



NEW APPROACHES

To Foreign Aid in Conflict-Affected Countries
and Fragile Situations

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INTRODUCTION

By: Finn Steputat

This report in fact consists of three reports. They all deal with recent trends in the ways in which international development aid is used to facilitate development and to prevent or transform violent conflict in areas of limited or contested statehood, such as South Sudan, Somalia, Afghanistan, and the Democratic Republic of Congo. The prevailing conditions in these areas challenge conventional templates for development cooperation, and new approaches have been developed under headings such as 'difficult partnerships', 'low income countries under stress' and 'failed' or 'fragile states'. Despite the challenges and risks involved, the aid volumes falling into these rubrics have increased in the 2010s, which makes it important to take stock of and discuss how recently developed templates and new ideas are working.

The three brief reports are all based on a limited number of cases chosen for reflection. The first one considers the experience of negotiating and implementing the Somaliland Special Agreement, which forms part of the Somali New Deal compact of 2013. As such it is one of the first experiences with the framework for development cooperation that was negotiated between the international community and the group of G7+ formed of 'countries that are or have been affected by conflict and are now in transition to the next stage of development', to quote their website (<http://www.g7plus.org/>). The author of the report was employed as a technical advisor to the Government of Somaliland in 2012-14, which forms the perspective. The second report looks at three cases in which development aid has been used to prevent or transform violent conflict at local levels. Even though it has never been absent from the development agenda since the 1990s, this way of working seems

to have increased in interest in recent years. Since several of the cases involve informal practices for dispute settlement, there is a certain overlap with the third report, which deals with what some scholars have called 'hybrid governance'. In areas where the central state is absent or has to compete or cooperate with other forms of authority, donors and international agencies have shown some interest in experiences with alternatives to the traditional state-centred forms of development aid. These alternative approaches have emerged with the recognition that, in the short term, at least, other authorities than the state are or could be responsible for daily governance, in particular with regard to security and justice. This is not, of course, a straightforward solution.

We hope that these reports can provide some food for thought and provoke fruitful reflexions and new ideas in a challenging field of development cooperation.

The New Deal – Not the Whole Deal: **INSIGHTS FROM THE SOMALILAND SPECIAL ARRANGEMENT**

By: Rima das Pradhan-Blach

THE NEW DEAL AND THE SOMALILAND SPECIAL AGREEMENT: A CASE OF SMOKE AND MIRRORS?

The New Deal was launched in Busan in 2011 by the group of Gg7+ that currently includes twenty 'conflict-affected and fragile' countries. The New Deal was developed to become a more inclusive and trusted framework for guiding donor engagement with transitions from fragility to development. It applies many of the same principles of past aid-effectiveness frameworks, but with a greater emphasis on political dialogue, statebuilding and national ownership and leadership (see Box 1). The New Deal is implemented through a 'compact', signed between a G7+ member country and the international donors. Somalia is among the few countries to have signed a New Deal compact to date. In this case, because of the peculiar situation of Somaliland, the Somali compact includes a 'Special Arrangement for Somaliland', which is the subject of this sub-report.

The report analyses the process of developing Somaliland's Special Arrangement in order to see what we can learn as the New Deal framework is put into practice. This section will provide a short overview of the process, whereas the following sections will analyse in more detail the interplay between the Government of Somaliland and the international community, 'measuring' the process against the principles of 'FOCUS' and 'TRUST' as set out in the New Deal (see Box 1).

BOX 1. THE NEW DEAL PRINCIPLES ENDORSED BY THE G7+ (IDPS 2011)

We, the members of 'the Dialogue', endorse the 'New Deal' and commit to undertake the necessary actions and reforms to implement it.

We agree to use the Peacebuilding and Statebuilding Goals (PSGs) as an important foundation to enable progress towards the MDGs to guide our work in fragile and conflict-affected states. By September 2012, a set of indicators for each goal will have been developed by fragile states and international partners, which will allow us to track progress at the global and the country level.

We commit to FOCUS on new ways of engaging, to support inclusive country-led and country-owned transitions out of fragility based on a country-led fragility assessment developed by the G7+ with the support of international partners, a country-led one vision and one plan, a country compact to implement the plan, using the PSGs to monitor progress, and support inclusive and participatory political dialogue.

We commit to build mutual TRUST by providing aid and managing resources more effectively and aligning these resources for results. We will enhance transparency, risk management to use country systems, strengthen national capacities and timeliness of aid, improving the speed and predictability of funding to achieve better results.

