

NEGOTIATING A BLUEPRINT

FOR PEACE IN SOMALIA

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EXECUTIVE SUMMARY AND RECOMMENDATIONS

The peace process in Somalia is at a critical point. Talks that began with great promise are in danger of collapsing unless the mediators, the international community and the Somali factions themselves provide stronger leadership. The Somali public's flagging interest and support for the process needs to be revived, and improvements are required in the negotiating process or the parties will be unable to tackle the many difficult outstanding issues. Unfortunately, the international community has remained reluctant to throw its full weight behind the peace talks, to take a tough line with those who are undermining it or generally to express a unified position on preferred outcomes.

This in turn has exacerbated the many deep divisions within both the warring Somali factions and Somali civil society. Without new energy and focus, the peace talks will likely fissure along all-too-predictable lines – federalism, the role of clans, and land and property issues, and how to tackle the problem of breakaway Somaliland, all of which would ensure that the country would remain without a meaningful central government.

Many at the talks continue to have largely unrealistic expectations that foreign donors will shower funds upon the country if any accord is reached, whatever its flaws – an expectation that has little to do with financial realities in Western capitals.

Who participates, and whether on the basis of faction or clan affiliation, will be critical not only to the outcome of the negotiations but also to their actual and perceived legitimacy. Both the faction leaders and civil society representatives at the talks are self-appointed. Ultimately, what matters most is not who “deserves” to sit at the table, but rather who possesses authority and legitimacy in sufficient measure to implement an agreement and deliver a lasting peace.

Unless this is resolved, there is a real risk that the current negotiation will produce another “government in exile”, unable to provide a working administration inside the country that represents the general will.

More than a decade of war and lawlessness has already taken a terrible toll in Somalia. With new leadership in place from the IGAD states that sponsor the talks, the initiative still has important potential. Yet, there are no quick fixes when a country needs to be fundamentally reinvented, just as there are no acceptable excuses for allowing the opportunity for peace to pass.

RECOMMENDATIONS

To the Chairman of the IGAD Technical Committee:

1. Engage a small group of highly respected Somalis to serve as advisors and, as a matter of urgency, travel to Somalia for consultations with local leaders and the general public in order to restore public interest and confidence in the peace process.
2. Seek the support of concerned donor governments in managing differences between regional powers and request the Technical Committee members, together with representatives from the IGAD Secretariat, the African Union, the United Nations, and concerned governments to send a fact-finding mission to develop recommendations on how to address the Somaliland issue.

To the IGAD Technical Committee:

3. Establish two new Reconciliation Committees: one to address human rights, war crimes and

transitional justice and the second to liaise with the United Nations Sanctions Committee or other mechanisms established to strengthen the arms embargo.

4. Ensure that additional technical expertise is available during this phase by requesting concerned governments to provide resource persons to work with the Reconciliation Committees and by inviting Somali experts to assist those Committees.
5. Re-launch Phase 2 of the conference by:
 - (a) revisiting the Terms of Reference for each Reconciliation Committee that has been established on a particular issue in order to ensure that they add up to a comprehensive blueprint for peace and governance; and
 - (b) requiring committee work to proceed *seriatim* – e.g. other committees should hold off until the Constitutional and Federalism Committee has revised its product (see recommendation 7 below) and then proceed on the basis of the new drafts.
6. Ensure that sufficient time and resources are available for small teams from each Reconciliation Committee to consult inside Somalia and develop an information strategy employing radio, television and newspapers to engage the Somali public in the conference proceedings.

To the Constitutional and federal Committee:

7. Revise both constitutional drafts by:
 - (a) reviewing them with expert assistance to ensure that they are as complete as possible;
 - (b) sending a team throughout Somalia to brief the public and canvass views; and
 - (c) revising the drafts on the basis of the team's findings.

To the Economic Recovery Committee:

8. Revisit and develop the initial proposal for including a model of revenue collection and management for the duration of the interim period, ensure that it takes into consideration transfer payments or subsidies for poorer regions, and if there is insufficient data to develop projections of national revenue, send a

team throughout Somalia to research the current revenues of authorities and factions.

To the Land and Property Disputes Committee:

9. Send a team to areas of Somalia most seriously affected by land and property disputes to brief local leaders, elders and authorities, to gauge their reactions to the Committee's proposals, and to seek their advice, and then revise the draft on the basis of these consultations and estimate the cost of the resulting proposal.

To the Demobilisation, Disarmament and Reintegration (DDR) Committee:

10. Invite, via the IGAD Technical Committee, military advisors and/or attachés from the UN Department of Peacekeeping Operations, IGAD member states and concerned Western governments in order to brief them on the proposal, seek their input and obtain their commitment to provide international support.

To the Conflict Resolution Committee:

11. Identify elders and eminent persons whose involvement is required for national, regional and local conflict resolution efforts.
12. Request the Technical Committee to dissolve the Conflict Resolution Committee and then reconstitute it to include these elders and eminent persons.
13. Prioritise regional and local conflicts currently requiring the Committee's attention, as well as areas where tensions or conflicts might emerge as a result of the peace process, then dispatch fact-finding teams to these areas to consult with local leaders.

To donor governments, specifically the European Union and its member states, the United States, and Arab League Governments:

14. Enhance diplomatic support for the process, in order to demonstrate commitment to its success and to assist the Chairman in managing regional differences.
15. Follow through on commitments to impose sanctions on individuals or groups who obstruct the peace process or violate the United Nations arms embargo.

16. Consider concrete measures, such as stronger support for the newly established international committee to monitor the ceasefire and support for DDR efforts if an accord is reached.

To the United Nations Department of Political Affairs, specifically the Political Office for Somalia:

17. Provide greater leadership by calling attention to individuals, groups and governments who obstruct the peace process or violate the arms embargo and develop and recommend to the Security Council a pragmatic regime of targeted sanctions to be applied against offenders.

Mogadishu/Brussels, 6 March 2003



A BLUEPRINT FOR PEACE IN SOMALIA

I. INTRODUCTION

The task facing Ambassador Bethuel Kiplagat, Kenya's new special envoy for the Somali peace process – to conclude successfully the National Peace Conference that began in Eldoret, Kenya, on 15 October 2002 – appears deceptively well advanced. The conference got off to a promising start, issuing a “Declaration on Cessation of Hostilities and the Structures and Principles of the Somalia National Reconciliation Process” on 27 October.¹ As a cost-saving measure, the talks were relocated in mid-February 2003 from Eldoret to Mbagathi, on the outskirts of Nairobi. Since then, the second phase has ostensibly also been completed since the draft papers on various aspects of reconciliation and state building that were prepared by sub-committees are ready for presentation to a final plenary session. Somali delegates, together with many of the foreign diplomats accompanying the process, look forward to the third and final phase – the formation of a new Somali government – with some eagerness.

In fact, however, the new envoy must rescue the talks from failure. Under his predecessor, Elijah Mwangale, the conference had become mired in wrangles over participation, mismanagement and alleged corruption. The 27 October 2002 ceasefire has been violated so often that it is practically meaningless. Public confidence in the peace process inside Somalia is close to zero. Several factions, including the Transitional National Government (TNG) have withdrawn from or suspended their participation in the conference. What should have been an important step toward restoration of peace and government in Somalia has evolved toward an unimaginative “cake-cutting” exercise in power-

sharing by an un-elected and only partially representative political elite that threatens to repeat the history of earlier failed initiatives.

Ambassador Kiplagat's appointment on 18 January 2003 has revived hopes that the peace process can be salvaged. A veteran diplomat, his credentials and experience are well suited to the task. On 3 February 2003, at a meeting of Foreign Ministers of the “Frontline States” (Djibouti, Ethiopia and Kenya) in Addis Ababa, Kiplagat secured a reaffirmation of their commitment to the process and an agreement to establish a mechanism to monitor the violation of the “Declaration on Cessation of Hostilities”. But the challenges to be overcome are formidable: he must restore the credibility of the peace process among both ordinary Somalis and the donor governments that will be expected to underwrite an eventual settlement; re-engage the faction leaders, especially those who have withdrawn or are already in violation of the ceasefire; work with regional powers to reduce the flow of arms into Somalia; and decide how to address the thorny problem of Somaliland, which declared its independence in 1991 and whose absence from the process has been a source of consternation among delegates.

The peace process requires major surgery of the kind Kiplagat cannot hope to accomplish on his own. “These problems don't need to be corrected”, a Somali businessman attending the conference told ICG. “They need to be crushed, eliminated”.² The consent of Kenya's partners on the IGAD Technical Committee³ for the peace process, Ethiopia and Djibouti, is required for any significant changes, and the Arab League, whose leadership on Somali affairs is provided by Egypt, must also be brought on board. Major donors, including the United States and the

¹ See ICG Africa Briefing, *Salvaging Somalia's Chance for Peace*, 9 December 2002.

