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Meeting Report

Somalia's Transition: What Role for Sub-National Entities?

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In July 2011 Chatham House convened a meeting of opinion-formers from Somalia and its diaspora to discuss the country's transition at the end of the Transitional Federal Government's (TFG) mandate in August 2012. The meeting focussed in particular on the emergence of sub-national entities[1], both old and new. On the one hand, stabilisation in Somalia appears to be succeeding on a piecemeal basis with a growing number of enclaves asserting their capacity to provide security and governance at community level. On the other hand, the main thrust of international policy remains the establishment of a single national government.

The meeting had three key aims:

- To gain a better understanding of the established and emerging sub-national entities; their aspirations, strengths and limitations; how they are perceived by Somalis; and how the international community should engage with them (if at all).
- To discuss how these entities fit with the long term quest for national government, the risks and opportunities they represent for external engagement and their relationship with the federal project – now in its seventh year.
- To consider whether and how international support could be given to Somalia in a way that neither undermines the legitimacy of local efforts nor compromises the eventual attainment of national level government of an independent sovereign Somalia.

The following synthesis of discussions held under the Chatham House rule aims to deepen understanding of some of the key challenges relating to the end of the transitional mandate in Somalia.

Introduction

The re-establishment of stability is a priority for Somalis and for Somalia's partners yet progress towards restoring national government continues to be slow and disappointing. The growth of sub-national entities in Somalia appears to offer an alternative route for achieving stability and development.

1 The term 'sub-national entity' is used throughout this report. It refers to the multitude of localised political authorities that have emerged throughout the country, each aspiring to establish security and control territory. It does not have any constitutional grounding and broadly refers collectively to the assortment of governing entities that are not the TFG.

After many years of endeavour, Somaliland and Puntland have developed state structures and established relatively competent governments in a way that has eluded attempts at the national level. Several more new entities have emerged and are seeking to emulate their success, but many of these have a narrow clan base and incorporate relatively small communities.

There are risks associated with this phenomenon. Many Somalis fear it will lead to the splintering of the country into small unsustainable fragments and delay the prospects for national recovery. There is a real danger that a proliferation of clan and sub-clan entities, each with its own militia, could take Somalia back to the highly destructive inter-clan violence of the early 1990s. An approach that inadvertently fostered more violence between multiple competing authorities would set back any hopes for restoring national government and would probably serve to make the harsh form of stability offered by al Shabaab more attractive.

The Transitional Federal Charter offers a framework for Somalia that would maintain the coherence of the country while providing space for the emergence of sub-national entities. Yet the TFG has failed over the past seven years to make any material progress towards the realisation of this vision. The meeting discussed the reasons for this and asked whether this failure necessitates new approaches to Somalia's future.

The answer lies partly in the gap between a nominal commitment to federalism and decentralisation, as expressed in the Charter, and the reality of TFG and donor activity focusing exclusively (and unsuccessfully) on building central institutions. The potential federal territories that have emerged have done so at their own initiative and through processes of local reconciliation and peace building which are rooted in Somali practice. This has happened outside of any formal or informal constitutional process and has not made for an easy relationship with the TFG. The cultivation of external relationships with these entities has added a further layer of complexity.

International actors face a policy dilemma. The extended absence of national government impinges heavily on neighbouring countries and has created serious regional insecurity. Somalia's condition also poses a number of international threats, of which terrorist activity, piracy and uncontrolled migration are the most pressing and obvious. International actors want to help stabilise Somalia, but are uncertain of how to do so. Should they continue to back the TFG process and hope that a government acceptable to Somalis will eventually emerge? Should they focus instead on the various regional

authorities that can demonstrate that stability and governance are sustainable with public support? Is trying to do both – the dual track policy – inconsistent with or detrimental to the longer term goal of restoring both stability and government in Somalia?

This report provides a brief overview of the types of government and authority in Somalia. It examines the potential risks and opportunities associated with the recent growth in the number sub-national entities, before drawing some conclusions both about the Somali-led process and the role of international partners.

