Post-Transition Somalia: Ingredients for Peace-building *

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Abstract

For the last two decades, Somalia was defined as a failed state. This was the case because state institutions that are responsible to provide goods and services to the citizens have failed due to the civil war that erupted in 1991. Even though there have been some attempts to restore law and order, there has never been any tangible results. However, Islamic Courts Union (ICU) attempted to bring law and order, but they were crashed during the Ethiopian invasion in late 2006. Since then, transitional governments have been working to restore peace and order. AMISOM forces have been battling with al-Shabaab since they started their offensive operations in Somalia. The transitional system ended in August 2012, and a permanent government was formed in September 2012.

This brief research paper argues that there are four ingredients for peace-building that should be met in Somalia. These four peace-building ingredients are: genuine reconciliation, a unified national vision for state-building, effective security apparatus and strong judiciary system. The paper argues that there is a need for two types of genuine reconciliations. The first is a public reconciliation in order to heal the wounds of the civil war. The second type is a political reconciliation among the leaders. A well-respected National Commission for Genuine Reconciliation (NCGR) supported by traditional elders and civil society groups must be formed. Further, a unified vision for state-building is another necessary component for peace-building. The Federal Government of Somalia (FGS) can come up with national visions, but if that is not implemented at the regional level, sooner or later, it will fail. AMISOM forces are sacrificing to support peace, but the national security sector is the only means to achieve a lasting peace-building. The argument of the paper concludes that it is necessary to establish a strong judicial system that can produce tough laws against crimes that are routinely committed as well as interfere in the political crises that are related to the legal system that is in place.

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Introduction

For the last twelve years, Somalia has been in a transitional system while at the same time there have been attempts to recover from the civil war that erupted in the country in 1991. However, civil wars in Liberia, Angola and the genocide in Rwanda and Burundi [have] painfully demonstrate[d] a continent in trouble. Unlike Somalia, some of the countries mentioned above have already recovered from state failure conditions that they had gone through. Burundi healed itself from the catastrophe of genocide, and now it is one of the troop contributing countries (TCC) in Somalia as part of AMISOM. Angola is one of the rare countries in the world that don’t depend on foreign aid despite the fact that the country is poor. As in April 2008, Angola surpassed Nigeria to become Africa’s top oil producer.

However, it was 1991 when Somalia failed even though some can argue that the date can be before 1991 for different reasons. In the definition of state failure, states fail when they can no longer provide goods and services to their citizens. In 1988, the Somali government purposefully attacked civilian populations in northern Somalia from air and land. Subsequently, the condition of Somalia deteriorated after the militias ousted the central government in 1991. As a result, let alone to provide goods and services to the public, the militias destroyed and looted the state/public institutions. Combined these two tragedies, Somalia has failed as a state. Furthermore, the failure of Somalia has a direct and indirect impact to the region and the world in general. In fact, it has pushed the emergence of new phenomena - notably piracy and Islamic fundamentalism - alongside the traditional challenges of poverty and corruption, have added to the growing complexity of [Somalia’s] predicament. As the Somali conflict plays out, any analysis must account for its domestic, regional as well as international. Piracy, which has been a symptom of Somalia’s state failure has captured the attention of the world as it became one of the negatives that are known for Somalia. Extremism, on the other hand, has got a safe haven in Somalia to the point that the recruiters for “jihad” are reaching out young Somalis in Western Europe and North America to join them in Somalia. It must be noted here that the vast majority of the young Somalis in the Diaspora do not buy extremists’ message, but are busy to integrate in their adopted societies without abandoning their values.

However, addressing the threat that emanates from failed states, Stephen D. Krasner writes that in today’s increasingly interconnected world, weak and failed states pose an acute risk to U.S. and global security. On piracy and terrorism, Somalia has, in fact, posed a threat, not only to itself but to the region and the wider global community. Internally, from 1991 to 2006, [it still continues in some places] Somalis had been fighting for clan purposes. So far, no one can claim a victory from clan based wars. Moreover, after the warlords were defeated in 2006, politics driven by clan/regional agenda has replaced the warlord system. Clan based politics just increased hostilities among regions, and even though they are sought after as a “bottom up approach” and a mechanism for solution, they can never bring a comprehensive solution for the crisis of Somalia. However, there are four areas that the Federal Government of Somalia (FGS), with the help of the international community, can apply for the process of peace-building. These four areas are a genuine reconciliation, a unified national vision; a strong judiciary system that can solve disputes and interpret the law as they are; effective security apparatus that can execute the law and order.
Genuine Reconciliation