² ICG interview, January 2003.

³ IGAD stands for Intergovernmental Authority on Development, the name of the East African regional organisation that sponsors the Somalia peace process.

European Union (EU), must be persuaded to lend their backing. A Mogadishu-based faction leader predicted to ICG in January 2003 that “Kiplagat will be a better manager than Mwangale, but the problem is greater than that ... it’s not yet the end of the game”.⁴ Heavy fighting in Mogadishu during the last week of February 2003 in which at least ten people were killed and 50 injured underscored the fragility of the process.

New leadership has created an opportunity to get the Somali peace process back on track but there should be no more attempts at quick fixes. After more than twelve years of statelessness and civil war, it is worth taking the time and effort to get it right.

II. THE PROCESS

Initially, the conference that opened at Eldoret in October 2002 appeared to offer the best opportunity in many years to restore peace and government to Somalia. All the key political actors, with the exception of the Somaliland administration, showed up for the opening round. Initial planning, drawing on lessons learned from previous peace initiatives, laid out a flexible agenda and time frame well suited to the rhythm of Somali negotiations. The conference framework borrowed from the broad participation and open-ended time frame of the 2000 Arta Conference, the detailed technical discussions of the 1993 Addis Ababa talks, and the pragmatic recognition of regional and local administrations embodied in what has come to be known as the “building blocks” approach.

Most importantly, the concept was to develop a comprehensive blueprint for peace and government before addressing the perennial problem of power sharing. Where previous peace initiatives, including the Arta Conference, had typically circumvented discussion of a future constitution, economic recovery, land and property disputes, the Eldoret process planned to tackle them head-on through thematic “reconciliation committees”.

These critical features, however, were progressively disregarded. Criteria for participation in the reconciliation committees and the peace talks as a whole appeared to be entirely arbitrary, leading to ceaseless arguments between Somali delegates and the IGAD Technical Committee over who should sit at the tables. Attendance in the reconciliation committees dwindled, leaving most to meet without a quorum. The formation of the Leaders Committee, intended to solve the participation problem, only made matters worse: it gave faction leaders an effective veto over the process, reducing most delegates to spectators, while shifting the emphasis back toward power-sharing. Meanwhile, the problem of participation persisted, while the IGAD Technical Committee’s tight control led many Somalis to question the authenticity of the process and fuelled speculation that the outcome had been predetermined.⁵

⁴ ICG interview, January 2003.

⁵ See ICG Briefing, *Salvaging Somalia’s Chance for Peace*, op. cit.

Chairman Mwangale brushed past these problems on 14 January 2003 when he insisted that proceedings were on track and predicted that the second, technical phase would be completed by the end of the month. Nor did he seem fazed by the growing irrelevance of the conference to developments on the ground in Somalia, where factional violence and alliance building have continued unabated. To bring the process he has inherited back in touch with that Somali reality, where pessimism about the peace process remains palpable, the new chairman will need to review carefully what has gone wrong.

First, leadership at the conference was awarded to the same faction leaders who had failed to implement previous peace agreements. Not surprisingly, the proceedings of the Leaders Committee have been characterised by posturing and recriminations rather than a genuine search for consensus. Several members have already violated both the ceasefire and the commitment to respect the UN arms embargo that they signed at Eldoret on 27 October 2002. The much-touted ceasefire between the Transitional National Government (TNG) and five key Mogadishu faction leaders, signed on the margins of the conference, also failed to materialise. International threats that spoilers would be punished have been quietly ignored. A prominent Mogadishu faction leader told ICG candidly why he and his peers would be at the table in Kenya: "Of course we will all go. No one wants to take the responsibility for opposing the process. I have to lift the noose from around my neck".⁶ But there is no reason to believe that the warlords are any more committed to the Eldoret process than to any of its predecessors.

Secondly, although those at Eldoret represent significant military and factional forces, it is by no means certain that they collectively possess the capacity to establish a functional national administration. The TNG, established at the Arta Conference, has collapsed in all but name and no longer shows signs of life on the streets of Mogadishu. Most of the faction leaders in the capital control no more than a few square kilometres if any at all. The Juba Valley Authority (JVA), which has restored a degree of order to the port city of Kismayo, is perceived by many locals as an occupying force. The Rahanweyn Resistance Army (RRA) has disintegrated into warring factions, and Abdillahi

Yusuf has ruled Puntland by force, struggling to extinguish a tenacious guerrilla opposition, since his democratic mandate expired in July 2001. Several signatories to the Eldoret Declaration had long been politically inactive until they were invited to join the Leaders Committee. Pooling their respective areas of control would produce something more akin to a Rorschach Test than a map of the Somali Republic.

As potential spoilers, many with foreign backing, the faction leaders cannot realistically be excluded from the process, but they must be induced to share responsibility for a solution with other legitimate political figures, like titled traditional elders, business leaders and civil society representatives, if something more substantial than a string of enclaves is to be established.

Thirdly, while the civilian delegates at Eldoret may be more sincere and congenial than the warlords, they are hardly less divided in their politics, ambitions and clan affiliations. Despite good intentions, most are self-appointed, relying on personal influence rather than a mandate to sell a peace agreement to constituents back in Somalia. Lumping together those who have not appeared on faction lists under the "civil society" label has not helped. Veteran politicians, former faction leaders, officials from the long vanished Barre regime and alleged war criminals rub shoulders with traditional elders, leaders of women's groups, non-governmental organisations (NGOs), academics and members of the diaspora under this umbrella. The commitment of donors like the EU Commission to promoting civil society's role in the conference has complicated the issue further by creating competition for aid resources while increasing the suspicion of faction leaders. Unless an improved formula for participation can be found and civil society representatives begin to function in a unified way, they are likely to be marginalised altogether or obliged to seek the endorsement of the faction leaders in order to stay at the table.

Fourthly, regional rivalry has played havoc both at the conference and inside Somalia. Ethiopian sponsorship of the Somalia Reconciliation and Reconstruction Council (SRRC) is matched by Djiboutian and Arab patronage of the TNG.⁷ Both sides have provided arms – or the cash to buy arms – in abundance. These divisions have played themselves out within the IGAD Technical

⁶ ICG interview, January 2003.

⁷ See ICG Africa Report N°45, *Somalia: Combating Terrorism in a Failed State*, 23 May 2002.

Committee which, lacking a unified approach, has, in the words of a foreign observer, attempted to manage the talks by “issuing demands, responding with threats and pushing issues to the wall”.⁸

The blame for the Technical Committee’s dysfunction is shared by all its members, but Ethiopia’s proactive engagement has led many Somalis to conclude that it dominates the conference – a perception encouraged by some of Djibouti’s diplomatic team at Eldoret. Mohamed Qanyare Afrah, a major Mogadishu faction leader, echoed a common view when he told ICG in January 2003: “Ethiopia has two agendas, either to get the government they want or to prevent any government from coming into being.”⁹ Toward the end of February 2003 the TNG denounced Ethiopia’s “sinister designs for Somalia”,¹⁰ and a group of eleven faction leaders called for Kenya to run the talks alone.¹¹ Others are less quick to condemn Addis Ababa but question its motives. “If Ethiopia really wants a solution, why are they giving weapons to every region?” asked a leading politician from Mogadishu.¹² There is a widely held belief that Ethiopia is working toward the formation of a transitional government led by Puntland Chief Colonel Abdillahi Yusuf – an outcome that would be deeply unpopular and, in the words of Ali Mahdi Mohamed, an influential Mogadishu politician, would trigger “a war the likes of which we have not yet seen”.¹³

Instead of coming to terms with this formidable array of problems, the Leaders Committee – together with some diplomats – has been hoping for a quick fix by declaring an interim government first and leaving the details of a durable settlement to be worked out later. That has not worked in the past, and there is no reason to suppose that it would now.

If there is to be any hope of success, the new chairman and his team must resist the pressures for a superficial “success” and redirect the process toward constructing a comprehensive blueprint for peace and governance.

III. THE ISSUES FOR RECONCILIATION AND STATE RECONSTRUCTION

The second phase of the Eldoret Conference is intended to “address *in detail* [emphasis added] the core reconciliation issues required to establish peace in Somalia”.¹⁴ Consequently, the themes for the Reconciliation Committees go beyond the cessation of hostilities to the constitution of a working state. This is in part because the Somali crisis is, at its core, one of the state’s legitimacy, and in part to ensure that the inevitable power sharing negotiations are based on a common understanding about the kind of state within which power is to be shared. The political differences that have undermined previous attempts to form a Somali national authority may be surmountable within a highly decentralised or federal system. The decision in December 2002 by the Leaders Committee to discuss power-sharing in parallel with reconciliation committee deliberations in order to save time makes little sense. Unless leaders first know whether they will be sharing a presidential or parliamentary system, with how many “regions” or “provinces” and what relative strengths between the centre and the regions, negotiations will be an abstract exercise in futility.