Types of Government

Although Somalia is often characterised as an ungoverned space, the reality is far more complicated. There are multiple layers of government, varying greatly in their effectiveness and capacity for service delivery, some recognised, some no more than aspirational. With work on the constitution still in progress, from a TFG or national perspective all are operating in a constitutional and legal limbo.

Since the announcement of the US 'dual-track' strategy in 2010 a large number of self-declared sub-national entities, some no more than "briefcase entities", has emerged.[2] International interventions have often had a dramatic impact on local dynamics and some observers see the proliferation of new entities as the latest opportunistic scramble to qualify as stakeholders in yet another externally designed political process. Clearly there are qualitative differences between the various entities, and few possess the capacity for territorial control and service delivery of the governments of Puntland or Somaliland. At the same time, international actors cannot hope to fast-track the consolidation of new entities by their own support unless the groundwork of local political engagement has been done.

Governments in Somalia can be divided into several categories:

National Level Government

The **Transitional Federal Government** (TFG) headed by Sheikh Sharif Sheikh Ahmed occupies the preeminent legal position as the internationally

2 The dual-track strategy signalled US willingness to work with and provide support to regional governments at the same time as continuing to support the development of the TFG.

recognised government of Somalia. Its mandate is founded on the Charter agreed during the Somali National Peace Conference in 2004. The TFG claims authority over the whole territory of Somalia with the diplomatic support of the UN and other international partners.

The TFG has never managed to establish itself as a government with authority over significant territory. It has relied on military support and protection from the African Union (AU), and financial and political backing from the United Nations (UN), the European Union (EU), the AU, the US and others.

Despite recent military gains in Mogadishu, the TFG only directly controls a small part of the capital. Its allies control more territory, but the relationship between the TFG and these allies is a complicated one. The TFG suffers serious internal divisions. In June 2011 the intervention of Uganda was required to paper over tensions between the Speaker of the Transitional Parliament, Sharif Hassan and President Sheikh Sharif. There have been three different Prime Ministers since 2009.

The authorities in **Somaliland** present themselves as a national government, separated from the rest of the country. They regard their formal links with Somalia to have been severed in 1991, and their independence was confirmed in a popular referendum in 2001. However, Somaliland's independence is not internationally recognised, despite it providing the most effective and democratic system of government in Somalia. Somaliland perceives itself as separate from the Somalia discussion and does not participate in talks surrounding the future of the country. If sustainable peace begins to emerge in the rest of Somalia the question of relations with Somaliland will become urgent.

The aspirations of **al Shabaab** militants are national in scope. At present they control the larger part of south-central Somalia and are opposed to the existence of the TFG as well as the assorted sub-national entities. Although al Shabaab has suffered loss of territory and political and moral authority during the famine, it remains the best-organised military force in the south of the country. Shabaab has made little military progress in Puntland and Somaliland, but it has launched terrorist attacks in both territories in the past and is thought to have a foothold there.

State Governments

The second category is **state governments**, which broadly conform to the principles of the Charter and exercise authority in specified territory. **Puntland** is the most developed case and some other new entities seek to emulate its example. Puntland has established a significant degree of control over territory encompassing several regions[3] and multiple sub-clans. It has the capacity to perform functions of government such as law enforcement, excise collection and representation outside their territory. Puntland is committed to being a federal state within a united Somalia and is fully engaged in consultations on ending the transition.

Since it remains unrecognised, some argue that **Somaliland** also functions as a state government as it shares many of the functional attributes of Puntland. However, the Somaliland authorities have a different view of their country's future.

Regional or District Administrations

At a level below are the **district administrations** that control less than two regions but exercise some control over that territory. **Galmudug** is the best known in this category, and has been invited to take part in discussions and negotiations about the transition.

Ahlu Sunna Wa Jama'a (ASWJ) is a political grouping based on adherence to traditional Islamic practice and does not represent itself as a regional or district entity. However its support base is localised in terms of clan support and territorial control and in this sense it resembles other regional administrations. ASWJ has been an important ally for the TFG in the fight against al Shabaab but their relationship has often been strained. ASWJ is also involved in the post-transition talks.

Ximan and Xeeb has started the process of establishing itself as a district administration and has some territorial control, but it has not yet been involved in high-level negotiations in the same way as Galmudug and ASWJ.