The first introduction to the New Deal process in Somaliland came in early May 2013, just four months before the Brussels Conference on Somalia of 16th September 2013, with the European Union (EU) as the co-chair and host of the Conference. The tight deadline made for a rushed process that people in the development community as well as the Government of Somaliland were not quite prepared for. In this light, the Brussels Conference looked like a political end in itself. An important subtext to Somaliland's New Deal process and position in the Somali compact is the thorny issue of sovereignty and the question of who can be party to a compact. Somaliland gained independence from the British on 26th June 1960, four days before Somalia gained independence. Somaliland voluntarily joined Somalia on 1st July 1960, but rejected a unitary constitution in June 1961. On 1st May 1991, shortly after Somalia's collapse, Somaliland declared the dissolution of the union and in a posterior referendum there was overwhelming (97%) support for independence.

Hence, the Government of Somaliland has rejected the inclusion of Somaliland in a Somalia Federal State solution and has insisted on a separate status (and section)

within the Somali Compact. Within the EU and other development partners there has not been any agreement or clear political line on the issue, and the New Deal process has been marked by a reluctance to address the inevitable political concerns of Somaliland. Instead, these were deferred to the process known as the 'Dialogue' in Turkey between the governments of Somaliland and Somalia.¹ In a sense, the international community were perceived to be shifting the onus on to Somaliland and Somalia, as the political issues were seen to be 'internal', belonging in the 'too hard basket'.

In practical terms, negotiations on the compact for Somaliland only took off in late July, after a couple of months of silence, and less than two months before the conference in Brussels. Within a month five rounds of technical discussions had taken place, mainly through videoconferences led by the Somaliland Government. From the beginning of discussions, it was understood by both sides that Somaliland's much more advanced stage of development from Somalia required special consideration. Furthermore, as the following sections will explain, there was a need to base the arrangement in:

- Somaliland's pre-existing National Development Plan (NDP, 2012-2016), (see Fig. 1),
- the systems and processes piloted through the 'Somaliland Development Fund' (see Box 2), and
- other already established country systems.

Following numerous consultations and validation processes within Somaliland, the draft Somaliland Special Arrangement was circulated for comments amongst the Development Partners Forum in mid- August, which, as seen from the Somaliland side, was the only genuinely 'joint' aspect in the drafting process. Nevertheless, as the political issues of Somaliland's status within the compact remained unresolved, the process leading up to the Brussels meeting in September was marked by the Somaliland Government's sensitivity to perceived pressures to join the platform of a Federal government. Wordings regarding federalism, the specific meanings of 'separate' and 'component', the use of emblems on the cover, and the insertion of a special cover page for the Somaliland Special Agreement turned into highly contested and decisive issues for Somaliland's willingness to participate in the compact. While Somaliland managed to change the title of the overall compact from the Somalia Compact to the Somali Compact, Somaliland did not attend either

the Brussels or Copenhagen Conference, as both conferences were called the Somalia New Deal Conference, and the President of Somaliland was not given equal co-chair status.

**PEACE AND STATE BUILDING GOALS:
RETROFITTING EXISTING PRIORITIES INTO THE NEW DEAL FRAMEWORK**

The New Deal Dialogue has defined five ‘Peacebuilding and Statebuilding Goals’ (PSG’s) that are meant to ‘enable progress towards the MDGs’ (IDP and to guide and measure work in fragile and conflict-affected states. Thus, the following five goals ‘will inform the national vision, plan and a country-level compact to implement the plan’:

- **PSG 1: Legitimate Politics** - foster inclusive political settlements and conflict resolution
- **PSG 2: Security** - establish and strengthen people’s security
- **PSG 3: Justice** - address injustices and increase people's access to justice
- **PSG 4: Economic Foundations** - generate employment and improve livelihoods
- **PSG 5: Revenues and Services** - manage revenue and build capacity for accountable and fair service delivery

However, while the New Deal framework assumes that these goals drive the formulation of a national development plan, Somaliland already had its National Development Plan (2012-2016) (NDP) in place before the start of the New Deal process. Therefore, given the short timespan available for the process in 2013, it became necessary to retrofit the strategic objectives set out in the NDP into the goals of the New Deal framework. This was not an easy task. The NDP is a comprehensive outline of the priority areas for Somaliland’s development, with specific interventions organised in five pillars with 49 sectors and goals, 206 strategic objectives etc. (see Fig. 1). The overall objective of the Somaliland NDP 2012-2016 is to address and overcome structural and institutional development constraints and achieve social and economic transformation to attain national prosperity.

