for a case.
<i>Tol</i>	Not so close lineage, agnatic kinship, lineage
<i>Tub</i>	Path
<i>Tub Fur (Path Open)</i>	Opens new path/new way, takes initiative – elect a new leader not from the fathers lineage (in connection with electing new elders), can be elected, can also be nominated by the incumbent)
<i>Tub Haye (Hage? – Path Keep)</i>	Keeps going on the same path. Inherited, takes experience from the father still cooperating...
<i>Tub Xir (Path Closed)</i>	His father was leaders, but he cannot lead/ personal attributes do

## The predicament of the 'Oday'

not meet expectations and criteria... bad leader...

<i>Wadaag</i>	Together, in concert
<i>Waxgaraad</i>	Wise men
<i>Xaajo yaqaan</i>	Man with good problem solving skills
<i>Xaal</i>	Payment of nominal material penalties
<i>Xaas, Raas,</i>	Family ...(Nuclear family, uterine mother with her children and their father, corresponds to the household)
<i>Xarig</i>	<i>Rope</i>
<i>Xeer</i>	Customary law, contract, treaty
<i>Xeer Beegti</i>	Jury, those who are expert in xeer Respected and qualified elders who are entrusted to maintain knowledge of applying xeer.
<i>Xeer begti</i>	
<i>Xeer dhaqan</i>	Social code
<i>Xeer dhiig</i>	Blood code
<i>Xeer gaar</i>	Specialised norm that regulate localised economic production relations for clans and sub-clans specifically involved in pastoralism, fishing, frankincense harvesting, etc Generally applicable aspects of xeer which are generally applicable across all Somali clans, and regulate day-to-day social life, civil and penal matters, and dispute settlement.
<i>Xeer guud</i>	
<i>Xiddo</i>	Tradition
<i>Xidid</i>	Affines
<i>Xididtinimo</i>	Marriage link
<i>Xigsiisan</i>	Forcing a sister of a deceased wife to marry the widowed husband
<i>Xilo fur</i>	Swearing to divorce wife The most fundamental stipulations of <i>xeer</i> for which unquestioned historical adkaaday precedent exists.
<i>Xissi</i>	
<i>Yarad</i>	Bride wealth (Dowry) (Gift to affines)

**Somaliland**

Venue and date	Names	Titles	Clan/Organisation
Hargeisa, 25/3	Ali Carab	Aqil	Haqsoor
Hargeisa, 26/3	Hassan Badmax Maygag Abdi Farah Yusuf Hassan Elmi Jama Ahmed Barre Aideed Ali Jama Hassan	Chief Aqil Aqil Aqil Aqil Aqil	Iidagalle Habar Yonis “ Arab Habar Awal
Hargeisa, 27/3	Mustafa	Chairman	SONYO, Youth Org.
	Ayan Muse Ahmed Ilhan Sh. Muse Ahmed	Radio Producer Pastoral Community Facilitator	HAVOYOCO, Youth Organisation
	Suleyman	Chairman of the Guurti	
Hargeisa, 28/3		Governor of Hargeisa	
	- missing -	Aqil's	Warsangeli Dulbahante
Hargeisa, 29/3	Haji Abdi Hussein  Abdulkadir Mohamed Hassan  AbdulKadir Aw-Hussein Mire Omer Nour Waaye  Yusuf Abdilahi Awale  Abdilaahi Ibrahim Habane Hagi Abdi Warabe	Chairman of the Standing Committee, Guurti Chairman of Human Rights and Social Services Committee, Guurti Chairman of Judiciary Committee Member of Standing Committee Chairman of the Economy Committee Secretary of the Guurti Oldest member of the Guurti	House of Elders, Guurti, Members
Hargeisa, 30/3			NAGAAD, Womens Org.
	Yusuf Isse Du'ale Mohammed Ibrahim	Chairman of Court Appeal DG of Ministry of Justice	
Burco, 31/3	Awil Abdi Farah Ahmed Mohamed H. Abdi Ali Abdillahi Muse Nur M. Abdillahi Ahmed	Aqil “ “ “	Habr Jeelo Habr Yonis Habr Yonis Habr Jeelo
	Mohamoud Ahmed Abdi Ahmed Iidle	Mayor of Burco Ex.-Mayor of Burco	
	Abdi Hussein	Governor of Togheer Region	
Burco, 1/4	Ismahan Jamac Fadusa Aden Faduma Musse Omer Amina Abokor Ahmed Fowsia Mohamud Dahil	TOGYOVO, member org. Exec. Director Chairman Coordinator Administrative Officer	UNITA Womens Umbrella Org.
	Ali Abdirisak Salad Liiban Ahmed Bile		SOYVO, Youth Org.
Borama, 2/4	Idris Farah Mussa Ahmed Abokor		AYODA
			SAYS & Moonlight
	Rooble Hassan Wacays Ibrahim Dacar Yusuf	Aqil Suldan	Gadabursi/Samaroon