[3] The Transitional Federal Charter requires that state governments should be constituted as "Two or more regions federate[d], based on their own free will," Article 11, 2b. (The regions referred to are those of the pre-1991 administration).

Emerging States

Emerging (virtual) entities are currently attracting attention. Neighbouring countries are nurturing some, like Azania / Jubbaland, but their ability to claim local legitimacy independent of their military strength is unproven. Some Somali observers regard them as foreign constructs rather than efforts to provide community level governance. (The Kenyan intervention that occurred in October 2011 after the meeting will have reinforced this perception.) Ethiopia has supported local authority structures in South West Somalia in the past and some observers believe they would be ready to restore these if al Shabaab's authority over that region could be removed or reduced.

As well as the entities backed by regional powers, there are a range of aspiring organisations which are often little more than a website or a diaspora pressure group. These are the most problematic to evaluate. Participants in the meeting observed that very little is known about what the Somali communities thought about the entities that were claiming to represent them and administer the territory. In some cases the administrations themselves seemed to have no clear picture of what they wanted to be, or how they would fit into the wider picture of governance. Before embracing the principle of engagement, the international community should make a careful assessment asking: what are the community perceptions of the legitimacy of these entities and what do the administrations want: to be political entities, or service providers, or to have a monopoly on security.

Frameworks

Since 2004, Somalia has been nominally governed by the TFG, led first by President Abdulahi Yusuf and since 2010 by President Sheikh Sharif. Throughout this time the TFG has failed to establish itself either by political or military means as an effective power inside the country. President Yusuf was installed in Mogadishu by Ethiopian troops in 2006 while President Sharif owes his survival against al Shabaab to the protection of 10,000 African Union peacekeepers.

The constitutional framework for the TFG is the Transitional Federal Charter, which was enacted in February 2004 in Nairobi. The Charter originally mandated a five-year transitional period, ending in 2009. During this time the TFG was expected to extend reconciliation and oversee the establishment of a new constitution under which elections would be held and a democratic government installed. The first 2-year extension of the transition was agreed in 2009 when President Sheikh Sharif replaced Abdulahi Yusuf. However the

transitional tasks laid down in the Charter had still not been fulfilled at the end of the seven-year transition and the political and military situation offered little prospect of securing solutions before the mandate expired.

A compromise deal was brokered by the Ugandan government, extending the terms of the TFG President, Speaker and Parliament until August 2012, during which time the constitution should be finalised and elections held. Following this deal, a roadmap was signed on 6 September 2011 by the TFG, Puntland, Galmudug and ASWJ where all agreed to work towards establishing a new government and permanent constitution by August 2012.

Somalia's future form of government is specified in the Charter, which states: *'the Transitional Federal Government of the Somali Republic shall have a decentralised system of administration based on federalism.*' (Article 11.1). An independent federal commission was to be appointed within ninety days of the TFG assuming office, tasked with developing a system of federalism. According to the original timetable, '*the Transitional Federal Government shall ensure that the process of federating Somalia shall take place within a period of two and a half years from the date that the Commission is established*' (Article 11.8). Under Benchmark 2 of the roadmap, stakeholder meetings on federalism are to be held to inform the new constitution.

In practice, the TFG has done little to shape or give coherence to a future federal system and nothing to encourage the development of federal entities. Local efforts to build state or regional governments have happened largely without assistance or encouragement from Mogadishu or Somalia's international partners. Puntland, the most successful entity subscribing to a united Somalia vision, was established in 1998 before the Charter was drawn up. Somaliland was already in existence, but operating outside the framework of a united Somalia. The other entities have emerged more recently and in a variety of different contexts. Galmudug was established with the support of Puntland. Ethiopia has supported the emergence of the ASWJ (as a bulwark against al Shabaab) and Kenya supports Azania.

The TFG's efforts have focussed on attempts to create a power centre. It has also been absorbed by internal disputes over this centre and control of the external resources it has attracted. Despite a stated aim to federalise the country, efforts both internally and externally have focused only on central institutions.

