

State-Structures in Somalia

Why do Some Succeed and Others fail?

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Abstract:

State-structures in Somalia is addressing the problem of what a state-structure is, what it should do and how and why they are being created. The Internal demand for structures among ordinaries Somalia to provide them security, often conflict with the security interests that the international society and external actors have in forming a state structure to promote their own security needs. How successful/unsuccessful state-structure are formed, their performance and ability to survive is the focus of this thesis. This thesis concludes that in order to be successful, a state-structure has to be formed bottom-up though the demand of the local people, and build on accepted local governance norms. A state-structure imposed top-down by external actors or the international society will always fail in Somalia due to lack of local legitimacy and support.

“Ceel Na Uma Qodna, Cidina Uma magna”

*(“The well is neglected and empty,
and there is no one working on our behalf.”)*

- *Somali proverb*¹

¹ Lewis and Mayall, “A Study of Decentralised Political Structure for Somalia,” ii.

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Maps of Somalia



Map 1: The Sovereign state of Somalia, with the area inhabited by Ethnic Somali's outlined. Map from : http://rpmedia.ask.com/ts?u=/wikipedia/commons/thumb/2/26/Somali_map.jpg/200px-Somali_map.jpg 27.feb.2011

State-Structures in Somalia

Why do some Succeed and Others fail?

1. Introduction

1.1 Why Somalia is an Issue.

Despite being an economically unimportant, defunct and war-ravaged state, Somalia is a problem for the states in the International Society (IS). Why are these states and the international media so concerned/interested with the problems of this poor country which hides in the Horn of Africa?

The reason is not because of the massive humanitarian suffering in Somalia. That agenda died with the ‘Black Hawk Down’ incident in 1993 and the consequent withdrawal of the United Nations (UN) forces. The reason the states of the world, and the mass media today, is pre-occupied with Somalia is because of the problems Somalia is causing for the IS. Somalia is, in the eyes of the IS and the world, a failed state. No recognised government is actively controlling its territory which means that pirates and ‘terrorists’ can operate out of Somalia’s ‘ungoverned’ territory, and this poses a threat to the IS as no government can be held accountable. This is because the IS is a social system where states are supposed to be accountable to other states of the IS for all activities originating from their territory. In this social system Somalia is clearly failing to do that job.

Interestingly, there are other state-structures located in the territory of the official sovereign state of Somalia who are controlling territory and doing what the ‘official’ state should have done. Such state-structures are providing governance and security, first and foremost to their population, but are also creating order, and ensuring that illegal activities (as seen by the IS) are not present or operating out of their territory. In short, these kind of state-structures are doing precisely what the IS wants from a state. In spite of this, the other states in the IS still refuse to recognise these state-structures as states, despite the obvious fact that some of these de facto state-structures are providing high quality governance.

Instead the states of the IS continue to insist that this power and duty belongs to the ‘sovereign’ government of Somalia and nobody else. Therefore the IS are desperately trying to revive and support this totally dysfunctional government of Somalia, that does none of the things the IS wants from it, while at the same time refusing to support or even recognise the state-structure that is providing these services.

This paper *will investigate* why some state-structures succeed and others fail in Somalia. What are the different interests as seen from the local population and the IS in creating/maintaining/destroying these structures, and how do these two different interests and norms behind state-structure formation affect each other and come into conflict? Are the IS norms of state-structures compatible with the local Somali people², and if not what should be done to overcome this problem to allow functioning state-structures to be created to the benefit of both the local population and the IS?

This paper *will argue* that the primary interest in state-structures seen from the local vs. the IS perspective is different. Both parties want security, but first and foremost for themselves. This causes two approaches to state-structure formation- top-down and bottom-up. This paper will argue that top-down IS sponsored state-structures have not been and can never be successful in Somalia due to traditional Somali political/governance traditions. Bottom-up locally formed state-structures can be successful if they can develop without interference from the IS. If such a structure is allowed to establish itself, it will benefit both the local population and the IS interest in security.

1.2 Overview

This paper will begin by outlining the idea about what a state is and what is it supposed to do, as seen from the IS and the locals perspectives respectively. The tools for analysing the various state-structures and their performance will be presented and thereafter used to analyse the situation in Somalia. Somalia

² This paper is using the name Somali to refer to the ethnic group, when for example talking about ‘Somali’ culture and governance-tradition. The word Somalian is referring to a person living in the territory of the official sovereign state of Somalia.

will be presented into this framework by introducing Somali culture and governance traditions in order to understand how these norms work in relation to the norms of the IS. The Somali political culture and governance-culture is de-centralised, unlike western (and IS) political structure which emphasises a hierarchical structure with an ‘all power sovereign’ at the top of the structure. This is important in order to understand the clash of the Somali governance norms and the IS notions of governance and sovereign states. Through this analytical framework, this paper will present two different approaches and examples of state-structure creation; the successful locally constructed bottom-up de facto state of Somaliland and the failed IS-created quasi state-structure called the TFG (Transitional Federal Government). Somaliland will be analysed and used as a case of a successful locally formed bottom-up functioning state-structure that was successful because it was built on, and with, this traditional Somalia political governance-structure. Why and how it was possible for Somaliland to achieve this will be analysed. The capabilities and performance of the IS top-down created state-structure for Somalia, the TFG will be outlined along with the interests of the IS in trying to create such a state-structure. The TFG performance will be used to analyse the results of trying to impose a state-structure on Somalia in a top-down process. This approach however failed as it was not in line with the legitimate governance-traditions of Somali culture. Using the two examples of Somaliland of the TFG, this paper will analyse why a third state-structure, the bottom-up ‘Union of Islamic Courts’ (UIC) from 2006, failed in the south. The analysis will investigate the interplay between IS state norms (and interests) vs. local societal norms (and interests) in state-structure formation, as the state-structure did not fail due to a lack of local legitimacy but due to external actors interests. This will be done to analyse the two different perceptions of what the primary responsibility and duties of a state is. These three cases will then be analysed against each other in order to conclude why some state-structures fail and others succeed, and especially what role the norms of the IS, and the interests of the actors in it play in. This conclusion will be used to make recommendation of how the problems of Somalia should be handled to achieve ‘success’ in Somalia.

This paper will show the discrepancy between local and International (external) interests in what a state is and what it should do. Somalia has been a collapsed state since 1991. People living in a collapsed state want to build a state that can serve their interests by delivering state services. The International Society (IS) want a state too so it can serve their own interests. Due to the insecurity in north-east Somalia after the civil-war, the people of northern Somalia constructed a state on their own –

Somaliland, to provide governance - primarily security. The IS also want security, but primarily for the other states in the IS, not first and foremost for the local Somalians. The IS has therefore (14 times since 2000) tried to create a sovereign government of Somalia (the TFG) to serve its needs. While the common interests in security should make the two sides' priorities complementary, the discrepancies between the two sides norms and interests makes them come into conflict.

This paper will argue that Somaliland succeeded because it was constructed using local conflict-handling mechanisms, uses traditional societal norms and governance structures, and that it was out of the focus of the IS long enough to allow this time-consuming traditional governance process to work. The IS attempted top-down state-structure (the TFG) has failed because it has no legitimacy among the Somalians, and it is only serving the interests of the IS. The UIC was like Somaliland, based on local indigenous governance structures, but failed because the actors of the IS had other vested interests in Somalia that were not complementary with the UIC. Therefore it chose to kill the emerging state-structure in the construction process while it was very vulnerable.

2. Unsettling the Sovereign State: *Positive Sovereignty, Negative Sovereignty and the de Facto State*

What is a state and what is a state-structure? This chapter will present the analytical tools this paper will use for analysing the state-structures in Somalia. Important theoretical tools are also the norms of states in the International Society (IS), pitted against the norms and needs ordinary people have for a state-structure. In short, what is a state, and to whom is it accountable? In order to analyse the capability of various state-structures and who they are accountable to, analytical tools such as positive and negative sovereignty, de facto states and quasi-states, will also be defined and explained.

This essay will use Somaliland as a blueprint on how to construct a bottom-up, de facto state (-structure), serving the need of ordinary people for governance. The example of Somaliland will be used to analyse the situation in south-central Somalia, where several top-down attempts of state-construction facilitated by the IS have failed, along with bottom-up approaches in the same area.³ The relations between these various norms for state-structures and diverging interest in state-structure construction are a key focus of this paper.

2.1 The State

The definition of what constitutes a state is not universally agreed upon but the basic definition this paper will use in this paper is that of Max Weber⁴. His definition of a state is that it is a political

³ There is another moderately successful bottom up-state structure in north-eastern Somalia called Puntland from 1998. I have deliberately left Puntland out of this paper due to the lack of space allowing a deeper investigation. The case of Puntland is not distracting for the narrative of this paper and the points outlined about state-structure formation. Puntland initially used local traditional governance capacity like Somaliland, but was unsuccessful in establishing a well-functioning structure as fighting broke out about the leadership positions in the 'government'. Puntland does not claim independence like Somaliland does, and its 'leaders' are somewhat cooperating with the TFG. Puntland have not been effective in monopolising the use of violence. Therefore piracy is common and security, representation and welfare is not comparable to Somaliland.. For the Puntland story, see: Lewis, *Understanding Somalia and Somaliland*, 100. And: Hoehne, "Mimesis and Mimicry," 252.

⁴ Hameiri, "Capacity and its fallacies," 59.

organisation or community that holds and controls a territory, by having the legitimate monopoly over the use of violence: To quote Weber's own definition:

“... [A] human community that (successfully) claims the monopoly of the *legitimate* use of physical forces within a given territory.”⁵

Weber's definition of a state is interesting and can be ambiguous, as the word *legitimate* can be (and is) interpreted in two different ways. What is the *legitimate* use of violence? Is it the *right* to exercise violence? Or is it the *capability* to exercise violence? Regarding the right to exercise violence, a further question arises - who judges who has that right?

2.2 Sovereignty

In international politics, the key word in regard to the state is sovereignty. Sovereignty originally means something akin to supremacy, indicating the Supreme (exclusive) monopoly of violence. Jackson introduces a useful definition between the two kinds of sovereignty (actual and legal) in his book, *Quasi-States*, in order to distinguish between *negative sovereignty* (legal sovereignty) and *positive sovereignty* (actual sovereignty).⁶

A third question that arises is what a state is supposed to do with this monopoly of violence. From the perspective of other states in the IS, a state should use this monopoly to honour its commitment to other states in the IS.⁷ From the perspective of the citizens of a state, the role that the monopoly of violence (the 'state') should fulfil is to deliver *security, representation and welfare* to its citizens. This definition of the state's duties towards its citizens is outlined by Milliken and Kruse:

“[T]he very least a state should protect its citizens; from harm and provide order; represent the symbolic identity of its citizens; and assist in the development of wealth.”⁸

⁵ Hameiri, “Failed states or a failed paradigm?,” 136. Emphasis and brackets original.

⁶ Jackson, *Quasi-states*, 27.

⁷ Ibid., 28.

⁸ Hameiri, “Failed states or a failed paradigm?,” 135.

2.2.1 Negative Sovereignty, Social Recognition

In the modern notion of statehood this recognised ‘sovereign’ right to exercise violence has assumed a *legal* standard, belonging only to Sovereign States.⁹ The sovereign state decides whether or not they want to ‘recognise’ other states. This recognition is then codified by membership of the states’ ‘Club’ - the United Nations (UN). Social acceptance as a state in the International Society (IS) of states means that the government is recognised as the *sole* legal holder of legitimate violence (power) in a defined territory. Membership in the IS ‘Social Club’ means that the state is being socialised to act according to a set of norms, laws, rights and duties of states. Jackson defines this social-normative right to the monopoly of violence (granted by the IS) as negative-sovereignty. Fundamentally this is a recognised *right* to the monopoly of violence (but does not necessarily mean that the government holds the ‘actual’ monopoly of violence).

Recognised negative sovereignty officially gives the state ‘freedom from outside interference’ and recognition as legally representing the state internationally.¹⁰ This mutual recognition between states is the basic socialisation procedure of the IS. With this negative right to legal sovereignty (statehood) recognised, a state with negative sovereignty can make binding social contracts with other states.¹¹ All international relations are premised on the social expectation that these agreements will be kept. This unitary view of what a state is and what it is supposed to do is codified in *The Montevideo Convention on the Rights and Duties of States of 1933*. The characteristics of a state are here defined as: (A) a permanent population; (B) a defined territory; (C) a government; and (D) the capacity to enter into relations with the other states.¹²

2.2.2 Positive Sovereignty, Actual Power

Positive sovereignty presupposes that a state have capabilities to actively rule in their territory.¹³ Positive sovereignty is the true Weberian definition of a state, as it entails the actual monopoly over the use of violence, and therefore the actual monopoly of power. Positive sovereignty is thus the process of

⁹ James, *Sovereign Statehood*, XXI.

¹⁰ Jackson, *Quasi-states*, 27.

¹¹ Ibid.

¹² Kaplan, “The remarkable story of Somaliland,” 153.

¹³ Jackson, *Quasi-states*, 29.

the state actively providing services, such as security welfare and representation to the citizens in its territory. If that state is actively providing services to its citizens and at the same time is recognised through negative sovereignty, the state is in total exercising effective sovereignty.¹⁴ If it is providing positive sovereignty but is not recognised, it is called a de facto state. Positive sovereignty is closely in line with Weber's definition: "Max Weber and his followers, focuses on the quality of state control and its coherence."¹⁵ A state-structure can therefore display strong positive sovereignty without being a 'state' in the eyes of the IS.

2.2.3 The Discrepancy between Positive and Negative Sovereignty

This obvious discrepancy between (some) states positive and negative sovereignty can, according to Robert Jackson, be traced to the decolonisation process. In the colonial times, a state had to show and prove its survivability through economic, military and governance merit; that it had the 'right to live'.¹⁶ This meant that strong positive sovereignty was a pre-condition for negative sovereignty and statehood, as a state that could not control its own territory and protect itself against other states would die and become a colony or part of the territory of a state that could.¹⁷ The decolonisation process (and the UN), gave the former colonies full sovereign-state rights upon independence, despite the fact that several of them did not have the capability to effectively self-govern through sufficient positive sovereignty.¹⁸ Robert Jackson has put it this way:

"[O]nce sovereignty is acquired by virtue of independence from colonial rule, then extensive civil strife or breakdown of order and governmental immobility or any other failures are not considered to detract from it"¹⁹

In short some former colonies had not earned their independence through political capability and resources, but instead had it granted for 'free' due to the 'new' norms of the UN-era IS.

¹⁴ Clunan, Trinkunas, and Harold, *Ungoverned Spaces*, 17.

¹⁵ Hameiri, "Capacity and its fallacies," 59.

¹⁶ Pegg, *De Facto States in the International System*, 5.

¹⁷ Pegg, "De Facto States in the International System," 1. a *truly* sovereign state

¹⁸ Pegg, "De Facto States in the International System," 1.

¹⁹ Ibid.

Consequently, several newly independent states, recognised as having full sovereign-state rights by the UN and the IS in their defined territory, were actually not controlling that territory. The recognition of negative sovereign rights is however (almost) absolute, implying that a state with a fully collapsed state-apparatus, will still be supported and held up through international efforts.²⁰ The territory of already recognised sovereign states is considered ‘sacred’ and cannot be changed as statehood is guaranteed through UN recognition and practice. This, in practice, means that a state does not necessarily require a government to have the rights of a recognised sovereign state.²¹ An example of this UN practice can be seen by the UN’s handling of the state collapse in Somalia in 1991. After the collapse, the UN general secretary sent a letter to the UN Security Council (UNSC) in November 1992 to discuss the problems that: “[O]ne of its member states, Somalia, suffered from the total absence of a government”²² The UNSC however decided to treat Somalia as if were still a sovereign state, and kept referring to its: “[S]overeignty, territorial integrity, [and the] political independence and unity of Somalia”²³ In short, the state collapse was in a legal sense simply ignored. Total state collapse therefore does not affect statehood, as it is protected by (negative) sovereignty. Weber’s definition of a state, as possessing an (actual) monopoly over violence in a territory, is therefore today not a de facto requirement in order to be recognised as the legitimate rulers of a state. Even with total state failure the quasi-state’s government retains the right to speak on behalf of its citizens and represent the state internationally.²⁴

2.2.4 Quasi-States become Failed States

A sovereign state with weak positive sovereignty (little actual control) is labelled by Robert Jackson as a quasi-state.²⁵ The states of the IS have never liked these out of a fear that already concluded inter-states agreements will not be kept because of a state’s lack of control over its territory. After the Cold War and especially since 9/11, quasi-states have been renamed failed states²⁶. The renaming is based on the fear that the state cannot control its territory and that terrorists and instability therefore can grow

²⁰ Ibid., 2.

²¹ Koskenmaki, “Legal implications,” 34.

²² Ibid., 6. Un doc. S/24868

²³ Ibid., 15.

²⁴ Ibid., 34.

²⁵ Jackson, *Quasi-states*, 21.

²⁶ This thesis will not go into a deeper discussion about the use of the term failed states, as it is not the focus of this thesis.

out of these ‘ungoverned areas’ and pose a security threat to other states of the IS.²⁷ To prevent this other states of the IS will assist other sovereign states to help them control their ‘rightful’ territory.