### The predicament of the 'Oday'

	Abdilaahi Diriye Samatar Saleebaan Ali Kahiye Tukaale Reeraash Shirdoon	Chief Aqil Aqil Aqil	
Hargeisa, 3/4	Mohammed 'Gees' Mohammed Ibrahim 'Gani' 'Boobe' Halas Ulf Terlinden	Director Researcher Researcher Researcher	APD

### Puntland

Venue and date	Names	Titles	Clan
Bossasso	Dr. Muse Gelle Khadar Abdi Mire	Governor of Bari, Mayor of Bossasso	
Bossasso, 30/4	Qaxiyee Ise Mohamud AbukadirM. Qobdi Botan Dhore Ismail Rage Mohamud Mohamud	Nabadoon	
	Abdirahman Abdirizak Abdurahman 'Dobra' Fardosa Ibrahim Robleh Abdullahi Mohammed Ahmed	Students	Puntland Students Association
	Abbas Said Jibril Muhyadin Said Jibril Abshir Saeed Hassan Hagi Mohammed 'Gulwade Osman Hagi Nur  Mohammed Abshir	Dean, Faculty of Education Former mayor of Mogadishu (85-87) Former adviser to Puntland President on cultural issues Lawyer	East Africa University
	Fatima Jibrell Bosteyo Amran Saadia Zeinab Ismail		Horn Relief SRWU DAWO GDA SEDAN
	Beel Daje Ali Beel Daje Farah Suldaan Siciid M'hd 'Irbad' Ahmed Hagi Abdirahman Fuad Mohamoud Hagi Nur	Beel Daje Suldaan Sheikh Sheikh	
Garowe 2/5	Abdullahi Issa Aw Ahmed Abdinasir Hagi Mohamed Issa Hagi Abdille  Abdirashid Bulshale Mosa	Governor of Nugal, Deputy, Regional director of local government, Regional Police Division Commander, Col.	
	Axmed Cabdi Maxamed 'Habsade' Noor Shire Osman	Minister of Interior, Security and DDR Director General, Ministry of Information	Puntland Government
Garowe, 3/5	Dahir Mohamed Garase, Khalif Jama Mohamoud, Osman Mohamoud Osman,	Nabadoon	Issa Mahamoud Issa Mahamoud Reer Omar
	Sultan Garaso	Suldaan	
	Rage Mukhtar	Researchers	PDRC
Las Anood, 4/5	Garad Suleiman (Saleban) Muhamed	Garaad Garaad	Dulbahante

### The predicament of the 'Oday'

	Abdillahi Issa Noor Abdisalam Hassan	Ugas Garasd	
Las Anood 5/5	Mohamoud Osman 'Mashqare' Saeed Osman Ali Suleiman Burale Abdullahi Soofe Duraan	Garaad Suldaan Garaad Garaad	Dulbahante
Las Anood 5/5	Ahmed Hersi Owl ( Abdikarin Hassan Salax Abdi Awke Noor Mahamed Aden Adde Abdirishid Abdi Elmi Ismail Ahmed Ali Kore	Aqil, of Dulbahante	Bah Ararsame Cumar Waceys Naaleye Ahmed Reer Jibril Waceys Abdulle Noor Ahmed
Galkacyo 6/5	Aden Dahir 'Dheere' Abdi Dirie 'Guuyo' Mohammed Abdi 'Baale'	Nabadoon	
	Xuseen Jamac, 'Yabaq'	Mayor	
	Awil Abdullahi Bixi Nabadoon Yasin Abdisemed		Somali Peace Development Organisation
	Sheikh Abdulkadir Omar Dhiif Sheikh Abdi Kafi Said Hagi		Sufi Khadriya Waadaad
Goldogob 8/5	Abdullahi Khalif Fiqi, Abdisalam Hawlmoog, Awil Warsame Mahmed, Abdirizak Ahmed Tooxyane Bashir Arab Abdullahi Osman Yare (Ilwawn) Jama Shire Geesood Abdullahi Cilmi Mahamed Huruuse Cilmi Samantar Siciid Cismaan Cigaal	Mayor Secretary of District Police Commissioner Deputy Mayor Nabadoon Chairman of the Goldogob Guurti	Laylkase

### South-Central Somalia

Venue and date	Names	Titles	Clan
Mogadishu			
BeletWeyne 19/5	Ugas Khalif	Ugas	Xawadle
BeletWeyne 20/5	Garaso Osman	Governor	
	Saleban Abdi Ali Ali Mohammed Hassan Abdifitah Osman Aden Galad Osman Cadow Mohamed Mohamoud Dirir	Chairman Vice Chairman Coordinator Administrator/Finance Member	Hiran Youth Network
BeletWeyne 21/5	Moh'd Abdi Ma'ow Abdisalam Guhad Dhinbil Osman Ali Idle	Nabadoon Islow Nabadoon	Xawadle Galjeele Xawadle
	Daar Hersi Hoslow	Chairman of Geedk Webiga (Hiiraan Guurti)	Xawadle
	Dunia Daher Dhisow Kafaya Ibrahim Fatun Ali Amina Jeele Hawaya Dayr	Chairlady	District Women Association
	Faduma Hagi Hussein Khadija Muhamed Sheikh	Chairlady Vicechair	Hiiraan Regional Women Organisation

