

Governance without Government in Somalia

Ken Menkhaus

Spoilers, State Building, and the Politics of Coping

Since January 1991 Somalia has been without a functional central government, making it the longest-running instance of complete state collapse in postcolonial history. More than a dozen national peace conferences to revive the Somali state have been launched, including several sponsored by the massive United Nations Operation in Somalia (UNOSOM) in 1993–95. None has succeeded. This track record has earned Somalia the dubious distinction of being the world's foremost graveyard of externally sponsored state-building initiatives. The most recent effort to broker a new central government in Somalia, the Nairobi peace accords, produced an agreement on a transitional federal government (TFG) in October 2004, the culmination of two years of negotiations and considerable external pressure. But the TFG's future does not look promising. The TFG took seven months to relocate from Kenya to Somalia, has yet to become operational as a government, has suffered serious internal splits and widespread defections, and faces an ascendant Islamist movement that wields far more power than the TFG. While diplomats attempt to facilitate political dialogue between the TFG and the Supreme Council of Islamic Courts (SCIC) to produce a power-sharing accord and a government of national unity,¹ the much more likely outcome is that the TFG will soon join the long list of failed state-building initiatives in Somalia.²

Somalia is not, however, merely a repository of lessons learned on how not to pursue state building. In some respects, it is at the forefront of a poorly understood trend—the rise of informal systems of adaptation, security, and governance in response to the prolonged absence of a central government. This development is being driven by the evolving role of coalitions of business groups, traditional authorities, and civic groups in promoting more “organic” forms of public order and rule of law. Whether the informal mosaic of local authorities and coping mechanisms that have emerged in Somalia constitutes nascent state building is debatable. But the repeated failure of top-down efforts to revive Somalia's central government must not obscure the significant success of governance-building efforts within some local Somali communities.

Ken Menkhaus is Professor of Political Science at Davidson College.

1. The Islamists are also commonly called the Union of Islamic Courts.

2. For a detailed assessment of prospects for the TFG and the rise of the Islamist movement in So-

Recent research on systems of localized, ad hoc governance in other zones of protracted state failure suggests that the Somali experience is not unique.³ Communities that have been cut off from an effective state authority—whether out of governmental indifference to marginal frontier territories, or because of protracted warfare, or because of vested local and external interests in perpetuating conditions of state failure—consistently seek to devise arrangements to provide for themselves the core functions that the missing state is supposed to assume, especially basic security.⁴ These local efforts at governance vary widely in their effectiveness. Collectively, they reinforce the obvious but often overlooked observation that local communities are not passive in the face of state failure and insecurity, but instead adapt in a variety of ways to minimize risk and increase predictability in their dangerous environments.

Somalia's governance without government experience is of broader interest for two reasons. First, the Somalia case helps to refine scholars' understanding of the nature and complexity of spoilers in protracted crises. Most analyses of the spoiler problem, such as Stephen Stedman's seminal work on the subject, focus on groups and individuals seeking to undermine peace processes or prevent implementation of peace accords.⁵ This is entirely appropriate, as spoilers devote most of their energies to blocking reconciliation and perpetuating conditions of warfare. But the Somalia case suggests that a wider range of spoilers exists and must be accounted for in efforts to manage them. Specifically, most war-torn countries are beset by three interrelated but distinct crises—protracted warfare; chronic, often violent criminality or lawlessness; and state failure. Spoilers can have an interest in perpetuating only one or two of these conditions. In Somalia, some spoilers have successfully undermined peace accords to perpetuate armed conflict; others have acted only to undercut local efforts to improve law and order and reduce criminality; still others support peacebuilding and the reduction of crime, but block efforts to revive an effec-

malia in 2006, see International Crisis Group (ICG), "Can the Somali Crisis Be Contained?" Africa Report, No. 116 (Brussels: ICG, August 10, 2006).

3. Koen Vlassenroot and Timothy Raeymaekers, "The Politics of Rebellion and Intervention in Ituri: The Emergence of a New Political Complex?" *African Affairs*, Vol. 103, No. 412 (July 2004), pp. 359–383; Ken Menkhaus, "Kenya-Somalia Border Conflict Analysis" (Nairobi: United States Agency for International Development, August 2005); Georg Lutz and Wolf Linder, *Traditional Structures in Local Governance for Local Development* (Berne: University of Berne, May 2004); and United Nations Development Programme (UNDP), Local Government Secretariat, "Traditional Authority in South Sudan" (Geneva: UNDP, March 2005).

4. Although the emphasis here is on contemporary instances of local adaptation to state failure, there is a wealth of earlier research by anthropologists, political scientists, and historians documenting the many forms of local governance in communities living beyond the reach or interest of central governments.

5. Stephen John Stedman, "The Spoiler Problem in Peace Processes," *International Security*, Vol. 22, No. 2 (Fall 1997), pp. 5–53.

tive central government. The latter category includes many businesspeople who need a predictable, safe, and peaceful environment in which to conduct commercial activities, but who fear that a revived central government will become repressive and predatory at their expense. The history of the state in Somalia gives this category of state-building spoilers legitimate cause for concern.

Only by distinguishing between local interests in armed conflict, criminality, and state collapse can observers make sense of the otherwise puzzling behavior of Somali political, civic, and economic actors who promote peace and local policing systems while quietly undermining efforts to revive the state. The tendency among external parties to conflate state building and peacebuilding initiatives has tended to obscure these important distinctions and the different types of spoilers they can produce.

Second, the rapid rise to power of Somali Islamists in 2005–06, their decisive victory over a group of U.S.-backed militia leaders posing as a counterterrorist coalition, and their subsequent consolidation of power over most of south-central Somalia add an urgent dimension to the question of state building in Somalia. The rise of the SCIC as the dominant political force in Somalia poses a challenge to secular and traditional political leaders, the TFG, neighboring states, and the West. But it also is diametrically opposed to the proliferation of local polities that have constituted Somalia's governance without government for years. The SCIC has taken vigorous steps to remove or marginalize social and political organizations that might have the potential to serve as a rival power base. Many of the elements of local governance that have emerged in Somalia have been outlawed or are under siege by the SCIC. Regional and municipal authorities have been replaced by the courts; civil society groups have been decreed illegal; customary law has been supplanted by rigid applications of sharia law; neighborhood watch patrols have been dismantled; and traditional elders, civic leaders, and some businesspeople have been marginalized. The SCIC's view of these grassroots governance arrangements as rivals rather than potential partners is worrisome but not surprising given the radical and authoritarian tone that hard-liners in Somalia's Islamist movement have embraced.

Even so, political dynamics inside Somalia may well compel the SCIC to begin exploring coexistence and partnership with existing polities and security arrangements. That would place the Islamists in the awkward but not unprecedented position of possessing a revolutionary, authoritarian ideology without the capacity to fully implement their vision. The worst-case scenario for Somalia is if the Islamists succeed halfway—dismantling the many coping

mechanisms devised by local communities but then proving unable to replace them.

This article assesses the challenges of state revival in Somalia. It reviews the roots of state collapse in the country, attempts to explain the repeated failure of state-building projects, tracks trends in contemporary governance in Somalia and Somaliland, and considers prospects for integrating local, “organic” sources of governance with top-down, “inorganic” state-building processes. It makes the following arguments. First, the prolonged and complete collapse of Somalia’s central government has produced a uniquely difficult context for state revival. The Somalia case suggests that state building is exponentially more difficult where the country has been in a state of collapse for an extended period of time. This finding points to the need for more context-specific state-building strategies in zones of protracted state collapse. It also serves as a cautionary note that delayed external action to revive and support failing states only compounds the difficulty of state building later on.

Second, Somalia’s governance without government has been shaped by the evolving interests and adaptations of a range of Somali actors. More Somali constituencies today have economic and political interests in a certain level of predictability and security, and a greater capacity to advance these interests, than in the days when Somalia was dominated by a war economy and warlordism. This situation may be producing a political climate more conducive to state revival than was the case in the past. But the very success of local adaptation to state collapse could also impede state building by reducing local incentives to support a revived state. The failure of this evolving set of interests to culminate in a revived central state has been due in part to the enduring veto power of internal and external spoilers, and to risk aversion among political and economic elites who have made their fortunes in a context of state collapse and for whom the reintroduction of a central state poses risks they have been unwilling to assume. Analyses that pay special attention to the role of shifting interests and strategies of risk management in Somalia are likely to produce better explanations of both changes and continuities in the political landscape.

Third, state building will continue to be a conflict-producing exercise, due to the zero-sum view most Somali political actors have of control of the state. State building and peacebuilding can work against each other in the short term. State building in Somalia has consistently been pursued via power-sharing accords without serious attempts at reconciliation of issues such as territorial occupation and conquest in southern Somalia. This may partially account for the high failure rate of these accords.