When it comes to rebuilding war-torn post conflict nations, different transitional societies choose different objectives and often pursue them in different ways. However, even though Somalis are homogeneous in general, but only hail from different clans and tribes, there have been damages that need to be healed due to the civil war. And if the proper tools are applied, the trauma is healable through reconciliation. Despite the fact that Somalis have fought on clan lines, the damage is far less than genocides of Rwanda and Burundi in the early 1990s. Moreover, not only does Somalia need reconciliation, but it needs a genuine reconciliation to treat [its] collective trauma as a nation and set on the healing process. [Somalia] needs such closure in order to fix [its] broken relationships, rebuild [its] damaged identity and rekindling [a] sense of nationhood. In the pursuit of reconciliation, there are two groups that the genuine reconciliation applies to. The first group is the general public that needs to reconcile from the trauma of the civil war. The second group, however, comprises from the clan and militia leaders beginning from the warlords in 1991 to the “legitimate leaders” of this post-transitional period federally and regionally. In the broadest sense, and the discussion of the first group, a genuine reconciliation involves the rebuilding of fractured individual and communal after conflict. Moreover, it needs to be noted here that Somalis have been interacting normally since or even before the warlords were defeated in 2006. Internally, Somalis reside mostly everywhere in Somalia. In the semi-autonomous region of “Puntland”, for example, there are Somalis from different regions and clans who are living there even though it is possible that they might be “isolated” from the local political system due to clan affiliations as the local political system is purely based on clan. The same is true in the north. Externally, Somalis in Western Europe and North America live together side by side, participate in their grief and pleasant moments despite clan and regional differences. During the humanitarian crisis in 2011, the Somali people and organizations in the Diaspora—many with diverging priorities—have been setting their differences aside and spontaneously forming coalitions and collaborative efforts to save lives. In general, this group, though they need genuinely to reconcile to remove any mistrust that may exist, they look up to a visionary leadership that can give them a direction that is based on nation building, not a narrow regional and clan-based systems.

The second group that needs a genuine reconciliation is the elites. Not only do they need to genuinely reconcile, but they need to genuinely compromise as well. The reason for compromise is that the main struggle of the elites is related to power and resources. There are some anecdotes that can be narrated from the past events to prove this point. After the fall of Mogadishu in 1991, a power struggle broke between General Aided and Ali Mahdi Mohamed. The same was the case for the warlords of other clans who were similarly motivated by power struggle. Moreover, militia leaders have masterfully been using the clan cards to secure the support of clan members, but the overall agenda was not for the benefit of the clan. They used to serve only for their own political interest. Over a dozen of “peace conferences” were held for “leaders” to reconcile, but most of these “reconciliation conferences” failed to produce any tangible results for Somalia. The main reason is that these conferences were held for the warlords, who failed to compromise their “political differences” in order to meet the needs of Somalis. However, no one can be in denial that clan animosities created by the civil war were not genuinely healed, and what was missing in these “peace conferences” was to come to the negotiation table with good faith.
There is no question that for the last two decades, there has been mistrust among Somalis because of the clan fights that many innocent people have been expelled from their homes, and many lives have been lost due to the civil war. But the level of mistrust is greater in those who are in the leadership circles because of the power and resource struggles that keep them to fight. Genuine reconciliations are necessary for the leaders and the public. Moreover, leaders need to reconcile and compromise so that the wounds of two decades of the civil war can be healed. However, the FGS should set up a highly respected National Commission for Genuine Reconciliation (NCGR) that is supported by the traditional elders and the civil society groups.

Unified National Vision for State-building

Leadership often emerges in unexpected places from unexpected events. Furthermore, institutions, whether they are governmental or non-governmental, are ran like a business and the public is the customer, because institutions are made by the vision of the leaders. As a result, what makes a leader, in any form or shape, is the outcome of his/her leadership. The public is the judge on how leaders in the government manage the government business. Moreover, societies look up to those who are in the leadership position, and at the time of crisis, the public expectations are higher. In this case, Somalia needs visionary leaders who share a common vision on how they can better serve their customers, i.e., the public or in the formal term, the citizens. Much will depend on the leadership abilities of those who take up the task as nearly all concepts of leadership include the ability to articulate a vision and mobilize the resources needed to achieve widely shared goals. In this post-transition period, after a genuine reconciliation, a unified national vision that is a key factor for state-building is a must.