2.2.5 International ‘Development’ Aid

The strong UN and IS backing for states with (already recognised) negative sovereign rights, have meant that considerable resources and powerful organisations and states are willing to help quasi/failed sovereign states to build governance capability to actually govern their territory.²⁸ This state-building effort is a main interest of the IS, in order to establish a unitary state actor capable of entering into relations with other states in the IS and to honour their promises through effective control over their territory. The responsibility of sovereign states towards each other in the IS promotes order, stability and security for states in the IS. Other states are therefore willing to pay for, and assist sovereign states with weak positive sovereignty in developing institutions and capabilities to help them in that task.

2.2.6 De Facto States and Bottom-Up State-Structure

The strong international focus on the rights of sovereign states have meant that states, and especially the UN, often fail to see the potential in alternative state structures, even though some of them are fulfilling Weber’s definition of a state’s duties from a positive sovereignty viewpoint. The most significant of these is the de facto state. De facto states are state structures that display full positive sovereignty, but are unrecognised by the UN and therefore have no negative sovereignty. As such they are not ‘socially’ acceptable to the IS.

“A *de facto* state exists where there is an organized political leadership which has risen to power through some degree of indigenous capability; receives popular support; and has achieved sufficient capability to provide governmental services to a given population in a defined territorial area, over which effective control is maintained for an extended period of time. The *de facto* state views itself as capable of entering into relations with other states and it seeks full constitutional independence and widespread international recognition. It is, however, unable to achieve any degree of substantive recognition and therefore remain[s] illegitimate in the eyes of international society”²⁹

²⁷ Bilgin and Morton, “From ‘Rogue’ to ‘Failed’ States?,” 171.

²⁸ Jackson, *Quasi-states*, 112.

²⁹ Pegg, *De Facto States in the International System*, 26.-32, Emphasis original, Pegg defines the time period as two years.

De facto states are usually bottom-up structures, providing state services to the local population as the result of indigenous pressure and capacity-building. These bottom-up state-structures provide first and foremost order and security, but also representation, and welfare for its 'citizens'.³⁰

The de facto state is therefore a fully functioning state-structure, in that it fulfils Weber's definition of a state. It exhibits all the required positive-sovereignty criteria for (effective-sovereignty) statehood, but lacks recognition from other states and therefore has no negative-sovereignty. Typically a de facto state controls a part of the territory of an existing sovereign state. On the basis of this territory it claims and strives for recognition by other states as the legitimate ruler of this territory.³¹ The de facto state is not considered legitimate and therefore cannot participate in international institutions. Nor is it considered to be an equal partner in the IS. Pegg uses this very astute quote to highlight this discrepancy, defining them as the 'inverse of the quasi-state':

“The quasi-state is legitimate no matter how ineffective it is. Conversely, the de facto state is illegitimate no matter how effective it is”³²

2.3 Top-down, International State-building

As discussed above, states in the IS have an interest in maintaining the social order in the system of states – the International Society (IS). Therefore all states must follow the norms, and one of the norms of the Montevideo Convention is that states can make binding agreements with other states. The IS are therefore interested in ensuring that recognised states have sufficient positive sovereignty to actively enforce binding inter-state agreements, in accordance with the Montevideo Convention.

The IS interests in helping a state to actively control their territory has become even more important post- 9/11. After 9/11, the IS considers failed states to be a direct security threat as 'ungoverned'

³⁰ Hameiri, "Failed states or a failed paradigm?," 135.

³¹ The state that is officially recognised as the holder of negative-sovereign rights of this territory is naturally not happy with this.

³² Pegg, "De Facto States in the International System," 1.

territories are perceived to be dangerous as they can potentially become safe havens for non-state actors such as Al-Qaeda or other terrorists.³³

This concern for a state's positive sovereignty capability and a focus on what is seen as 'acceptable' state-forms, have in reality 'securitised' the existence of the sovereign state. The official United States (US) national security strategy from 2002 states that: "America is now threatened less by conquering states than we are by failing ones".³⁴ Because of this, securitisation of statehood, 'Good Governance' and the state's level of territorial control, is now considered a direct security interest by the US and IS.³⁵ This has influenced the 'acceptable' forms of state structures that are allowed to arise based on local initiative, due to the fear of terrorist safe havens.³⁶ Since 9/11 the interest in state performance has not been out of genuine interest (especially for the people living in the states), but, due to other states in the IS, self-interested security concerns.³⁷ This priority means that many states' policies towards weak states become multi-pronged, with aid, development and security policy 'integrated' into a combined solution to handle what is perceived as a direct 'national security' problem.³⁸

2.3.1 Solution: One-Size-Fits-All Capacity Building

The international system of states and the UN assist (failed/weak) sovereign states to help them improve their positive sovereignty. The solution to the problem is seen as assisting state rebuilding or strengthening their institutional governance capacity. This is perceived as the best way to ensure that states can be strengthened to handle their responsibilities (first and foremost towards the IS). The Organization for Economic Co-operation and Development (OECD) official working committee on the issue, 'The fragile states groups' published its 'Principles for good international engagement in fragile states' in 2005, stating: "States are fragile when governments and state structures lack capacity"³⁹. The

³³ Clunan, Trinkunas, and Harold, *Ungoverned Spaces*, 21.

³⁴ <http://georgewbush-whitehouse.archives.gov/nsc/nss/2002/nss1.html> 1.feb.2011

³⁵ Clunan, Trinkunas, and Harold, *Ungoverned Spaces*, 21.

³⁶ Hameiri, "Capacity and its fallacies," 73.

³⁷ Ibid.

³⁸ Bradbury and Kleinman, *Winning Hearts and Minds?*, 14.

³⁹ Kaplan, *Fixing fragile states*, 6.

solution to the problem of weak states is therefore generally handled as a one-size-fits-all solution of building institutional capacity to assist existing (recognised) state-structures.⁴⁰

2.3.2 Neo-Liberalism as the International Norm

This capacity-building is framed in a neo-liberal⁴¹ (and liberal peace) context, as economic development is seen as the best way to enhance the strength and coherence of weak states.⁴² Security and economic interest is perceived as interconnected, and neo-liberal market-oriented institutions are therefore a priority. From a neo-liberal perspective, the market is free, and the government should not actively participate in the economy as market forces should rule supreme. The market however needs a regulatory framework and justice enforcement to ensure property rights so that the market can operate ‘freely’. State institutions are seen as the governance structure to handle that issue, as creating a strong ‘government’ is seen as too intrusive. The focus has therefore been on building and strengthening ‘apolitical’ state institutions that can guarantee the free market, without interfering with or controlling economic development.⁴³ These ‘apolitical’ or ‘neutral’ structures are meant to support a democratically-elected government whose job is to oversee these ‘apolitical’ institutions.⁴⁴

2.3.4 State Norms: One-Size-Fits-All Cocktail

The IS has been totally dominated by the idea of neo-liberal norms for statehood since the end of the Cold War, or as Roland Paris put it, the neo-liberal model is now “the only model of government with any broad ideological legitimacy and appeal in the world”.⁴⁵ This combines with the fact that the Westphalian spatial norms have also obtained monopoly status. According to UN secretary Kofi Annan it is: “the only imaginable spatial framework for political life”.⁴⁶ This normative use of the Westphalian spatial framework means that the existing territorial boundaries of existing recognised states is fixed.

⁴⁰ Ibid. 6

⁴¹ Richmond, “UN peace operations and the dilemmas of the peacebuilding consensus,” 88.

⁴² Kaplan, *Fixing fragile states*, 8.

⁴³ Hameiri, “Failed states or a failed paradigm?,” 131.

⁴⁴ Hameiri, “Capacity and its fallacies,” 64.

⁴⁵ Paris, “Peacekeeping and the constraints of global culture,” 3.

⁴⁶ Ibid., 444.

Locally ‘arisen’ de facto states, spatially located inside existing recognised Westphalia states, can therefore not be accepted.

These norms combine to produce a powerful and difficult cocktail for acceptable state-structure. IS norms demand: a liberal democratic state, within the existing territorial boundaries of the existing sovereign state, built on the reformed institutions of the existing government/state.

2.3.5 The One-Size-Fits-All Model Does Not fit Somalia, So What to do?

The present literature and framework for neo-liberal state-building however has a problem with departing from a point of no government, as the leading liberal peace theorist Roland Paris points out:

“Whereas classical liberal theorists recognized the vital role of effective state institutions as a necessary condition for domestic stability, this concern has largely disappeared from the contemporary liberal peace literature. Rather than starting from the hypothetical condition of *nongovernment*, contemporary students of the liberal peace have typically isolated specific characteristics of already constituted states and explored the relationship between these characteristics and the incidence of conflict”⁴⁷

In the case of collapsed states (like Somalia), this brings about several problems. First of all, modern liberal state building literature has no idea of how to build capacity from scratch when no government exists to start building upon, as highlighted in the quote above. Somalia is a collapsed state, so there is no (functioning or official) domestic state institutions/government to reform or build upon. The IS have handled this problem by ad hoc creating the Transitional Federal Government (TFG), as the basis legitimate government for Somalia with recognised negative sovereignty, to attempt to build institutional-state-capacity on that, to serve the needs of the IS.

2.3.6 Local Governance Structure-norms Scorned by the IS

With only the IS norms deemed acceptable for state-structure building, a local society’s norms, culture and capacities are only viewed as relevant if they can assist in the strengthening of the capacity of these

⁴⁷ Paris, “Bringing the Leviathan back in,” 431. Emphasis added.

(neo-liberal) state institutions.⁴⁸ Indigenous/local capabilities or governance structures that deviate from the IS norms are seen as undesirable and disturbing elements in the process of strengthening neo-liberal institutional capacity. This ‘norm of state governance’ creates a divide between state and society, as the interest of the IS top-down neo-liberal institutional state-building is not primarily aimed at strengthening the political legitimacy of the actual government or governance-structure, but instead to build up the capability of the (neo-liberal) institutions available to that government. State coherence is judged by the strength of its institutions, not its anchoring in the local society and culture that it is governing.⁴⁹

An example of this can be seen in the state-building effort in the Solomon Islands from 2003. The ‘Regional Assistance Mission to Solomon Islands’ (RAMSI), uses 75% of its 200 million (AUD) yearly budget for (neo-liberal) capacity-building, primarily in three areas; law and justice, machinery of government, and economic reform.⁵⁰ RAMSI has caused considerable unrest in the Solomon Islands, primarily because its ‘institutional-capacity-building’ is exercised *parallel* to the existing government and is overruling the local officials. RAMSI is run and controlled by international ‘advisors’ which means that it is often disregarding and in some cases undermining existing functioning local anchored governance structures.⁵¹

2.4 Critique of the IS Norms State-Building Methodology

The tendency to divide state capacity and local societal anchoring and legitimacy has attracted strong criticism from academics recently, especially due to its lack of positive results.⁵² Seth Kaplan points out that the key for successful development is ‘social capital’, defined as: “[T]he norms and networks that enable people to act collectively.”⁵³ Local will is the best way to ensure successful states, and top-down control undermines that:

⁴⁸ Hameiri, “Capacity and its fallacies,” 63.

⁴⁹ Ibid.

⁵⁰ Ibid., 67.

⁵¹ Ibid., 79.

⁵² Kaplan, *Fixing fragile states*, 7.

⁵³ Ibid., 8.

“[A] successful state uses local identities, local capacities, and local institutions to promote its development, a dysfunctional country’s state structures undermine all of these indigenous assets”⁵⁴.

The local capabilities and special societal-governance norms are therefore slowly coming back into the focus of state-building literature, due to the limited results of the purely neo-liberal approach.

2.5 States, Sovereignty and Somalia

The theory in this chapter will be used to show that Somalia, since 1991, has fostered a clear-cut version of a quasi-state, and a clear cut de facto state, namely the TFG and Somaliland. The TFG fits the definition of a quasi-state because it has recognised negative sovereignty, but absolutely no positive-sovereignty. In short – it only exists on paper and is not of any practical to use the ordinary Somalians in Somalia. It does however receive support and assistance from the IS, and is therefore representing the interests and norms of the (state in the) IS. This fact is important; as the problems with Somalia as a ‘failed state’ are built on the notions of IS-social norms. It is failed because it does not live up to its IS duties, not because it does not provide services such as security to its citizens.

Somaliland is a de facto state built in accordance (and with) with local governance-norms and capabilities. It is effectively providing government-services to its population through positive sovereignty. It is functioning as a state should in every way, but is not recognised and do therefore officially not exists as a IS social entity. Summed up it is built through the initiative of the citizens of the state-structure with the primary goal of serving their interest by providing them security, representation and welfare. On top of that it is also serving the security interest of the and has shown that it is possible to reconcile local and IS interest in a (locally constructed) bottom-up state-structure.

These two clear-cut examples of a quasi-state and de facto-state will be used to analyse why a second emerging locally based bottom-up state-structure from 2006 (that could have become a de facto state) the UIC, failed shortly after it came to power.

⁵⁴ Ibid.

The norms the IS are trying to promote in state-structure construction brings them into conflict with local governance capabilities and social Norms. The next chapter will outline and explain the importance of the history and (political) culture of Somalia, especially in relation to the clash between local Somali societal-structure and governance-norms, and their clash with western norms of sovereign statehood.

3. Background History of Somalia.

3.1 Historical Background

In order to understand Somalia, it is important to understand its historical background and other determinant factors. Of special interest is the difference between the traditional Somali governance structure and the challenges posed by Westphalian norms imposed by external actors since the colonial period and the fact that the colonial borders are still the official ones demarcating the state of Somalia. The local Somali and Westphalian societal structure conflict as traditional Somali society is an *Acephalous Society* – a Headless Society⁵⁵, whereas Western norms have a clear heretical structure with a ‘head’ in the form of an officially all-powerful person - the sovereign. Unlike Western societal organisational structures as defined by Hobbes and Weber, there is no sovereign or central control of the monopoly of violence in traditional Somali society/culture. Somali society is highly socially ordered, but in what has been called an ordered anarchy.⁵⁶⁵⁷ The Somali society is governance wise, a highly de-centralised governance structure and is therefore in direct conflict with the Westphalian sovereignty-centred International Society state norms. This divergence between local governance culture and the IS sovereign state-centric governance model is the cause of many problems in Somalia.

Because of this societal structure in Somalia the traditional governance traditions and norms still influence the situation heavily. All state-building attempts in Somalia, from colonial to the national-state (1960-1991) attempts and to the current day, have never succeeded in successfully transferring the political loyalty from the traditional clan ‘governance-system’ to the state level. This is because the state has never fully been able to take over the governance services such as, security, representation and welfare, from the traditional providers of these services – the clan governance system. In short, in order to understand why state-structures fail or succeed one has to understand the Somali societal social

⁵⁵ Lyons and Samatar, *Somalia: state collapse, multilateral intervention, and strategies for political reconstruction*, 10.

⁵⁶Bradbury, *Becoming Somaliland*, 16.

⁵⁷ Hedley Bull and the English School ‘Anarchical society’ provide an interesting analogy here. A further discussion about the similarities with English school theory is however not within the scope of this thesis. For further information see: Hedley Bull – *The anarchical society* 1977.

construct. Because of the negative experience Somalis have had with first a western style central state under colonial rule, then brutal dictatorship, and then state collapse and anarchy, one must bear in mind that the Somali people are rightfully suspicious of any centralised state-structure, unless it is compatible (and not-limiting or destructive to) their traditional well-working decentralised governance structure.

This historical background chapter will first introduce the Somali ethnic group that gave Somalia its name. This will be followed by a chronological outline of Somali history. In the colonial era Somalia was separated into five colonial states during the imperial era, and only two of these colonies were merged to form the new Somali 'nation-state' in 1960. Somalia's performance as a new independent state, the attempt by the dictator Barre to foster loyalty to his centralised state of Somalia, and the geo-political influences that heavily affected Somalia in the period up to state collapse and failure in 1991, will be explained. After the state collapse, the IS intervened on humanitarian grounds, but failed, leaving Somalia to itself, and its local governance structures. After this historical overview the societal structure of the Somali people will be outlined and explained. Their political loyalties, governance form and traditions along with their identity law and security systems will also be explained. At the end of this chapter, the role of Islam will be outlined, as it is an integral part of Somali identity and governance structure.

3.1.1 The Somalis

The official territory of Somalia is of colonial legacy. Its name originates from the Somali people - an ethnic group that populates the Horn of Africa, totalling about 14 million people.⁵⁸ The Somali people today inhabit all of Somalia, the Ogaden province of eastern Ethiopia, make up 60% of the population of Djibouti and are a significant minority in Kenya (see map 1, page 5)

From a nation-building perspective, the Somali people should be a clear-cut case, as the characteristics of this ethnic group are homogenous. They all share the same ethnicity, culture, language and

⁵⁸ Kaplan, "The remarkable story of Somaliland," 145.

religion.⁵⁹ Seen from a European *nation-state* perspective, Somalia should therefore have a good basis for forming a successful nation-state, as minorities are not a significant problem.