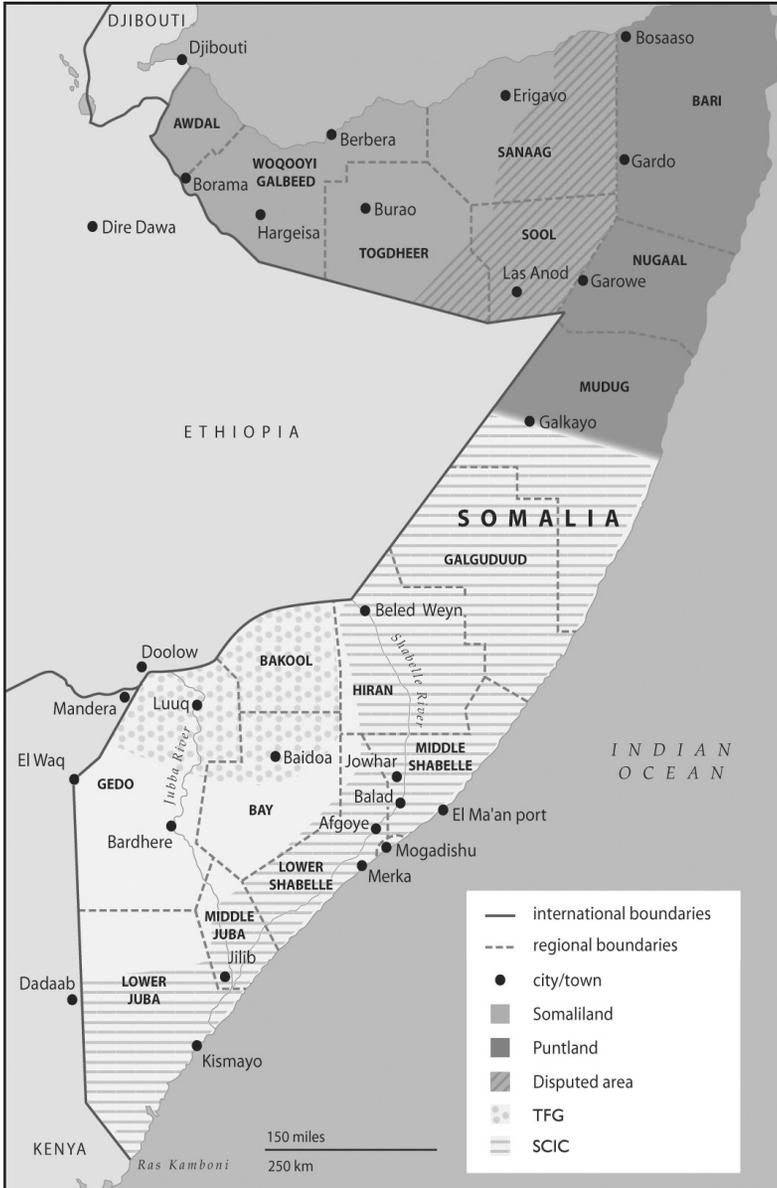
Fourth, a major obstacle to state building in Somalia is the extremely modest revenues that a government can secure from taxes. Most efforts at state revival have relied on external sources of funding, which have been unpredictable and unsustainable. Externally funded state building has also created a disincentive to govern, reduced government accountability to the Somali people, and tended to promote unrealistically expansive, patronage-based visions of the state that are out of line with Somalia's very weak tax base. Barring a major discovery of energy reserves or other windfall profit to the state, in the near term a successful state structure in Somalia will have to be minimalist in size and mandate, and will hence not be an especially useful tool of political patronage. Consensus building, rather than mere purchasing of political allegiance and co-opting of rivals, will be required to hold the state together. That makes the task for Somali political leaders even harder. The external funding from sponsors in the Gulf that the Mogadishu-based Islamists have received has temporarily helped them overcome this resource constraint, but that external assistance will eventually ebb, forcing the SCIC to keep its political agenda modest in scope.

Finally, given that existing informal and local systems of governance have enjoyed real success, and that a central government will necessarily have to be minimalist in the roles it assumes, the most promising formula for success in state building in Somalia is some form of a "mediated state" in which the government relies on partnership (or at least coexistence) with a diverse range of local intermediaries and rival sources of authority to provide core functions of public security, justice, and conflict management in much of the country. This model for governance is already an unspoken practice in much of the Horn of Africa, where weak states are at pains to control their remote hinterlands and find it easier to partner with, co-opt, or subcontract to whatever local nonstate authorities they can find. Mediated states are intrinsically messy, contradictory, illiberal, and constantly renegotiated deals—not ideal choices for governments, but often the best of bad options for weak states. Whether this mediated state formula becomes an enduring part of the Somali political landscape or is merely a necessary transitional phase toward consolidation of formal state authority remains to be seen.

Background

Somalia's descent into civil war and state collapse can be traced to underlying factors at work in the 1980s but that only culminated in political catastrophe in 1991 (see Figure 1). The harsh repression of the government of Mohammed Siad Barre fueled sharp resentment toward and fear of the state itself in the

Figure 1. Map of Somalia, 2006



NOTE: This map has been reprinted with modifications with the permission of the International Institute of Strategic Studies.

Somali public. The Barre regime's divide-and-rule tactics stoked deep interclan animosities and distrust, and are held partially responsible for the failure of clans to unite in a post-Barre government.⁶ The high levels of Cold War-generated foreign aid that Somalia received funded an expansive but unsustainable patronage system and civil service. The subsequent freezing of that aid by Western donors in 1988–89 led to the rapid withering of a central government left virtually devoid of resources. Funded almost entirely from external sources, the Somali state was a castle built on sand.⁷ Although complete state collapse was not inevitable in the post-Cold War period, a general condition of state failure was.⁸

Indeed, ample evidence suggests that by the mid-1980s Somalia was already a failed state. With the partial exception of the security sector, most government institutions began to atrophy in the years following the disastrous Ogaden War with Ethiopia in 1977–78. Fierce government repression, heightened clan cleavages and animosities, gross levels of corruption, and low salaries all combined to accelerate the state's decline. The public school system, a source of pride and progress in the 1970s, crumbled. Production on state-run farms and in factories plummeted. Government ministries were almost entirely dysfunctional despite a bloated civil service, due in part to chronic absenteeism and cronyism; effective and committed civil servants were seen as a threat and removed.⁹ Externally, the Somali state became "a ward of the international aid community."¹⁰ Internally, it devolved into an instrument of repression and expropriation, a tool to dominate political opponents and rival clans, expropriate resources, and above all serve as a catchment point for foreign aid that was then diverted into the pockets of civil servants clever, powerful, or well connected enough to place themselves at strategic spigots in the foreign aid pipeline.

After the fall of the government in January 1991, factional warfare devastated southern Somalia. There, an economy of plunder developed, featuring violent banditry by armed gunmen and warfare waged principally over

6. Among the many excellent studies of this period, see Ahmed I. Samatar, *Socialist Somalia: Rhetoric and Reality* (London: Zed, 1986); and Terrence Lyons and Ahmed Samatar, *Somalia: State Collapse, Multilateral Intervention, and Strategies of Political Reconstruction* (Washington, D.C.: Brookings, 1995).

7. David Rawson, *The Somali State and Foreign Aid* (Washington, D.C.: Foreign Service Institute, U.S. Department of State, 1993).

8. By "state failure," I mean a situation in which a quasi state continues to enjoy juridical sovereignty but is unable to perform most basic functions associated with a state. Most of the literature on collapsed states actually describes variations on the theme of partial state failure.

9. Somalia's state failure in the 1980s closely mirrored the analysis of purposive state failure later described by William Reno in *Warlord Politics and African States* (Boulder, Colo.: Lynne Rienner, 1998).

10. David Laitin, "Somalia: America's Newest Ally," unpublished paper, 1979, p. 8.

opportunities to loot. An estimated 250,000 Somalis died as a result of famine and warfare, and as many as a million fled to other countries as refugees.¹¹ In the northwest, a unilateral declaration of secession established the state of Somaliland in May 1991.¹²

The legacy of the 1988–92 period of civil war is profound. It includes unaddressed war crimes and deep interclan grievances over atrocities committed; massive levels of stolen property, unresolved property disputes, and occupied territory; the rise of warlords and others with vested interests in continued lawlessness and impunity; the near-universal spread of armaments; the destruction of much of Mogadishu; the looting of nearly all public goods and state properties; the flight of as many as a million Somalis abroad; massive internal displacement; and an unresolved secession in the north. Addressing this level of destruction, displacement, and division is an enormous challenge to state building in Somalia. Revival of the Somali state must proceed from rubble.¹³

In November 1992, the United States announced it would lead a multinational peace enforcement operation in Somalia aimed at protecting humanitarian aid. The more challenging tasks of brokering national reconciliation, demobilizing and disarming the country's many militias, and reviving local and national government were left to the UN Operation in Somalia, which took over in May 1993. UNOSOM was intended to serve as a precedent for more muscular post-Cold War peace enforcement and nation building. Instead, it was quickly plunged into a crisis—armed conflict with the strongest warlord in the country, Gen. Mohammed Farah Aideed—from which it never recovered. UNOSOM withdrew in early 1995, leaving Somalia still in a state of war and state collapse.