By mid-February 2003, all reconciliation committees had completed drafts on their respective topics. Although several papers represent a genuine effort to grapple with thorny problems, they do not yet add up to a workable whole. No committee has been able to sustain a quorum, meaning that the drafts tend to represent the views of a handful of like-minded delegates rather than a broad consensus. The constitutional committee has produced two possible charters, neither of which provides clear answers to the demands for decentralisation or federalism favoured by some key delegations. A wider audience – including the Somali public – needs to debate these papers so that they have more support before they are submitted to the plenary for a decision.

In the absence of concrete proposals for the structure and constitutional arrangements of a future state, other committees – such as those dealing with disarmament and economic recovery – can only

⁸ ICG interview, January 2003.

⁹ ICG interview, January 2003.

¹⁰ IRIN, “TNG says peace talks facing collapse”, Nairobi 26 Feb 2003.

¹¹ IRIN, “Faction leaders want Kenya to run peace talks alone”, Nairobi, 24 Feb 2003

¹² ICG interview, January 2003.

¹³ ICG interview, January 2003.

¹⁴ “Proposed Framework for the Somali Reconciliation Process”, Somali National Peace Conference Secretariat (undated draft).

guess at the parameters within which they must work. The committees need a logical sequence for their work since certain elements of government are building blocks for others. At what level will revenues be collected and managed? Will there be a single police force or will regional forces co-exist with a federal law enforcement agency? Will there be one standing military force or several regionally based reserves? What are the political and budget implications of such choices? Until such issues are fully unpacked and a measure of agreement achieved, practical obstacles will continue to thwart efforts to form a functional central government.

A. CONSTITUTION AND GOVERNMENT

Somalia's long lack of a national government is largely a legacy of popular resistance to the predatory and abusive system Major General Siad Barre established after a 1969 coup. The first task is not to form a government, but to design a structure broadly acceptable to a majority of the Somali people. Given that most political leaders are damaged goods, having either served in the Barre regime or played a part in the civil war, clear and effective checks and balances on executive power are imperative if Somalis are to trust a future government.

As Somalis approach that task, there exists broad agreement on basic features:¹⁵

- ❑ A constitutional republic with a democratic system whose leaders are chosen through regular, competitive elections;
- ❑ executive powers likely shared between a president and a prime minister;
- ❑ a high degree of decentralisation; and
- ❑ Islam as the state religion and *sharia* as a basis of law.

Beyond these fundamentals, differences emerge. The inability of the Reconciliation Committee for the Constitution and Federalism to agree on a single draft is symptomatic.

On constitutional issues, most Somalis fall into one of two camps: federalist or unitarian. The 27 October

2002 Eldoret Declaration called for a federal system. Several faction leaders claim that they signed under pressure from the Technical Committee, however, and there is still not true consensus.¹⁶

Most Somali federalists seek a state arranged in clan-based blocks. For example, Puntland's leaders, who are among the most vigorous advocates of a federal system, define theirs as the territory of the Harti clans (Majeerteen, Dhulbahante and Warsengeli) of northeast Somalia. Digil-Mirifle political leaders have sought since the 1950s to establish a federal state in which their clans would share a province incorporating much of present-day Bay and Bakool regions, together with parts of adjacent regions. While the motivations of these groups differ, their vision of a future state is essentially the same: a federation of four or five "regions" or "provinces" within Somalia: Somaliland, Puntland, a south-central Somali entity to the north of Mogadishu, and a southwestern (or "Jubaland") state – each inhabited by a major clan or coalition of clans.¹⁷ The city of Mogadishu and its environs (collectively known as Banadir) would be assigned a special status as the federal capital. A fairly centralised variation of this model is encapsulated in one of the draft proposals to emerge from the Reconciliation Committee for the Constitution and Federalism.

The main advantage of the federal model is that it represents the "path of least resistance" in political reconstruction, building on *de facto* regional entities that enjoy a degree of local legitimacy: Somaliland, Puntland and the RRA. Since these administrations have already shown that they can subsist on local revenues, they could federate at little additional cost to a new central government or donors. Were they to do so, the main question for the remainder of Somalia might seem to be not whether to follow their lead but when, and in what form.

In practice, a federation would prove much harder to organise. Somaliland – the most stable and politically advanced of the federal "building blocks" – prefers to remain independent. In Puntland, a botched political transition collapsed the political consensus and caused the region to descend swiftly into

¹⁵ Based on War Torn Societies Project (WSP), "An Undiscovered Option: A Way Forward for Somalia", Geneva, February 2002, p. 5.

¹⁶ ICG interviews, November 2002 and January 2003.

¹⁷ The declaration by the RRA in 2002 that Bay and Bakool had amalgamated with the rest of "Jubaland" to form the state of "South-West Somalia" has yet to be realised on the ground and faces such daunting political challenges that it may eventually have to be abandoned.

violence. Colonel Abdillahi Yusuf, its de facto leader, maintains a shaky grip through force, rather than the popular mandate that brought him to power in 1998. In May 2002, the RRA leadership laid claim to the entire territory of “Southwest Somalia”, not only the Digil-Mirifle territories, thus overstepping the traditional limits of Rahanweyne-style federalism and contributing to the political implosion of their movement. One of the draft constitutions put forward at Eldoret appears to accept the notion of a Southwest Somali state, but it is uncertain how this could become a political reality.

Even were such practical and political problems to be overcome, a federal Somalia would remain problematic. The number of states, their boundaries, and their relations with the central government all are potential sources of conflict. Representatives of the Hiiraan Political Authority at Eldoret informed ICG that Hiiraan would seek to become a federal state on a par with Puntland and Somaliland.¹⁸ Likewise, the faction leader controlling Jowhar, Mohamed Dheere, has posited an “East-Central” Somali state consisting of Middle Shabelle and parts of Galguduud region. The number of provinces in a federal Somalia is a matter of extreme sensitivity because a major clan would inevitably dominate each province.

Finally, the many Somalis who believe a federal system would offer the best safeguards against the re-emergence of an authoritarian government are perhaps overly optimistic. Minority clans might well find themselves treated as second-class citizens by the dominant clan in each province. More generally, the recent experiences of Puntland and the RRA provide object lessons that an autocratic and militarised regional government can pose as much of a threat to the security and welfare of its citizens as a more remote central government.

Unitarian Somalis worry that a federal structure would weaken both the state and the Somali nation. They typically assert that federalism is synonymous with “Balkanisation”, leaving Somalis divided into clan enclaves or “emirates” and vulnerable to “divide and rule” tactics by neighbours and other regional powers. They worry that ordinary citizens would identify primarily with a clan-based mini-state, preventing the re-emergence of a national identity, and that clan-based “Bantustans” would forever fight one another for one reason or another. The handful of

unitarians with their eyes on the bottom line are also aware that a federal system is likely to cost more: a not insignificant consideration for a poor country.

While these concerns are not without foundation, unitarians must overcome two hurdles. First, their platform has historically been associated with the “governments” of Mogadishu-based factions, and hence with the political leadership of the Hawiye clan that asserted control of the capital following Siad Barre’s overthrow in 1991. Other Somalis routinely allege that Hawiye leaders oppose a federal system because they want to translate this control into national dominance. Unless unitarians can prove otherwise, clan-based “protectionism” (federalism) will remain popular among non-Hawiye clans.

Secondly, the unitarians must overcome widespread mistrust of central government and the concomitant desire to limit its powers. This requires them to go beyond the nationalist rhetoric they have typically used and to articulate a persuasive democratic program with real checks and balances on central executive power. As long as their paradigm seems designed to cater only to the interests of those nearest to the summit of the political pyramid, it will never attract a broad national following.

The experience of the TNG is illustrative: despite its relatively broad base of support, early appointments and decisions created the public perception that it was essentially a vehicle to advance President Abdiqasim’s own Habar Gidir ‘Ayr sub-clan. That many ‘Ayr opposed Abdiqasim and his administration’s cronyism extended to many clans did little to dispel this impression. The TNG’s nationalist rhetoric was increasingly viewed as an attempt to legitimise Habar Gidir military expansionism in parts of southern Somalia. Abdiqasim’s reluctance to speak to this issue has simply reinforced belief that central government would inevitably serve the interests of certain clans rather than the entire nation.