Political clashes among the leaders have been the norm in all governments that came to “power” since 2000. The Islamic Courts Union (ICU) and the TFG of Abdullahi Yusuf, a warlord, failed in 2006 to reach agreements despite the fact that some of “Islamists” in the ICU were nationalists. The political turmoil between Abdullahi Yusuf and his second Prime Minister Nuur Hassan Hussein led to the demise of President Yusuf’s TFG. The same scenario was the case during Sharif Sh. Ahmed’s tenure from 2009-2012 as Prime Minister Mohamed Abdullahi (Farmaajo) was forced to resign after the Kampala Accord was signed in June 2011. Moreover, after the end of the transitional period in September 2012, Somalis are still witnessing the same scenarios of the past. The first Prime Minister of a “permanent” government lost the confidence of the Parliament in early December 2013 after being in the office for only one year. In addition to the lack of a unified vision from the leaders, there are three other factors that lead to political clashes within the leaders in any given government. One factor has to do with the incomplete constitution. The second factor of the political clashes is related to lack of clarity in the job descriptions of every leader within the government. And most importantly, political clashes take place because there is no effective judicial system that can oversee the roles and responsibilities of the leaders, i.e., there is no effective checks and balances in place.

Furthermore, political clashes are not only at the federal level, but it happens between the federal and regional administrations. In the case of regional vs. federal political crisis, there are some factors that can be taken into the account. There is no clarity on how power and resources are shared between the federal and regional administrations. Moreover, political immaturity supported by clan interests and mistrust within the “leaders” is another factor that can be taken
into account. There seems to be clan/group coalitions that are taking place between the federal and regional administrations or within the FGS. The attempt to apply undefined “federal system” as a form of governance in Somalia plays a big role on the never-ending current political conflicts between the regional administrations and the FGS. However, it is the responsibility of the Somali Federal Parliament (SFP) to address these issues very seriously.

Effective Security Apparatus

The re-establishment of effective security apparatus of any country among failed states is not an easy task. The collapse of the Somalia’s central government in 1991, and the disorder brought by the warlords jeopardized the security of the country as a whole, and as a result, Somalia has become a failed state. The warlords have kept Somalia to be the world’s number one lawless country, and this was the case because of their fight against one another for power and resources. The arrival of the Islamic Courts Union (ICU) was not the first option for peace and security, but it showed how Somalis were serious to restore peace and security. The main purpose of the establishment of Islamic Courts was to restore law and order, and safeguard the properties of the people from clan militias. However, even though setting up “courts” cannot be equated with modern system of governance, it was an informal form for peace and security. But as experience has shown, a quest for peace and security through informal mechanisms can’t help the recovery of a failed state. Moreover, AMISOM forces have been in Somalia since 2007 as their mandate was limited at that time in protecting themselves if attacked as well as protecting TFG leaders. As AMISOM’s mandate is now to be offensive and support peace and security, they have achieved a milestone. They bitterly fought against al-Shabaab, and forced them out from Mogadishu in 2011. This is a great sacrifice that Somalis appreciate, but this cannot be sustainable in the long run. The ultimate responsibility of the internal security of any country should lie with its own security forces, and Somalia, like any other country, should depend on its own forces. The European Union (EU) has been providing some training for the Somali National Army (SNA), but it is the Somali Federal Government (SFG) that needs to make this as a top priority for the state-building process.

Comprehensive SNA personnel, the Police and all other security forces are the institutions that are responsible for the overall security of the country inside and along the borders. In order Somalia to be rebuilt, the security apparatus must function. With the help of the international community, the rebuilding of the Somali security sector is essential for state-building. Somali military leadership, who is currently in the field, must be equipped with high level capacity so that they can contribute and provide the necessary training, not only to liberate the country, but to maintain the security and protect the public. In addition to fielding a military force, Somali police forces need to take the lead in patrolling liberated areas of Somalia. Moreover, the SFG must also seek all bilateral agreements that are useful for the rebuilding process of SNA and all other branches of the security sector.

Rule of Law and Justice System

The Rule of Law is defined as principle of governance in which all persons, institutions and entities, public and private including the state itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated and which are consistent with
international human rights norms and standards.\textsuperscript{13} However, the question is where there are any efforts in the past for restoring the rule of law and justice system? And if any what led them to fail? For the last two decades, there have been some attempts for rule of law. In 1992, United States led mission under the United Nations intervened in Somalia in order to restore the law and order. In 1993, US forces targeted Somali warlord Mohammed Farah Aidid, and about 2,000 people were killed in clashes between the US marines and Aidid's forces. In October 1993, 17 US army rangers were killed in the famous “Black Hawk Down” incident, when one helicopter was shot down in Mogadishu and the Rangers mount a rescue mission, and this has led to the end of the US mission in Somalia. After one year, the UNOSOM mission ended in failure.\textsuperscript{14} During 1990s and in 2006, as mentioned above, establishments of Islamic Courts, were another means of restoring rule of law even though the Courts’ mission was narrowly focusing on the application of rule of law and justice system under the Shari’a part. Moreover, in 2007, Ethiopian forces invaded Somalia in order to “help” the then TFG in order to crash the ICU so that TFG could establish the rule of law. For many reasons, however, those attempts either by the UN or by TFG using external forces have failed to restore peace and law and order. Despite these “efforts” for the restoration of law and order, one may question how deep was the commitment for each of those entities whether they were international, i.e., UN/US led intervention in 1992 or regional, i.e., the Ethiopian invasion in late 2006.

