



Policy Brief

Transforming the Legacy of Somalia's Conflict
to Ensure Long-term Stabilization

Introduction

This policy brief sets out an analysis of past and ongoing efforts to re-build Somalia that can be scaled up to effectively implement a transitional justice approach that results in a deeper and lasting peace for Somalia. The brief concludes with four key recommendations on opportunities for strengthening Somalia's social fabric that can be embedded into the ongoing and future processes, effectively contribute towards breaking the past and current cycles of violence, and deep rooted inequalities.



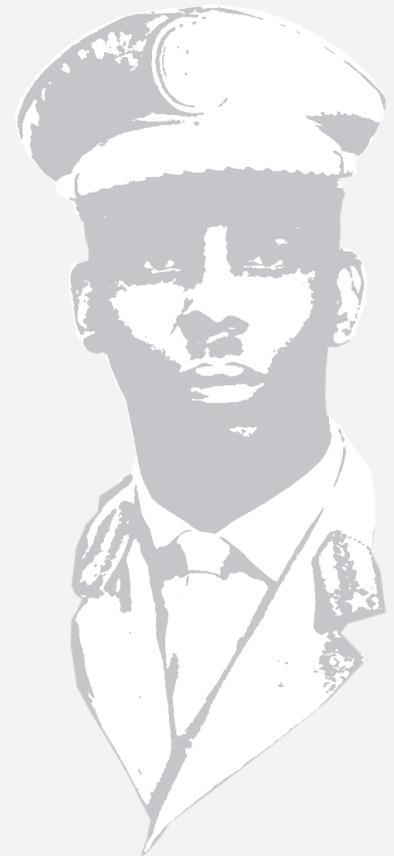
July 2020

Historical Background

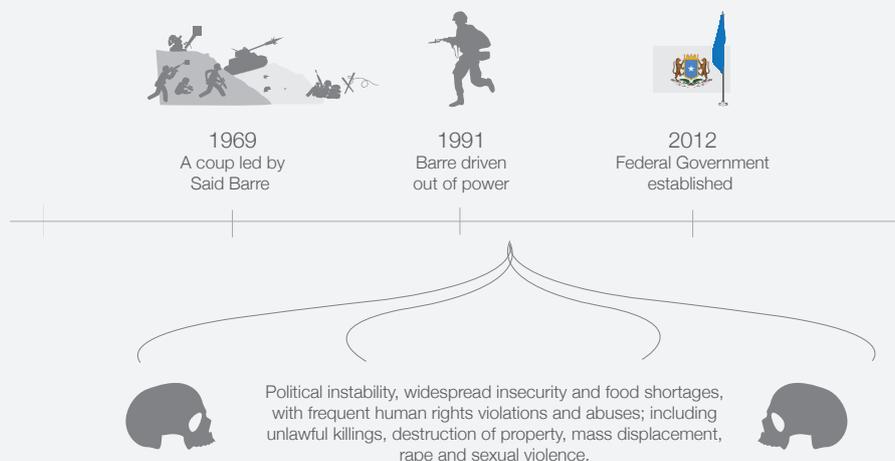
A coup led by Mohamed Siad Barre in 1969 ushered in two decades of brutal socialist rule in Somalia, until 1991 when Barre was driven out of power. The collapse of the Somali state in 1991 was the consequence of a combination of internal and external factors. Legacies of colonialism had divided the Somali people, the significant impact of Cold War politics led to reduced strategic aid and support for the country, internal contradictions between a centralised state authority, the clanship system and the Somali pastoral culture, in which power is disseminated.

The collapse of Somalia's central government in 1991 led to three decades of conflict, leaving the country in a state of chronic political instability, widespread insecurity and food shortages, with frequent human rights violations and abuses; including unlawful killings, destruction of property, mass displacement, rape and sexual violence. Efforts to restore peace, stability and normality of state functions faced numerous challenges, which culminated in a number of peace processes, agreements and major transitional arrangements. The establishment of a Federal Government in 2012, with a "road map" towards stabilization, recovery, and reconstruction, ended a decade long process of weak transitional governments. Since 2012, Somalia has attempted to rebuild its legal, judicial, military, police and local government sectors. While significant progress has been made, the state still struggles to address the lack of adherence to rule of law and to tackle impunity for human rights violations and abuses.