The lessons of UNOSOM's failed attempts at state building and national reconciliation are well known and need not be repeated here.¹⁴ The failure in Somalia led to strong international (and especially U.S.) reluctance to engage

11. The most careful empirical study of the total casualty figures in Somalia's 1991–92 famine and civil war is Refugee Policy Group, *Hope Restored? Humanitarian Aid in Somalia, 1991–1994* (Washington, D.C.: Refugee Policy Group, November 1994).

12. Somalilanders argue that their May 1991 declaration did not call for secession but rather for a dissolution of its union with the rest of Somalia. Their claim is technically correct. British Somaliland was a separate colony from Italian Somalia, and earned its independence four days earlier than the Italian colony before joining it as a single state.

13. Most general observers are unaware of the extent to which public goods have been looted. Gravel under the runway at Mogadishu's international airport has been removed in places by contractors for building projects elsewhere; the old Parliament building has been entirely dismantled, its valuable red bricks now serving a new purpose in hundreds of ovens in the city; the largest industry in Somalia, the \$250 million Jubba Sugar Project factory, was dismantled and sold for scrap metal in Kenya for \$1 million.

14. See, for instance, Walter Clarke and Jeffrey Herbst, eds., *Learning from Somalia: The Lessons of Armed Humanitarian Intervention* (Boulder, Colo.: Westview, 1998).

in nation building elsewhere; the entire enterprise of reviving failed states was widely viewed as a fool's errand thanks to the costly misstep in Somalia. But in the haste to write UNOSOM's eulogy, observers overlooked a legacy of the intervention that came to have a positive impact on governance and state building in later years. The large UN operation poured an enormous amount of money as well as sizable employment and contract opportunities into the country and inadvertently helped to stimulate and strengthen legitimate businesses, thereby shifting business activities away from a war economy toward construction, telecommunications, trade, and services. In the process, it helped to reshape local interests in security and rule of law, and eventually local power relations as well.

State Collapse and Governance in Contemporary Somalia

Since the departure of UNOSOM, Somalia has remained a collapsed state— notwithstanding ongoing efforts to operationalize the transitional federal government.¹⁵ But subtle changes have marked many aspects of contemporary economic and political life in Somalia since the early 1990s. Most of these trends are driven by gradual shifts in the interests of key local actors, and in the manner in which they seek to protect and advance those interests. The trend is toward greater interest in improved security, rule of law, and predictability: that is, an agenda increasingly embraced by businesspeople, neighborhood groups, professionals, and even some militiamen, who over time prefer the stability of a paid job in a private security force to the dangers of banditry.

In some instances, these changes constitute potential opportunities for reconciliation and state building. Equally as important, they reflect what could be described as an “organic,” local revival of governance. Collectively, this mosaic of overlapping informal and formal systems does not add up to anything approaching a central state—thus it is not necessarily accurate to depict this as a natural process of state building—but it does provide Somalis with a modicum of rule of law and predictability in a dangerous environment. Somalia is, in other words, without government but not without governance. However vulnerable these local systems of governance are, they have the added advantage of enjoying a high degree of legitimacy and local ownership, something that cannot always be said of the inorganic, top-down state-building projects associated with national reconciliation conferences that have not only failed but

15. Portions of this section are adapted and updated from chapter 1 of Ken Menkhaus, “Somalia: State Collapse and the Threat of Terrorism,” Adelphi Paper, No. 364 (Oxford: Oxford University Press, 2004).

have often undermined local polities in the process, leaving the country worse off than before.

SUBNATIONAL GOVERNANCE

The most visible manifestations of subnational governance in Somalia are the formal, self-declared administrations. A brief inventory reveals four levels of such polities—transregional, regional, district, and municipal.

Several regional and transregional authorities have come into existence in Somalia since 1990. Somaliland (a separatist state in the northwest) and Puntland (a nonsecessionist, autonomous state in the arid northeast corner of the country) are the only two such entities that have achieved much functional capacity, but a number of others—the Rahanweyn Resistance Army's administration of Bay and Bakool regions in 1998–2002 and the Benadir Regional Authority in 1996—showed some initial promise. Strictly speaking, most of these regional and transregional polities are or were essentially clan homelands, reflecting a Somali impulse to pursue a “Balkan solution”—or, more appropriate to the Somali context, “clanustans.” Puntland's borders, for instance, are explicitly drawn along clan lines, encompassing the territory of the Harti clans in the northeast and contested sections of Somaliland. Even authorities that appear to be based on a prewar regional unit are often thinly disguised clan polities.

Transregional states in Somalia were at their high point in 1999, when both Somaliland and Puntland were operational and a nascent Rahanweyn administration in Bay and Bakool regions looked promising. The “building-block approach” to Somali state building, a policy favored by external donors at the time, actively promoted these incipient states.¹⁶ The declaration of the TFG as a federal government in 2004 also energized regionalized state building in Somalia.

Nonetheless, Somalis remain deeply divided between centralist and federalist camps, a split that was not easily papered over in the declaration of the TFG. Advocates of some form of decentralized, federal, or even confederal system claim that only that approach can guarantee to local communities (i.e., “clans”) protection from a central state dominated by another lineage. Unitarians fear that decentralization will balkanize Somalia, destroying any hope of reviving Somali nationalism and providing neighboring Ethiopia with ample opportunity to engage in divide-and-rule tactics.¹⁷ Among Somalis, preference

16. Matt Bryden, “New Hope for Somalia: The Building Block Approach?” *Review of African Political Economy*, Vol. 26, No. 79 (March 1999), pp. 134–140.

17. International Crisis Group, “Negotiating a Blueprint for Peace in Somalia,” Africa Report, No. 59 (Brussels: ICG, March 6, 2003), p. 8.

for either a decentralized or centralized Somali state tends to be closely linked to the perceived advantages the options afford one's lineage. Clans such as the Rahanweyn, which are relatively weak politically but claim as their home territory some of the most valuable riverine and agricultural land in the country, strongly support a federal solution. They view self-rule as their only form of protection against the land hunger of more powerful clans. Conversely, some lineages, especially the Hawiye clan-family, dominate the political and economic life of the capital city, Mogadishu, and have come to occupy some of the most valuable riverine land in Somalia; they view federalism as a thinly veiled attempt to rob them of the fruits of victory. Not surprisingly, Somalia's Islamist movement rejects federalism altogether.

Until the rapid ascendancy of the Islamists in 2006, some variation of a federal system was viewed as inevitable in Somalia, setting in motion renewed efforts to form or consolidate regional states. Puntland is the most legitimate, functional regional polity in Somalia, but a number of other regional authorities—in Middle Shabelle, Lower Shabelle, Hiran ("Midland state"), Jubbaland, and Benadir (encompassing the greater Mogadishu area)—have been declared and have exercised at least token authority over the main town in their region. If formed as clanustans, however, they risk triggering conflict and ethnic cleansing. In southern Somalia—where decades of migration and settlement have altered the ethnic topography so that it resembles the patchwork quilt of a Bosnia-Herzegovina rather than the ethnostate of Puntland—the building-block approach is viable only if regional polities are ethnically heterogeneous experiments in coexistence and power sharing rather than tools of ethnic hegemony.

Events since the mid-1990s have produced worrisome evidence throughout Somalia that localized politics is not necessarily more benign to minorities.¹⁸ Instead, regional and local administrations have tended to be tools of domination used by the larger or more powerful clan to wield against weaker groups, especially in southern Somalia, where many of the self-declared authorities have installed themselves as an occupation force. In Gedo region, for instance, the Marehan clan monopolizes political and economic life at the expense of the Rahanweyn and other clans there. The Rahanweyn return the favor by declaring non-Rahanweyn clan members to be outsiders in Bay region, even though

18. The term "minority" is politically loaded in the Somali context. In its more general usage, it refers to members of "low-caste" lineages, including and perhaps especially "hard-hairs" (*jereer*) who are physically distinct from ethnic Somalis; some of them are descendants of Bantu-speaking slaves from East Africa. In this paragraph, I use the term "minority" in the strictly numerical sense—a clan that is only 20 percent of the population in one district is a minority there, while it may be the majority lineage in the adjacent district.

a sizable population of non-Rahanweyn Somalis lived and worked in Bay region prior to the war. The important port city of Kismayo was until recently militarily occupied by a loose alliance of outside clans, the Marehan and Haber Gedir/Ayr, under the banner of the Jubba Valley Alliance, which profiteers from monopoly control of import-export activities at the port. The governor of Lower Shabelle region, Sheikh Indha'adde, presides over a regional administration that is dominated by the Haber Gedir/Ayr clan, which controls the region mainly through military occupation. These anecdotes suggest that political decentralization has the potential to degenerate into armed conflict and even ethnic cleansing if not executed with considerable sensitivity to local realities.