3.1.2 The Colonial Period 1880-1960, the Somalis Divided into Five States.

In the colonial period, the Somali-populated region was carved up and divided between five colonial powers. The French controlled Djibouti, the British, Somaliland and Kenya, the Ethiopians with the Ogaden and the Italians with South-Central Somalia.⁶⁰ Britain's interest in Somaliland was mainly strategic in order to protect its line of communications with India, as well as geo-strategic to counter French influence. The British never promoted immigration and 'white' colonisation of Somaliland but ruled Somaliland with a fairly light hand. They had some trouble with control as their preferred method of indirect rule (tapping into the local structure and controlling it) did not initially work well in the decentralised Somali culture.⁶¹ The Italians established a fascist colony in southern Somalia and developed (banana) plantations and promoted the settlement of thousands of Italians to the colony. They established a centralised administration with Italians on the lead positions assisted by local Somali chiefs (Capos) and elders.⁶² The Italians were thus far more involved in building bureaucratic capacity to foster a Somali elite than the British. Ethiopia was one of the only African countries to avoid colonisation and fostered a working (strong, effective sovereignty) state structure on their own. Ethiopia rules the Ogaden province inhabited by ethnic Somalis.⁶³ Since Somalia's independence in 1960 and the rise of Pan-Somali nationalism, the situation with Ethiopia has often been tense or at war, because of this ethnic Somali enclave. Ethiopia is the local 'superpower', and continues to this day to have strong interests in the situation in Somalia.⁶⁴ Colonial ambitions in East Africa flared up again in the 1930s, when fascist Italy briefly conquered Ethiopia in 1935 and British Somaliland in 1940.⁶⁵ In 1941, during World War II the Italians lost all of their acquired land and the British took over Italian

⁵⁹ Ibid., 144.

⁶⁰ Lewis and Mayall, "A Study of Decentralised Political Structure for Somalia," 4.

⁶¹ Ibid., 5.

⁶² Ibid.

⁶³ Lewis, *Understanding Somalia and Somaliland*, 29.

⁶⁴ Ibid.

⁶⁵ Ibid., 31.

Somalia. In 1950 Italy returned to Italian Somalia and ruled the area as a UN trusteeship until independence in 1960.⁶⁶

3.1.3 Independence 1960

The independence of the new Republic of Somalia in 1960 was part of the general de-colonisation process demanded by the UN.⁶⁷ The international community wanted a sovereign 'Westphalia' state, and that state was comprised of the former Italian and British colonies.⁶⁸ In a structural view the situation was not perfect, as the ethnic Somalis living in Ethiopia, Kenya and Djibouti would not be part of the new 'nation'-state.⁶⁹ The flag of the new 'Republic of Somalia', a five pointed star on a light blue background, represents these five divisions of the Somali people.⁷⁰ This incomplete nation state-building left ill feeling among many Somalis both in and outside the new state and this rise of pan-Somali nationalism has cast long shadows and provoked conflict especially in their relations with Ethiopia.

3.1.4 Italian Inspired Centralised State-Structure

The new state of Somalia established a highly centralised nation-state based on a European Eurocentric view of a Westphalian state.⁷¹ Italian bureaucratic tradition was used as it held the strongest institutional capacity in the new state. The new state centralised power in southern Somalia and favoured this region at the expense of the North.⁷² The UN notion of self-determination and sovereignty for new states meant that Somali nationalism was flourishing and this pan-Somali struggle engendered conflict and some military confrontations between Kenya and Somalia, as Somalia

⁶⁶Ibid., 32.

⁶⁷ Yamane, "State failure and Armed Group," 117.

⁶⁸Lewis, *Understanding Somalia and Somaliland*, 33.

⁶⁹Ibid., 29.

⁷⁰Ibid.

⁷¹ Ibid., 34.

⁷² Kaplan, "The remarkable story of Somaliland," 147.

encouraged the Somali-inhabited provinces in Ethiopia (and Kenya) to revolt.⁷³ This fed into the Cold War proxy-conflicts, with Ethiopia and Kenya becoming pro-Western, and Somalia pro-USSR.⁷⁴

3.1.5 Military Dictatorship - Barre's Regime, 1969-1991

General Mohammed Abshir Barre took over power in Somali in a coup d'état in 1969. Barre tried to nation-build through socialism and a development-program called 'Scientific Socialism'.⁷⁵ Officially socialist, it was also to a large extent meant as a nation-building process, trying to foster loyalty to the state, and to abandon 'backwards' traditions such as clan identity and other 'un-socialist' tendencies. Collectivisation and control over the economy was established also to reassure the USSR that they were truly a socialist ally and therefore worthy of continued Soviet support. Barre's security forces upheld brutal 'justice' and suppressed all potential opposition to him.⁷⁶ Barre was in general, however, fairly popular as he spoke to pan-Somalia nationalism. This nationalism led to the failed war with Ethiopia in 1977-78 over the Somali-inhabited Ogaden province of Ethiopia.⁷⁷

Somalia and Ethiopia switched Cold War allegiance in 1974 with Ethiopia becoming pro-USSR, and Somalia was forced to become more of a US proxy.⁷⁸ Somalia's war with Ethiopia in 1977-78 was mainly a result of gaining control of the Somali-populated Ethiopian province of Ogaden but can also be seen as a Cold War move in which Barre failed to gain US support due to Jimmy Carter's dislike for Barre's brutal regime, and the fact that Somalia was the pro-forma aggressor.⁷⁹

3.1.6 Civil War and State Collapse

The failed Ogaden war severely weakened Barre's regime as Barre (and Somalia) were seen to have been clearly defeated. The peace agreement with Ethiopia after the war weakened Barre's appeal as the

⁷³ Lewis, *Understanding Somalia and Somaliland*, 36.

⁷⁴ Ibid., 37.

⁷⁵ Ahmed, "The heritage of war and state collapse in Somalia and Somaliland," 117.

⁷⁶ Lewis, *Understanding Somalia and Somaliland*, 40.

⁷⁷ Ibid., 64.

⁷⁸ Møller, "The Somali Conflict: The role of external actors," 10.

⁷⁹ Ibid.

defender of the Pan-Somali Nation project. Opposition to Barre gained strength, and the regime responded by using increasingly brutal and draconian measures.⁸⁰ Barre's regime increasingly went from having a somewhat national Somali appeal to becoming increasingly clannish as Barre increasingly based its power on his own and allied clans. Barre tried to reconsolidate his power in his own and allied clans, consolidating all power in the Marrehan, Ogaadeen and Dulbahante clans or 'MOD' rule.⁸¹ All other clan leaders were systematically suppressed or eliminated. This led to the full scale rebellion of several of the other clans and they formed several regional/clan-based rebel movements to rid themselves of Barre's regime⁸². This resulted in a full scale civil war from 1988-1991⁸³. Among them was the Somali National Movement (SNM) in Northern Somalia which, in 1991 declared the territory comprising of the former British Somaliland, independent.

3.1.7 Humanitarian Intervention 1992-1995

The civil war from 1988 was first 'discovered' by the international media in 1992.⁸⁴ The end of the Cold War and the 'freeing' of the political agenda meant a much stronger focus on humanitarian issues. Therefore the chaos and 350,000 casualties in 1992 from civil war, inter-clan fighting and famine, became a media focus.⁸⁵ The UN mission 'restore hope' or 'United Nations Operation in Somalia' (UNOSOM) however turned out to be disastrous as the UN (mainly the US) did not understand the local clan-structure and further aggravated the conflict instead of alleviating it.⁸⁶ This is partly because they treated the warlords as legitimate actors, made deals with some and fought others. This led to The famous 'Black Hawk Down' incident in 1993 which led to the end of the 'humanitarian intervention' in Somalia.

⁸⁰ Ibid.

⁸¹ Ibid.

⁸² Lewis, *Understanding Somalia and Somaliland*, 68.

⁸³ Ibid., 71..

⁸⁴ Møller, "The Somali Conflict: The role of external actors," 12.

⁸⁵ Ibid.

⁸⁶ Ibid.

3.1.7.1 Collapsed State

Since 1991, Somalia has not had a uniting effective government. The de facto state of Somaliland remains de facto independent, while the rest of Somalia has experienced various levels of anarchy. Since 2000 The Transitional Federal Government (TFG) government has officially held the sovereignty over Somalia.⁸⁷ In the absence of any functioning government to provide services, the people of Somalia have relied on their traditional governance structures to survive.

3.2 Societal Structure and Traditional Governance

To understand the basis of state structures in Somalia, societal norms, traditional loyalties and social organization, is important in order to understand the basic construct of Somali political culture. Political identity as part of a political community can change over time but in Somali culture the basic loyalty is traditionally the kinship/Clan system because it has been the most stable provider of governance services - first and foremost security. In a functioning state a large portion of security, representation and welfare services is provided or facilitated by the state, but if a state fails, political loyalty is transferred to a lower hierarchy level, that can actually provide social services and security. This is the situation in Somalia because as Ken Menkhaus has noted the state failure in 1991 did not produce anarchy but instead ‘an extreme degree of decentralisation’.⁸⁸

3.2.1 Political Loyalty lies with the Clan

Somalia was a clan society before it became colonised (by Western norms). Despite the homogenous characteristics of the Somali population/ethnic group, and the somewhat strong ‘national’ Somali identity, especially after independence, political loyalty remains bound to the clan, because the clan has

⁸⁷ Initially the name was the Transitional National Government (TNF) but the difference is inconsequential. Further explanation and introduction of the TNF/TNG will follow later in this paper.

⁸⁸ Bradbury, *Becoming Somaliland*, 86.

been the most reliable provider of governance services. A Somali is loyal to his clan before he is loyal to his 'nation'.⁸⁹

During the Republic of Somalia (1960-1991), 'nation-building' was pursued through nationalism and socialism (under Barre). These nation-building projects that have worked so well in several Western states have however not worked well in many post-independent African states. The government of Somalia tried to foster loyalty to the nation and disband the clan system, but never succeeded in doing so, as the state could not fully take over the governance services that the clan had previously provided. After the state collapsed, the political loyalty was totally devolved back to the clans, and Somalia today remains a clan society. The normative governance structure of this clan society is therefore important to understand in order to analyse why some state structures succeed and others fail in Somalia.

3.2.2 Clan Rule – Desert Democracy

Somali social structure is highly de-centralised or may even be described as un-centralised. The traditional societal structure, unlike the European notion of a state, does not have any permanent bodies or even permanent leaders. It is a tribal democracy where elders gather on an ad hoc basis and decide by consensus.⁹⁰ The decision process is highly democratic but not electoral as (male) elders represent related families or alliances of families or clans. The alliances of these lineage-groups, clans or sub-clans are always shifting and very dynamic, depending on interests and shifting allegiances. Representation is therefore based on kinship family-loyalty relations.

3.2.2.1 Identity Structure

The societal and identity structure in the Somali society is decided by four levels of identification and loyalty. 1) Clan family 2) Clan/sub-clan 3) Dia Paying Group 4) Lineage kinsmen.⁹¹ The Somali ethnic group is split into six clan-families: Dir, Darod, Iraq, Hawiye, Digil and Rahanweyn. All the clans live

⁸⁹ Kaplan, *Fixing fragile states*, 116.

⁹⁰ Lewis and Mayall, "A Study of Decentralised Political Structure for Somalia," 1.

⁹¹ Ibid., XV.

in a roughly assigned territory area of Somalia.⁹² The Clan family is the highest potential unit of political loyalty in traditional Somali society⁹³, but that does not mean that the primary loyalty lies there, as a major part of clan-fighting and feuds take place between clans of the same clan-family.⁹⁴



The six clan families are sub-split into roughly 100 (main) clans⁹⁵, who are again often split into sub-clans. The size of the clans varies from a few thousand people to over 100,000 people, with smaller clans generally showing more unity. A clan or sub-clan is a grouping of several related 'Dia Paying Groups' comprised of immediate-related family groups (lineage kinsmen).⁹⁶ The Dia Paying Groups is the basic unit of security and enforcement of justice in the traditional Somali society. It is a group of several immediate related (nuclear) families, united through genealogy (lineage kinsmen).⁹⁷ The Dia Paying Group, pay and receive compensation for injuries or deaths and injury (blood Money), when in conflict with other Dia Paying

Map 3: Somali Clans. Map from Lewis, *Understanding Somalia and Somaliland*, VII

⁹² Ibid., XVI. some clans are traditional pastoralists others nomads.

⁹³ Ibid., 2.

⁹⁴ Menkhaus, "The crisis in Somalia," 374.

⁹⁵ Lewis and Mayall, "A Study of Decentralised Political Structure for Somalia," 2.

⁹⁶ Bradbury, *Becoming Somaliland*, 16.

⁹⁷ Ibid.

Groups.⁹⁸ In Hobbesian terms, the Dia Paying Group is therefore the basic social contract, providing collective protection and security. Justice in traditional Somali culture is not exercised by punishment, but by demanding or paying compensation, to mitigate justice. If a clan member (unjustly) kills another man or woman, his Dia Paying Group collectively has to pay the deceased person's Dia Paying Group, money (or more rightly camels) to mitigate the injustice.⁹⁹ The Dia Paying Group therefore bears the burden of a crime committed by one of its members. This collective responsibility is therefore an important social control factor that is discouraging violence and promoting social order and good behaviour.¹⁰⁰ All units of the traditional society are however very dynamic and without permanent governing bodies. They are ad hoc governance structures, and therefore live up to the term 'governance without government' as there are not permanent governing bodies. The Somali expert Lewis defines the ad hoc bodies of Somali society as: "[O]ppositional units that can be mobilized in contested situations"¹⁰¹

3.2.2.2 *Somali Customary Law (Xeer)*

Somali Customary Law (Xeer) defines basic social norms and values and is a code for regulating and guiding political relations and behaviour along group or clan lines.¹⁰² It is based on unwritten contracts or agreements between clans. Without sovereign or permanent bodies to enforce the laws of the Xeer, the law is upheld and interpreted at meetings of clan elders who gather only if there are matters to be resolved or disputes to be mitigated to reach a consensual agreement in Shir meetings.¹⁰³ Elders can be any adult male, speaking on behalf of a kinship group or clan. There are no votes and agreement is reached through consensus. All elders (who represent their clan, Dia paying group or family) are allowed to participate. The Somali Xeer contains advanced mechanisms for resolving disputes and conflicts. Of special interest is the notion of a Gurti conference, a special conference/gathering of elders from the clans, who are held only when conflicts need to be handled.¹⁰⁴

⁹⁸ Ibid.

⁹⁹ Ibid. The 'rate' for the murder of a Man is 100 Camels, a Woman 50.

¹⁰⁰ Ibid

¹⁰¹ Lewis and Mayall, "A Study of Decentralised Political Structure for Somalia," 2.

¹⁰² Ibid.

¹⁰³ Bradbury, *Becoming Somaliland*, 16.

¹⁰⁴ Ibid., 17.

3.2.2.3 Governance without Government

Somali society has often been described as *ordered-anarchy* where political order is maintained through family allegiance (kinship system) operating through a collective institution and through reciprocal rule based behaviour defined in Somali Customary Law (Xeer).¹⁰⁵ The Social Contract, that in the Western tradition is a (centralised) contract between subjects and sovereign (Hobbes) is, in the Somali culture, a social contract without a sovereign.¹⁰⁶ It can rightly be called ‘security by deterrence’ as the enforcement is through negotiation between the Dia Paying Groups who are obligated to take revenge for a crime committed against a member of the group if blood money/camels (Dia) is not paid.¹⁰⁷

3.2.2.4 Militias and Warlords

The clans often field their own militia to ensure protection. Somalian society is therefore (traditionally) a mosaic of clans in constantly shifting alliances each with their own militia to ensure security.¹⁰⁸ There are also several free-lance militias (warlords), more or less tied to a clan, who make their livelihood through booty and pillage.¹⁰⁹ In a structural perspective warlords *raison d’être* is to take advantage of the lack of a state-structure to enrich themselves¹¹⁰, while state-structures militias have the political goal of securing security, welfare and representation for its ‘citizens’.¹¹¹ Therefore these are under the control of the clan elders.¹¹² Order and security is primarily based on this clan structure, with clan elders co-operating and negotiating with militia to ensure local police functions and external relations with other clans.¹¹³ This setup is interesting as the anarchy among clans resembles, and is basically a small-scale version of, the (realist) ‘anarchy among state’-system.

¹⁰⁵ Ibid., 16.

¹⁰⁶ Ibid., 17.

¹⁰⁷ Møller, “Somalia: From Stateless Order to Talibanisation?,” 3.

¹⁰⁸ Lewis and Mayall, “A Study of Decentralised Political Structure for Somalia,” 4.

¹⁰⁹ Ibid.

¹¹⁰ Marten, “Warlordism in comparative perspective,” 48. And Pegg, *De Facto States in the International System*, 29.

¹¹¹ Ibid., 27.

¹¹² Menkhaus, “Local Security Systems in Somali East Africa,” 77.

¹¹³ Lewis and Mayall, “A Study of Decentralised Political Structure for Somalia,” 4.

3.2.3 Islam

Another pillar of Somali society is Islam. Islam has deep roots in Somalia, due to the very old trade-connection to Arabia. Because of this connection, the Somalis were converted to Islam very early after the prophet Mohammed died in 632AD, and remain to this day staunch Muslims by culture.¹¹⁴ Somalis have traditionally subscribed to the moderate Sufi interpretation of Islam, blending local traditions and culture with the religion.¹¹⁵ Parts of Sharia law are incorporated into Somali Customary law (Xeer) but unlike many more radical Islamic Arab countries, Islam has traditionally not been a significant political force.¹¹⁶

Islam had a revival after the Somali state collapsed as some of the security, welfare and social duties of the now dysfunctional secular state institutions was taken over by Islamic organisations.¹¹⁷ The Islamic institutions that flourished after 1991 were mostly of locally based Somali origin, catering for Somali needs as no other functional structure were present. Among these were the Islamic Courts, who expanded their traditional role in family law to also include criminal law.¹¹⁸ The strong cultural attachment to Islam was later used by these Islamic Courts as a uniting factor when they united in a state-structure in 2006 – The Union of Islamic Courts (UIC).