Risks Associated with Sub-National Entities

Much of the hostility expressed by Somalis towards sub-national entities stems from suspicion that they are primarily vehicles for promoting clan interests rather than the community-level governance projects that they purport to be. Many Somalis fear that the growth of new and competing entities will cause Somali national identity to disintegrate into clanism. They blame clanism for much of the fighting over the last two decades and also see it as the main impediment to building any kind of sustainable national government. As such, it appears an unsuitable template for rebuilding the country. Critics argue that a country established on clan entities cannot be stable, because clan areas overlay each other, competition will be provoked and clan politics will obstruct national development and lead to incoherent and dangerous policies.

Somaliland and Puntland are, to some extent, clan-based entities and have within them dominant clan groups. However both have achieved relatively complex political arrangements which incorporate different clans and sub-clans, and both make concessions through inclusive policies. By doing so, Puntland and Somaliland have developed unifying visions which go beyond narrow clan interests. Some of the newer entities are far less diverse. Galmudug and Ximan and Xeeb represent only one sub-clan each, and some of the aspiring states appear to be clan interest groups rather than genuine regional collaborations. Al Shabaab insists, at least rhetorically, on a rejection of clanism and this message still resonates with Somali nationalists.

The example of the Sool, Sannag and Cayn (SSC) pressure group was raised as an illustration of how the recent wave of smaller sub-national entities can lead to further fragmentation – in this case of the separate entity of Somaliland. The SSC rejects Somaliland's independence and seeks to establish a mini-state in the eastern part of the territory, in an area disputed between Somaliland and Puntland. The SSC group now seeks its own entity within a united Somalia to represent its own sub-clan interests. This is a trend that could result in every disgruntled interest or clan group seeking its own separate entity rather than acting within established channels to address grievances.

A problem with emerging entities is that so many of them are seen as creations of foreign powers or are sustained by outside help. Azania/ Jubbaland and ASWJ rely respectively on Kenyan and Ethiopian support. This raises questions over the authenticity of their claims to represent community interests and casts serious doubts over their legitimacy. (A similar

problem of legitimacy besets the TFG, which is accused of acting on behalf of foreign rather than Somali national interest.)

The clumsy record of past external involvement in Somali political processes produces a corresponding risk that, in the hope of securing international assistance, new entities will construct themselves in the mould of what they think the international community wants to see rather than in response to local needs. Such a "copycat" approach would trivialize and potentially undermine the achievements of the established local entities. They would lack the necessary factors - primarily to do with local ownership and control – that have made these entities successful.

In the longer term, the entrenchment of outside interference in Somali politics seems unlikely to work for stability. Over the last twenty years such interventions have more often than not proven to obstruct local solutions to problems. There is a strong current of suspicion that the interests of powerful neighbours are best served by a divided Somalia and that the fragmentation inherent in the new entities supports that agenda. Thus new sub-national entities which are conceived of and funded by outsiders are likely to face exactly the same problems of legitimacy as the TFG.

Legitimacy remains the fundamental challenge for the national government and for sub-national entities. Those that have localised legitimacy have a chance of success, but real questions remain over the validity of clan interests as a basis for administration. The very real concern of greater fragmentation of the Somali polity, leading to a permanently unstable situation, deserves careful consideration. National institutions and structures will be needed to ensure that local developments do not become cause for future problems.

Strengths of a Decentralised Approach

These concerns are partially addressed with the examples of Somaliland and Puntland. Local communities have built, over many years, relatively stable and functioning administrations. These administrations and the appetite for duplicating their models, demonstrate a real level of buy-in from Somali people for 'bottom up' governance structures. Such structures require widespread community engagement through elders, business leaders, religious figures and others and a corresponding deeper interaction with the broader community. This kind of consultation and conversation has not happened nationally and may not even be possible.

The missing ingredient for the TFG has been popular legitimacy. Many put this failure down to the nature of the TFG's evolution, designed outside Somalia and with considerable input from outsiders. With military support from the AU and financial support from a range of international actors, the TFG has not needed to prove itself through the delivery of services or results for the Somali community. Unlike the governments in Puntland and Somaliland, which must rely largely on revenues raised locally, the TFG receives a steady stream of money regardless of its performance.