Given the complexity and sensitivity of the problem, the Reconciliation Committee on the Constitution and Federalism still has a long way to go. One draft appears to be little more than a re-labelling of the 1960 unitary constitution as a “federal” system. The other attempts to incorporate entities like Somaliland, Puntland and Southwest Somalia within a top down framework whose emphasis on central authority probably reflects the desire of certain groups to maximise power and influence rather than a true

¹⁸ ICG interview, November 2002.

appreciation of the obstacles to political consolidation. In some respects, the differences between the drafts suggest not so much an ideological schism as a political one. As an analyst following the Eldoret talks told ICG, “The split in the Constitutional Committee is really a TNG vs. SRRC issue. Both want to protect their political future”.¹⁹ No wonder many Somalis believe their leaders are still not genuinely seeking an end to the crisis.

Overcoming these differences and ensuring that any draft constitution submitted to the plenary is grounded in political realities rather than the ambitions of the faction leaders will require a more open and protracted dialogue. First, the Constitution and Federalism Committee needs to refine its proposals until they are either harmonised in a single document or offer clearer alternatives. A team with a mandate either from the committee or the conference as a whole should be dispatched throughout Somalia to explain the issues and options and solicit feedback from the general public. There is, of course, no guarantee that the faction leaders would listen to the public, but if they choose not to, they would do so in full knowledge of the risks and consequences.

B. LAND AND PROPERTY

In a society attached to a nomadic, pastoralist tradition, where land belongs to Allah, not man, it may seem strange that property disputes are among the most grievous obstacles to a peace settlement. But not all Somalis are – or were – pastoralists, and the nomadic tradition has lost much force. Patterns of land use and ownership have altered dramatically over the past half-century, especially in the South, and there remains precious little terrain for God to claim.²⁰ Not surprisingly, most disputes pertain either to urban centres or arable areas in southern Somalia.

Much of the real estate free-for-all in the South predates the civil war. Under colonial management and past regimes, titles to vast tracts of arable land were awarded to foreign investors and cronies with little or no consideration for local communities that had prior claim to or actually worked the land and were often obliged to provide labour for the new landlords under conditions of near-slavery. During

the civil war, rival militia groups styled themselves “liberators” when they seized land but they have for the most part retained possession and perpetuated the exploitative practices of their predecessors.

Land disputes in the central and northern regions have followed a more traditional pastoralist pattern, involving competing claims to living space (*degaan*), pasture and water. Disputes over traditional clan territory are inevitably bound up with political and economic interests. Most clans today lay fairly precise claims to territory, including their “share” of towns and villages in which they intermingle with other clans. Some parts of the country – notably Lower Shabelle region, the Juba Valley and Mogadishu – have experienced particularly heavy influxes from non-resident clans, often supported by militia. Under current conditions, such disputes contain the potential for serious violence. For example, ownership of grazing lands in central Mudug claimed by both the Majeerteen and the Habar Gidir remains unresolved despite a 1993 agreement. Water wells in central Somalia are also a common source of strife, especially when rehabilitated by donors without due regard for local context.

Clan-based land disputes are complicated by the fluidity of ownership and settlement patterns over recent decades. Clan boundaries have shifted significantly in many parts of the country, making it difficult to agree on a frame of reference. In Kismayo, members of the resident Harti clans consider the newly arrived Habar Gidir and Marehaan from Galguduud region unwanted occupiers. But the newcomers quickly point out that the Harti community in Kismayo is itself “foreign”, having migrated from the Northeast around the turn of the century.

Wisely, the Reconciliation Committee for Land and Property approached its work by attempting to categorise the various types of land and property disputes and the possible mechanisms for their resolution, rather than passing judgement on which historical period to consider. Focussing exclusively on disputes since Barre’s fall would appear to reward those who had profited from the old regime, while punishing the “liberators”. Extending the remit to cover disputes since independence might appear more even-handed but would also require more cumbersome bureaucratic and legal machinery for investigating titles awarded under previous governments. (Much pre-war documentation has been lost or destroyed, and land titling was

¹⁹ ICG correspondence, 6 February 2003.

²⁰ For an in-depth examination of this issue, see Catherine Besteman and Lee V. Cassanelli, *The Struggle for Land in Southern Somalia: the War Behind the War* (Boulder, 1996).

extremely politicised during previous governments). Extending the committee's horizon further back to, say, the clan zones demarcated by the colonial powers – as some members of the Committee have suggested – would risk opening a Pandora's box of irreconcilable claims and counter claims.

Given the sensitivity of its task, which its draft describes as dealing with the “root causes of the ongoing civil war”, it is not surprising that the committee assigns priority to assessing the damage caused by colonial land practices and seeking reparations from former colonial powers – an issue that few members can have objected to. Somewhat more problematic is the system of national and local level committees it proposes, which would require the leadership of a fairly robust and impartial central government. However, with further deliberation, a more pragmatic system that gives greater responsibility to local authorities might emerge.

The committee's boldest – and potentially most controversial – assertion is that all militias occupying areas by force should withdraw prior to negotiation or arbitration. Although no specific cases are mentioned in the draft, this recommendation has greatest import for the Habar Gidir militia strung out between Mogadishu and Kismayo, and its Marehan partners in the Juba Valley Alliance. Difficult as it may be, the issue must be squarely addressed now that it has been tabled. The Lower Shabelle and Lower Juba are unlikely to know lasting peace as long as their leaders impose themselves by force. And now that Somalis have spoken clearly, the international community – which has for too long resisted taking a position – should feel emboldened to do likewise.

C. ECONOMIC RECOVERY

Amidst the euphoria that greeted the conclusion of the Arta Conference and the formation of the TNG in August 2000, the new prime minister, Ali Khalif Galaydh, was probably right in thinking that he could count on international help to rebuild the shattered country. But he sorely overestimated donor goodwill when he tabled a budget of U.S.\$470 million for the first year of his government's operation – almost all of it foreign aid. Few donors have forgotten Somalia's reputation as a sinkhole for assistance during the 1970s and 1980s, or the U.S.\$2 billion debt the government left in its wake when it went under in 1991.

Somalia has been heavily dependent on foreign aid since independence. A series of ambitious development plans in the 1960s and 1970s failed either to relieve this dependence or improve the quality of life. In the 1980s, it allegedly had “the lowest GNP, the lowest physical quality of life index, the lowest per capita public education expenditure, the highest infant mortality per 1,000 births, and the highest per capita military expenditure” in the world.²¹ Following the army's disastrous defeat in the 1977-1978 war with Ethiopia, there was little left to hold the country together but foreign aid. Professor Ken Menkhaus concluded:

The strong centrifugal forces pulling at Somalia's seams were held in check by generous levels of government patronage, courtesy of high levels of Cold War-driven military and economic foreign aid (Government coercion and repression, it should be added, were also part of the mix that temporarily held communal grievances in check but which eventually fuelled them).²²

Most Somalis understand that donor largesse on a Cold War scale is no longer on offer, but the ramifications of that elemental fact have hardly been considered. Economic recovery is not a conventional problem of rehabilitation and reconstruction, but rather of completely rethinking the economy and the state's revenue structure. How can the former be stimulated for both short-term growth (essential to reintegrate demobilised militia and returnees, among other things) and long-term stability? How much will it cost to revive a functioning state? How much of that will initially have to come from donors and over what period? What are the actual and potential sources of revenue for a future government? And what are the economic and fiscal implications of either a unitary or federal system? Given that these questions have been pending for well over a decade, it seems remarkable that so little energy has gone into answering them.

²¹ Norman Miller, “The Other Somalia: Illicit Trade and the Hidden Economy”, American Universities Fieldstaff Reports: Northeast Africa Series 29 (1981), cited in Ahmed Samatar, *Socialist Somali: Rhetoric and Reality* (London, 1988), p.157.

²² Ken Menkhaus, “International Peacebuilding and the Dynamics of Local and National Reconciliation in Somalia”, in Walter Clarke and Jeffrey Herbst (eds.) *Learning from Somalia: Lessons of Armed Humanitarian Intervention*, (Boulder, 1997), pp. 59-60.

The Reconciliation Committee on Economic Recovery thus has its work cut out. Sensibly, it considered a range of sources before commencing its own deliberations, among them a report of the Multi-Donor Task Force led by the World Bank in 1993, and the “Menu of Options” team led by Professors Ioan Lewis and James Mayall in 1995. Both documents argue that a future government’s role should be limited by its capacity to mobilise domestic resources, thus restricting the number of ministries, imposing realistic ceilings on the armed forces and civil service, controlling public expenditure and approaching reconstruction demands with strict political and fiscal discipline.

The committee’s report echoes many of these findings but nevertheless proposes a budget of over U.S.\$1 billion for the first two years, premised apparently exclusively on foreign aid since there is no provision for domestic taxation and no reference to internal revenue management. The report contains other inexplicable gaps. There is no budget for a military, for example, which not only raises the question of whether a demilitarised Somalia is realistic, but also complicates the prospects for demobilising militiamen, many of whom expect to be “remobilised” into a national army.