Radical Islamist groups with external funding from the Gulf states began operating in the 1990's and have led to a proliferation of more extreme Wahhabis and Salafist views, and some militant jihadist organisations started to spring up.¹¹⁹ Al-Qaeda tried to establish itself in Somalia from 1991 but found it hard to operate in the anarchy.¹²⁰ Contrary to popular opinion, Islam first became a prominent political force in Somalia in the mid-2000s.¹²¹

The Islamic Courts united in the Union of Islamic Courts (UIC) in 2006 to form a state structure. A very diverse union, the majority of courts are very moderate¹²², but some Jihadist courts were also part

¹¹⁴ Lewis, *Understanding Somalia and Somaliland*, 2.

¹¹⁵ Møller, "Somalia: From Stateless Order to Talibanisation?," 3.

¹¹⁶ Bradbury, *Becoming Somaliland*, 20.

¹¹⁷ Ibid.

¹¹⁸ Møller, "The Somali Conflict: The role of external actors," 3.

¹¹⁹ Bradbury, *Becoming Somaliland*, 20.

¹²⁰ Clunan, Trinkunas, and Harold, *Ungoverned Spaces*, 88.

¹²¹ Møller, "The Somali Conflict: The role of external actors," 4.

¹²² Ibid., 13.

of the UIC. They were however overthrown in an Ethiopian invasion shortly after (this will be discussed in detail later). The Ethiopian invasion in 2006 that destroyed the UIC also destroyed the moderate version of Islam, of which the majority of the UIC was following.¹²³ The religious extremist groups, such as al-Shabaab, have since then taken over the fight against the Ethiopians, and have, inspired by al-Quada, started to use suicide attacks (which is something new to Somalia), and extremely strict Sharia law interpretations.¹²⁴

3.2.4 Conclusion Background

3.2.4.1 Traditional clan mechanisms in state-structure formation

Somali history and the Somalis' bad experience with central states, means that they are naturally suspicious towards central regimes. Instead they have retained and developed their highly functional traditional governance structure. This traditional governance-structure includes effective culturally-based conflict resolution mechanism (wherein Islam plays a part). The Shir and Gurti mechanisms have also, in modern times, proved themselves effective in settling conflicts and paving the way for functioning state-structures (this will be described in detail in the Somaliland chapter.) The Somali Clan-Identity-structure gives strong identity and a settled framework for social (political) interaction. Somalis have historically learned to live either with a hostile state, or none-at-all, therefore their political loyalty is not based with the state, but with the clan, as the state is not the traditionally reliable provider of governance services. The clan and kinship system have historically done that. In order to construct a successful state-structure in Somalia, one has therefore to convince the Somalis that the new structure is not going to evolve into a too powerful and potential hostile central state. Traditional governance and conflict handling structures have to be transferred to the new structure as they are the only ones the Somalis have traditionally could rely on to represent their interests. Transferring them into the new structure therefore gives this a very high level of legitimacy. As the paper will show, the bottom-up state-structure of Somaliland has successfully used these traditional governance structures to construct a successful de facto state. The UIC also utilises locally founded traditional governance-structure, with Islamic branding, and was somewhat successful in that. They however failed, as other (external) priorities in state-structure formations.

¹²³ Ibid., 17.

¹²⁴ Ibid., 18.

Somali Muslim identity was effectively used in 2006 to create the UIC. This was an attractive uniting factor used by the courts in the face of a common enemy - the US sponsored warlords and Christian Ethiopians - to form a state-structure to deliver governance services. Cultural 'national' identity, whereby Islam identity plays a part, has therefore shown itself as a powerful uniting factor that can be mobilised.

4. Analysis – State-Structures

4.1 Top-Down vs. Bottom-up Development of State-Structures

In Somalia there are two basic driving forces behind the will to develop functioning state-structures. Structures that arise from below, or bottom-up structures, are locally constructed to serve local needs of the people living in the territory. The most basic service these structures provide is security - law and order for the population, but it also functions as a representative structure for ordinary people, and a framework for welfare. The top-down structures are constructed by initiative of the IS, political elites and external forces in order to establish a state that can serve their interests. Among their interest is the issue of international order as the IS cannot handle stateless territories and stateless citizens.¹²⁵ This chapter will analyse how these two kinds of state-structures interact and conflict in Somalia. The first section will present the functioning bottom-up state-structure of Somaliland. Somaliland will be used as the blueprint to demonstrate how a bottom-up state arises by itself to meet local needs. After this section, the failure of the top-down (IS sponsored) state-structure in Somalia will be addressed. The history of the official sovereign government of Somalia, the TFG, will be explained and its *raison d'être*, the interests behind it and its governance track record will be analysed. The 2006 bottom-up state-structure in south-central Somalia, the UIC, will hereafter be presented. This was a successful locally based state-structure that effectively provided governance services and was the most functioning state-structure in south-central Somalia since 1991.¹²⁶ This state-structure was however destroyed in an Ethiopian invasion. The reasons behind this attack, and the role the official TFG and IS played in this event will be addressed. This chapter will thereafter conclude on the reasons that Somaliland succeeded, while the UIC failed. This will be analysed with special emphasis on the role that the IS and external actors and interest play. How and why do local and IS interest in state-structure formation clash?

¹²⁵ Ibid., 15.

¹²⁶ Menkhaus, "The crisis in Somalia," 371.

4.2 Somaliland – A Bottom-up De Facto State

Somaliland in north-western Somalia is an example of a de facto state, a fully functioning state-structure that exhibits full positive sovereignty. Created to serve local needs in a bottom-up process it provides state-services for its citizens. It is however not internationally recognised, and as such possesses no negative sovereignty. Somaliland is good example of the strength of local capabilities because it is built solely on local initiative through traditional Somali governance structures.

Somaliland is the example that proves that locally anchored governance capacities can be united under local initiative and morphed into a fully functional de facto state that meets the international (IS) standard for governance capability.

4.2.0.1 History of Somaliland

Somaliland was established in 1897, when the territory became a British colony.¹²⁷ It became independent in 1960 and remained so for five days until it merged with the former Italian Somalia and formed the Republic of Somalia.¹²⁸ The area comprising Somaliland was marginalised and received little attention in the new unitary state of Somalia, which was centralised around Mogadishu. The central government allocated few development resources to the northern part of the new state.¹²⁹ After 1969, the military became the governing elite in Somalia. Under despotic central rule the north became marginalised both economically and politically. This caused discontent and rising insurgency in the north. This insurgency was brutally suppressed by Barre's central regime. A state of emergency was declared in the north in 1980¹³⁰ and killing, rape and other draconian measures made the citizens in the north feel like second-class citizens in their own land.¹³¹

¹²⁷ Bradbury, *Becoming Somaliland*, 83.

¹²⁸ Kaplan, *Fixing fragile states*, 125.

¹²⁹ Bradbury, *Becoming Somaliland*, 58.

¹³⁰ *Ibid.*, 55.

¹³¹ *Ibid.*, 60.

The failed war with Ethiopia over Ogaden in 1978 led to a massive influx of refugees from Ogaden, mainly of the Darod clan family.¹³² The Barre regime armed these refugees and used them to fight the Issaq based insurgency against the regime, in an example of clan politics.¹³³ The insurgents turned into the Somali National Movement (SNM), with the goal of overthrowing Barre's brutal regime and bringing more just treatment for the north.¹³⁴

The gradual weakening of (central) state and government services to the north, combined with the loss of governmental legitimacy in the eyes of the oppressed local clans, led to an increasing reliance on self-help. People looked to local traditional social structures (the clan) to provide security, representation and welfare, which further weakened the official state-structure.¹³⁵ As the renowned Somalia expert Lewis has pointed out, the rollback of Barre's unitary central-state did not produce anarchy but 'an extreme degree of decentralisation'.¹³⁶

From 1982 to May 1988 the SNM remained in small scale revolt.¹³⁷ But Barre's increasingly brutal counter-insurgency tactics against the SNM from 1988 led to a full-scale civil war in the north (as well as the rest of Somalia).¹³⁸ The Barre regime used the full force of the army as well as the air force to cause massive destruction of the Issaq inhabited areas. The destruction in the civil war led to a feeling of 'separateness' in Somaliland from the rest of Somalia.¹³⁹ In line with the society the SNM was fighting for - the SNM's forces were led by civilian politicians (unlike in the south). The SNM forces were organised along clan lines in a decentralised structure, with the clan elders in command. This reflected traditional Somali governance structures and made sure that armed forces did not grow into warlords.¹⁴⁰ This mix of locally controlled and loyal fighters and a clearly identifiable enemy (the Somalia central state) effectively created a Somaliland identity and unity.¹⁴¹

¹³² Ibid., 55.

¹³³ Ibid.

¹³⁴ Lewis, *Understanding Somalia and Somaliland*, 68. SNM founded in 1981.

¹³⁵ Bradbury, *Becoming Somaliland*, 59.

¹³⁶ Ibid., 86.

¹³⁷ Ibid., 61.

¹³⁸ Ibid., 62.

¹³⁹ Ibid., 67.

¹⁴⁰ Ibid., 69.

¹⁴¹ Hoehne, "Mimesis and Mimicry," 264.

4.2.1 Peace, Order and the Gradual Building of a State-Structure

4.2.1.1 *The Burco ‘Shir’ Conference - De Facto Independence*

The Somalia civil war ended with the overthrow of Barre on the 27 January, 1991.¹⁴² In May 1991 the leaders of SNM and the clan elders met in the city Burco for the ‘Grand Conference of the Northern peoples’.¹⁴³ This is in line with ‘Shir’ tradition of traditional Somali governance culture.¹⁴⁴ (See Clan rule – Desert democracy chapter).

Initially the Burco Elders in on the conference plan were to remain in union with the south, in line with the official SNM policy,¹⁴⁵ but agitated crowds and public pressure from those protesting under the slogan ‘No more Mogadishu’ forced the conference and SNM to seriously consider secession.¹⁴⁶ The northern clans, especially the Issaq, felt that they had only suffered under union with the south and feared a possible future revival of an oppressive Mogadishu based central regime. The problem was seen to be an oppressive central state, and the feeling of alienation of anything coming out of Mogadishu was therefore seen as a threat to the inhabitants of Somaliland. Public pressure and the collective feeling of grief and alienation from Mogadishu, due to the suffering of the just ended civil war, led to the decision on the 18 May, 1991 to declare the Independence of Somaliland.¹⁴⁷

4.2.1.2 *Speaking to the IS in its Own Language*

From a negative sovereignty perspective, independence had to be ‘sold’ to the IS. Therefore the interim leaders of Somaliland tried to talk to the IS in their ‘own language’, to increase the chance of being recognised as an independent sovereign state. Somaliland did not therefore officially ‘secede’ but declared the 1960 union with Somalia (the former Italian Somalia) dead.¹⁴⁸ They also referred to the fact that Somaliland, between declaring independence from Britain on the 26 June 1960 until the union with Italian-Somalia on the 1 July 1960 (five days), had been a sovereign state recognised by 35 states

¹⁴² Bradbury, *Becoming Somaliland*, 78.

¹⁴³ *Ibid.*, 80.

¹⁴⁴ Hoehne, “Mimesis and Mimicry,” 258.

¹⁴⁵ Bradbury, *Becoming Somaliland*, 66.

¹⁴⁶ *Ibid.*, 82.

¹⁴⁷ Bryden and Brickhill, “Disarming Somalia,” 245.

¹⁴⁸ Kaplan, *Fixing fragile states*, 125.

including the US.¹⁴⁹ Somaliland could therefore refer both to its' British colony status, independence and international recognition by the IS, as well as a voluntary union with Somalia, that they now chose to declare dissolved.

4.2.1.3 The (Unsuccessful) Construction of a Government

The Burco Shir concluded with the (consensus) decision of the elders to mandate the SNM to govern for two years, until a constitution could be formulated.¹⁵⁰ Ahmed Tuur was chosen as interim president.¹⁵¹ The SNM was in 1991 the strongest 'organisation' present, as the one with the best organisational capacity to rule Somaliland.¹⁵² It was however still, as we shall see, insufficient and unsuited to the job of ruling a new-born 'state' that had just emerged from civil war.

4.2.1.4 Traditional Local Governance rescue Somaliland

The new government had a shaky start. Whenever it tried to rule or enforce its authority, it lead to clan clashes, as President Tuur's 'government forces' were mainly comprised from his own family clan.¹⁵³ Tuur failed to create any local administrative structures¹⁵⁴ and by 1992, Somaliland was on the edge of civil war.¹⁵⁵ What saved Somaliland, and eventually brought it success, was not the official new 'government' but local founded (traditional) structures. Somaliland's success at building a functioning state structure was due to the fact that the new structure was built on top of traditional Somali governance system - the 'pastoral democracy' and in accordance with social and cultural traditions.¹⁵⁶ When Tuur's government got armed classes to try and enforce the government's authority, the clan elders were brought in to (successfully) mediate the conflict.¹⁵⁷ In the absence of any functioning government, local governing-meetings (structures) called Gurti - or councils of elders- were meeting ad

¹⁴⁹ Bradbury, *Becoming Somaliland*, 83.

¹⁵⁰ Ibid., 82.

¹⁵¹ Hoehne, "Mimesis and Mimicry," 259.

¹⁵² Bradbury, *Becoming Somaliland*, 84.

¹⁵³ Ibid., 89.

¹⁵⁴ Ibid., 86.

¹⁵⁵ Ibid., 90.

¹⁵⁶ Ibid., 96.

¹⁵⁷ Ibid., 89.

hoc (according to traditional social structure) to resolve the problems.¹⁵⁸ Their job included managing militias, local administration, justice, mediating disputes, and interacting with international aid agencies. In short, they began performing tasks that a positive-sovereignty government should perform.¹⁵⁹ They proved that while Tuur's government was officially in charge, it was unable to rule. Tuur's government failed because the existing governance-structures (that had handled the problems so far) were not incorporated into the government. This meant the government lacked legitimacy in the tribal society.

4.2.1.5 Local Conditions

Several factors helped Somaliland succeed. The SNM armed forces/militia were, unlike some rebel movements in the south, not a warlord faction but instead, locally founded forces, and under control of the clan elders¹⁶⁰. This made them controllable and loyal to the local governance-structures, preventing them from turning into predatory warlords as in the south.¹⁶¹ SNM was furthermore not exclusively Issaq. Rather, it also included members of the Gadabursi, Dhulbante and Warsengeli clans, who all inhabited the northern areas.¹⁶² These clans were heavily intermarried and shared the same Xeer, governing war and social and cultural values. Somaliland was more homogenous in a clan perspective and therefore less divided than south-central Somalia.¹⁶³

4.2.1.6 The Boroma Conference, Government build on local Norms

The failure of the Tuur government meant that the years from 1991 to 1993 were pretty chaotic for Somaliland. In 1993 the tribal elders met at the Boroma conference to address the problems. The Boroma 'Shir' conference from January 1993 to May 1993, is central to understand how Somaliland managed to build a functioning state-structure.¹⁶⁴ The national convention of all the clans of

¹⁵⁸ Battera, "Some Considerations on State Building in Divided Societies," 230.

¹⁵⁹ Bradbury, *Becoming Somaliland*, 86.

¹⁶⁰ Ibid., 69.

¹⁶¹ Ibid., 61.

¹⁶² Lewis, *Understanding Somalia and Somaliland*, 94.

¹⁶³ Bradbury, *Becoming Somaliland*, 91.

¹⁶⁴ Ibid., 97.

Somaliland, or Boroma conference, was a traditional ‘Shir’.¹⁶⁵ Although the Issaq clan was the dominating clan in Somaliland (and of the SNM who held government), the other clans, Gadabursi, Harti, Dhulbahante and Warsengeli were invited and deliberately given a determining role in the conference, in order to ensure success.¹⁶⁶ The conference produced a blueprint for a government structure that was built on local governance-structure (a lesson learned from the failure of the Tuur government). The new government was constructed on top of the existing clan and social governance-structure, and established a national ‘Xeer’ (law)¹⁶⁷ by consensus that guided inter-clan relationship and provided the basis for law and order.¹⁶⁸

The new structure, known as the ‘Beel’ system was based on a president, an upper-house of non-elected elders and a lower house of elected representatives.¹⁶⁹ The traditional kinship social organisation of Somali society was thus reflected in this ‘hybrid’ structure, as the upper house seats were allocated to clan elders *in proportion to the size of their clans*.¹⁷⁰ The upper-house then elected the president and vice-president.¹⁷¹ The incorporation of the de facto leaders (elders) of the present society ensured a ‘clan balance’ and left the elders to continue their traditional job as peacemakers and representatives of their clan¹⁷². The upper house elder’s responsibility was to ensure the demobilisation of the militias (a smart move, since the clan elders controlled the militias), ensuring law, order, stability and guarding moral and social values, through the creation and enforcement of the Xeer.¹⁷³ As one elder of the upper house expressed:

“Our task is to ensure security and reconciliation. The government’s responsibility is management, administration and development...”¹⁷⁴

¹⁶⁵ Ibid., 98.

¹⁶⁶ Kaplan, *Fixing fragile states*, 122.

¹⁶⁷ In short the already functioning Somalia Customary law ‘Xeer’ got codified

¹⁶⁸ Bradbury, *Becoming Somaliland*, 99.

¹⁶⁹ Kaplan, *Fixing fragile states*, 121.

¹⁷⁰ Ibid.

¹⁷¹ Hoehne, “Mimesis and Mimicry,” 259.

¹⁷² Battera, “Some Considerations on State Building in Divided Societies,” 236.

¹⁷³ Bradbury, *Becoming Somaliland*, 100.

¹⁷⁴ Ibid.