Governments in Somaliland and Puntland emerged through local processes and must continue to validate their legitimacy. This may be through democratic elections as in Somaliland, or through elite level negotiations as in Puntland, but a similar process of legitimisation does not exist in Mogadishu. Much international attention has been fixed on the re-establishment of a strong central government to little concrete effect; meanwhile in the north of Somalia these largely indigenously developed administrations have been making progress. That progress has been incremental and not always smooth, but it has responded to local pressures, adapted over time and shown that local democracy is a viable foundation for state building.

Protagonists of the regional approach to restoring governance observed that in the former Somali state (which lasted until 1991) all the resources and development were concentrated in the capital and no government services were provided in the regions. This was a source of weakness, since when Mogadishu fell, the state itself collapsed. The new approach has shown over time the real possibilities for political and economic development in the regions based on consensual politics. This model had potential to correct the mistakes of the past and offered, in the long run, ways to strengthen rather than weaken a future Somali state.

The emergence of newer entities that represent limited clan or sub-clan interests was discussed. Their advocates argued that, although small, they still represent a genuine aspiration by the communities in these areas to administer their own affairs. The top down model of government has failed and they had opted for self-management until such time as national government was formed. People realised they could not wait for the TFG and would have to help themselves in creating security and developing basic services. The model of Somaliland and Puntland had provided inspiration. The entities should not be dismissed as foreign agents – much of their support comes from their diaspora communities abroad and they see themselves as contributing to the reconstitution of the future Somali state rather than its destruction.

There was discussion of whether or how these developments could be accommodated within a Charter framework that distinguished between state and regional or district administrations. It was suggested that some of the smaller entities could join to form larger state governments, thus acting as a path to reconstitution of the national state. However, without an accommodating and adaptive national framework, there are real dangers of fragmentation posed by these small entities.

There was also discussion of whether regions currently under the control of al Shabaab might be able to reconstitute themselves as regional administrations within a broader national project. Although al Shabaab rejects clanism in principle certain Shabaab commanders clearly have a clan base in parts of south-central Somalia, and their position relies on that local legitimacy as much as their position within al Shabaab. It may be possible for such regions eventually to find a place as accepted regional entities, provided that there was scope for different areas to follow different approaches to their constitutional development.

This is not an easy prospect, since it requires an acceptance that elements of al Shabaab could be accommodated within a loose federal system. As the prospects for a TFG military victory outside Mogadishu remain slim, and the emergence of strong and legitimate local administration in opposition to al Shabaab seems far off, opportunities to bring some al Shabaab leaders and their communities on side might offer an avenue to achieving peace in south-central Somalia.

The decades of war and devastation in Somalia and the failure to restore central government strengthen the case for a flexible and differential approach to finding stability. Though some sub-national entities may indeed be problematic, others are a result of real local processes to address concerns. Somaliland and Puntland have different systems of government but they will be increasingly convergent if the Puntland democratisation process is successful. The challenge is to replicate that success in other parts of the country. The experience of Somaliland and Puntland is that locally led processes have a far better chance of success than those that are created by central government or outsiders; this may mean waiting or indeed seeking to encourage the adaptation of existing power groups in the south into regional administrations.

However, to make this route work would require a substantial attitude shift from both the TFG and the international partners of Somalia. The obligation of the central government to support the creation of federal entities or to work

with those that exist has not been met. Indeed, at times the TFG has acted in a quite negative way towards the already existing entities. The coming together in September of the TFG, Puntland, ASWJ and Galmudug on a common platform to support the transitional roadmap is potentially a very significant shift and deserves strong support and encouragements. However, the process of outreach has thus far excluded a number of the newer emerging entities. It will be important to ensure that options for inclusion are preserved, especially if the political process to end the transition gains serious momentum.

Space for Somaliland?

Somaliland rejects engagement with the wider Somalia peace process; it sees Somalia as a foreign affairs issue. However from an external perspective there appear to be advantages to involving this established and democratically legitimised entity in the search for durable solutions in Somalia.