The committee’s ability to answer such questions has been in part constrained by the Leaders Committee and the Reconciliation Committee for the Constitution and Federalism, neither of which has given useful guidance as to the scenarios it wants the economists to consider. For example, if the conference opts for a federal system, regional administrations will no doubt seek to retain control of local revenues, remitting a fixed amount to a central authority. If the conference opts for a unitary system, leaders will have to consider how a new central authority could actually wrest control of local revenues from vested interests in each region without endangering the entire peace process.

The committee’s work has also been hampered by the lack of empirical data. The combined revenues of Somaliland, Puntland, Mogadishu and Kismayo amount to something on the order of U.S.\$100 million a year, a small, but respectable sum with which to kick-start a new government.²³ If a new government had prospect of controlling such revenues, donors might be persuaded to advance a

good part of the sum and add some contributions of their own. The TNG attracted U.S.\$30 million in its first year. But few donors will be willing to front the costs for a new government if faction leaders continue to divert local revenues into their own war chests. Requesting full disclosure by regional administrations, port authorities and factions of their revenues and expenditures would help to establish how much money is actually available for future budgeting.

Wealth sharing will also need to be addressed. Under the previous regime, districts were graded according to their capacity to cover their costs from local revenues. While a minority generated a surplus or broke even, most required subsidies to function. In Somalia’s extremely fragmented condition, it is unlikely that wealthier districts or regions would easily surrender revenues to help their poorer or under-performing counterparts. For example, under a new federal government, a “Riverineland” province comprising Bay and Bakool regions would presumably have to stop taxing land transport from other parts of Somalia, but it lacks a seaport or other alternative source of revenue. Options might be for wealthier provinces to make transfer payments to keep this landlocked region afloat or a federal subsidy based on the taxes paid by the regions to the central government. Alternatively, a faction leader has suggested that Lower Shabelle region, with its shallow port at Marka, could be attached to Bay and Bakool to provide it access to the sea and associated revenues – a potentially explosive idea.²⁴ A unitary government might be able to impose pragmatic solutions to such problems but a federal government would have no alternative to protracted negotiation.

Not surprisingly, the leaders at Eldoret are reluctant to address such problems in precise terms. Most seem to persist in the belief (despite all evidence to the contrary) that once a government is formed, donor funds will flow, and hard decisions can be indefinitely postponed. Unfortunately, for all its emphasis on fiscal discipline, the Economic Committee’s assertion that a future government will require U.S.\$1 billion in donor aid only encourages such wishful thinking. This is all the more reason for it to go back to the drawing board for more focused and realistic objectives, including a model for taxation and revenue-sharing designed to give Somalia’s future leaders a clear picture of what they can afford.

²³ ICG interviews, January 2003.

²⁴ ICG interview, November 2002.

D. DEMOBILISATION, DISARMAMENT AND REINTEGRATION (DDR)

The collapse of one of Africa's largest and best-equipped armies in 1991 left Somalia awash with arms and ammunition sufficient to sustain the conflict for several years without further substantial imports. Nevertheless, weapons and ammunition have entered Somalia steadily over the past decade from regional states, arms merchants and even – for a brief period in the early 1990s – the United Nations peace enforcement operation. The two and a half years since the Arta Conference have seen a marked upswing in this flow, as the TNG has used cash contributions from friendly Arab states (mainly Saudi Arabia) to buy weapons and ammunition, and Ethiopia shipped arms across the border by the truckload to its clients. In Mogadishu, ammunition has become a ready substitute for cash. Teashops, *qaat* sellers and even prostitutes are said to accept payment in cartridges.²⁵

The combination of civil war, poverty and lawlessness presents daunting security problems. Factions continue to battle for turf across much of southern Somalia, including Mogadishu, and larger businesspeople maintain their own militias. The TNG, Puntland and Somaliland administrations each possess a standing army (although much of the TNG's reportedly remains loyal to its commander, General Ismail Naji, who was dismissed in January 2003). Freelance militia and bandits still plague much of the country, indulging in theft, extortion and kidnapping.

Economic stress further aggravates the problem. The vast majority of young Somali men lack formal employment and live off occasional jobs, family support and the time-honoured tradition of *shahaad* – a socially acceptable form of sponging. For many, a weapon offers both self-esteem and self-employment. As financing for factional militia has become increasingly unreliable in recent years, growing numbers of young guns are freelancing to make ends meet. In Mogadishu, kidnapping is a growth industry. Creating opportunities for training and gainful employment of Somalia's armed youth must be a critical component of the DDR process.

The trickiest issue is probably the paradoxical nature of that process. As the director of a Somali think tank

explained to ICG: "If you want to disarm someone, you are by definition ... creating a new army and police force. The question is who controls these new forces? That's what makes people nervous and to grab for their guns".²⁶ In other words, many Somalis are likely to retain their weapons as a hedge against the establishment of an abusive or otherwise unacceptable central government. The DDR Committee at Eldoret, predictably, has proposed that ex-militia should compete for places in a national army, police force, custodial corps and intelligence service. No doubt, a new government will think along similar lines, but unless it first obtains a broad base of public support its military build-up will create new tensions. The pace of military consolidation – including the demobilisation and reintegration of militia – should, therefore, be linked to specific confidence-building measures, including some international oversight.

Some observers point instead to Somaliland, where traditional elders persuaded clan militias to hand over their heavy weapons and bring their small arms with them if they wanted army positions. Security there now compares favourably with many other countries in the region. Others argue that such solutions are unlikely to work in the South, where traditional authority is much weaker, and where – unlike Somaliland – powerful vested political and commercial interests oppose the restoration of government and the rule of law. Criminal networks trafficking in arms, drugs, and other contraband have taken root in parts of the South, some aligned with or controlled by faction leaders who will inevitably be involved in a peace agreement and a future government. Many faction leaders are reluctant to relinquish the perks they enjoy living off the revenues of "private" ports and airports, and some fear indictment for war crimes when and if normalcy returns.

Facing such obstacles, it is not surprising that delegates at Eldoret are virtually unanimous in believing that an international military intervention will be required to effect disarmament and demobilisation. "The conference can produce a new government", one member of the Leaders Committee said, "but it would need an implementing force".²⁷ In its draft proposal, the DDR Committee suggests a three-month grace period in which militias could

²⁵ ICG interview, January 2003.

²⁶ ICG interview, November 2002.

²⁷ ICG interview, January 2003.

disarm voluntary. Those who fail to do so would then be disarmed by force. But which force? Few governments are eager to send troops to a country where UN and U.S. forces were so badly mauled just a decade ago that peacekeeping doctrine was rewritten to illustrate the hazards of crossing the “Mogadishu Line”.

On the other hand, it is unrealistic for the international community to expect Somalis to succeed unaided at such a task (the DDR committee estimates that approximately 100,000 militia must be demobilised, disarmed and reintegrated, although this figure is closer to the total number of armed irregulars in the country than the much smaller number of organised militia fighters). An international force to monitor a ceasefire, take custody of heavy weapons and assist in managing demobilisation centres would do much to build confidence in a peace accord.²⁸ Community leadership of the disarmament process, which was successful in Somaliland, needs to be encouraged. An international police presence would also help to improve security in urban areas while contributing to reconstitution and retraining of a national police force. The UN has experience of this kind in Somalia and could presumably spearhead efforts to strengthen law enforcement and rebuild the justice system.

The United Nations arms embargo for Somalia, established by Security Council Resolution 792 (1992), offers another basis for international support to the DDR process. Years of unpunished violations, however, have totally undermined the force of the embargo while breeding a culture of impunity among faction leaders and their arms suppliers. Ten years later, Resolution 1407 (2002) established a Panel of Experts to investigate violations of the arms embargo and recommend steps to strengthen its enforcement. The Panel’s report to the Security Council, due in March 2003, is expected to propose

tough new monitoring procedures and “smart” sanctions against violators. Such measures would cost relatively little but could dramatically alter the balance between armed factions and more progressive political forces in Somali society. An extension of the Panel’s mandate, together with additional powers to investigate and punish violations, would represent a concrete step along the path to peace. If combined with a robust regional mechanism for monitoring ceasefire violations and penalizing offenders, faction leaders would have few options but to return to the bargaining table and remain there until a negotiated settlement is reached.

E. LOCAL AND REGIONAL CONFLICT RESOLUTION

The task of the Reconciliation Committee for Local and Regional Conflict Resolution is somewhat obscure. Some delegates have described it as the “mother of all committees”, whose job is to mediate disputes within other committees and between the faction leaders at the conference. Members have approached its work from an essentially academic perspective, proposing to draft a typography of Somali conflicts and forms of conflict resolution. Foreign diplomats have suggested instead that the committee tackle local and regional conflicts that are not on the table at Eldoret, such as the inter-factional struggles in Bay and Bakool, Puntland, and Kismayo, or the dispute between the Somaliland and Puntland administrations for control of Las Anod, the capital of Sool region.²⁹ The IGAD Technical Committee, which is supposed to decide such matters, has shown little interest in the committee’s role.