The Borama conference therefore established a state-structure based on Somali culture and values, and transferred already existing de facto law (Xeer) and the de facto governance-structures and leaders who already represented the people into new structure.¹⁷⁵ This transfer of existing governance capability into the new ‘hybrid’ structure gave it great legitimacy.¹⁷⁶

4.2.1.7 External Support

Beyond local popularity Ethiopia has been supportive of Somaliland since its conception for several (good) reasons of self-interest. Somaliland maintains order on the border to Ethiopia. Somaliland has port facilities that are of value to Ethiopia, especially since Eritrea seceded from Ethiopia, as the Eritreans are hostile towards them (because of the civil war).¹⁷⁷ Furthermore Somaliland is a vital element in Ethiopia’s strategy of keeping Somalia divided¹⁷⁸, so it cannot unite and pose a threat against Ethiopia.¹⁷⁹ Therefore Ethiopia also refuses to (officially) recognise Somaliland.

4.2.1.8 The Success Of The ‘Beel’ Governance-structure

The Borama conference produced valuable results. It facilitated order and the basis for a new state (structure) that evolved into a de facto state. The Beel-structure was originally meant to last only two years until a formal constitution could be made, but ended up lasting 10 years.¹⁸⁰ The locally based Gurti governance systems were not isolated to the (big nation-wide) Borama conference but took place all over Somaliland, both small and big, and addressed a number of local and regional conflict areas. Traditional moderate Sufi-Islam also play a part in this governance-structure, namely as a guide and tool to sanction Gurti decisions and give them legitimacy. In this way Islam work as a highly constructive tool – in conjunction with Somali governance-culture.¹⁸¹ The success of this hybrid government system can be summed up in a quote by Carolyn Logan, a US diplomat who expressed that

¹⁷⁵ Battera, “Some Considerations on State Building in Divided Societies,” 236.

¹⁷⁶ Hoehne, “Mimesis and Mimicry,” 259.

¹⁷⁷ Ethiopia lost its port facilities when Eritrea gained independent. Ethiopia is therefore interested in using Somaliland’s port facilities as an alternative, due to the ‘bad blood’ between Eritrea and Ethiopia.

¹⁷⁸ This point will be explained in detail later in the ‘External Interference and Interests’ section of TFG chapter.

¹⁷⁹ Hoehne, “Mimesis and Mimicry,” 273. Ethiopia’s reasons for this will be explained later in the ‘The TFG – the Official ‘Negative Sovereignty’ Government of Somalia’ chapter.

¹⁸⁰ Bradbury, *Becoming Somaliland*, 100.

¹⁸¹ Lewis, *Understanding Somalia and Somaliland*, 93.

the structure had created a: “[U]nprecedented degree of interconnectedness between the state and society”¹⁸² Somaliland has since its inception gradually developed itself into a fully functional democracy.¹⁸³ In short Somaliland have transformed the ‘illiberal’ (in the eyes of the IS) traditional Somali governance-structure that it was originally founded on into a democratic and economically liberal state, whose governance the IS can only approve of.

4.2.1.9 Leave Them Alone and they will Succeed?

Several authors are of the opinion that a positive factor in Somaliland’s creation was the *lack* of a state and (lootable) resources including aid. This meant that there were no resources to fight for control over, and this gave the clans an advantage in corporation instead of competing or fighting a zero-sum game over exploitable resources.¹⁸⁴ This meant that local initiative and interest in social and political order could thrive. Seth Kaplan argues that the bottom-up process in the formation of Somaliland was possible because the lack of a state (the state of Somalia had collapsed in 1991), as it allowed local clan elders to meet in Gurti and resolve the problems, without any outside (or top-down) political agenda or pressure.¹⁸⁵ This gave the clans in Somaliland a common interest in working and staying together.¹⁸⁶ Mark Bradbury express it this way: “[B]y removing the state as a primary object of conflict, social relations could be addressed through customary institutions.”¹⁸⁷ In short local governance structures will do the job if they are ‘allowed’ to do so.

4.2.1.10 Local Imitative Equals Local Responsibility – The One Who Lives Quietly Lives Well

The importance in giving local capabilities and conflict handling mechanisms time and peace to allow them to solve local problems on their own terms, can be seen by the fact that, south-central Somalia, being the focus of the media and IS attention did not develop such a governance-structure. The lack of external resources in Somaliland meant that the governance-structures were responsible to the local people as they were their source of income. That the local society is the source of income for the state-

¹⁸² Kaplan, *Fixing fragile states*, 122., originally quote by Carolyn Logan, a US diplomat

¹⁸³ Ibid., 123.

¹⁸⁴ Bradbury, *Becoming Somaliland*, 90.

¹⁸⁵ Kaplan, *Fixing fragile states*, 122. And Bradbury, *Becoming Somaliland*, 104.

¹⁸⁶ Battera, “Some Considerations on State Building in Divided Societies,” 235.

¹⁸⁷ Bradbury, *Becoming Somaliland*, 107.

structure controlling is therefore an important part in keeping the government focused on solving the people's problems.¹⁸⁸ In south-central Somalia the massive influx of foreign aid from the IS fed the predatory warlords, fuelled clan feuds and produced no positive results.¹⁸⁹ The lack of IS focus and attention on Somaliland allowed them to freely form their state without external pressure or interests.

4.2.2 Successful State-Structure Building

Somaliland's state-structure building has produced a very successful de facto state. The original 'Beel' system has gradually been transformed into a full-fledged democratic governance structure, with regular and peaceful (western style) democratic elections. The 2005 'House of Representatives' elections were reported by international election observers to be the: "[F]reest and most transparent democratic exercises ever staged in the horn of Africa"¹⁹⁰

The original traditional way of representation through (unelected) clan elders have in Somaliland, successfully been gradually reformed through local initiative into an electoral-democracy that meets international standards. The IS norms desire just such a democratic structure in the territory of the 'sovereign' state of Somalia. Despite this, the UN (who have sponsored state-building in south-central Somalia) has refused to even acknowledge, let alone support, the process in Somaliland¹⁹¹ because the territorial container is not an already recognised sovereign state. This is despite the impressive results that Somaliland has shown by improving security, building a democracy, and facilitating Economic growth (also in a neo-liberal (IS-norm) governance perspective).

4.2.2.1 Successful Positive Sovereignty does not Automatically Translate into Negative Sovereignty

Somaliland's homemade state-structure has developed well and is considered a great success. The new Somaliland state however remain unrecognised, due to the IS state-centric focus and its unwillingness

¹⁸⁸ This can be illustrated by the example of Barres regime, who in the 1980, received 57% of the country's GNP as aid, and hence did not feel very responsible to the people he was supposed to provide governance services.

Kaplan, *Fixing fragile states*, 122.

¹⁸⁹ Battera, "Some Considerations on State Building in Divided Societies," 233. And Kaplan, *Fixing fragile states*, 122.

¹⁹⁰ Kaplan, *Fixing fragile states*, 122.

¹⁹¹ Lewis, *Understanding Somalia and Somaliland*, 93.

to allow formation of new states in existing (sovereign) territories. Therefore Somaliland possesses no negative sovereignty. This means that it is not accepted as a player and is unrepresented internationally in the UN. The UN and especially the African Union (AU) is generally unwilling to de-legitimise the already recognised post-colonial borders, and therefore Somaliland remains a de facto state, despite the fact that it is exhibiting great positive sovereignty, as Scott Pegg defines it (see theory).¹⁹²

4.2.2.2 Case for Independence

Somaliland remains unrecognised, due to the norms of the IS. Several states, most prominently the US, have informally hinted that recognising Somaliland would be beneficial. The US is becoming more ‘practically’ orientated about de facto states due to the extreme degree of security-focus that arose from 9/11.¹⁹³

In 2006 the US military mission ‘Combined task force – Horn of Africa’, with the undertaking of capturing or killing terrorists in the area, had a meeting. The consensus about Somaliland among all (US and local) participants was that Somaliland was the: “first constitutional Muslim democracy in the Horn of Africa..... [and a] proven partner in the GWOT”¹⁹⁴. This opinion was backed up by Dan Simpson, the former US ambassador to Somalia who stated: “It is... definitively time to recognize the independence of Somaliland”¹⁹⁵

The US therefore sees a recognised Somaliland as a benefit to further its own security, a strong (selfish) argument for breaking the territorial integrity norm of the IS. Likewise the AU concluded in a fact-finding mission in 2005 that Somaliland’s case for independence was: “unique and self-justified”¹⁹⁶. The AU however remains divided on the issue as several of its member-states are against, most notably Ethiopia. Djibuti is against due to its fear of trade-competition from a strong Somaliland. The Arab states are negative as well along with the most western states.¹⁹⁷

¹⁹² Hoehne, “Mimesis and Mimicry,” 257.

¹⁹³ Kaplan, *Fixing fragile states*, 127.

¹⁹⁴ Ibid. GWOT is the acronym for The US Global War on Terror

¹⁹⁵ Ibid., original quote from interview in Pittsburg Post-Gazette, 11.Aug.2006

¹⁹⁶ Ibid., 126.

¹⁹⁷ Ibid., 127.

Despite that Somaliland is not recognised it is however accepted as a de facto reality - and proven (reliable) cooperating partner of the IS. Somaliland uses this to further its agenda for recognition. In 2004 a Somaliland official was invited to speak in the British of Commons. Here he stressed that Somaliland was fully living up to the Montevideo Convention on the right of duties of states.¹⁹⁸

4.2.2.3 Why Negative-Sovereignty Matters

The reasons that recognition (negative sovereignty recognised statehood) matters for Somaliland is that Somaliland cannot receive bilateral and multilateral help through international institutions without having sovereign state status. Somaliland can therefore for example not borrow money in the World Bank, IMF and African Development bank. Its currency is not valid internationally, and insurance and investment in Somaliland is therefore lacking because of Somaliland's uncertain legal status.¹⁹⁹ Both representation and welfare therefore suffers, as the country remains unrepresented in international forums, such as the UN, and the Somaliland passport is not valid for international travel. A lot of practical problems regarding the practical running of a 'state' therefore arise out of problems with the lack of international recognition. The representation part of a state-structure therefore cannot be fully fulfilled without negative sovereignty recognised. This is despite the fact that Somaliland is in fact living up to (almost) all IS neoliberal norms of statehood. The exception is that the territorial container is not the already recognised one and further, that the formation has been bottom-up.²⁰⁰

4.2.3 Somaliland's Merits

Somaliland is a clear example of a locally arisen state-structure, created by the locals, to meet local governance demands. Besides that it is constructed on local traditional governance structures. The importance of this cannot be underestimated. As seen by President Tuur's unsuccessful initial two year rule after independence - any 'official' top-down government that tries to enforce its authority will meet opposition as they are not considered a neutral actor, but instead a representative of the (special)

¹⁹⁸ Hoehne, "Mimesis and Mimicry," 272.

¹⁹⁹ Kaplan, *Fixing fragile states*, 124.

²⁰⁰ See theory State-Norms Chapter: One-Size-Fits-All section

interest of a single clan or actor. The local elder ‘Gurti’ councils proved to be able to mediate and handle conflicts between clans and groups. This was because of their legitimacy as the proper (political) representatives for the population. This political unit of legitimacy is in Somali culture – the clan/kinship system, as outlined earlier in the background chapter. This political clan-culture also possesses some special mediation technique - the ‘Shir’ and ‘Gurti’, which is highly effective in mediating conflicts. The Beel system was successfully built on the success of the existing political culture and their representatives - the elders. These Elders were given their natural job as guardians of the peace in the new government. The Beel government Hybrid was smart in that it utilised existing (clan) governance structures, but also introduced (western neo-liberal) parliamentary elections. This allowed Somaliland to gradually open up its governance to multi-party elections and has produced what foreign observers today call the most democratic regime in East Africa.²⁰¹ This gradual reforming towards neo-liberal Westphalian (IS) norms improves Somaliland chance of obtaining recognition and negative sovereignty in the future – a move that would be beneficial to the IS too.

The case of Somaliland shows that local social-capacities are of vital value in the construction of a successful state-structure. Local capacity ensures that the structure has a very high degree of legitimacy because existing and functioning governance-structure and (clan) loyalties can be transferred into the ‘new’ state-structure as a part of it. This is better than trying to build alternative and new structures and then converting people’s loyalty to it is. Incorporating existing structures secures local ownership to and a feeling of responsibility towards the new states-structure. This local process can only happen if there is time, peace and will (and lack of external spoilers) to let this process happen, as the reconciliation-process is fragile and easy to spoil in post-war societies. All these pre-requisites were present in the formation of Somaliland, due to the lack of interest by the IS as they were focussed on the problems in south-central Somalia. Somaliland’s success in building a successful de facto state have however not translated into recognised negative sovereignty, as several states are against this for their own geo-political reasons. Somaliland has overall proved a great success, as it is effectively delivering state-services such as security, representation and welfare.²⁰²

²⁰¹ Ibid., 123.

²⁰² Ahmed, “The heritage of war and state collapse in Somalia and Somaliland,” 126.

4.3 The Failure in South-Central Somalia.

4.3.1 Intro Bottom-up vs. Top-down State-Structures in Conflict. The People vs. External Actors and Interests.

In south-central Somalia, only a single bottom-up state-structure has emerged. This structure however came into direct conflict with the IS and its state-structure the UIC. The conflict between the two and the result of this struggle will be outlined and explained in this chapter.

From 1991 to 2000 the sovereign state of Somalia had no official or functional government. In 2000 the IS arranged for the re-appearance of a sovereign government for Somalia the TFG. This government is a total quasi-government, with no positive sovereignty (actual power). The TFG did therefore not manage to govern anything. After 9/11 the US needed to ‘fight terrorism’ in Somalia and as the TFG could not assist the US in this (in line with its’ official obligation to the IS as sovereign) the US paid warlords to assist the US in its Global War on Terror (GWOT). This increased funding to the warlords, and their brutal ravaging led to a massive backlash among a local governance structure - the Islamic Courts. In light of this common enemy, the Islamic Courts united in the UIC and successfully defeated the warlords in early 2006. The UIC consolidated their ‘monopoly of the legitimate use of violence’ in a functioning state-structure, and brought law and order back to south-central Somalia. Due to the fractured nature of the newly united Islamic courts, a unified leadership of the UIC did not materialise. Because of these various factions in the UIC (both moderate and jihadist) made public statements on behalf of the UIC, some of them containing extreme jihadist rhetoric. Because of this Ethiopia and the US saw the UIC as a direct ‘terrorist’ threat to their own security. Ethiopia therefore invaded south-central Somalia in 2006 and removed the UIC from power. In the aftermath of the invasion the radical jihadist al-Shabaab, who had formerly been part of the UIC, gained legitimacy at the expense of the moderate (majority) faction of the UIC. Al-Shabaab started to conduct a brutal insurgency campaign, against Ethiopia and the TFG, with inspiration from al-Qaeda. In short the IS ‘*management*’ of Somalia fostered a radical global Jihadi group.

4.3.2 State-Structures in South-Central Somalia

Unlike the success story of Somaliland, bottom-up state structures in the other parts of Somalia have not survived long. In south central Somalia, the situation has been described with the word chaos by international observers with no functioning state-structure.²⁰³ But why have no bottom-up structures succeeded there? Especially considering that the societal social-structure is fundamentally the same that exists in Somaliland? The answer is that such a structure has arisen, but has failed, due to external interest and interests of political elites. Spoilers have easy play in destroying these fragile structures in the state building process. The interests of the ordinary people versus the interest of rich and external actors are in the case of state-structures in Somalia conflicting.

4.3.2.1 Post 1991 State Collapse

The situation in south-central Somalia after the civil war from 1988 and the state collapse in 1991 was markedly different than in Somaliland.²⁰⁴ In Somaliland a single rebel movement, the SNM was in control, while in Somalia, several militias and warlords was roaming the land. In Somaliland, the SNM and militias had a high degree of public support and the clan elders controlled the SNM militias. In Somalia, several predatory ‘greed based’ militias and independent warlords were operating, making a living by looting civilians.²⁰⁵ The humanitarian catastrophe that led to the ill-fated UN ‘Operation Restore Hope’²⁰⁶ brought food aid and other resources into Somalia, presenting perfect looting opportunities, and hence a strengthening of the warlords position.²⁰⁷ After the UN mission ended in 1995, the warlords reasserted their prominence, as they were the strongest actors in Somalia.

²⁰³ Kaplan, “The remarkable story of Somaliland,” 143.

²⁰⁴ Lewis, *Understanding Somalia and Somaliland*, 71.

²⁰⁵ Menkhaus, “Local Security Systems in Somali East Africa,” 77.

²⁰⁶ Lewis, *Understanding Somalia and Somaliland*, 78.

²⁰⁷ Marchal, “Warlordism and terrorism,” 1093.

4.3.3 Failed IS Top-down Attempts

In a state-structure perspective, the discrepancy between negative and positive sovereignty is very clear in Somalia. The focus of the IS has always been a central government in order to make sure that Somalia could fulfil its duties towards to IS as a sovereign state, in a top-down manner. Fourteen such top-down sponsored state-building attempts have been attempted in Somalia from 1991 to 2008.²⁰⁸ The way the IS have tried to do this has however been clumsy. An Example of this is the ‘United Nations Operation in Somalia’ (UNOSOM) intervention in 1992, which failed in strengthening the state, according to Mark Bradbury because:

“UNOSOM was a bureaucratic, state-centric body constituted by governments, with a mandate to re-establish a central government.....International diplomacy did nothing to rein in the predatory forces which unleashed the violence”²⁰⁹

The IS focus is a formal mediation with warlords and local leaders in order to secure a ceasefire and power sharing deal.²¹⁰ This top-down approach, that has worked well in some states, such as the former Yugoslavia, has proved ineffective in Somalia due to the local (decentralised) governance tradition and the fact that the leaders that participated in power-sharing did not genuinely represent the Somali population but rather, special interests.²¹¹ The following section of this paper will concern itself with the present official negative-sovereignty government established in 2000 (the first since state collapse in 1991), in order to compare its performance with Somaliland’s bottom up state-structure.²¹²

²⁰⁸ Kaplan, *Fixing fragile states*, 118.