The political administrative unit that has received the least amount of external support but that has produced the most day-to-day governance in Somalia is at the municipal and (in Mogadishu) neighborhood level. In the immediate post-UNOSOM period, this "radical localization" of politics tended to manifest itself mainly in informal, overlapping polities loosely held by clan elders and others.¹⁹ During the second half of the 1990s, these local polities often became more structured and institutionalized. Different types of local polities have emerged in Somalia, but the most common manifestation has been a coalition of clan elders, intellectuals, businesspeople, and Muslim clergy to oversee, finance, and administer a sharia court. These coalitions are themselves shaky, laced with tensions over power and resources. But when conditions are right, these groups are able to cooperate in common cause to cobble a modest judicial and law enforcement structure.

The first generation of sharia courts was created in the mid-1990s and possessed several defining features. First, local communities widely embraced and supported them as a means of restoring rule of law. Second, they were created by and served a specific subclan. This made them eminently local in nature, rarely able to project their authority beyond a town or neighborhood, and rarely able to exercise jurisdiction over other clans. They thus offered rule of law within, but not between, clans, though they often facilitated interclan relations. Third, the early sharia courts were formed and controlled by a coalition of local interests, including clan elders, businesspeople, and traditional Sufi sheikhs. The courts operated within, not in opposition to, Somali customs—parties to a dispute or crime could choose between customary or sharia law. Because clan elders and businesspeople funded and oversaw this hybrid judicial arrangement, the courts were moderate in nature and generally opposed

19. Ken Menkhaus and John Prendergast, "Governance and Economic Survival in Post-Intervention Somalia," *CSIS Africa Notes*, No. 172 (May 1995).

radical interpretations of Islam. Finally, they proved to be fragile and very susceptible to spoilers. Where they have succeeded in curbing lawlessness, it was never through direct confrontation with a powerful warlord, but instead tended to occur in areas where the power of local warlords and militias was already on the wane.

Many of these sharia courts later became springboards for a new, radical, Islamist movement. In 2004 a growing network of sharia courts in Mogadishu and the countryside fell under the control of hard-liner Islamists, led by Hassan Dahir Aweys. Not all of the local courts in the umbrella group (which eventually assumed the name of the SCIC) subscribe to the strict Wahhabist views of Aweys and the hard-liners, but they have been unable to exert a moderating influence on hard-liners in the Consultative Council of Islamic Courts.

In some locations—most notably, the towns of Beled Weyn, Borama, Hargeisa, Jowhar, Luuq, and Merka—the local polities that have emerged constitute incipient municipalities that do more than simply keep the peace via a sharia court. They also have at times managed to provide some basic services, operate piped water systems, regulate marketplaces, and collect modest levels of taxes and user fees that cover salaries. Typically, these successful municipalities have been led by dedicated, professional mayors working closely with local nongovernmental organizations (NGOs), clan elders, and businesspeople. These success stories usually involve partnership with an enlightened set of UN agencies and international NGOs that are committed to local capacity building and that provide much of the funding for municipal projects. In some cases, innovative partnerships have resulted—the management of several UNICEF municipal piped water systems has been outsourced to a multiclan consortium of businesspeople that has run the water system effectively and profitably. As with the sharia courts, effective municipalities have enjoyed enormous popularity in the local community, but they have also proven to be vulnerable to the machinations of warlords and jealous politicians and to the vagaries of clan tensions. Most of the municipalities mentioned above have risen and fallen (and sometimes risen again) since the mid-1990s.

What has emerged in Somalia by way of governance in the past decade has not so much resembled the “jagged-glass pattern of city-states, shanty-states, nebulous and anarchic regionalisms” depicted in Robert Kaplan’s famous 1994 portrait of failed states,²⁰ but rather a loose constellation of commercial city-states and villages separated by long stretches of pastoral statelessness. In the

20. Robert D. Kaplan, “The Coming Anarchy,” *Atlantic Monthly*, Vol. 273, No. 2 (February 1994), pp. 44–76, at p. 72.

towns, the sharia courts and municipal authorities do what they can to impose basic rule of law. Across the towns, business partnerships weave extensive commercial ties that transcend clan and conflict throughout the countryside. This imbues Somali society with a dense network of communication and cooperative relations that are often critical in managing conflict. The pastoral zones have never come under the effective control of a state, so the collapse of the state has not been as traumatic for nomadic populations as outsiders often presume. There, protection and access to resources in a political world that loosely approximates the anarchy of the international system have long been secured through a combination of blood payment groups (*diya*), customary law (*xeer*), negotiation (*shir*), and the threat of force—mirroring in intriguing ways the practices of collective security, international regimes, diplomacy, and recourse to war, which are the principal tools of statecraft that modern states use to manage their own anarchic environment. Since the mid-1990s, clan elders in pastoral areas have at least partially restored their authority and devote most of their energies to managing relations with neighboring clans. Where clan territory abuts an international border, the clan elders have also assumed the role of diplomatic envoy to neighboring state authorities in Ethiopia and Kenya, working out ways to police banditry, smuggling, and spillover from local disputes.

These extensive and intensive mechanisms for both managing conflict and providing a modest level of security in a context of state collapse are virtually invisible to external observers, whose sole preoccupation is often with the one structure that actually provides the least amount of rule of law to Somalis—the central state. There is perhaps no other issue on which the worldviews of external actors and Somalis diverge more than their radically different understanding of the state. For external actors, the conventional wisdom is that a responsive and effective state is an essential prerequisite for development, a proposition enshrined in virtually every World Bank and UN strategy on development. For many Somalis, the state is an instrument of accumulation and domination, enriching and empowering those who control it and exploiting and harassing the rest of the population. These different perceptions of the state often result in external and national actors talking past one another, rather than with one another, in discussions about the rebuilding of the central government.

ARMED CONFLICT

Another important change in the Somali political landscape includes the nature of warfare. Armed conflict continues to plague much of Somalia, but since 1995 its nature, duration, and intensity have changed significantly. From 1995

to 2006, the majority of armed conflicts in Somalia occurred locally, pitting subclans against one another in an increasingly fragmented political environment. This devolution of clan warfare meant that armed clashes tended to be much shorter and less lethal, in part because of limited support from lineage members for such internal squabbles, and in part because clan elders were in a better position to intervene. Atrocities against civilians were much less common than in the past. Armed clashes in Somalia became increasingly difficult to distinguish from armed criminality and blood feuds.

One reason for the reduction in duration and scope of armed conflict in the 1995–2006 period has been the erosion of the power of warlords. Since the late 1990s, the fortunes of most militia leaders have fallen in part because their own clans are reluctant to provide them with financial support. But an even bigger reason has been the “coup” that leading businesspeople mounted against Mogadishu-based warlords in 1999. In the latter half of the 1990s, commercial opportunities surged in Somalia, vastly increasing the movement of goods across the countryside and placing a premium on security along main transport corridors and in ports and urban markets. Frustrated with having to pay tribute to militias that provided no security in return (and that were usually the source of insecurity and banditry), leading businesspeople in Mogadishu refused to pay taxes to the warlords associated with their clans. Instead, they bought out the militiamen from beneath the warlords and assigned the gunmen to the command of local sharia courts. The sharia militias promptly became an impressive source of law and order, at the expense of the much-weakened warlords. The establishment of the transitional national government (TNG) in 2000 led to the temporary decline of the sharia militias, as the businesspeople shifted their support to the new government. With the failure of the TNG, the businesspeople built large private security forces, which they directly controlled, to protect their assets; these private security forces constituted the most powerful militias in Mogadishu. For their part, militia leaders who possessed independent sources of revenue such as airstrips and seaports (i.e., those who doubled as businesspeople), or who headed regional administrations where they could collect taxes (i.e., those who doubled as governors and presidents), maintained a greater level of influence than those dependent on their clans and external patrons for resources. But until 2006, none could match the military capacity of the large private security forces.

The conflict trends that held true for a decade were abruptly reversed in 2006 with the globalization of Somalia’s political crises. Ethiopian support to the newly established TFG introduced much higher stakes and more firepower in struggles over control of the Somali state. The SCIC’s impressive ability to raise money and secure weapons not only from local business supporters but

also from external state and nonstate patrons has given the sharia court militias far greater firepower than any other militia force in Somalia. And the decision by U.S. operatives to push local militia leaders to create a counterterrorism coalition (the Alliance for Restoration of Peace and Counterterrorism, or ARPCT) against the sharia militias led to some of the heaviest fighting in Mogadishu since 1992. The SCIC captured dozens of battlewagons in its victory over the ARPCT and has since acquired large shipments of weaponry, including surface-to-air missiles, from Eritrea. Tensions between the SCIC and neighboring Ethiopia are high and endemic—Ethiopia views the Islamists as an unacceptable terrorist threat on its borders, and the hard-liners in the SCIC have taken numerous steps to provoke Ethiopia. These measures include acceptance of arms and advisers from Ethiopia’s rival, Eritrea, support of two armed insurgencies (the Oromo Liberation Front and the Ogaden National Liberation Front) against Ethiopia, and the embrace of irredentist claims on Somali-inhabited portions of eastern Ethiopia. If war occurs between the externally backed SCIC and Ethiopia, it could constitute a much more destructive armed conflict than has been seen in Somalia for many years.