The dilemma is to find an approach that can bring the experience of Somaliland and its potential for positive influence on the wider Somalia issue into the peace process without compromising its achievements. It is inconceivable that Somaliland would accept such engagement without some tangible concessions in respect of its search for a recognised status.

Somaliland lacks a clear path to international recognition, and, whatever the rights and wrongs, the international community will not recognise Somaliland until the AU or Somalia does so. A constitutional process which; guaranteed no erosion of Somaliland's current status; and gave Somaliland the right to choose to remain in Somalia or secede after a period of trying to live in the federation might be the kind of compromise that helps all sides.

The prospects for such an approach remain slim, given the highly allergic reaction of Somalilanders to any perceived threat to their independence. However this kind of thinking might offer a solution to the 'Somaliland Question'.

Concluding Recommendations

How can (or should) the international community encourage or engage with sub-national entities?

The meeting highlighted a central and unresolved dilemma for the reconstitution of Somalia: what is the proper role of central government? Members of the TFG and some of its partners seem to view the federal government as the sole source of authority and the centre of administration for the entire country. Yet both the Charter signed in 2004 and the reality on the ground point to a very different role for central government, that would mainly involve coordinating activities between federal entities. Somalia would not be unique if it were to develop a decentralised system where power is not so much devolved from the centre to the federal units, but instead involves the ceding of power from federal entities to the centre.

Abandoning the aspiration for a unified and peaceful Somalia is not necessary, but expecting that unity and peace will emanate from a central authority dependent on external support is misguided. Sub-national entities committed to a federal Somalia and based on local legitimacy do offer an important prospect for positive developments. Indeed this process could be an important ingredient in Somalia's re-emergence as a peaceful and significant member of the international community.

Somalis and their international partners need to recognise both the opportunities and the threats presented by sub-national entities and come to a considered view of how to engage with them. Not every entity that calls itself a regional or state government is equivalent to Puntland or Somaliland and engagement should be based on a proven record of achievement. The desire to support improvements in local security or for quick gains against al Shabaab needs to be balanced against the potential for creating future antagonistic relationships that could impede Somalia's long-term recovery.

A key message from the Chatham House meeting was that governments in Somalia, be they national or local, need to be accountable first and foremost to the people they claim to represent. If emerging entities have managed to build coalitions for peace and have begun to provide security for their people then carefully considered international support can be helpful. However, premature support to unproven entities outside a national framework could be counterproductive. There may be a role for civil society organisations to play in helping to ascertain the viability of the new entities.

The establishment of sub-national entities is not necessarily contrary to the prospects of establishing national government, but fitting the two processes together requires a nuanced reading of the transitional Charter. Emerging entities that can operate within a broad constitutional framework may well help towards building a viable federal government where authority is

confirmed from established federal states and authorities. This means that a dual-track strategy needs to genuinely encourage and support both national and sub-national efforts to govern, and to recognise that both legitimised local governments and an accepted and functional national government are part of the solution.

As the constitutional review process and the implementation of the roadmap gets underway, it should not be forgotten that the Charter itself was the product of two years of intensive debate and discussion in which the roles and responsibilities of different levels of government were fully explored. Adjustments and refinements may well be necessary, but a long process of negotiation and debate will not necessarily be helpful. Likewise, a constitutional settlement that is inflexible and exclusionary could be damaging. The fluid political and security situation demands a framework that is broad, flexible and accommodating and does not exclude the possibility of new entities or ideas for resolving Somalia's instability.

An externally driven approach that takes the creation of functioning central state structures as its starting point has not succeeded. The key reason for this is that authority and legitimacy must be earned. One powerful line of argument from the meeting was that Somalia - like other countries in the world, such as the USA and Switzerland - may be a place where the national government's power is conferred from the federal territories to the centre, rather than the other way around.

The TFG relies on outside support for both its legitimacy and survival. The temptation for international partners of Somalia has sometimes been to place great faith in particular individuals as the best prospect for resolving Somalia's problems. This focus on personality ignores the systemic nature of Somalia's crisis. The likelihood is that in August 2012 Somalia will still face huge problems, and the TFG is unlikely to have established much more territorial control outside Mogadishu. International partners of Somalia need to be prepared for a long and variable journey to stability.