The predicament of the 'Oday'

	Siirad Thalil Mumin	Member	
Baidoa	Mukhtar Malaakh Seemow Malaakh Abdigarun Isaq M. M. Jeelow Yussuf Abdiyow Aadan	Malaakh	Leeyan Geedle Harin Elay
	Sheikh Moh'd Sheikh Yousuf Asha Osman Mukhtar	Secretary	National Reconciliation Committee
	Yussuf Maryan Nur Mohamed		CRD
	Nurow Ibrahim Nur M'olin Arab Omar Abdille Hussein Aftino Yusuf Ali	Gob 'Malaakh' (Gob) Samadoon 'Malaakh'	Geedle Liway Hadamu Yantar Disow
	Abdirahman Osman Dirir  Abdikaff Maalin Hassan  Mohamud Abdi Hassan	Deputy Minister of Reconstruction and Settlement Minister of Post and Telecommunication Member of Parliament	TFG   TFP
Merka	Moh'd Hagi Babo Ali Barire	Vice Governor Vice Governor	Lower Shabelle Region
	Sharif Abdurahman Axhmed 'Degoweyne' Abdi Jayhane Khadija Sufi Hussein Abukar Maalim Abanoor Sharif Ahmed Shuja Mahammed Hagi Ali Abdi Sheikh Mohamed	Chief Aqil  Vicechairman Politician/spokesperson Nabadoon " " " "	Benadiri Elders  Benadir Council
	Abukor Ahmed Ibrahim Weheliye 'Bol' Hagi Kusow Ali Abukar Ali Alusow Ahmed Abdulle Warsame Carab Ullex Abokor	Nabadoon (Jiffo) Nabadoon (Mag) " " " "	Abgal Murosade Sheikh Mudolod Habr Gedir/Ayr Gugundabe
	Ahmed Suldan Mo'd Ali Said Ali Mo'd Abdi	Suldaan Expert in tradition	Biimal
	Youssuf Atar Sido Hassan Hashi Abdalle Abdirisak Mohamed Maryan Omar Ahmed Rawi Abdihussein		New Ways Youth Group
	Mohiba Abdi Farah Maryan Hagi Youssuf Sofia Jama Mohamed Hersio Salad Mohammed	Chairperson Coordinator ViceChairman	Business Women Association
Jowhar	Ahmed Rashid Hussein Moh'd Omar Sheikh Nuh Nur  Jeilani Muse Mu'adin	Suldaan Nabadoon Member  Samadoon	Shiidle Shiidle Shiidle, Traditional authority council Middle Shabelle
	Ali Ibrahim Beesh  Farah Jimcaale Ahmed	Member  Samadoon	Mobleen, Traditional authority council Mobleem

The predicament of the 'Oday'

	Hagi Hussein Gurey Sheikh Muhidin Sheikh Hilowle	Nabadoon “	Abgal
	Saadia Burus Faduma Hagi Nur Ruqia Abdulle Ali Amina Muse		Regional and District Womens Group
	Amin Hersi Barow Nur M. Gedi Abukar Adam Toxow Osman M. Abdulle Osman A. Mohamed	'UNOSOM elder' Oday Nabadoon Oday Nabadoon	Xawadle “ “ Galjeel “
Luuq, 13/6	Saney Nur Hirei, - Ahmed Harun,  Abdi Moalin Mohamed  Abdulahi Ahmed Belet  Yusuf Hussein Dahir  Moalin Adan A. Irbad  Bule Hassan Moalin	Nabadoon       Ugaas	Reer Hassan, Marehan Reer Yusuf, Marehan Malin Weyne, Digil/Mirifle Reer Ahmed, Marehan Mugmashe, Marehan Gabaweyn, Sagaal, Digil/Mirifle
	Sheekh Nur Abdullahi, Vice DC Mohamed Ada Keynan, Security Hussein Elmi Nur, Treasurer and Health Secretary Moh'd Ahmed Shire, Security Hussein Abdurahman Abdille, Director General Adan Ali Farah, Treasurer		District Authority
Dadaab	10 representatives, unnamed 13 representatives, unnamed 15 representatives, unnamed 5 representatives, unnamed 5 representatives, unnamed 5 representatives, unnamed	Elders and others “	Ogadeen/ Abdalla Ogaden/Makabul Gaaljeel Galgalo (minority) Dulbahante Majerteen