CRIMINALITY

Lawlessness remains a serious problem in Somalia, but the egregious levels of violent crimes and level of impunity associated with the early 1990s are generally a thing of the past. The most important new source of law and order has been the consolidation of power in Mogadishu and surrounding areas by the SCIC since June 2006. The Consultative Council of the Islamic Courts has disarmed militiamen, removed roadblocks operated by gunmen, and policed the streets of Mogadishu, making the city safe for the first time since the late 1980s.

Even prior to the SCIC’s victory in 2006, however, incremental progress had been made in reducing crime. This positive result was due in part to the reassertion of governance systems noted above, which punish and deter crime; in part to the rise of private business militias, which protect most of the valuable assets in the country; and in part to the procurement of arms by previously weak social groups (e.g., agricultural communities of southern Somalia). Many former gunmen who earned a living from banditry have since demobilized, often shifting into jobs as security guards. Until the SCIC’s victory, the most dangerous street crime was kidnapping for ransom, which was endemic in Mogadishu. Less visible but more destructive has been “white-collar crime” in Somalia committed by some of the top political and business figures. This includes the damaging export of charcoal (which is responsible for rapid deforestation), introduction of counterfeit currency, land grabs, complicity in

dumping of toxic waste in Somali territory, drug running, gun smuggling, embezzlement of foreign aid funds, and incitement of communal violence for political purposes. The SCIC has issued an edict phasing out the export of charcoal and is cracking down on the drug trade. Between 2004 and 2006, one of the most dangerous sources of criminal violence in Mogadishu was a small cell of Somali jihadists, believed to be responsible for nearly three dozen assassinations of prominent Somali figures, as well as several foreign aid workers and journalists.²¹ Ironically, those same young jihadists now populate the powerful *shabbab* militia, which helped to propel the SCIC into power. It remains unclear if the *shabbab* are fully under the control of SCIC leaders.

ECONOMY

State building—whether organic or inorganic—is constrained by the economic base of the country. Somalia’s economy remains one of the poorest in the world. Its productivity is based mainly on pastoral nomadism and, in some regions, agriculture; both sectors are chiefly subsistence-oriented and profoundly impoverished. Somalia’s human development indicators are among the lowest as well. The country is heavily and increasingly dependent on remittances, which total between \$500 million to \$1 billion annually. Remittances have been the key to impressive growth in money transfer and telecommunication companies, commercial imports of consumer goods, the transportation sector, real estate investment and housing construction, and a range of service industries. Nearly all of this economic growth and entrepreneurship occurs in the largest cities, worsening the urban-rural wealth gap in the country. The prolonged absence of a central government has meant that the private sector (and in some services, the nonprofit sector) is generally the only provider of what services are available in areas such as health care and education. The private sector has stepped into many of the functions normally associated with the state, operating seaports, airports, and local electric and piped water grids. Sectors where businesses either see no profit or are discouraged by problems of collective goods (e.g., road maintenance and public sanitation)—are immediately visible “market failures” that only a revived state authority can address. This “privatization of everything” in Somalia has also created a largely unregulated economy in which criminal economic activity (e.g., smuggling and drug production) flourishes. Poor border patrols in the region and the absence of customs taxes have transformed Somalia into a major entrepôt

21. International Crisis Group, “Counter-terrorism in Somalia: Losing Hearts and Minds?” Africa Report, No. 95 (Brussels: ICG, July 11, 2005).

economy for commercial goods flowing into East Africa.²² The dynamism and cross-clan collaboration of the private sector stands in stark contrast to Somalia's long-running impasse in formal state building.

Governance in Somaliland

Somaliland provides an intriguing contrast to the prolonged collapse of the state in south-central Somalia. After weathering a turbulent period of political crisis and armed conflicts from 1991 to 1996, the unrecognized secessionist/separatist state of Somaliland has enjoyed impressive successes. It maintains a high level of public security—most of Somaliland is as safe as anywhere in the Horn of Africa. Economic recovery in Somaliland has been equally impressive, with millions of dollars of investments by the Somali diaspora in service sector businesses and real estate; Somaliland has attracted thousands of migrant laborers and hundreds of business investors from both southern Somalia and Ethiopia. Somaliland has also built up a modest but functional state structure, with ministries, municipalities, police, and a legislature all performing at variable but not inconsequential levels. The national budget is modest, typically between \$20 and \$30 million per year, much of which is derived from customs revenues collected at the seaport at Berbera, taxes on importation of the mild narcotic plant *qaat* from Ethiopia, and landing fees. Most of that budget (currently around 50 percent) has been devoted to the military, in the form of salaries to demobilized militiamen. A case can be made, in fact, that the Somaliland government's principal role has been as a large demobilization project.²³ Still, the government has also been able to build functional ministries, a public school system, a respected police force, and municipal governments that in a few instances have been among the most responsive and effective formal administrative units in all of Somaliland and Somalia.

Since 2000, Somaliland has consolidated its state-building accomplishments in an impressive manner, attracting the attention of even hardened skeptics. It made an imperfect but successful transition from clan-based representation to multiparty democracy, holding local, presidential, and legislative elections; it resolved a disputed, extremely close presidential election without violence; and it executed a peaceful, constitutional transfer of power upon the death of

22. A detailed analysis of these economic trends can be found in United Nations Development Programme, *Somalia Human Development Report, 2001* (Nairobi: UNDP, December 2001).

23. Ken Menkhaus, "Vicious Circles and the Security-Development Nexus in Somalia," *Conflict, Security, and Development*, Vol. 4, No. 2 (August 2004), pp. 149–165.

President Mohamed Egal in 2002.²⁴ In October 2005 the two opposition parties forged a coalition to gain control over the parliament, making Somaliland one of the only governments in Africa with “cohabitation” between rival parties in the executive and legislative branches—yet another example of democratic consolidation there. These accomplishments, juxtaposed with the ongoing armed conflicts and diplomatic impasse in the south of Somalia, have led a growing number of observers to call for exploration of some sort of recognition for Somaliland.²⁵ It is, according to this view, increasingly absurd for the international community to refuse to grant juridical sovereignty to a state that had established empirical sovereignty on the ground, while granting recognition to a transitional government in Mogadishu (the TNG) that was unable to exercise authority over more than a few neighborhoods in the capital. Opponents of Somaliland secession hotly dispute the extent of the political accomplishments made by the unrecognized separatist state, claim that only a national referendum would give Somaliland the legal right to secede, and argue that external recognition of secession there would have far-reaching and negative consequences across much of Africa.

For all its successes, Somaliland has also had its share of setbacks since 2003. Domestically, it faces worrisome challenges. Internal political divisions between the government and opposition remain acute, resulting in sporadic efforts by the government to repress the media and jail critics; Islamic radicals assassinated five foreign aid workers in a four-month span in late 2003 and early 2004, temporarily damaging Somaliland’s reputation for security; a military standoff with Puntland over control of parts of Sool region remains unresolved; the majority of the population of Sool and Sanaag regions express support for a united Somalia rather than Somaliland; and poor performance by the government, including corruption in the judiciary, has reduced public confidence in the state. Since 2006, the ascent of the Islamist movement in Mogadishu has been a major new threat to Somaliland’s stability—the Islamists maintain a strong network of supporters in parts of Somaliland and have a powerful interest in discrediting the secessionist government. The Somaliland government is poorly equipped to cope with an internal Islamist challenge due to a lack of resources, corruption, and strong pressures from clans to protect their lineage members from state arrest and prosecution.

24. Mark Bradbury, Adan Yusuf Abokor, and Haroon Ahmed Yusuf, “Somaliland: Choosing Politics over Violence,” *Review of African Political Economy*, Vol. 30, No. 97 (September 2003), pp. 455–478.

25. David H. Shinn, “Somaliland: The Little Country That Could,” *CSIS Africa Notes*, No. 9 (November 2002); and International Crisis Group, “Somaliland: Democratisation and Its Discontents,” *Africa Report*, No. 66 (Brussels: ICG, July 28, 2003).

Regardless of Somaliland's ultimate political dispensation, however, its accomplishments in state building and reconciliation since 1991 serve as potentially valuable lessons for Somalia as a whole. Analysts are not in full agreement about the Somaliland state-building experiment. Some emphasize the critical role played by clan elders as peacebuilders, in demobilization, and in legitimizing the government. Others point to the leadership and experience of former President Egal as essential in consolidating Somaliland governance. Still others emphasize the role of the leading Isaaq businesspeople in financially supporting the Egal administration. Nearly all concur that the levels of economic recovery, peace, and public security that exist in Somaliland cannot be directly attributed to the existence of a formal state structure there. In some respects, these accomplishments have occurred despite, not because of, the Somaliland administration. What sets Somaliland apart from south-central Somalia is a very strong commitment by civil society to peace and rule of law, which serves as a strong deterrent to would-be criminals, warlords, and politicians tempted to exploit clan tensions from violating the basic rules of the game. Somalilanders often lament that they are "prisoners of peace," willing to tolerate corruption and other political vices by their leaders for the sake of maintaining the state of peace in Somaliland.