There are some theoretical analyses that answer why these attempts fail. In societies that have been wracked by violent conflict, building the rule of law, understood broadly, is incredibly hard as overcoming public distrust and building institutions worthy of confidence can take many years.\textsuperscript{15} More details on why these efforts fail include: a failure to provide for applicable law that enjoys local legitimacy; unbalanced reform in the justice sector and premature institution building without corresponding political reforms; premature empowerment of judges or other justice system officials without adequate training and before credible disciplinary mechanism are established; failure to address sufficiently the needs of vulnerable segments of population including women and girls who often face increased violence after conflicts.\textsuperscript{16} The symptoms mentioned above are partially what makes the efforts of law and order to fail. In reality, some of those symptoms, if not all, are still in place in Somalia.

On the other hand, there are, if applied properly, opportunities that may help the rule of law and justice system to come back. There are a couple of points that legal experts provide for post-conflict justice system. These suggestions include: putting together an effective mix of international and local jurists to help strengthen domestic justice systems after conflict; pursuing systemic reforms that address connections and build synergies between key justice institutions such as police, prisons and courts; promoting greater transparency in the justice system, and instituting merit based selection and promotion procedures; working to promote sustainable reforms by investing in civil society organizations that can monitor legal institutions and advocate for reform, and by investing in legal education, and working to develop inclusive and representative composition in justice institutions and paying greater attention to problems of access to justice.\textsuperscript{17}

How these suggestions for post-conflict justice system can be applicable to Somalia is the challenging question. Cultural sensitivity can be the only concern that needs to be taken into account when applying such suggestions like “mixing local and international jurists” in courts for handling daily bases legal procedures. However, the rest of those above mentioned
suggestions by the legal experts are applicable in the Somali context. In Somalia, it is possible to find some credible civil society organizations that can be encouraged to play a role in monitoring how the rule of law and justice system is enforced. There are countless cases of injustice that Somalia is going through. These cases begin from killing innocents, rape, targeting professionals such as journalists, medical workers and government officials. In those attacks, perpetrators can fall into different categories. As in the most cases since the inception of al-Shabaab, atrocities can be carried out by al-Shabaab militias. It can be taken by gang groups who may not have any affiliation with any organizations whatsoever. It can be taken by clan affiliated groups who want to revenge or initiate attacks against other clans for different reasons as clan conflicts have been the main factor in Somalia’s civil strife since 1991. And as my sound absurd, assassinations could sometimes be carried out by “leaders” for political reasons. In addition to handling organized crimes through effective judiciary system, another case that also calls for justice is land/property disputes. Since the civil war erupted, many people either have been forced out from their properties or fled the country to save their lives. As a result, many properties are, up to today, in other hands that are not the real owners. All these outstanding issues require an effective and independent judiciary system that is essential for peace-building in Somalia.

Conclusion

Peace-building process in Somalia’s post-transition is not an easy task, but if there is a commitment from the leaders to initiate a genuine reconciliation, put together a unified vision for nation building with strong and effective security sector and judiciary system, peace-building is possible once again in Somalia. For the last two decades, there has not been a genuine reconciliation effort for the public, and it is time to do it now by establishing a national commission that is supported by the traditional elders and the civil society groups. Moreover, even though one of the most factors that lead to crises within the leadership is related to “power and resources,” leaders must reconcile and compromise on these issues, and there must be mechanisms to solve the issues of power and resources. Leaders, whether federal or regional, must realize that the public wants peace and effective governance. The quality of the leadership will be judged according to their capacity and execution of their day-to-day peace-building and state-building performances.

Moreover, a unified vision for state-building is necessary for the peace-building process in Somalia. A unified vision for state-building requires a mature leadership from all levels who understand where Somalia is now, and where it is heading to. Furthermore, in order to fulfill the peace-building process, the security sector must be reformed. In order to avoid anything that leads to mistrust, the rebuilding of SNA and all other security apparatus must be comprehensive and transparent. Finally, law and order has been a missing component for peace-building for over two decades, but now it is time to reform an independent justice system. In order to rebuild Somalia once again, impunity must come to an end, and law and order must be enhanced federally, locally and regionally. Most importantly, the Somali Federal Parliament (SFP) has the responsibility to complete the provisional constitution, and remove anything that complicates the legitimacy of state/national institutions to carry out their duties on peace-building and state-building processes.
Endnotes

11. Ibid.
16. Ibid.
17. Ibid.