Figure 1. Overview of the Somaliland National Development Plan (2012 - 2016)

		NATIONAL VISION						
		Economic	Infrastructure	Governance	Social	Environmental		
5	Pillars							
8	Aid Sector Coordination Fora	2	2	1	2	1		
49	Sectors	9	13	16	9	2	Goals	49
		48	18	67	37	6	Strategic Objectives	208
377	Programmes	73	106	82	99	17		
		186	203	229	203	18	Outcomes/ "Outputs"	809
Purpose								
Outcomes/Results								
Activities								
Inputs								

BOX 2. THE SOMALILAND DEVELOPMENT FUND

The Government of Somaliland, the United Kingdom Department for International Development (DFID) and the Danish International Development Cooperation Agency (DANIDA) established the Somaliland Development Fund (Somaliland Development Fund) in 2012, with its governance and implementation arrangements based on New Deal principles. The objectives of the Somaliland Development Fund are to:

- Focus on developmental priorities and sector strategies as expressed in the NDP.
- Through implementing best practice in fund management and the transfer of skills to the Government of Somaliland build core Government of Somaliland functions.
- Support initiatives that improve the service delivery capacity of the GoSL.
- Contribute to the overall fiscal framework under which the GoSL operates through alignment with national budgetary systems.
- Enhance the capacity of the Government to become an accountable and transparent service provider.

The Somaliland Development Fund also aims to promote aid effectiveness through improved coordination with other donor programs in Somaliland.

The process of retrofitting the NDP into the New Deal framework proved difficult on several counts. First, while Somaliland's priorities are primarily focused on PSG 4 (generating economic growth, employment and livelihoods) and PSG 5 (generating revenues and services), there was continued pressure from the international community to further prioritise the priorities and milestones identified by Somaliland so that it is better aligned with the Somali Compact. The government was advised that compacts are meant to be 'light', with not more than three priorities and three to five milestones per PSG – the Special Arrangement has five priorities and 21 milestones. Somaliland actors questioned whether the global definition of PSG 4 was too broad, as it encapsulates a broad range of core sectors from the National Development Plan, including infrastructure, energy, the productive sectors (agriculture, livestock, and fisheries), employment, and the environment (World Bank 2014). Similarly, PSG 5 covers revenue and service delivery, including health and nutrition, education, water and sanitation; in the case of Somaliland it incorporates key reforms such as a public financial management reform, civil service reform and decentralisation for service delivery. The concern was that large-scale reform programs were already under way, and the call to delimit five milestones under PSGs 4 and 5 seemed illogical. The problem of fitting large parts of the NDP mainly into two PSGs illustrates the larger question of whether Somaliland's development context is in fact beyond the New Deal PSG framework.

Secondly, the Government of Somaliland initially excluded PSG 2 (regarding 'people's security') from the Somaliland Special Agreement, arguing that Somaliland, unlike Somalia, was not in a state of conflict. But compacts are supposed to be 'living documents', and at the 6th High Level Aid Coordination Forum in Hargeisa in June 2014, the Government of Somaliland included security as a priority area, with a particular focus on strengthening the coastguard to protect against illegal fishing, security sector reform, and strengthening the border police to stem the increasing incidents of human trafficking, Somaliland being both a source and a transit point.

FOCUS

FOCUS' is the second element of a New Deal Compact, defined as 'Engagement to support a country-owned and -led pathway out of fragility' (IDPS 2011: 2). It includes a fragility assessment, 'one vision-one plan', the 'compact' as a mechanism, use of the PSGs to monitor progress, and support to political dialogue and leadership. The section below sets out the Somaliland experience.

F Fragility assessment

According to the New Deal, partners are 'to conduct a periodic country-led assessment on the causes and features of fragility and sources of resilience as a basis for one vision, one plan (IDPS 2011: 2). Given the time pressure and the fact that development actors have been active in undertaking assessments and implementing development projects in Somaliland for many years, the Government decided that there was no need to do a fragility assessment. Instead, it pulled together core documents and developed 'State of Play' reports for each of the PSGs (except for the very comprehensive PSGs 4 and 5).

The 'State of Play' reports replaced the 'fragility' assessments since both the Government and civil society were uncomfortable with using of the term 'fragile' to describe Somaliland. With reference to the 'fragility continuum' (Crisis – Rebuild and Reform – Transition – Transformation – Resilience), and stressing the difference from Somalia, Somaliland sees itself as moving from 'transition' to 'transformation' for PSGs 1 and 2, and from 'rebuild and reform' to 'transition' for PSGs 3, 4 and 5.

These assessments formed the basis of the prioritisation, consultation and validation processes undertaken in August 2013. However, donors – who, apart from Denmark and the EU, are all based in Nairobi – expressed concern that the process had been top down, had not gone beyond Hargeisa, and that it had included too little consultation with civil society and donors. The Government argued that the draft Special Arrangement had been put together within a matter of weeks and that it was based on previous consultations and similar processes, such as the prioritization process leading up to the drafting of the National Development Plan in 2011 and the identification of the 2013 financing priorities for the Somaliland Development Fund, a fund based on New Deal principles established by DFID and Danida in 2012 (see Box 2). In addition, the Government made use of a number of previous assessments, studies and evaluations undertaken by international NGOs, donors, UN organisations, and the Government itself formulated priorities in all sectors.