There is additional irony in Somaliland's ability to achieve so much by way of state building with no external recognition and with only modest, perhaps even incidental levels of external assistance. Somaliland serves as a reminder that external assistance may not be as central to the success or failure of state building as international organizations often presume. Some pro-Somaliland advocates actually fear the negative impact that too much external assistance may have on Somaliland. This will be an especially relevant concern in the event that Somaliland does receive some form of external recognition in the future.

General Challenges of State Building in Somalia

It is a truism that state failure is ultimately at the root of many of the security threats and crises of underdevelopment both in south-central Somalia and in other zones of state collapse. To the extent that Somalia is exploited by local and international terrorists, the lack of an effective government provides them with safe haven beyond the reach of law enforcement. To the extent that economic development requires an effective government to provide a dependable legal and security environment for the private sector, obtain international development loans, provide essential public goods, and catalyze economic growth, the absence of a responsible Somali government directly contributes

to the country's enduring underdevelopment, which in turn produces social environments conducive to crime, violence, and radicalism. Although this analysis has stressed the impressive successes of local communities and businesses in forging informal systems of rule of law, that assessment does not imply that a central government is somehow unnecessary for Somalia.

It follows, then, that any long-term strategy intended to address security and development concerns in Somalia must focus first on state building and governance. Yet several general challenges confront efforts to revive a central government there. First, state building remains a conflict-producing exercise, because the stakes are so high for Somali actors. The state in Somalia has historically been the primary source not only of power but of wealth—as the catchment point for foreign aid, the point of control of government contracts and parastatals, and as the coercive instrument with which empowered clans and coalitions have expropriated the assets of rivals. The repressive and predatory character of the Somali state under Siad Barre has left a legacy of deep distrust among Somalis toward the state as an institution. For that reason, although most Somalis understand the benefits that a revived central government brings, they are reluctant to see control of the state fall into the hands of rival clans or factions. As a result, Somali actors view efforts to revive a central government as a zero-sum game that has provoked rather than mitigated conflict. This dynamic was evident as early as 1993, when the formation of local (district) administrations by UNOSOM produced sometimes deadly conflicts among communities that had coexisted in the absence of a formal government. This zero-sum mentality has contributed to the virtual absence of loyal opposition groups in regional and transitional governments. Instead, those outside the circle of power tend to become armed rejectionists, spoilers who opt to bring down an entire government rather than risk seeing it used against them. For external actors, this means that state-building initiatives either must proceed carefully so as not to produce armed conflict, or they must accept the possibility that their interventions may produce casualties, and in so doing violate the do-no-harm principle that has become such a popular but in some ways problematic nostrum among foreign aid donors. It also means that in the short term, external support for state building will almost never be a neutral exercise, but will instead entail taking sides in internal Somali disputes, given that virtually all administrations face rejectionist groups.

Second, state building in Somalia also faces the fundamental challenge of establishing financial viability. Unless the transitional government (or an Islamist successor government) secures a windfall of foreign assistance at high and sustained levels, it will have to operate mainly with tax revenues. The combination of modest levels of foreign aid, a poor economy, the ease of evad-

ing tax collection, and possible resistance by private or regional authorities to handing over control of valuable seaports and airstrips where customs could be collected all suggest that the transitional federal government will be forced to work with an extremely modest annual budget. State building will thus necessarily be minimalist in scope. This will place a premium on the leadership's ability to focus only on the most essential functions of government that cannot be left to (or subcontracted out to) the private and nonprofit sectors. It will also severely hamper the capacity of the government to use state revenues for political patronage purposes, an important tool in maintaining a government of national unity. A minimalist state structure and a nonpatronage-based state fly in the face of the existing political culture among Somali elites and civil servants, whose past experience of the state was as a bloated patronage machine fed by Cold War foreign aid. The composition of the TFG cabinet, which initially consisted of eighty-two ministers and deputy ministers—including, of all things, a minister of tourism—is one indication that the Somali political elite remains wedded to an old, maximalist view of the state that is utterly out of synch with Somalia's fiscal realities. Given this sobering financial picture, the natural temptation for the TFG leadership will be to devote its energies toward prospecting for external assistance rather than engaging in the arduous task of state building and revenue collection. Whether the emerging Islamist authorities in Mogadishu can resist the same impulse to pursue an unsustainable, overreaching state remains to be seen.

The question of how much external assistance ought to be provided to a newly declared government in Somalia has stirred considerable debate, both during the establishment of the TFG and in the early phases of previous attempts to stand up a central government in Somalia. One school of thought has argued that without essential foreign aid to “prime the pump” and give the new government the resources to begin operating, efforts to establish a central government will be doomed to failure. A second school of thought has urged that before it pours foreign aid into state building, the international community must insist first that a newly established government demonstrate a serious effort to actually govern, pointing to Somaliland as a case of locally supported state building. Both positions have merit. In practice, some in the international community have taken a wait-and-see approach while others have jumped in and provided aid, the distribution of which is generally not carefully monitored and often ends up in the pockets of political leaders.

Spoilers and “veto coalitions” are a third challenge to state-building efforts in Somalia. As noted earlier, a number of important Somali actors promote peace and local rule of law but view a revived central state as a threat. State building repeatedly encounters resistance from groups and individuals who

perceive that their economic and political interests are threatened by revival of a functional state. Some of these spoilers are situational—clans, factions, or leaders who feel they have not been adequately represented or rewarded in the government and who withdraw from the TFG in anger or disappointment at not getting their fair share. This category of spoilers—what Stedman terms the “greedy spoiler”—is potentially manageable with astute diplomacy, political bargaining, and external pressure.²⁶

More problematic is a second category of spoilers who reject the state-building project because they believe it poses a fundamental threat to their political or economic interests. This can include so-called warlords for whom the return of rule of law could result in their marginalization or even arrest for war crimes, businesspeople whose activities are illicit, and whole clans that have benefited from armed occupation of valuable real estate during the war. This category of spoilers also includes many local actors who do not engage in illegal activities but who oppose state revival out of well-founded fear, especially fear that a revived central government will become a predatory, repressive force as was the case under Barre’s regime in the 1970s and 1980s. For businesspeople who have benefited from state collapse, the return of a central government may carry too many risks—of high taxes, corruption, expropriation, and nationalization. Among clans and other social groups is the fear that the central government will again come under the control of a narrow coalition of clans that will use the state as an instrument of domination at their expense. Some civic groups and the media fear unwarranted restrictions on their activities by a revived state. Although the potential rewards of state revival are high, so too are the risks.

The policies of hard-liners in the SCIC to impose draconian restrictions on civic organizations, marginalize some of their own business supporters, purge regional administrations and sharia courts of leaders not deemed sufficiently committed to the cause, and provoke Ethiopia into war are very likely to reinforce the conviction of many Somalis that reviving a powerful government carries too many risks. If the SCIC collapses due to either war with Ethiopia or internal divisions, it is difficult to imagine that leading businesspeople in Mogadishu will again support another such political movement.

Evidence from the failed TNG experiment in state building in 2000–03 suggests that many political and business leaders supported the declaration of a transitional government, but not the actual establishment of a functional

26. Stedman, “The Spoiler Problem in Peace Processes.”

state.²⁷ Instead, they approached the TNG as an opportunity to create a “paper state”—one that would attract foreign aid, which they could then divert, but not one that could become powerful enough to enforce laws and regulations that might threaten their economic and political interests. State collapse may be unpalatable, inconvenient, and undesirable on any number of counts, but for some political and economic actors who have survived and thrived in a stateless setting, embracing a state-building agenda appears to constitute a leap of faith they were unwilling to take with the TNG in 2000 and the TFG in 2005. In the event that the Islamists assume control over the central government in Somalia, they are likely to face the same resistance to revived central government by some civic, political, and economic actors.

Specific Challenges of State Building in Somalia

Somalia also faces specific state-building challenges, some of which will require difficult decisions and which have the potential to trigger serious armed conflict.

GOVERNMENT OF NATIONAL UNITY

Somalia’s failed efforts at state building have produced governments that appear on paper to be governments of national unity but that are in fact coalitions of a small number of clans and factions. That has instantly produced spoilers with often legitimate grievances. In a context where power is diffused, and where the centrifugal forces of clannism can make the maintenance of coalitions especially difficult, spoilers can easily sabotage efforts to revive governments that marginalize them. The TFG is no exception. Although the transitional federal parliament is formally based on proportional representation by clan, that formula is in no way synonymous with a government of national unity. The TFG’s top leadership and national security forces are dominated by a narrow coalition of two clans. Powerful clans, including many that form the core support for the SCIC, are largely excluded from the TFG. Achieving a sustainable process of state revival in Somalia will require as a point of departure a commitment to a true government of national unity, one that ensures that all potential spoilers are minimally satisfied with the deal. Whether the TFG and the SCIC can reach such a power-sharing accord is unclear. The SCIC is in a position of considerable strength and is more likely to

27. Andre Le Sage, “Somalia: Sovereign Disguise for a Mogadishu Mafia,” *Review of African Political Economy*, Vol. 29, No. 91 (March 2002), p. 132.

allow the TFG to slowly collapse, at which point it can convene its own national conference in Mogadishu and form an Islamist government of its own making.