The protracted conflict damaged social cohesion and unity between the Somali people and over the years' the efforts to reconstruct Somalia have been anchored in the convening of numerous reconciliation conferences and meetings with the agenda of reconciling the various factions of the Somali conflict.



Pic: Jaalle Mohamed Siad Barre



“Somalia is currently preparing to conduct its first election.”

The international community’s role in supporting Somalia for the last two decades has focused on state building aimed at restoring a sovereign national government and re-establishing systems of governance.

Despite years of dedicated international aid and support, a number of factors have worked against Somalia’s ability to reach a deep rooted transition to peace, one of them being the legacy of deep distrust between the clans sown by Barre as part of his divide and rule tactics. The Federal Government is currently preparing to conduct its first election, under universal suffrage, initially anticipated to be held later in 2020, however the electoral body recently proposed a rescheduling of the elections to 2021.

It was hoped that this will address some of the challenges that continue to bedevil the country

This electoral model presents a departure from the previous two presidential and parliamentary elections. To prepare for this a robust legislative reform has been

underway, including the drafting of a new Constitution, and an electoral law, adopted in February 2020. It was hoped that this will address some of the challenges that continue to bedevil the country, including the tensions and disagreements between between the Federal Government and Federal Member States, which is a classic example of the challenges that the efforts for reconciliation face. However, the challenges persist given some of the electoral law failed to address many representation issues and has been rejected by the Federal Member States.

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Despite all these challenges and in the midst of the ongoing insecurity, Somalia has managed to acquire a level of stability while redeveloping its institutions and economy. National reconciliation is also one of the main priorities of the Federal Government of Somalia, but to date Somalia remains a deeply divided society.

A proper assessment of the most effective approaches to addressing past atrocities and that breed the deep prejudices and inequalities in society, would be the first process in identifying the transitional justice path that would facilitate the achievement of more sustainable peace, thus eliminating the endless cycles of violence, discrimination and revenge.

Current Efforts

The Federal Government continues to spearhead a reconciliation process under the leadership of the Ministry of Interior, Federal Affairs and Reconciliation (MoIFAR). The process of building the path towards peace and stability has been characterized by the convening of reconciliation conferences that for many years focused largely on state-building. Since 2017, the process took a new trajectory with the introduction the development of an inclusive framework that focuses on social reconciliation, recognizing traditions, cultures and religions embraced by the Somali people. In June 2017, the National Consultative Conference on Reconciliation convened by the MoIFAR highlighted the need for community-based reconciliation, and set the ball rolling for the development of a national reconciliation framework.

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In 2019 the Federal Government adopted the National Framework for Reconciliation and the process of implementation of the framework is projected to take place in the next few years. While this marks a significant step in providing a pathway to addressing the deep rooted divisions that affect the true transition of Somalia into a democratic society where all Somalis can enjoy their rights unimpeded, the reality is different.

Firstly, the process of arriving at the national framework is viewed as having been

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narrowly focused, elitist driven by politicians and military leaders, with minimal input from the community based structures that wield significant influence in the cohesion of the Somali society. The prioritization of community engagement in the framework is testament of the realization that for the reconciliation process to be effective community engagement is critical.

But the belated engagement might erode the value of community ownership of the process, and can be viewed as a foreign prescriptive process as opposed to originating from the community.

The national reconciliation framework is to be implemented by the Federal Government across Somalia, yet the Government's relationship with the Federal Member States continues to deteriorate with the most recent deployment of Somali National Army troops to Gedo region in Jubbaland State in February 2020, an act that was interpreted as preparation for an all out offensive with the Jubbaland Government.

The tense relations with the Member States and Somaliland occasioned by the failure to agree on the modalities of federalism, sharing of resources, autonomy for the Federal Member States and the electoral process for the upcoming general elections.