If the peace process ever gets off the ground, this committee’s role is likely to shift rapidly into sharper focus, since conference deliberations would inevitably heighten tensions in some areas and spawn new conflicts in others. Establishment of regional administrations, whether on a federal or unitary model, is bound to trigger local contests for power. If the conference opts for a federal system, demarcation of provincial boundaries is likely to fuel tensions in places like Gaalkayo, where inhabitants are divided along clan lines between those who consider the town an integral part of Puntland and those who identify instead with Mogadishu and the

²⁸ The IGAD Council of Ministers authorised Ambassador Kiplagat in February 2003 to establish an international committee to monitor the present ceasefire. IGAD, the UN, the African Union, the Arab League, the European Union and the U.S. committed to participate in the work of the committee, which held its first meeting on 3 March 2003. While a useful beginning, this kind of essentially diplomatic body, which is still largely without structure, guidelines or resources, would need to be supplemented by on-the-ground observers and backed with real political clout to perform the functions necessary to buttress a peace accord. ICG interview, 4 March 2003; also, IRIN, “Somalia: International committee to monitor ceasefire accord”, Nairobi, 25 February 2003.

²⁹ Las Anod is within the British colonial borders claimed by Somaliland but is inhabited by members of one of the Harti clans whose allegiance is claimed by Puntland.

central regions. Disarmament of militias in Lower Shabelle and the Juba Valley risks being followed by local reprisals against former “occupiers” unless accompanied by some form of dialogue. A future government’s inevitable use of force against truculent militias who refuse to abandon roadblocks would probably meet with high public approval, but if mishandled could easily spiral into showdowns with disgruntled sub-clans.

The list of possible complications from the peace process is endless, but attempting to prioritise may prove sensitive. For example, in Lower Shabelle and Lower Juba, some groups may argue that there is no dispute, fearing that they might be dislodged from their conquests by dialogue. Abdillahi Yusuf has been reluctant to negotiate with opponents in Puntland and is unlikely to welcome committee pressure to do so. Likewise, the Somaliland administration would probably resist any intervention in its dispute with Puntland over Sool and eastern Sanaag regions, which it considers a domestic affair.

Despite calls from some quarters for the committee to be active in mediating differences both at the conference and inside Somalia, it is poorly suited to that purpose. Its members have diverse profiles and backgrounds, and many have long been absent from the country. Those who possess experience in peacemaking are in the minority. The committee would better direct its energies toward identifying the conflicts requiring most urgent attention, then recruiting better suited individuals (respected traditional and community leaders, for example) – whether or not they are delegates. Since the Conflict Resolution Committee is reportedly the only conference body with a travel budget, it could assemble and dispatch mediation teams to assess hotspots and propose solutions, such as inter-clan conferences or traditional mediation.

Another possible role for the committee could be to contribute to “outreach” efforts for bringing the peace process closer to ordinary citizens. Countrywide consultations on many of the issues being addressed at the conference would help to ensure that the peace process remains grounded in reality, with results less likely to prove destabilising when brought back into Somalia.

F. WAR CRIMES AND TRANSITIONAL JUSTICE

The issue of war crimes is conspicuously absent from the Eldoret agenda, despite numerous accusations against the previous regime and certain factions. Among the most commonly cited episodes are government reprisals in the Mudug region in 1978, mass killings by government forces in the Northwest in the late 1980s, large scale atrocities and abuse of human rights by the late General Aydiid’s forces in the Bay region at the beginning of the 1990s, and mass executions by Somalia Patriotic Movement (SPM) militia in Kismayo in 1992. Several of today’s faction leaders are implicated in these and other incidents. Some Somalis continue to seek an independent enquiry into killing of non-combatants by U.S. and UN forces during the 1992-1995 humanitarian intervention. An open letter to the Eldoret Conference from Amnesty International, calling for human rights issues to be placed at the forefront of discussions appears to have had little impact.³⁰

Sensitive as this issue may be, there are a number of reasons why it should be tackled squarely during the conference. First, an administration comprising alleged war criminals would lack credibility at home and abroad. It would inherit the collective grievances of various Somali groups, undermining from the outset its prospects for earning legitimacy and public trust. Few would have faith in the commitment of such a government to the rule of law and respect for human rights. As a group of human rights activists meeting in Hargeysa declared in a statement issued by Amnesty International, “The outcome of the peace talks should not be a government of warring faction-leaders giving themselves total impunity for their gross violations of human rights”.³¹ Conversely, a government that demonstrates a firm commitment to justice will earn the respect of its citizens and international partners.

Secondly, the politicisation of clan identity means that past abuses perpetrated by members of the Barre regime and militia factions continue to poison relations between clans. Assigning individual, rather

³⁰ Amnesty International, “Somalia: No Lasting Peace Without Human Rights”, Eldoret, 7 November 2002.

³¹ IRIN, No government of “warring faction leaders”, rights activists say, Nairobi, 24 February 2003

than collective, responsibility would be an important step toward healing and reconciliation.

Thirdly, the prospect of investigation and prosecution of war criminals would undercut the authority of certain faction leaders – including some members of the Leaders Committee – thereby removing a number of the more obstructive figures from the political process, while helping to establish personal integrity and moral authority as criteria for the emergence of alternative leaders. Since faction chiefs threatened by such a development might try to sabotage the process, the international community would need to add teeth to its oft-repeated threats of targeted sanctions against spoilers, such as that issued by Kenyan Foreign Minister Kalonzo Musyoka in early February 2003.³² A Security Council resolution under Chapter VII of the UN Charter in support of the recently-established ceasefire monitoring mechanism would make the threat of criminal prosecution of recalcitrant faction leaders and Somali war criminals significantly more credible and be an important first step toward ending the country's culture of impunity.

Somalis have several options to consider: an ad hoc international tribunal, a Truth and Reconciliation Commission, or national court prosecutions – although many would doubt the impartiality of the last (While many Somalis also view the newly established International Criminal Court as a body to which they could bring their grievances, its jurisdiction takes effect from July 2002 and thus excludes the most significant war crimes to have taken place in Somalia to date.) Disqualifying certain categories of government official or factional leader from holding office in a future administration might also help to build public trust. The option of a general amnesty should probably be ruled out *a priori* since it would help to confirm the culture of impunity. However, Somalis ultimately decide the issue, a genuine discussion of it is long overdue and should be added to the conference agenda.

³² "Factions face sanctions for ceasefire violations", IRIN, Addis Ababa/ Nairobi, 4 February 2003. Mr. Musyoka stated: "We are looking at everything, including perhaps making sure that the violators are not allowed to travel to various parts of the world". His caveat that the frontline states would hesitate to apply sanctions if they "work against the best interest of a peaceful solution", however, seemed to offer a way out to any faction leader capable of instigating serious violence. The minister's comments were made following a meeting in Addis Ababa with his counterparts from Ethiopia and Djibouti.

G. SOMALILAND

The Somaliland administration's absence from Eldoret has been a source of some consternation among delegates. It has consistently refused to take part in peace conferences on the grounds that it represents an independent state, not a party to the Somali conflict.³³ Instead, it says, it will talk with a Somali government when one is formed.

Those calling for Somaliland's participation in the peace process offer a variety of reasons. A common argument is that its absence renders the compromise formula for participation that was devised with great difficulty in late 2002 invalid, since the paucity of representatives from the Isaaq clan (which represents a probable majority of Somaliland's population) means that other members of the Dir clan group are over-represented.³⁴

Many genuinely feel that Somaliland's absence seriously impedes the quest for peace in the South. Some object that allowing Somalia and Somaliland to come to the table as equals to negotiate a form of association would award the latter and its majority Isaaq clan disproportionate influence in a future national government. Others continue to insist on Somaliland's participation essentially as a rhetorical device to demonstrate their commitment to the unity and territorial integrity of Somalia – an indispensable quality for any southern leader.

In late January 2003, Colonel Abdillahi Yusuf announced that the Leaders Committee had allocated to Somaliland 50 additional delegates and five seats on the Leaders Committee – a proposal promptly denounced by the Somaliland administration and House of Elders (the *Guurti*). During the last week of February 2003, the TNG suspended its participation in the conference citing, among other things, Somaliland's absence. Quite apart from Somaliland's refusal to attend under any circumstances, there are a number of reasons why the setting aside of seats in the Leaders Committee is unlikely to bear fruit. First and foremost, delegates perceive the allocation of conference seats as prefiguring a final power-sharing

³³ Somaliland did send observers to the 1993 Addis Ababa conference, at the invitation of the United Nations. Somaliland makes up roughly one-third of the territory of Somalia.