FEDERALISM/DECENTRALIZATION

The charter drafted at the 2004 Kenya peace talks enshrines the principle of decentralization in the very title of the transitional federal government. But little if any consensus exists inside Somalia about the merits and meaning of federalism, and none of the key details of federalism has been resolved. Almost all of these unresolved issues have the potential to trigger armed conflict. The delineation of boundaries of regional states is one example. Will the TFG fall back on the prewar regions as the basis of federalism, or draw up new regions to better reflect current political realities? Many of the prewar regions are poor, remote, and not viable; some are also riven by clan conflicts. But any attempt to draw up new regions (or recognize existing ones such as Puntland) runs the risk of triggering disputes over valuable real estate such as port towns, or even causing ethnic cleansing. What is intended as an exercise in political devolution could quickly degenerate into a violent struggle to carve out separate clanustans. The scope of devolution of power to federal states is another flashpoint of conflict. Some Somali clans—such as the Digil-Mirifle—are forceful advocates of regional autonomy, fueled by resentment of political domination and land expropriation by stronger clans. Others, such as the Haber Gedir clan, hail from the arid and remote central regions of Somalia but now control much of Mogadishu, and are fierce advocates of a more unified system of government. The controversy over residency and political rights in Somalia is also linked to federalism. Who may claim residency, property ownership, and full legal rights in regional states? Inside Somalia, a lively debate exists over residency and rights, a debate premised on the notion that clans have “home areas” where “guests” do not enjoy the same rights to representation, power, and protection. Given that Somalia’s Islamists reject the concept of federalism and are in a position to dictate the terms of the country’s future government, the federalism debate may be moot. But the broader issue of local rights versus the rights of outsiders and “guests” will remain an enduring challenge.

OWNERSHIP OF NATIONAL/REGIONAL ASSETS

Much is at stake over who controls tax and customs revenues. Some regions of Somalia enjoy income-generating seaports; others do not. Regions or militias controlling income-generating seaports and airports may be unwilling to see those revenues redistributed to other regions, or even to cede control over port revenues to a national government, and may fight to maintain control over

what they perceive to be their asset. Whether controlled locally or nationally, tax or customs revenue collection capacity and accountability will need strengthening. Future initiatives to extract natural gas and oil from areas of the country suspected to have such energy deposits will also trigger this debate.

OUTSTANDING RECONCILIATION ISSUES

The TFG is the result of state building without reconciliation; delegates at the Kenyan peace talks found conflict issues too sensitive and too divisive to manage, and opted to postpone addressing them in favor of moving directly to power-sharing talks. As a result, extremely sensitive issues such as the return of stolen or occupied real estate, political control over towns and regions by military force, the right of all clans to return to live safely in Mogadishu, and the handling of charges of war crimes must be dealt with by the transitional government. Failure to address these issues will almost certainly derail the state-building enterprise: the creation of legitimate regional administrations in Lower Shabelle or Kismayo, for instance, cannot proceed until the conflicts are resolved over land occupation in those areas. Likewise, a government of national unity will be virtually impossible to maintain if long-standing conflicts divide members of the cabinet. To its credit, the SCIC leadership has pressed for the return of stolen or occupied property in Mogadishu, perhaps paving the way for other outstanding reconciliation issues to be addressed.

ROLE OF LEGAL OPPOSITION

The TFG is configured as a government of national unity. The benefits of a unity government in a postconflict setting are obvious, but one of the costs is that it tends to conflate the government in power with the government as a whole. That does not provide space for a loyal opposition that might oppose the government in power but not the very idea of the TFG. To reduce the rise of spoilers and to deepen the democratic culture and practices of the parliament, legitimate space for opposition groups must be carved out. This is an even more urgent question in areas controlled by the SCIC, which has taken worrisome steps to eliminate all sources of opposition. For all of the animosity between the TFG and SCIC leadership, they share a deep suspicion of open debate, opposition politics, and civil society.

DEMOCRATIZATION AND RULE OF LAW

One of the TFG's principal state-building tasks during its five-year mandate is to craft and agree on a constitution. The constitution is critical to Somalia's future, providing the framework for a return to rule of law, for the safeguarding of civil liberties, and for democratic governance in Somalia. With the rapid rise

of the Islamists, the central constitutional debate in the years ahead will be the role of Islam and sharia law in the constitution. In addition, one of the many other contentious issues the constitution will need to address is the structure and principles for democratic representation in Somalia. The current, temporary practice is “consociational”—that is, political representation based on fixed clan and subclan proportional representation. Somalis may opt to adapt the consociational model to democratic practices by holding elections within lineage groups (as occurs in Lebanon). Alternatively, they may opt for the more common practice of district- or region-based representation. The latter will raise important questions about district residency, district borders, voting rights, and voter registration—all of which can produce conflict, and all of which will require a trusted and effective national electoral commission. Presuming regional administrations are democratically elected, these issues will be revisited at the regional level as well.

SECURITY SECTOR AND JUDICIARY

The Somali public consistently cites personal security as its most pressing need, and it expects improved public security from a central government. The ability of Islamists to provide greatly improved public safety in Mogadishu has been a major source of their high public approval. Creating an effective and accountable police force and judiciary is a critical state-building task, one that will catalyze positive developments in the economy and earn the state legitimacy in the eyes of the public. The challenges to the revival of an effective security sector are considerable, though the success of the SCIC in bringing order to Mogadishu demonstrates that the task is not impossible. The expense of standing up even a modest police force nationally will strain the modest budget of the TFG or its successor state. Private and clan militias will in all likelihood continue to exist and will maintain robust firepower capabilities. To advance public security, the formal police and judiciary will need to establish innovative partnerships with local security and justice practices, including neighborhood watch forces, private business security forces, practices of customary law, and sharia courts. Although the Islamists are currently disinclined to partner with other forms of social authority, circumstances may soon force them to do so.

Although severe financial constraints will make the very existence of a standing national army a costly and controversial proposition, a revived Somali state will likely have as one of its central features a relatively large standing army. If the Somaliland experience is any guide, the army will be used mainly as a means of controlling, paying for, and *de facto* demobiliz-

ing clan militias that might otherwise become a force for destabilization or crime.

CAPACITY OF CIVIL SERVICE

Most of Somalia's trained, professional class of civil servants from the 1980s are abroad in the diaspora, and while a number have been willing to return to assist state-building efforts, Somalia still suffers from low numbers of qualified professionals. Especially if the Somali state is to feature a lean, minimalist civil service, the skill level and dedication of those hired into the government will need to be high. The Islamists have succeeded in providing educational opportunities abroad for some of their members and in convincing committed diaspora supporters to return to assist the movement, giving the SCIC a more skilled brain trust than any other political movement in the country.

DISPOSITION OF SOMALILAND

In the short run, Somaliland will probably remain outside the state-building project of the TFG or a possible Islamist successor government. In the longer run, however, the status of Somaliland's secessionist claim looms large, and at some point risks provoking conflict. If Somaliland succeeds in winning external recognition, it will require creative rethinking about the notion of citizenship in Somalia and Somaliland, possibly including innovative ideas on the status of the disputed areas of Sool and Saanag.

Conclusion: Prospects for a Mediated State

Two political trends have emerged in Somalia since the collapse of the state in 1991. The first is the abject failure of repeated external efforts to revive a conventional central government in the country via a top-down process of power sharing among Somalia's quarreling political elites. Although this track record of failed state building can partially be attributed to myopic Somali leadership and uninspired external diplomacy, efforts to revive a central government in Somalia face important structural obstacles as well. One obstacle is the weak resource base a Somali state can draw on, a constraint that makes the revival of a large, conventional state claiming omnicompetence across a wide range of policy areas a pipe dream. Although insistence on such a state structure is understandable from the perspective of Somali leaders desperate to revive an expansive patronage system and build a capacity for repression—the only means of securing political control they have ever known—it is simply untenable for the near future. The rise of the SCIC and its formidable capacity to raise funds

from external patrons may constitute a new effort to impose a top-down state-building project on Somalia. But while the Islamists undoubtedly have the best chance of financing and holding together a central government, they will be able to do so only if substantial external assistance continues to flow from Islamic states. Even then, the movement is likely to come under considerable strain to maintain a modest administration and public security force.

The second trend is the rise of local, informal polities that have, in fits and starts, increasingly provided many Somali communities with variable levels of governance, public security, and even social services. The problem with this mosaic of informal polities is that it does not add up to anything resembling a conventional state, and at this point these polities do not appear capable of serving as the building blocks for an organically developed state. Local polities in Somalia have remained eminently local. And even the most impressive, functional examples of subnational or informal governance in Somalia cannot perform some badly needed functions of an internationally recognized sovereign state, from the issuing of passports to the securing of loans from international financial institutions.