²⁰⁹ Bradbury, *Becoming Somaliland*, 106.

²¹⁰ Ibid., 107.

²¹¹ Møller, “Somalia: From Stateless Order to Talibanisation?,” 2.

²¹² Despite of the lack of a recognised government in this period, Somalia was still treated as a sovereign state, this issue will be analysed in depth later in this thesis.

4.4 The TFG – the Official ‘Negative Sovereignty’ Government of Somalia

4.4.0.1 Intro to the Transitional National/Federal Government (TFG)

Unlike Somaliland, Somalia is a quasi-state. The government of this quasi-state the TFG is internationally recognised as sovereign and is represented in the UN, receiving a sizable amount of aid from the IS. Beyond that it (officially) possesses negative sovereignty over all of the territory of the (former) Republic of Somalia, including Somaliland, which means that in the eyes of the IS the de facto state of Somaliland is officially a part of the quasi-state of Somalia.

The government of the sovereign (quasi) state of Somalia was re-establishment in 2000 at the initiative of the IS, officially in the form of the regional organisation IGAD²¹³, hosted by the President of Djibouti.²¹⁴ Officially called a ‘reconciliation and peace conference’, the goal was to (re)form a united Somalia government/state.²¹⁵ Representatives were invited from all clans and from the ‘civil society’, meaning elders and religious leaders.²¹⁶ Warlords were also invited as ‘representatives’ thereby giving them legitimacy.²¹⁷ The conference produced the ‘Transitional National Government’ (TNG). The conferences and the TNG were supported, recognised (and paid for) by the IS in this case the UN, US, EU, Egypt, Italy, Libya, some Arab countries and other states.²¹⁸

The TNG was also recognised as representing Somalia abroad, as its leaders were invited, received and treated as the legitimate leaders representing Somalia. The UN invited the TNG’s president to the UN

²¹³ Møller, “The Somali Conflict: The role of external actors,” 25., Intergovernmental Authority on Development (IGAD) is the regional development organization comprising, Djibouti, Ethiopia, Kenya, Somalia(!), Sudan, Uganda and Eritrea (until 2007), its working with UN and AU. For Eritrea se: <http://allafrica.com/stories/200704231289.html> 24.Feb.2011

²¹⁴ Kaplan, *Fixing fragile states*, 118.

²¹⁵ Lewis, *Understanding Somalia and Somaliland*, 81.

²¹⁶ It has to be noted here that the ‘representatives’ cannot be viewed as representative, for example Somaliland refused to participate. Somaliland has since its de facto independence in 1991 consistently refused to participate in talks about a united Somalia including Somaliland.

²¹⁷ Kaplan, *Fixing fragile states*, 118.

²¹⁸ Lewis, *Understanding Somalia and Somaliland*, 81.

Millennium Summit, as the official representation from Somalia.²¹⁹ Likewise the *TNG* was acknowledged as the rightful government by the ‘Organisation for African Unity’ (the later AU) in 2000, and also gained recognition from IGAD and the Arab League.²²⁰ Recognised negative sovereignty was therefore effectively achieved. Despite the strong support from these states of the IS the TNG only managed to control a few streets in Mogadishu and was very unpopular among the Somali population.²²¹ It was never effectively functional. In 2002 the same basic ‘state-structure’ construction was attempted revived, this time with the warlords as the primary actors, as the Transitional *Federal* government (TFG)²²² (paid for by the EU and UN). This, however, has not changed the quasi-governmental performance.²²³ Ever since, the TFG have been the ‘official government’ of Somalia and have played a significant role in influencing the situation in Somalia. The TFG is totally dependent on external resources, and who it ‘represents’ can be questioned (which will be discussed in depth later).

4.4.0.2 Why the TFG?

As discussed in the theory section, the IS demands and feels they need a government to hold responsible for what happens in the territory of the state of Somalia. Optimally, one that lived up to the IS desire for a state: A liberal democratic government/state, within the existing territorial boundaries of the existing sovereign state, and build on the reformed institutions of the existing government/state. In the case of Somalia, the traditional neo-liberal state-building project brings about several problems. First of all, the modern liberal state building literature has no idea of how to build capacity from scratch when no government exists to start building on. Somalia is a collapsed state, so there is no (functioning or official)²²⁴ domestic state institutions/government to reform or build on. The IS have handled this problem by ad hoc creating the TFG, as a basis of (official) legitimate government with negative recognised sovereignty, to attempt to build capacity.

²¹⁹ Møller, “The Somali Conflict: The role of external actors,” 14.

²²⁰ Ibid.

²²¹ Lewis, *Understanding Somalia and Somaliland*, 82.

²²² For reasons of consistence, this paper will use the acronym ‘TFG’ as representing both the TNF and its follow up the TFG as there is no practical difference between the two IS sponsored state-structures.

²²³ Lewis, *Understanding Somalia and Somaliland*, 83.

²²⁴ No functioning 1991-now, no official 1991-2000.

4.4.0.3 TFG's Performance and Actors

The TFG however failed in governing anything through positive sovereignty.²²⁵ The interest groups of the TFG are easily identified. It represents the people in it and the (external) actors who fund it. In this case that is a mix of opportunistic warlords and local clan leaders, and the states of the IS who fund it out of a genuine interest of order in the IS.

The TFG's actors (both external states and domestic warlords) are pursuing their own interests as a part of the TFG policy and several of them are not (in reality) interested in building a strong state or improving the condition for ordinary Somalis.²²⁶ The opportunistic warlords and clan leaders who are in the TFG see their interest served by supporting the IS top-down, foreign sponsored state-building attempts.²²⁷ The international recognition the TFG enjoys from the IS, secures that foreign resource and financial aid continuing to flow in their direction, giving them wealth, legitimacy and power.²²⁸²²⁹ In practice however the entrepreneurial warlords are not interested in the success of the state-project as a lasting peace, as that peace would limit their predatory and looting/extortion business, which can only thrive in the absence of a (functioning) state-structure.

On top of that, the Somali societal structure, which is decentralised and locally rooted, is not naturally compatible with such a top-down approach, and therefore the TFG is not perceived by ordinary Somalis as representing them²³⁰ Because of this the TFG remains illegitimate in the eyes of most ordinary Somalis, as they (rightfully) do not feel it is representing their interests.

4.4.1 External Interference and Interests.

The TFG is heavily influenced by external actor rivalry, clan rivalry and special interest groups. For example, the TFG 'officials' are mainly from the Darod clan²³¹. The TFG gives them resources and

²²⁵ Møller, "The Somali Conflict: The role of external actors," 17.

²²⁶ Menkhaus, "The crisis in Somalia," 360.

²²⁷ Ibid.

²²⁸ Lewis, *Understanding Somalia and Somaliland*, 83. The constant feuds and fighting between the clans in Somalia also means that the one that can secure resources from the

²²⁹ IS is better off against the other clans in their 'Zero-sum' game for power.

²³⁰ see societal structure chapter and Somaliland chapter

²³¹ Kaplan, *Fixing fragile states*, 118.

opportunities to promote their own power, but also means that other clans that have quarrels with the Darod clan will automatically be negatively inclined to the TFG. These ‘clan feuds’ are normal in Somalia, but it seems like the IS fails to understand this aspect of Somali society, and (presumably unwillingly) promotes existing clan division through the TFG (instead as fulfilling intentions of mending divisions) by giving certain ‘clan representatives’ recognition and resources as the ‘legal’ international representatives of Somalia.²³²

Neighbouring states are trying to support their local proxies to promote their own interests.²³³ Beyond that several important actors such as the UIC and Somaliland are not represented in the TFG, making it unrepresentative of the real situation in Somalia. The TFG’s actual policy, the will to gain Somalia-wide domestic legitimacy, is therefore virtually non-existent,²³⁴ and the TFG can be said to be held up and exist only because of the IS and the special (geo-political) interests of the actors in it. It is, therefore, also more an expression of the will of the states of the IS and actors that enjoy their support, than the will of the people of Somalia. Understanding these various actors’ interests for joining this official state formation is therefore important in order to understand the conditions that affect the (formation and destruction) of state-structures in Somalia.

This external interference is however nothing new. Somali affairs have always been influenced by ‘international affairs’, not at least because of Somalia’s history. The ‘national’ state of Somalia that was established in 1960 left significant minorities of ethnic Somalis living in neighbouring states.²³⁵ The nation-building project of building a Somali state was therefore incomplete, a fact that has fuelled Pan-somali nationalism since independence. This means that (neighbouring) foreign states have a strong interest in who holds power in Somalia, as it affects their territories which are inhabited by ethnic Somalis.²³⁶ The colonial legacy is the root of this problem, as all current (international) territorial border-demarcations that affect Somalia were originally drawn by the colonial powers without any Somali consultation or influence.²³⁷ The ‘spill over’ effect from Somalia is therefore

²³² Menkhaus, “The crisis in Somalia,” 360.

²³³ Møller, “The Somali Conflict: The role of external actors,” 19.

²³⁴ Ibid., 16.

²³⁵ Ibid., 8.

²³⁶ Ibid.

²³⁷ Lewis and Mayall, “A Study of Decentralised Political Structure for Somalia,” 4.

considerable. All the neighbouring and regional states therefore have their own interests they want to promote in Somalia.

Historically, international geo-political development has also affected Somalia heavily. During the Cold War Somalia was first a proxy of the USSR and then the US. After state collapse in 1991, briefly humanitarian concerns were the reason for external interests. During the 1990's and especially since 9/11, the failed states (discourse) has taken prominence and the IS has increasingly viewed 'ungoverned spaces' as a threat out of a fear that they could become possible breeding ground for terrorists.²³⁸ Furthermore piracy from the shores of Somalia has begun to affect international trade and forced the IS to take the situation in Somalia into account.²³⁹ A sizable Somali diaspora community also exists, because of the violent history of Somalia. Remittances from this diaspora living abroad can influence the domestic situation, and be a political (pressure) tool as well.²⁴⁰

4.4.1.1 Ethiopia's Interests

Ethiopia is the regional 'superpower' and is intensely concerned with the situation in Somalia. Due to the imperial/colonial legacy the Somali populated Ogaden province is part of Ethiopia, and dispute over this province caused the war with Somalia in 1977.²⁴¹ Due to the ethnic bonds between the ethnic Somalis in the Ogaden province and Somalia, all events in Somalia have a 'spill over' on Ethiopia. The sheer anarchy of Somalia, during and after the fall of Barre, affected Ethiopia because of the spill over of lawlessness over the long and open border. Ethiopia would optimally like to see a strong pro-Ethiopian government in Somalia, but due to historical Somali-animosity towards Ethiopia, it acknowledges that any future strong and united Somalia government will probably be anti-Ethiopian. An example of this is the 1977 Somalia-Ethiopia war that was instigated by Barre partly as a tool for creating internal legitimacy, by appealing to Somali animosity towards the (Christian) Ethiopia.

²³⁸ Møller, "The Somali Conflict: The role of external actors," 14.

²³⁹ Ibid., 5.

²⁴⁰ Lewis, *Understanding Somalia and Somaliland*, 132.

²⁴¹ Møller, "The Somali Conflict: The role of external actors," 9.

Ethiopia is therefore actively pursuing a policy of keeping Somalia weak and divided²⁴², supporting both the TFG²⁴³ who is totally dependent on Ethiopian assistance, de facto, and especially in the eyes of ordinary Somalis, an Ethiopian puppet regime.²⁴⁴ Ethiopia, therefore in practice, despite its official (and very active) support for the TFG's official goal of a strong central government in Somalia, would not like to see that happen, as it could potentially create a strong state in the future that could be(come) hostile to Ethiopia. By officially supporting the TFG as the recognized official state, having sovereignty over the *whole* of Somalia, while at the same time supporting Somaliland²⁴⁵, who refuse to participate in any 'reconciliatory' talks about a unified government of Somalia, Ethiopia has effectively made sure that a unified government of Somalia can ever emerge (according to the IS norms)²⁴⁶, this is a part of Ethiopia's 'divide and rule' policy towards Somalia.

4.4.1.2. Total Negative Sovereignty, No Positive Sovereignty. The TFG's Governance Performance.

The TFG does not live up to the definition of a Weberian state, defined as possessing a legitimate (actual) monopoly of violence. As this section will highlight, the TFG performance as a functional government for its 'citizens' is virtually absent. It does however still play a significant role as the official government, using the tools and privileges that its status as official sovereign offers, to influence the situation in Somalia to the advantage of the actors controlling the TFG. When the TFG was established it was unable to even settle in Somalia, as it did not control any territory there. Initially it therefore settled in Kenya. From there it used its right as the negative sovereign of Somalia to request for 20,000 troops from the UN and AU to protect it as it established government in Somalia.²⁴⁷ The AU and UN however refused to send troops. Instead the TFG took up an offer of Ethiopian military protection, and settled in January 2006 in Baidoa in south-western Somalia.²⁴⁸ But in line with its claim

²⁴² Kaplan, *Fixing fragile states*, 127.

²⁴³ Møller, "The Somali Conflict: The role of external actors," 20.

²⁴⁴ Ibid., 17.

²⁴⁵ Without officially recognising it.

²⁴⁶ 'A liberal democratic state, within the existing territorial boundaries of the existing sovereign state, built on the reformed institutions of the existing government/state', see theory section.

²⁴⁷ Møller, "The Somali Conflict: The role of external actors," 15.

²⁴⁸ Ibid.

to legitimate sovereignty the TFG denied being under the protection of the Ethiopian military on TFG's 'own' soil.²⁴⁹

4.4.1.3 The TFG in Mogadishu Thanks to an Ethiopian Invasion of Somalia!

In December 2006, after the Ethiopian invasion of Somalia²⁵⁰, the TFG was able to relocate to Mogadishu under heavy Ethiopian protection. After setting up its government in Mogadishu the TFG proved completely unable to govern anything. The TNG was totally isolated in Mogadishu, and attempts to instigate the 'reconciliation' process that the IS was hoping for during 'talks' in Djibouti in 2008, totally failed as several of the strongest (actual) actors in Somalia refused to participate, including the (now defeated) UIC, al-Shabaab and Somaliland.²⁵¹ South-central Somalia therefore rapidly descended into chaos again, as the TFG in no way could replace the UIC state-structure positive sovereignty performance.²⁵²

4.4.1.4 The IS reaction to the Ethiopian Invasion and the 'return' of the TFG

From the perspective of the IS (especially the US), the Ethiopian victory over the UIC was seen, as US diplomat declared it, as: '[W]indow of opportunity to promote reconciliation and revive a functioning government in Somalia'²⁵³ Then US Secretary of State, Condoleezza Rice, was even more optimistic stating: "The Somali people..... have a historic opportunity to begin to move beyond two decades of warlordism, extreme violence and humanitarian suffering"²⁵⁴

In fact the Ethiopians (with US and IS blessing) had just destroyed the best functioning and most promising bottom-up state structure in south-central Somalia since 1991, and brought chaos to the area. If the UIC had been left to itself there is some indication that the moderate parts could maybe have

²⁴⁹ Ibid.

²⁵⁰ The Ethiopian invasion will be explained later in the UIC chapter

²⁵¹ Møller, "The Somali Conflict: The role of external actors," 15.

²⁵² Møller, "Somalia: From Stateless Order to Talibanisation?," 4.

²⁵³ Menkhaus, "The crisis in Somalia," 383.

²⁵⁴ Ibid.

prevailed over the jihadist part of the organisation, leaving the ordinary people (and the IS) better off, with a functional state-structure.²⁵⁵

4.4.1.5 Interest of the IS in the TFG

The IS (in reality) remains indifferent to the living conditions of the ordinary Somali's. The states in the IS instead insistently focus on their own agenda, namely national security through a friendly government (in an ideal world) to create a sovereign State corresponding to IS norms.²⁵⁶ In order to promote these interests, and despite the obvious incapability of the TFG, the IS vigorously continues to support and promote the TFG as the legitimate and recognised government of Somalia, as it served the interests of the IS.²⁵⁷ An example of this is that the Ethiopian invasion was officially not an invasion as the Ethiopian troops was 'invited' to destroy the UIC by the official sovereign government of Somalia – the TFG.²⁵⁸

4.4.1.6 The TFG's Performance

The TFG possess negative sovereignty but absolutely no positive sovereignty. It is therefore a blueprint on a quasi-state/ failed state, and displays absolutely no positive sovereignty governance capability. It is actively created through the initiative of the IS, as IS needs to have somebody that is officially responsible for territory. In practice the TFG however controls no territory and exist only on paper. From this position it represents the interests of the IS and local Somali actors who use the TFG to further their own (private) interests. This meant that it has no legitimacy among the population in Somalia, who (rightfully) see it as a tool for foreign interests. These foreign interest is not really interested in the well-being of the ordinary Somalian, but only in furthering their own security interests. Furthermore the TFG is constructed top-down and is therefore incompatible with traditional Somali governance culture.

²⁵⁵ Ibid., 376.