³⁴ See ICG Africa Briefing, *Salvaging Somalia's Chance for Peace*, 9 December 2002 for an explanation of this so-called "4.5 formula".

formula. By assigning Somaliland less than a fifth, the conference would implicitly be placing Somaliland on par with regional authorities like Puntland and rejecting its claim to equality with Somalia as a sovereign state. This calculation is all the more sensitive in the context of the initial union between Somalia and Somaliland in 1960, following the departure of the British and Italian colonial administrations, in which the latter obtained one-third of the seats in the cabinet and parliament. By suggesting that Somaliland merits a smaller share than at independence, the Leaders Committee is offering dialogue on terms that no Somaliland leader could accept.

Simply ignoring the Somaliland issue, however, would be perilous. Any government that emerges from the peace process will inevitably claim jurisdiction over all of Somalia, including Somaliland.³⁵ This would polarise the situation further, rendering the prospect of genuine dialogue even more remote and possibly leading to renewed conflict. The frontline states and other concerned governments need to agree on a way to address the Somaliland issue *before* a new Somali government is formed.³⁶ A first step should be the dispatch of a commission from the IGAD Secretariat, the African Union, the UN, and concerned governments to assess the issue and make recommendations.

IV. THE WAY FORWARD

Ambassador Kiplagat returned to Eldoret from consultations in Addis Ababa in early February 2003 with indications of support from the “front line states” for his efforts to revive the process.³⁷ The first and most obvious element has been relocation of the talks to a training centre at Mbagathi, on the outskirts of Nairobi, a move that cuts costs dramatically while providing controlled access to the conference venue. He also obtained the agreement of the IGAD council of ministers to set up an international ceasefire monitoring committee.³⁸ What is not clear is whether Ethiopia and Djibouti have bridged any of their larger differences about the conference, or whether they will allow the new Kenyan envoy to split the difference unilaterally when they fail to agree. This will be especially important if Kiplagat envisions radical modification of conference organisation and management.

The issue is bound to arise since major changes are required if the talks are to have any chance of success. The original framework needs to be resuscitated and improved upon; participation must be revisited, and a realistic time frame – months, rather than weeks – agreed.

A. NEGOTIATING A BLUEPRINT FOR PEACE AND GOVERNANCE

The seminal idea behind the original framework for the peace process was that a comprehensive blueprint for peace and governance should be developed before power was shared out. The reason is threefold.

First, it permits leaders and groups to grasp better the size and shape of the national “cake” they intend to divide. Since most leaders remain fixated on a simplistic, centralised paradigm of executive power, a more elaborate discussion of governance issues would enhance opportunities for power sharing. For example, in a federal system (if the conference chooses to respect the Eldoret Declaration of 27 October 2002), the formation of executive and

³⁵ Ibid.

³⁶ ICG will address the question of Somaliland in a subsequent report.

³⁷ Tom Osanjo, “IGAD members pleased with Somali peace process”, Pan African News Agency (PANA), 3 February 2003. By, PANA Correspondent

³⁸ On the new ceasefire monitoring committee and its limitations see footnote 28 above.

legislative bodies at the provincial level would enlarge the scope for political participation. In a highly decentralised system – whether federal or not – politicians may find greater opportunities for leadership in local or regional government posts than at the national level.

Secondly, an agreed work program would be complete before a new government took office. This would permit it to get to work immediately and so generate public confidence in its commitment and capacity. At the same time, it would increase prospects it would function as a government of national unity and not – as the TNG has done – exploit a less precise mandate as an alternate means of waging war, co-opting allies and subverting adversaries.

Thirdly, the negotiation of such a blueprint would itself be an important confidence-building exercise. Experience suggests that Somalis are sufficiently divided over fundamental issues like federalism, land and war crimes that a transitional authority would be paralysed by internal contradictions. Unless some of these differences can be bridged first, a new government's term of office would likely be rancorous and short.

The Reconciliation Committees have begun elaborating such a blueprint, but their efforts are far from complete. Most committees cannot actually discuss their topics meaningfully until the Constitution and Federalism Committee has set basic parameters such as whether to adopt a federal system and the number of provinces or administrative regions. Their work also requires greater harmonisation. For example, the DDR Committee's plans to integrate ex-militia into a national army need to be reconciled with the Economic Committee's failure to plan for an army.

There is no need to start from scratch. The work of the Committees to date may provide a point of departure for re-launching Phase 2 of the process. The existing draft papers could be used to stimulate a more extensive technical debate of issues and options, both inside and outside Somalia, that should lead to a blueprint for peace and governance. One foreign diplomat close to the talks has even argued that Phase 2 should be designed to result in "a commonly agreed Constitution, with the operational proposals of the various committees attached as a kind of action plan – complete with performance benchmarks – for

what the transitional government would be expected to achieve in its two or three-year existence".³⁹ Few delegates seem prepared to be so prescriptive, but the more substance a blueprint includes, the better.

B. LEGITIMACY AND REPRESENTATION

The problem of representation has dogged every peace initiative since 1991. Somalia's extreme fragmentation and its lineage-based politics render it virtually impossible for outsiders to know who speaks for whom or who can actually deliver on formal commitments. In Somali tradition, representation is usually determined by asking communities to nominate delegates to conferences and give them a clear mandate. Civil war, social breakdown and political collapse have complicated this nomination process and rendered it all but impossible in some parts of the country. A formula for getting the right people together at the bargaining table has eluded Somalis and international negotiators alike.

During the first phase of the Eldoret process, the participation issue crystallised as a choice between faction or clan-based representation.⁴⁰ Ultimately, a compromise was hammered out, in which the number of seats would be allocated by clan, while faction leaders would determine who occupied most of them. But a growing number of observers question whether the delegates at Eldoret are sufficiently representative that any combination of them could actually translate an agreement on paper into a new situation on the ground. "Among the people at Eldoret, there is not one who can legitimately claim to represent Somalis", a retired General in Mogadishu told ICG.⁴¹

Kiplagat's appointment provides an opportunity for a fresh approach. The decision whether to employ faction or clan affiliation as a basis for participation will be critical to the eventual outcome of the conference but it is tangential to the even more fundamental problem of legitimacy. Whatever their differences, the faction leaders and civil society representatives at Eldoret share a common trait in that they are almost without exception self-appointed. Delegates have put forward a variety of reasons why they deserve – individually or

³⁹ ICG interview, January 2003.

⁴⁰ For an in-depth discussion of the participation problem during the first phase of the process, see ICG Briefing, *Salvaging Somalia's Chance for Peace*, op. cit.

⁴¹ ICG interview, January 2003.

collectively – seats at the table, but election by a significant constituency is not among them. Ultimately, what matters most is not who “deserves” to negotiate but rather who has sufficient authority and legitimacy to implement an agreement and deliver peace. Unless this is resolved, there is a real risk that Eldoret will produce another “government in exile” unable to transplant itself back into Somalia without massive foreign financial or military aid.

Pragmatism dictates that faction leaders – at least those with the capacity to act as spoilers – need to be party to any peace agreement. At a minimum, obtaining their signatures will help to justify the application of targeted sanctions if the accord is violated. More optimistically, their support could strengthen the military capacity of a future government and expedite demobilisation. But some analysts warn against giving too much importance to faction leaders lest they transform a future power structure into a state dominated by warlords that provides sovereign cover for the continuation of predatory and criminal economic practices.⁴²

Somalia’s faction leaders do not, however, actually administer much territory, and few can claim sole leadership of even their own sub-clans. Traditional leaders are typically more respected and exert greater moral authority among their kinsmen, especially for resolving local disputes, but they lack equivalent military and commercial leverage. The business community has also emerged as both a rival to and check on factional power. Many businesspeople exert real influence for war or peace and their support (or lack of it) for a future government may well prove a decisive element. In sum, faction leaders have demonstrated neither through control of territory nor procedurally (election or clan consultation) that they possess the legitimacy required to reach a settlement on behalf of the Somali people and make it stick. On the contrary, every national peace accord they have ever signed has been a dead letter.

Diplomats and donors have invested heavily in “civil society” as a counterweight. But as discussed above, the term is problematic at the conference where some to whom it is applied are respected figures who have demonstrated community leadership either at home or abroad, while others have no greater claim than a

custom-made business card or the funds to buy a return ticket to Eldoret. Faction leaders perceive civil society delegates as opportunistic rivals for posts in a future government and complain they are little more than proxies for foreign donors and NGOs.

Striking a balance between these competing constituencies proved too much for the previous conference chairman and the IGAD Technical Committee. The new chairman is unlikely to be in a better position to navigate the treacherous shoals of Somalia’s lineage politics, shifting alliances and regional interference, unless he adds two ingredients to the process.