Somalia's informal systems of governance have generally been accorded little to no role in external efforts to revive a conventional state.²⁸ International aid projects have channeled some funds to regional and municipal authorities as part of governance capacity-building programs; some aid agencies have been successful in building up the capacities of civic and professional associations; and a few groups, such as the War-Torn Societies Project-International, have promoted much greater involvement of nonstate and substate authorities in shaping local policies and reconstruction preferences. But the UN in particular has been quick to abandon subnational polities the minute a national government is declared. The accepted, unspoken wisdom has been that local, informal systems of governance are of little significance, mere variations on a broader theme of anarchy. They are viewed as short-term coping mechanisms to be replaced by formal state authority once the elusive state-building project succeeds. Nonetheless, they may have a role to play in state building.

28. A few analysts and organizations have recently produced excellent reports calling for "harmonization" of traditional/informal and formal governance in the Somali judicial sector; this is an especially important topic in any discussion of a mediated state because almost all justice in Somalia is meted out via nonformal mechanisms (e.g., customary law and blood payments, or sharia courts). See Andre Le Sage, "Stateless Justice in Somalia: Formal and Informal Rule of Law Initiatives" (Geneva: Centre for Humanitarian Dialogue, January 2005); and Puntland Development Research Centre, "Pastoral Justice: A Participatory Action Research Project on Harmonization of Somali Legal Traditions: Customary Law, Sharia, and Secular Law" (Garowe, Somalia: Puntland Development Research Centre, 2002).

An alternative approach to state building in Somalia would combine what is already working locally with what is essential nationally. In fact, this approach may be the only viable route to state building in Somalia under present circumstances. Specifically, Somalia's best hope for state revival may lie in the explicit pursuit of a mediated state—in which a central government with limited power and capacity relies on a diverse range of local authorities to execute core functions of government and mediate relations between local communities and the state. In this approach, the top-down project of building a central government and the organic emergence of informal polities are not viewed as antithetical (though they are invariably political rivals, coexisting in uneasy partnership), but are instead harmonized or nested together in a negotiated division of labor. The nascent central state limits itself to a few essential competencies not already provided by local, private sector, or voluntary sector actors. Central state authorities resist the temptation to insist on sovereign control over social and political realms and entire communities they cannot realistically exercise. For their part, local mediators gain recognition from the state through what today is called “good governance”—effectively providing core functions of public security or other services demanded by local communities, and earning legitimacy as a result. Somali citizens retain the services already provided by local authorities, while gaining the advantages afforded by a functional central government. A “thin” central government has the added advantage of reducing the threat it poses to opponents of the government in power, thereby reducing the likelihood of spoilers. Over time, of course, if the central government grows in capacity and resources, its reliance on local intermediaries to govern can be renegotiated. The mediated state need not be a long-term solution to the crisis of governance in Somalia, but rather a lengthy transitional strategy.

The notion of the mediated state is rooted in the study of premodern and early modern state formation in Europe, where ambitious monarchs with limited power were forced to manipulate, maneuver, and make deals with local rivals to extend their authority. Those rivals “often mediated state authority, and did so both as over-powerful purveyors of royal prerogatives, as ‘private’ subjects exercising ‘public’ jurisdiction, or as members of extra-national bodies like the Catholic Church.”²⁹ This produced situations in early modern Europe that sound oddly familiar in contemporary Somalia—France, for instance, is

29. Swen Voekel, “Upon the Suddaine View: State, Civil Society, and Surveillance in Early Modern England,” *Early Modern Literary Studies*, Vol. 4, No. 2 (September 1998), pp. 1–27, <http://purl.oclc.org/emls/04-2/voekupon.htm>.

described as “a nation characterized by parcellized and overlapping jurisdictions, multiple legal codes, and a plethora of internal tariffs and taxes.”³⁰ As such, the mediated state is considered by historians as a major obstacle to state building, a syndrome to be overcome, usually by superior force of arms. Charles Tilly observes that European state formation “consisted of the states’ abridging, destroying, or absorbing rights previously lodged in other units.”³¹

By contrast, in Somalia—and perhaps in other cases of state collapse—a mediated state would not be so much an obstacle to state building as a promising variation on the theme, or at least the last, best hope for something remotely approaching effective governance in communities desperate for a more predictable and secure environment and the core functions of a central state. In fact, something akin to a mediated state appears to be emerging in a number of failed or weak states in the developing world.³² Many of the functions normally associated with a central state are now essentially subcontracted out to a wide range of substate or nonstate actors. In neighboring Kenya, for instance, lawless border areas with Ethiopia, Somalia, Sudan, and Uganda have produced years of communal armed violence producing casualty levels akin to civil war. The Kenyan government, unable to exercise meaningful control over these badlands, left them to their own fate in the first half of the 1990s. Recently, however, the Kenyan government has partnered with coalitions of local nongovernmental organizations, traditional leaders, and other civic groups to manage and prevent armed conflict. In some locations, these “peace and development committees” (PDCs) have made dramatic improvements in public security and rule of law, allowing a government that is willing but unable to extend its authority into its frontier zones the capacity to do so.³³ In the Somali setting, an important advantage of a mediated state approach is that it could

30. Ibid.

31. Charles Tilly, “Reflection on the History of State Making,” in Tilly, ed., *The Formation of National States in Western Europe* (Princeton, N.J.: Princeton University Press, 1975), p. 35.

32. I am indebted to Michael Barnett for identifying the mediated state concept as a tool for understanding problems of contemporary state building.

33. Details of this experiment with a mediated state in Kenya’s border areas are the subject of a recent report by the author, “Kenya-Somalia Border Conflict Analysis” (Nairobi: Development Alternatives, August 2005). This behavior by the Kenyan government, due in part to the costs imposed by violent and lawless border areas (e.g., decline in tourism and rise in terrorist activities in those zones), is distinct from the more common state response to ungoverned border zones of low economic value, which is to ignore them. Jeffrey Herbst persuasively argues that modern states can engage in this form of state negligence because they enjoy juridical sovereignty over territory within their borders whether they govern them or not, in contrast to earlier periods, when states that failed to control border areas risked losing land to rival neighboring states and empires. See Herbst, *States and Power in Africa: Comparative Lessons in Authority and Control* (Princeton, N.J.: Princeton University Press, 2000).

reassure potential state-building spoilers by reducing the reach and ambition of the central government.

The notion of a mediated state should not be confused with the neoliberal trend toward subcontracting out state functions to the private sector, though the two practices overlap in some ways. The key difference is that states' opting to contract out functions (such as operating seaports) to private companies usually do so as a matter of public policy choice, and ostensibly with the objective of providing the service more efficiently. This is the choice of a state authority that "has acquired the competence to decide the limits of its own competence."³⁴ By contrast, a mediated state strategy is the recourse of a state authority that lacks options. It has no choice but to work through local intermediaries if it is to have even token jurisdiction in an area within its borders. In the case of Kenya, the decision to work with PDCs to help govern and manage the country's lawless border areas was not a choice between direct state intervention and the PDCs; it was a choice between the PDCs and complete anarchy.

Precisely how a formal, top-down state structure can and should coexist with existing practices and structures of informal governance would be a matter for Somali authorities to work out, town by town, district by district. The result would be quite complex and, from a state-building perspective, invariably messy, with a wide range of parallel, overlapping, and in some cases contested political authorities. External actors tasked with supporting state building in Somalia would not be able to import fixed state-building project templates, could not insist on standardized judicial and other systems, and would have to learn to work with local polities in Somalia on their own terms, rather than attempt to transform them into images in their own likeness. That level of programmatic flexibility and local knowledge has not been a strong suit of international aid agencies in the past. This is especially true of international state-building programs, which are among the more formulaic, unimaginative enterprises in the entire foreign aid portfolio. Ironically, that level of flexibility does not appear to be a dominant trait of the Islamist movement in Somalia, which, like its secular state-building counterparts in the UN Development Programme, embraces a top-down, template-driven approach to the creation of a new political order in Somalia.

In sum, the problem in Somalia is not that state building itself is doomed to fail; it is rather that the type of state that both external and local actors have

34. Wolfgang Reinhard, "Introduction: Power Elites, State Servants, Ruling Classes, and the Growth of State Power," in Reinhard, ed., *Power Elites and State Building* (Oxford: Oxford University Press, 1999), p. 1.

sought to construct has been unattainable and has as a consequence repeatedly set up Somali political leaders and their external mediators for failure. State building that focuses as a medium-term strategy on developing a minimalist state and harmonizing state authority with local systems rather than displacing them is much more realistic and likely to enjoy success given Somalia's constrained authority and sharply limited resources. Somalia could yet be at the forefront of a seismic shift in the nature and scope of the sovereign state in Africa. As Letitia Lawson and Donald Rothchild recently observed, Africans "have begun moving away from colonially designed juridical statehood to fashion empirical formulas that respond to the messiness of their current realities. Only time will reveal whether these new, flexible structures prove an effective response to . . . state weakness."³⁵

35. Letitia Lawson and Donald Rothchild, "Sovereignty Reconsidered," *Current History*, May 2005, p. 228.