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The recent efforts by the Federal government to re-introduce dialogue with the Federal Member States, while a positive step has also been marred by disagreements on the problematic electoral law, and the electoral model being advanced by the FGS. The stand taken by the Federal Member States in July 2020 against the

one-person, one vote system, and rejection of a delay in the conduct of the elections to 2021 demonstrates the need to for a greater introspection by Somalia of its transitional justice approach, so as to avoid these existing disputes every time the country is preparing for electoral transitions.

Lastly, the process of developing the framework missed out on the involvement of the most marginalized groups, and women. While the implementation plan seeks to remedy this by prioritizing these groups in the implementation phase, this approach presupposes that the measures and responses for reconciliation deployed under the framework actually meet the needs of these groups. Without having involved them in the design, the responses are highly likely to be prescriptive and not responsive or meaningful.

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Conclusion

While Somalia has made significant progress in the last three decades to emerge from a brutal conflict, for the nascent governance institutions to function effectively, they must be seen as legitimate, which means they must be underpinned by a revitalized social contract that emphasizes the sacred trust between central government, Federal Member States and the citizens they serve. A strong social contract cannot be closed off from fundamental questions of justice, nor built upon a collective denial of the wrongs of the past. To do so would be to deny the Somali people's dignity as citizens and as human beings, by refusing to acknowledge the harms they have suffered, and by failing to adequately protect them from future abuses by their own authorities and others. The dignity of the Somali people can only be upheld through a concerted effort to come to terms with a legacy of large-scale abuses, in order to ensure accountability, correct the drivers of inequality and promote meaningful reconciliation. Any attempt to deal with the past must include a gender-sensitive approach in order to facilitate progress towards a lasting and inclusive peace, that outlives the current reliance on international aid and support.



Recommendations

Legal Action Worldwide therefore makes the following recommendations towards the achievement of a more holistic response in addressing Somalia's past legacies, addressed to the following relevant institutions for their action:

1. The UN mission, funding agencies and institutions; Acknowledging the significant support to the state building process; continued vigilance is required to ensure efforts to re-build the social fabric are inclusive and responsive particularly to the most vulnerable members of the society. This can only be achieved by:

- 🌐 Ensuring technical and financial support to Somalia combines the bottom-up and top-down approach and encourages a wider use of transitional justice mechanisms.
- 🌐 Ensuring current and future technical and financial support is underpinned on commitment for re-building cohesion between the Federal Government and Member States, as well as with Somaliland, and this must transcend the political elite and deliberate effort should be made to build community buy-in.

2. The Federal Government: Acknowledging the significant progress in developing and driving a national reconciliation agenda, the Government should scale up the existing processes by embracing a holistic transitional justice approach, to effectively achieve the re-building of the Somali society:

- 🌐 Establish a mechanism that builds on the continuing efforts for reconciliation to ensure a broader approach of collecting citizen perspectives how transitional justice should be applied to their situations.
- 🌐 Ensure that the country addresses accountability for past injustices, as societies that have been successful in achieving healing and real change from historical injustices, have been known to address the drivers of conflict through multiple but reinforcing approaches that ensure reconciliation, retribution and institutional reform and development.

3. The Federal Member States: Taking into account the intricate connections that the larger Somali society has, and the need to break away from the shackles of past injustices, the states should:

- 🌐 Ensure transitional justice is a key priority of their respective governments, and put in measures to collect information and citizen's views on what they would want done to address the historical atrocities and the continued challenges, and find ways of communicating these as priorities to be also addressed at the national level.

4. International and National Civil Society Organisations: Cognizant of the important role played by civil society working in Somalia, in reaching communities and delivering key demands and messages from the communities, they should;

- 🌐 Engage in raising awareness on the reconciliation framework, seek views from the communities and work with the Member States and Federal Government to address key social reconstruction gaps that the framework might not address.
- 🌐 Initiate a process of knowledge enhancement on the broader spectrum of transitional justice, educate the society and collect citizen perspectives that can be disseminated to inform and shape future initiatives for rebuilding social cohesion and accountability.
- 🌐 Advocate for a people centered approach in the resolution of the current impasse between the FGS and Federal Member States, that ensures the electoral transition is representative of the interests of the Somali people.

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