²⁵⁶ A liberal democratic state, within the existing territorial boundaries of the existing sovereign state of Somalia, built on the reformed institutions of the existing government/state.

²⁵⁷ Lewis, *Understanding Somalia and Somaliland*, 84.

²⁵⁸ Møller, "The Somali Conflict: The role of external actors," 16.

The IS is fully aware of this, but due to the actors in the TFG and there (selfish security) interest in Somalia, it is incapable or unwilling to see the possible strength in alternative state structures, such as the UIC, who possibly could have turned out less extreme than originally perceived.

4.5 Bottom up attempts in Somalia, the Union of Islamic Courts (UIC)

From 1991 to 2006, south central Somalia was without any functioning full-scale state-structures.²⁵⁹ The fighting and feuds among the non-united clans and warlords left the country in disarray without any uniting structure. Local traditional governance structures filled some of the governance gap, in lack of a state to perform these services. Among these local governance structures was the Islamic Courts who, due to external pressure, decided to united into a state-structure in 2006 - the Union of Islamic Courts (UIC).

4.5.0.1 Origin of the Islamic Courts

Islam and Islamic law have always been an important part of Somali culture and tradition, but not as a directly political force. Islamic law has traditionally always been used as part of Somali governance tradition. The Islamic Courts was originally independent and locally based courts, used as an instrument by clan elders (mostly in urban areas) in conjunction with customary Somali culture and tradition (of which Islam is a part). Local communities established courts mainly based on the moderate Sufi interpretation of Islam, and these courts spread over Somalia after the state collapse in 1991 to maintain order and justice, due to the lack of official functioning institutions after the state collapse.²⁶⁰ Originally these independent local courts were mainly concerned with family law, but have been expanded to also include criminal law (as there was a governance need here).²⁶¹ The Courts were reflecting their society, and most were subscribing to moderate traditional Sufi inspired courts. During

²⁵⁹ Ibid., 13.

²⁶⁰ Menkhaus, "Local Security Systems in Somali East Africa," 84.

²⁶¹ Møller, "Somalia: From Stateless Order to Talibanisation?," 3.

the 1990's, various Salafist and Wahhabis radical groups such as al-Shabaab were able to establish courts.²⁶² This was possible due to financial assistance and influence from the Islamic Gulf States,²⁶³

4.5.0.2 The GWOT, Somalia a US Security Concern, the US hire Warlords to Fight Terrorists

Since 9/11 the US have seen the 'ungoverned' territory of Somalia as a danger to US National Security and as such, have deemed such areas as potential safe havens for Al-Qaeda. The GWOT has securitised Somalia, as failed states were seen as places to foster terrorism.²⁶⁴ The Bush administration's response to the perceived threat was in 2006 to:

“[W]ork with those elements that will help us root out al-Qaeda and to prevent Somalia becoming a safe haven for terrorists, and we are doing this in the interests of protecting America”²⁶⁵.

The US sponsored the 'Alliance for the Restoration of Peace and Counter-Terrorism' (ARPCT or ATA) by buying warlords in Mogadishu. CIA and its hired Private Military Company (PMC) 'Select Armor' handed out 150.000USD pr. month in cash to buy various Warlords corporation,²⁶⁶ with the goal of getting them to fight Islamic terrorists.²⁶⁷ The US interest was to get the ATA to fight the Al-Ittihad al Islamia (AIAI)²⁶⁸ and to hunt down three suspected terrorists that the US claimed were involved in the 1998 bombings of the US embassy in Kenya and the 2002 hotel bombings in the same place. The US accused the Islamic Courts and Al-Shabaab for hiding and protecting these 'terrorists'.²⁶⁹ The evidence that terrorists were hiding in Somalia at that time was rather weak²⁷⁰, but the US and the IS felt unsafe with 'failed states' and assumed that the lack of an official state-structure with positive-sovereignty implied a safe haven for terrorists.²⁷¹

²⁶² Menkhaus, "The crisis in Somalia," 365.

²⁶³ Menkhaus, "Local Security Systems in Somali East Africa," 85.

²⁶⁴ Møller, "The Somali Conflict: The role of external actors," 26.

²⁶⁵ McGregor, "Warlords or Counter-Terrorists."

²⁶⁶ Menkhaus, "The crisis in Somalia," 368.

²⁶⁷ Lewis, *Understanding Somalia and Somaliland*, 83.

²⁶⁸ Møller, "Somalia: From Stateless Order to Talibanisation?," 3.

²⁶⁹ Møller, "The Somali Conflict: The role of external actors," 26.

²⁷⁰ Ibid., 14.

²⁷¹ Ibid., 26.

4.5.0.3 The US godfather to the Union of Islamist Courts

Ironically this US initiative was the direct catalyst for the first successful bottom-up constructed state-structure in Somalia – the Union of Islamic Courts (UIC).²⁷² The reasons for the construction of the UIC was the old proverb ‘Nothing unites internally as external enemies’ and the US decision to fund the warlords in the ATA (and TFG) was the uniting factor that led the hitherto disunited and locally based Islamic Courts to unite in the *Union* of Islamic Courts (UIC). In short the previous scattered and independent courts were united in the UIC due to a common dislike of US and Ethiopian influence in Somalia, as the two countries were (correctly) seen as supporting the warlords (and the TFG) that were causing insecurity and death to the ordinary Somalis.²⁷³ The UIC was therefore formed as an attractive alternative to provide a (locally) legitimate regime (as Weber defined it) that provided basic security and order to ordinary people.

4.5.1 Islam as the Uniting Factor in a De Facto State

The UIC’s uniting factors - Islam, pan-Somali nationalism and anti- Ethiopianism was seen by many Somalis to be a good alternative to clannism.²⁷⁴ The strongest support for the UIC was in among the Haweiy clan, partly as a response to the Darod dominated TFG (again traditional Somali clan rivalry).²⁷⁵ The UIC also saw support from various local clan militias and businessmen as they viewed the UIC as an attractive state-structure that providing law, order and peace.²⁷⁶ The traditional Somali kinship culture was also an important factor in the UIC, and for many UIC leaders, the ‘Islamic branding’ was merely a name used as a (popular) uniting factor.²⁷⁷

The feeling that the Christian Ethiopia, and its ally, the US, was treating ordinary Somalis unjustly, meant that Islamic Jihad rhetoric against the infidel suppressers was used in conjunction with

²⁷² Lewis, *Understanding Somalia and Somaliland*, 87.

²⁷³ Ibid.

²⁷⁴ Menkhaus, “The crisis in Somalia,” 371.

²⁷⁵ Kaplan, *Fixing fragile states*, 118.

²⁷⁶ Lewis, *Understanding Somalia and Somaliland*, 86.

²⁷⁷ Menkhaus, “The crisis in Somalia,” 375.

traditional Somali anti-Ethiopian nationalism, and dislike for the US-sponsored warlords. This mix of local anchoring and popular appeal to traditionally uniting Somali cultural opinion and prejudices, combined with the good positive sovereignty results produced by the UIC, proved a powerful uniting factor.²⁷⁸

4.5.1.1 Diverse Union

The union of previous local and independent Islamic courts meant that some of the courts were adhering to more extreme Salafist or Wahabist interpretations of Islam.²⁷⁹ Some of these utilised a more draconic and inflexible version of sharia, which was brought to Somalia from Saudi Arabia.²⁸⁰ This approach is viewed by many Somalis, as un-Somali, and has (until very recently) only had very limited success in widely becoming established in Somalia.²⁸¹

The only important Islamic movement of a somewhat radical sort until the mid-2000's was Al-Ittihad al Islamia (AIAI),²⁸² which has its roots in the Muslim youth movement from the 1960's and in 1984 merged to form the Somali Islamic Union.²⁸³ The UIC was however virtually extinct by 1997, and only operated some minor Islamic charities. In spite of this, its leader, Sheik Aways, was included on the US and UN terrorist lists after 9/11.²⁸⁴ This possibly gave him the legitimacy to later to later claim an important leadership position in the radical wing of the UIC. The events after 9/11 have however given radical Islamist militant organisations more legitimacy (external funding)²⁸⁵ and backing, which is reflected in the union-nature of the UIC.²⁸⁶ The most extreme of these groups is Al-Shabaab. Al-Shabaab means 'youth' and is a radical jihadi militant organisation.

²⁷⁸ Lewis, *Understanding Somalia and Somaliland*, 86.

²⁷⁹ Møller, "The Somali Conflict: The role of external actors," 12.

²⁸⁰ Menkhaus, "Local Security Systems in Somali East Africa," 85.

²⁸¹ Møller, "The Somali Conflict: The role of external actors," 13.

²⁸² Møller, "Somalia: From Stateless Order to Talibanisation?," 3.

²⁸³ Møller, "The Somali Conflict: The role of external actors," 12.

²⁸⁴ Ibid.

²⁸⁵ Menkhaus, "Governance without government in Somalia," 76.

²⁸⁶ Menkhaus, "The crisis in Somalia," 370.

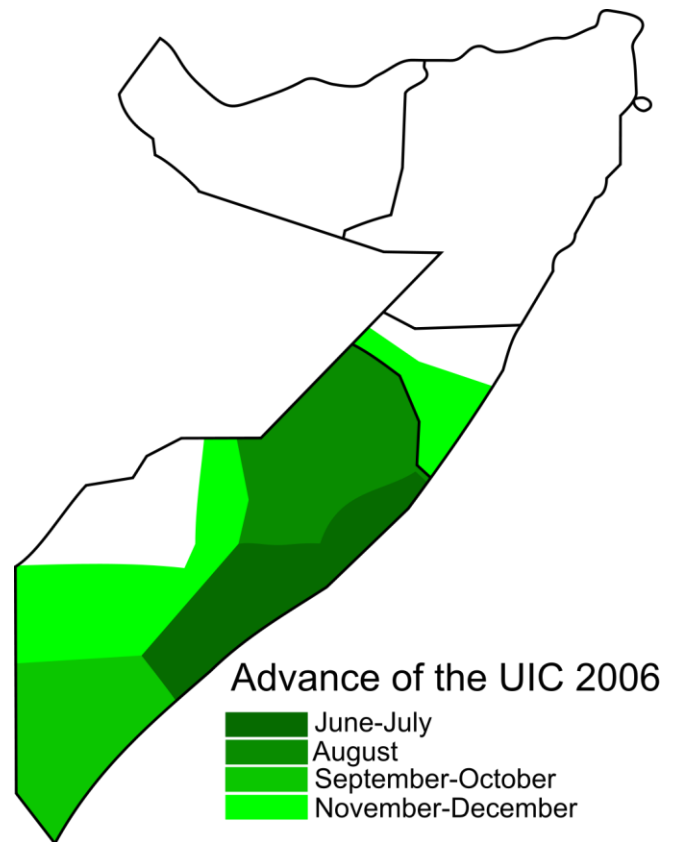
4.5.2 The Union of Islamic Courts Takes Control

4.5.2.1 *To UIC kicks the ATA and Warlords Out.*

The UIC was ‘officially’ formed in 2006 and in February 2006 the UIC started a full scale battle against the ATA and TFG. By June they had taken over Mogadishu and quickly extended their control to the most of south-central Somalia, controlling the whole of Somalia except, Somaliland, Puntland and some small enclaves by the end of 2006.²⁸⁷ The US anti-terrorist initiative had effectively facilitated the takeover of Somalia by the UIC. This gave south-central Somalia its first major functioning state-structure since the state collapse in 1991.²⁸⁸

4.5.2.2 *The Legitimate Monopoly of violence, through ‘Performance Legitimacy’*

The new Union of Islamic Courts (UIC) was very successful in providing policing, judicial services and order to the local communities based on the independent Sharia courts. This was backed up by a strong UIC militia.²⁸⁹ The UIC was successful in taking over the local warlord’s militias and weapons and centralising the monopoly of violence, under the courts leadership. This was part of a broader plan to take power from the clans and warlords, and basing authority in territorial-based-courts with a defined jurisdictional area. This more cosmopolitan justice was an important step in the formation of a functioning state-structure, as the legitimate (and actual) use of violence were being monopolised,



Map 4: The Advance of the UIC, Map from : http://en.wikipedia.org/wiki/File:2006_ICU.svg 27.feb.2011

²⁸⁷ Ibid., 269. Note: the years in this text is wrong, they are +1 years

²⁸⁸ Møller, “Somalia: From Stateless Order to Talibanisation?,” 3.

²⁸⁹ Menkhaus, “The crisis in Somalia,” 371.

according to Weber's definition.²⁹⁰ The UIC brought law and order to Mogadishu and Somalia for the first time since 1991, as it effectively got rid of warlords and criminal gangs. The US backing for the brutal warlords in the ATA gave legitimacy to the Islamic courts, as people were tired of the opportunistic and brutal pro-US warlords and just wanted basic security.²⁹¹ People were tired with their officially sovereign government, the totally dysfunctional TFG and its institutions, as it provided absolutely no (positive sovereignty) services to people. The main reason the UIC was so popular among the people²⁹², was its governance success, or as Ken Menkhaus puts it, its: "performance legitimacy"²⁹³. This UIC popularity meant that local businessmen and ordinary citizens contributed money and food to the UIC, which secured local responsibility (and loyalty) of the courts as the funding was local.²⁹⁴

4.5.2.3 Lack of Unified Leadership, Various Versions of Islam, Mixed Signals

The UIC's lack of clear hieratical structure and chain of command was however a problem, as both moderate and hard-line elements claimed to represent the UIC and made various and sometimes extreme statements.²⁹⁵ This made its appearance to outsider actors, like the US and Ethiopia, seem hostile or at least very confusing. This was a result of the loose and fragile structure of the UIC,²⁹⁶ where different (independent) courts used different kinds of Islam. The majority were traditional moderate Sufi Islamic courts, while a few were radical Wahhabi courts.²⁹⁷ Some of the more radical courts, especially those controlled by the power-full al-Shabaab militias, imposed draconian sharia law (in a few areas only) and tried to outlaw chewing of Kat and restricted other traditional Somalia customs.²⁹⁸ A lack of a unified leadership in the UIC caused considerable inner tension and disagreement between the hardliners and the moderates in the UIC leadership. The UIC were sending 'mixed' signals about their politics to the outside world, making external actors unsure about the UIC policy and intentions. This led the US, and especially Ethiopia, to believe that the UIC was a

²⁹⁰ Ibid., 375.

²⁹¹ Lewis, *Understanding Somalia and Somaliland*, 85.

²⁹² Bryden and Brickhill, "Disarming Somalia," 257.

²⁹³ Menkhaus, "The crisis in Somalia," 371.

²⁹⁴ Bryden and Brickhill, "Disarming Somalia," 257.

²⁹⁵ Menkhaus, "The crisis in Somalia," 374.

²⁹⁶ Lewis, *Understanding Somalia and Somaliland*, 86.

²⁹⁷ Ibid., 87.

²⁹⁸ Ibid.

dangerous ‘terrorist’ enemy, believed (wrongly) to be controlled by or cooperating with al-Qaeda.²⁹⁹ Ethiopia felt threatened as radical elements in the UIC declared a Jihad against (the Christian) Ethiopia, and the fact that the UIC had established links to Eritrea (Ethiopia’s arch enemy). This in the end led to Ethiopia’s invasion of Somalia to crush the UIC.³⁰⁰

4.5.3 The Failure of South-Central Somalia’s first Successful Bottom-up State-Structure

The failure of Somalia’s first successful bottom-up state-structure, since 1991 was not due to its lack of popular legitimacy, but external interests. The UIC had successfully provided positive sovereignty services to the population, but it never managed to unite in a strong coherent movement with a clear heretical command and leadership. The lack of unified leadership meant the external actors were unsure whom they could talk to and who was in charge - an important aspect in communication between states. Ethiopia viewed the UIC as a hostile threat, and this concern was backed up by the US and IS, who supported the official but totally dysfunctional TFG. As this paper has already asserted, the TFG being pro-Ethiopian was (and is) the ‘official’ government of Somalia, because it suits the interests of external powers, and these powers were not willing to accept a de facto state-structure in Somalia that could be seen as hostile to its interests, no matter the level of positive governance-services it provided for the ordinary Somalians. The 2006 Ethiopian invasion therefore shattered the UIC state structure. In a negative sovereignty view, it is important to note that the invasion was officially invited by the TFG. The TFG used their negative sovereignty right of entering into relations with other sovereign states to ‘ask’ for Ethiopian assistance to overthrow the UIC.³⁰¹

4.5.6 Ethiopian Invasion (with US Blessing)

The prospect that (the major part of) Somalia was in the process on being united under an anti-Ethiopian, officially Islamist leadership, lead to the Ethiopian invasion of Somalia in December

²⁹⁹ Menkhaus, “The crisis in Somalia,” 378.

³⁰⁰ Ibid.

³⁰¹ Møller, “The Somali Conflict: The role of external actors,” 16.