First, he and the Technical Committee need sound, disinterested Somali advice and support. This function had originally been envisaged as coming from roughly a dozen “National Resource Persons”, who would be eminent figures from a broad cross-section of Somali society, including the diaspora. In order to reinforce their impartiality, it was suggested that National Resource Persons be barred from holding any post in a future government. The Leaders Committee nevertheless rejected concept as unnecessary, presumably because it was apprehensive of rival leadership emerging. Such a body is urgently needed to help the new Chairman find the best way forward on sensitive issues like participation – whether the Leaders Committee agrees or not.

The faction leaders must recognise, or be told by the mediators and donors, that their own committee is too polarised and involves too many vested interests to provide the needed leadership. Kiplagat has already taken steps towards the formation of an “Arbitration Committee”, nominated by the delegates, which would help to mediate differences. But the conference also needs a sort of presidium, functioning like the *shir guddoon* (steering committee) that manages traditional Somali meetings, setting the agenda and providing leadership to ensure that meaningful decisions are reached. If the Leaders Committee still opposes such a group, the chairman retains the prerogative to engage his own advisors – Somali or foreign – albeit in a more limited role.

A second measure needed to restore legitimacy to the process is outreach to communities inside Somalia. The first step should be a visit by the conference chairman to Somalia, explaining what kind of process he envisions, seeking feedback from local leaders and the general public, and demonstrating his concern for the continuing violence in parts of the country.

⁴² See ICG Report, *Somalia: Combating Terrorism*, op. cit., also Ken Menkhaus, “Protracted State Collapse in Somalia: A Rediagnosis”, forthcoming in *Review of African Political Economy* (2003).

Not only would such a visit help to revive public interest in and support for the process; it would also create public pressure on leaders to return to the bargaining table and work towards a settlement.

Broader and more systematic outreach will be required if public interest is to be nurtured and sustained. This could take several forms:

- continuous, extensive consultations inside Somalia by representatives of the Technical Committee on conference topics;
- media coverage of conference proceedings, similar to footage provided by Arabsat television during the Arta Conference, together with regular coverage on BBC radio and the local media; and
- regular travel by conference participants between Somalia and the conference venue.

Outreach activities would raise public awareness of discussion topics as well as the arguments of their “representatives”, thus providing a degree of oversight and accountability. Although such outreach is no substitute for elected and mandated representatives inside the process, it is probably the best that can be hoped for under present circumstances.

If solutions to these two critical issues cannot immediately be found, the Technical Committee should consider adjourning the conference until members can agree on a way forward. It is desirable to sustain momentum, of course, but there is little point keeping hundreds of delegates in Kenya while the IGAD states and their proxies haggle over allocation of seats. Nor is there value in forging ahead to deliver another stillborn national authority. A pause would give time for intensive consultations with a broad cross-section of Somalis while allowing IGAD states to settle some of their differences. Some would argue that a pause also risks the process breaking down. But without a broader, deeper base of support within Somalia, that is bound to happen anyway, sooner or later.

V. CONCLUSION

It has become diplomatic dogma that the Eldoret Conference must be understood in the context of the many failed processes that have preceded it. The applicable historical lesson, however, is a sobering one.

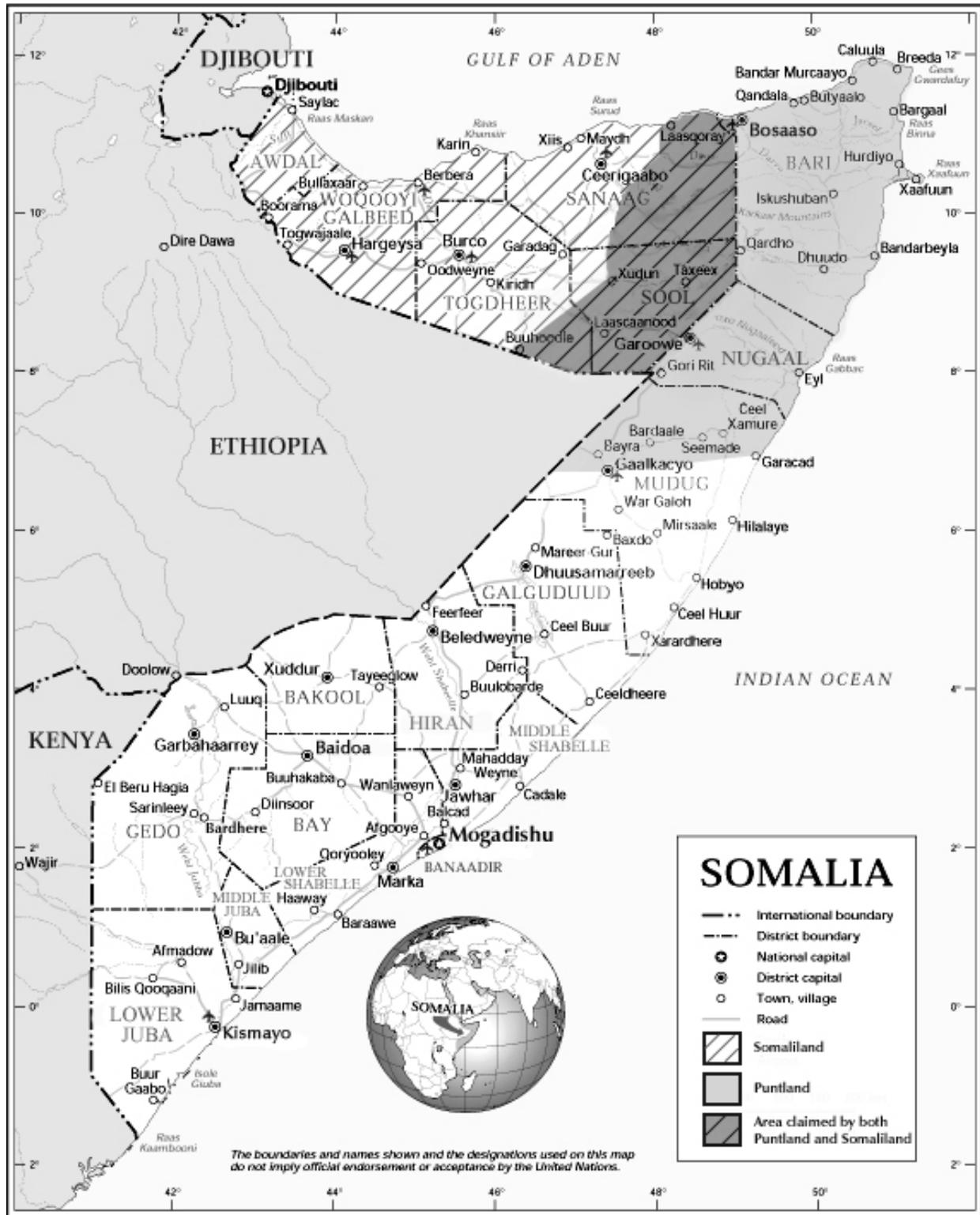
Most previous Somali peace initiatives have been touted by their authors (and many participants) as successes, even when evidence of failure had become inescapable – much like the old medical saw that “the operation succeeded but the patient died”. In 1991, the announcement of a new government at the “Djibouti II” conference triggered the most vicious fighting Mogadishu has ever seen. The UN and the U.S. trumpeted the 1993 Addis Ababa accords as the first step in a bold international experiment in “nation building”, only to find themselves at war with the late General Aydiid. UN Special Envoy Lansana Kouyate’s breezy assertion after the May 1994 Nairobi talks that “the warlords are now peacelords” was followed by new fighting in the Jubba Valley, Merka, Mogadishu, and Beled Weyne. The Arta Conference continues to be heralded as successful peacebuilding despite the collapse of two regional administrations and eruption of some of the worst violence in years.

Many positive words have been spoken about the current process, but there is a real risk that it will go down the same road. Already jostling for position between factions before and during the conference has involved serious fighting in Mogadishu, Baydhowa, Puntland, Gedo, and the Juba Valley. February’s clashes in Mogadishu are in part due to the rearrangement of factional coalitions during the conference, and more serious fighting could yet follow. The reality – that poor peace agreements actually make the situation worse – is one that all parties to the talks, Somali and foreign alike, should bear in mind as they consider their next moves. No one’s interests – least of all those of the Somalis – will be served by another attempted quick fix followed by another round of civil war. With new leadership, a real opportunity exists to get the Somali peace process back on track. After more than twelve years of statelessness and civil war, it is worth taking the time and effort to get it right.

Mogadishu/ Brussels, 6 March 2003

APPENDIX A

MAP OF SOMALIA



Sources: United Nations, ICG interviews, February 2002.