2006.³⁰² Ethiopia is the regional superpower and possesses the region's largest and best military forces. Ethiopia is also a US ally, enjoying US backing and support.³⁰³ The UIC forces were therefore quickly beaten and the UIC decided to disband and flee south over the border to Kenya, instead (as generally expected) to retreat to Mogadishu and fight an urban-guerrilla campaign.³⁰⁴ The US Military used the opportunity to launch two airstrikes on suspected terrorist of the 1998 US Kenya bombing.³⁰⁵ This made the US a direct Ethiopian ally and galvanised the Somali anti-Americanism (as well as giving jihadist group justification to their Jihad against the Christian crusaders). Ethiopia immediately installed its proxy, the TFG, as rulers in Mogadishu, under heavy Ethiopian military protection. The Ethiopian invasion ended the first somewhat effective working state-structure in south and central Somalia since 1991. Al-Shabaab and other remnants of UIC conducted a very effective and very dirty insurgency war, using guerrilla tactics, terrorists IED and suicide bombings against the Ethiopian occupiers and the TFG.³⁰⁶ Ethiopian forces replied with equal brutality, shelling whole civilian neighbourhoods and other brutal behaviour.³⁰⁷

4.5.6.1 After the Fall of the UIC

The Ethiopian Invasion of Somalia destroyed the UIC, but at the same time strengthened and gave legitimacy to the most radical jihadist elements in it, such as the Al-Shabaab. Al-Shabaab could now claim that they had been 'right' about the claim that the 'infidel Christian' crusaders would invade Somalia to destroy Islam.³⁰⁸ Al-Shabaab embarked on a vicious insurgency campaign, using suicide bombings (for the first time in Somalia), IED and other 'Jihad' and al-Qaeda inspired tactics.³⁰⁹ Under this pressure from increasing casualties the Ethiopians left Somalia (with their TFG puppet) by the end of 2008 to Al-Shabaab and a re-ignited civil war.³¹⁰

³⁰² Møller, "Somalia: From Stateless Order to Talibanisation?," 3.

³⁰³ Menkhaus, "The crisis in Somalia," 380.

³⁰⁴ Ibid., 381.

³⁰⁵ Møller, "The Somali Conflict: The role of external actors," 26.

³⁰⁶ Møller, "Somalia: From Stateless Order to Talibanisation?," 4.

³⁰⁷ Ibid.

³⁰⁸ Møller, "The Somali Conflict: The role of external actors," 17.

³⁰⁹ Ibid., 18.

³¹⁰ Ibid., 15.

The US chose in 2008 to kill the Al-Shabaab leader with a cruise missile attack. This has only furthered the Al-Shabaab extremist agenda and determination. Al-Shabaab have recently started using extremely harsh and erratic sharia punishment, such as stoning young woman and pulling out gold teeth as they considered them un-Islamic!³¹¹ Interestingly this development changes the conflict from a regional Somali one into a kind of proxy war, as both the TFG and Al-Shabaab³¹² are heavily supported from external sources. Al-Shabaab is well funded from radical Muslims abroad, and the TFG from the IS turning Somalia into a front line (proxy-war) in the GWOT.³¹³ In short the IS and especially Ethiopia and the US got exactly what they *did not want* out of interfering directly in Somalia – a radical Islamic ‘terrorist regime’, which is actively and proudly joining Al-Qaeda and the global Jihad with attacks abroad.³¹⁴ Among them are targets in Denmark³¹⁵ and Australia.³¹⁶ It was almost like a self-fulfilling prophecy – the fear of Somalia becoming a breeding ground for international terrorists (a threat to the IS) made Somalia just such a threat – due to IS interference.

4.5.7 Why did the UIC Fail?

This total discrepancy between the wishes of the International Society and wishes of the local population is deeply fascinating. The UIC rule was welcomed by almost all ordinary Somalians as it brought basic ‘state’- services such as security and order to large parts of the country, in a bottom-up locally based legitimate fashion.

The IS on the other hand is primarily interested not in the welfare and security of ordinary Somalians, but to establish a friendly (to them) unitary state with a central government they can make deals with (top-down approach), to suit their geo-political (security) interests. The UIC state-structure was successful in establishing order in south-central Somalia by creating a monopoly of violence. The

³¹¹ Bronwyn Bruton, “In the Quicksands of Somalia,” 88.

³¹² This paper will not go into a discussion about whether the Al-Shabaab’s rule can be called a state-structure as analyzing Al-Shabaab’s governance performance falls beyond the scope of this paper.

³¹³ Lewis, *Understanding Somalia and Somaliland*, 90.

³¹⁴ <http://news.bbc.co.uk/2/hi/africa/8491329.stm> 25.feb.2011

³¹⁵ <http://www.cphpost.dk/news/national/88-national/47853-assassination-attempt-on-mohammed-cartoonist.html> 25.feb.2011

³¹⁶ <http://www.news.com.au/breaking-news/world/us-uses-aussie-terror-plot-to-warn-of-somali-threat/story-e6frfkui-1225758909582> 23.feb.2011

reason it was toppled was not its lack of performance or legitimacy among the people it was ruling, but due to external geo-political (selfish) interests. Among these interest is Ethiopia's interest in a non-hostile (and preferably weak) Somalian neighbour-state and the US priorities in its GWOT. The IS creation of the TFG was in this case representing just that – the interest of external states in Somalia, and the IS and Ethiopian interest used the TFG to make their actions officially 'legitimate', in the eyes of the IS.

The UIC, like Somaliland, effectively used traditional governance-structure, and incorporated them into a functioning state-structure. Its governance was de-centralised based on independent courts, in line with traditional Somali governance. Building a state-structure that is compatible with local indigenous governance-norms and capabilities. As mentioned earlier, the UIC was mainly comprised of moderate courts, and its popularity was mainly attributed to its performance in providing state services (such as security) more than due to Somali adherence to political Islam in general and radical Islam in particular. The Islamic branding was to a large extent just that - branding. But also effective branding in order to provide a workable (uniting) alternative to clannism. This Islamic branding suits the Somali culture well as it gives the Somalis a clear uniting identity. This was especially true as the UIC enemy - Ethiopia (who was officially acting through its 'sovereign puppet' - the TFG), was Christian. This gave a clear identification and justification for creating a 'Somali' state-structure and fight against the enemy's 'puppet' state-structure – the TFG and its US backed warlords. Somalia's disunited governance system therefore have proven that it can united if confronted with a common enemy.

5. Conclusion and Recommendations

The introductory quote to this paper: “The well is neglected and empty, and there is no one working on our behalf”³¹⁷ conceptualises the entire Somalian struggle over statehood. The Somali tribal governance culture is not naturally compatible with the centralised state-norms of the IS, and therefore these norms do not naturally work to the advantage of the Somalians governance needs.

Somalia is viewed by most (western) outsiders as a failed state where chaos reigns. This is not entirely true, and to the extent where it is true - the IS bear a major part of the responsibility for that chaos. Somali society is not anarchical having originally been a highly ordered system of traditional clan balance and well-functioning social governance. If this de-centralised clan based governance-structure was left to function on its own terms and norms it would produce a highly ordered (and reasonably safe) society.

The reason that this ordered society is not present in large areas of Somalia today is because of interference of western (IS) governance-norms. Every time Somalia had been under a strong central government the Somalians have suffered, as the central state was oppressing them. Therefore a strong central state is viewed by most Somalians as a negative thing, as it has not historically provided them with governance services. The traditional clan based system of governance has historically, even when a central state has been present, been the reliable provider of security, representation and welfare. This means that these traditional governance-structures are still trusted and relied on by the ordinary Somalians. Transferring these traditional governance-structure and loyalties into the new state-structure therefore gives this new state-structure great legitimacy.

The example of Somaliland show that the traditional governance and conflict handling mechanisms, can resolve conflicts and be the foundation for a fully functioning ‘new’ de facto state. The quote emphasis ‘no one working on our behalf’ is very true in the case of Somaliland. Somaliland had no support to construct their state-structure. This turned out to be an advantage, as this ensures that the

³¹⁷ Lewis and Mayall, “A Study of Decentralised Political Structure for Somalia,” ii.

local governance-structures and the clan elders that were actually representing and governing the population, could be transferred into the new state-structure on its own terms. Had the IS had its full focus on Somaliland in this period, it is doubtful that such an 'illiberal' state-structure would have survived international pressure and interference due to the lack of understanding of such a governance-structure in the west.

The IS interference is what is creating the chaos in Somalia. The massive self-interests of foreign actors, such as the US and Ethiopia in Somalia, have a negative impact on Somalia. The IS interest in a state-structure for Somalia is to handle the fears of the IS - its job is therefore primarily to prevent terrorism and piracy operating out of Somalia. The TFG has been established by the IS to perform this territorial 'accountability' job towards the IS.

The IS state-structure initiative for Somalia (the TFG) have however not produced anything good for the ordinary citizen of Somalia. The TFG solely represent the interest and actors of the IS, and cooperates with and exercises influence through the powerful but predatory warlords and (some) clans in Somalia, who is only participating in the TFG to secure personal gain and resources for themselves. Therefore, the TFG is not representing or providing effective government services to the ordinary Somali. Somalis feel that the legitimacy of the TFG is extremely low, in part due to the fact that Somalis feel TFG have often effectively acted as an Ethiopian puppet regime and promoted Ethiopia's interest in Somalia more than the interests of Somalis.

This is well in line with the opening quote: 'that the Somalis can expect nothing good from external actors', but have to rely on their own capabilities to survive. The Somalis have shown their initiative and will to survive very clearly. When the US decided to buy the ATA-warlords, as they were frustrated that the TFG was not doing enough to combat 'Islamic terrorists' operating in Somalia, the local Somalis acted to promote their own security interests. They united their existing locally based and de-centralised Islamic Courts into a Union (the UIC) and threw the warlords and TFG out! After that the UIC successfully established a monopoly of violence, and formed a very successful domestic and popular legitimate state-structure. The Somalis initiative to improve their own situation by creating the UIC could however not be accepted by the IS, especially the US and Ethiopia, who saw UIC as a 'terrorist' organisation. This led to the Ethiopian invasion and the overthrow of the UIC.

The interest in state-structures for Somalia to the (actors in the) IS are therefore first and foremost that it serves the interest of the IS. Therefore it needs to be friendly to them (the US and Ethiopia) and be responsible for its territory towards the other states in the IS. The TFG have official sovereignty over, and is therefore officially responsible for Somalia's territory, but the TFG is also a failed state (quasi state), because it does not practically govern that territory and is not legitimate in the eyes of the Somalians.

The conclusion to this paper is that any successful state-structure in Somalia has to be constructed bottom-up, and in accordance and corporation with the traditional Somali governance-structures and norms. This is the only way the Somalis will believe that it is representing their interests. This suspicion towards IS-norms and central states is due to the Somalians previous bad experiences with top-down controlled central-states and actors serving outside interests and actors. IS-norms of state-construction therefore cannot be used in the construction stage of a bottom-up state-structure, as they have no legitimacy. After the state-structure is successfully formed, as the example of Somaliland has shown us, it can however successfully be transformed into a democratic and economically liberal de facto state (just as the IS likes it) to the benefit of both its citizens and the stability of the IS. The best thing the IS could therefore do is to allow these locally based bottom-up state-structures to emerge by their own initiative. Allow them to gradually transform themselves into states-structures that live up to the IS-norms and can be beneficial to the IS like Somaliland is. The IS and especially UN need however to change its stance against de facto states in order to do this, and also need to recognise them as sovereign states – as state-structures like Somaliland have proved their right to live through positive sovereignty. It makes no sense that the IS continues to insist on reviving an (illusional) central government/state of Somalia.

Local legitimacy and initiative is however not enough to guarantee the success of a popular bottom-up state. As the Example of UIC has shown, a state-structure that is perceived (rightly or wrongly) as a threat to powerful actors in the IS (such as Ethiopia or the US) are not allowed to live. The security interest of these powerful states-actors of the IS overrules the local right to security (the security the UIC was providing them) and the UIC was militarily destroyed. This is despite the fact that the UIC was very successful and popular among the Somalians because it effectively provided them security,

representation and welfare. A further point is that toppling the UIC state-structure did not benefit the IS agenda at all. The radical jihadist groups like al-Shabaab have gained in strength thanks to the (Christian) Ethiopian invasion, as they can now justify their 'jihad' by referring to the 'Christian Crusaders' invasion. The IS would therefore properly have been better off if it had tried to cooperate with the UIC and appealing to its moderate fraction.

Summed up, the requirements for a successful state-structure in Somalia are that it is locally constructed through traditional governance-structures and capabilities. It furthermore has to be perceived as non-hostile to the IS. Thirdly, a rising bottom-up state-structure will benefit from as little outside attention as possible, as the IS official norms for state-construction is not compatible with the Somali norms. If a state-structure can rise quietly on its own with little attention or outside 'support' this is the best way, as any outside involvement will endanger the progress already made. Somalians are therefore best served if allowed to work out their own problems. This goes well in line with the Somali proverb that this paper started with:

“The well is neglected and empty, and there is no one working on our behalf”³¹⁸

³¹⁸ Ibid.

6. Bibliography

- Ahmed, I. I. "The heritage of war and state collapse in Somalia and Somaliland: local-level effects, external interventions and reconstruction." *Third World Quarterly* 20, no. 1 (1999): 113–127.
- Battera, F. "Some Considerations on State Building in Divided Societies and the Role of the International Community": Somaliland and Somalia Compared." *Northeast African Studies* 10, no. 3 (2009): 225–247.
- Bilgin, P., and A. D Morton. "From 'Rogue' to 'Failed' States? The Fallacy of Short-termism*." *Politics* 24, no. 3 (2004): 169–180.
- Bradbury, M., and M. Kleinman. *Winning Hearts and Minds? Examining the Relationship Between Aid and Security in Kenya*. Feinstein International Center, Tufts University, 2010.
- Bradbury, Mark. *Becoming Somaliland*. Indiana University Press, 2008.
- Bronwyn Bruton. "In the Quicksands of Somalia." *Foreign Affairs* November/December (2009): p.79-94.
- Bryden, M., and J. Brickhill. "Disarming Somalia: lessons in stabilisation from a collapsed state." *Conflict, Security & Development* 10, no. 2 (2010): 239–262.
- Clunan, A. L, H. A Trinkunas, and T. Harold. *Ungoverned Spaces: Alternatives to State Authority in an Era of Softened Sovereignty*. Stanford Security Studies, 2010.
- Hameiri, S. "Capacity and its fallacies: international state building as state transformation." *Millennium-Journal of International Studies* 38, no. 1 (2009): 55.
- . "Failed states or a failed paradigm? State capacity and the limits of institutionalism." *Journal of International Relations and Development* 10, no. 2 (2007): 122–149.
- Hameiri, Shahrar. *Regulating Statehood: State Building and the Transformation of the Global Order*. Palgrave Macmillan, 2010.
- Hoehne, M. V. "Mimesis and Mimicry in Dynamics of State and Identity Formation in Northern Somalia." *Africa* 79, no. 2 (2009): 252–281.
- Höhne, M. V. "Political identity, emerging state structures and conflict in northern Somalia." *The Journal of Modern African Studies* 44, no. 03 (2006): 397–414.
- Jackson, R. H. *Quasi-states: sovereignty, international relations, and the Third World*. Cambridge

University Press, 1993.

James, Alan. *Sovereign Statehood: The Basis of International Society*. Unwin Hyman, 1986.

Kaplan, S. *Fixing fragile states: a new paradigm for development*. Greenwood Publishing Group, 2008.

Kaplan, S. "The remarkable story of Somaliland." *Journal of Democracy* 19, no. 3 (2008): 143–157.

Koskenmaki, R. "Legal implications resulting from state failure in light of the case of Somalia." *Nordic Journal of International Law* 73, no. 1 (2004): 1–36.

Lewis, I. M., and J. A. Mayall. "A Study of Decentralised Political Structure for Somalia. A Menu of Options." *London: The London School of Economics and Political Science*, 1995.

Lewis, I. M. *Understanding Somalia and Somaliland: Culture, History, Society*. Society. Hurst & Company, London, 2008.

Lyons, T., and A. I Samatar. *Somalia: state collapse, multilateral intervention, and strategies for political reconstruction*. Brookings Institution Press, 1995.

Marchal, R. "Warlordism and terrorism: how to obscure an already confusing crisis? The case of Somalia." *International Affairs* 83, no. 6 (2007): 1091–1106.

Marten, K. "Warlordism in comparative perspective." *International Security* 31, no. 3 (2007): 41–73.

McGregor, A. "Warlords or Counter-Terrorists: US Intervention in Somalia." *Terrorism Focus* 3 (2006): 21.

Menkhaus, K. "Governance without government in Somalia: Spoilers, state building, and the politics of coping." *International Security* 31, no. 3 (2007): 74–106.

———. "Local Security Systems in Somali East Africa." *Fragile States and Insecure People: Violence, Security and Statehood in the Twenty-First Century: Palgrave Macmillan* (2007): 67–98.

———. "The crisis in Somalia: Tragedy in five acts." *African Affairs* 106, no. 424 (2007): 357.

Møller, B. "The Somali Conflict: The role of external actors." *Danish Institute for International Studies* 2009, no. 3 (2009).

Møller, Bjørn. "Somalia: From Stateless Order to Talibanisation?." *Real Instituto Elcano. Análisis* 42, no. 2009 (2009): 13.

Paris, R. "Bringing the Leviathan back in: Classical versus contemporary studies of the liberal peace." *International Studies Review* 8, no. 3 (2006): 425.

———. "Peacekeeping and the constraints of global culture." *European Journal of International*

Relations 9, no. 3 (2003): 441.

Pegg, S. *De Facto States in the International System*. Institute of International Relations, University of British Columbia, 1998.

———. “De Facto States in the International System.” *Institute of International Relations, University of British Columbia*, no. Working paper No. 21 (1998).

Richmond, O. P. “UN peace operations and the dilemmas of the peacebuilding consensus.” *International Peacekeeping* 11, no. 1 (2004): 83–101.

“The failed states index.” *Foreign Policy* 149 (2005): 56–65.

Yamane, T. “State failure and Armed Group: An Implication for Peacebuilding.” *Hiroshima Peace Science, Hiroshima University* 31 (2009): 109–133.