The draft Special Arrangement priorities were validated by civil society and the Parliament in an admittedly Hargeisa-centred process.

O One vision, one plan

According to the New Deal, the parties to the Compact will develop one national vision and one plan to transition out of fragility. This plan is to be flexible and to

address short-, medium- and long-term peacebuilding and statebuilding priorities, which are to be monitored, reviewed, and adjusted in consultation with key stakeholders on an annual basis.

In retrospect, the Somaliland Special Arrangement, though based on a set of priorities derived from the NDP, has had more success in getting buy-in from the international community than did the NDP. In the past, donors would have separate country strategy papers to guide their involvement in Somalia, and some, but not all, had a separate chapter on Somaliland. Somaliland was frustrated with this approach, not only because of the political implications, but also because cookie-cutter approaches were being used across different contexts in Somalia and Somaliland. The NDP was meant to serve as the one plan, but programs and projects were still seen to be supply-driven, and not aligned with the NDP, a finding which was also supported by the OECD Evaluation on the implementation of Fragile State Principles in Somalia.²

Thus, having a common vision of Somaliland's priorities between the Somaliland stakeholders and the international community has provided an opportunity for Somaliland to implement the NDP, moving away from a supply-driven approach to a needs-based approach. However, country strategy papers still do not adequately address the different development context in Somaliland. While donors such as Denmark have explicitly stated that they will take a two-legged approach to the country strategy paper for 'Somalia' (without, however, specifying how this approach is to be implemented), others continue to take a Somalia-wide approach. With continued insistence from civil society and the Government of Somaliland, some multilaterals and bilateral agencies have had to take a step back and specifically refer to the Somaliland Special Arrangement and the implementation arrangements contained within it, namely that financing should come directly to Somaliland, and not through Mogadishu.

C Compact

A 'compact is a key mechanism to implement one vision, one plan' (IDPS 2011: 2). It is a tool to 'ensure harmonisation and donor co-ordination, reduce duplication, fragmentation and programme proliferation' (IDPS 2011: 2). A compact is a framework meant to promote a more effective and equitable development partnership between donors and beneficiaries, with the government in the driving seat. Countries are given the space to design their own compact based around a set of peacebuilding and statebuilding goals (PSGs), and then develop mechanisms between country and donor partners to coordinate and monitor aid to ensure that it effectively addresses national priorities.

As mentioned in Section 2, the status of Somaliland with regard to the New Deal compact process was unclear and contested until the last moment. Somaliland came out of the process with a Special Agreement as a compromise between having its own compact and being integrated into the Somalia compact and hence dependent on the disbursement of development funds through the Federal Government of Somalia. The Somaliland Special Arrangement is situated in parallel, not in subordination, to the Somalia component; the Somaliland Development Fund is the preferred financing mechanism for the Special Arrangement; and Somaliland will not be included in the statebuilding processes of the Federal Government of Somalia.

But the process revealed that it is not so evident who can be party to a New Deal compact.

U Use the PSGs to monitor

According to New Deal principles, PSG targets and indicators are to be used to monitor progress, but more than a year into the process, a monitoring and evaluation process is still being developed for the Somali Compact and the Somaliland Special Arrangement, and the lack of reliable statistics is still a problem. The World Bank is key to the development of the process and has joined with the Government to complete a household survey, an enterprise survey and a public expenditure review. UNFPA have just completed a population estimate survey that includes Somaliland. At the end of 2014, the World Bank will be providing support to work with all parties to identify progress, which will be measured through global PSG indicators complemented by context-specific indicators aligned with the Special Arrangement priorities.

S Support political dialogue

The New Deal aims to support a credible and inclusive process of political dialogue through global, regional and national initiatives to build the capacity of government as well as civil-society leaders and institutions to lead peacebuilding and statebuilding efforts, with a particular focus on youth and women's participation and leadership initiatives.

Somaliland has often been characterized as an example of bottom-up statebuilding through open political dialogue and involving guidance by Somaliland's traditional authorities. Nevertheless, the New Deal consultation process was hamstrung by several obstacles, including the very limited timeframe and the lack of presence of international representatives. Most importantly, the unresolved and highly sensitive

political issues of the New Deal negotiation process had the effect of putting the open dialogue under pressure. The Government was forced to maintain a balance between informing the public about the details of the process and keeping its distance from a process it was unsure it could ultimately commit to. Therefore the Government launched a media campaign that sought to both inform the population and reassure it that involvement in the New Deal would allow for greater Somaliland ownership over its own development, without compromising the expressed will to be independent.

Ultimately the Government has been successful in garnering domestic support for the New Deal process and in averting potential controversy, suspicion and grievance arising from politically charged statements and actions by other actors in the process. Thus, for example, the Government has regularly summoned meetings, put out media statements and written letters to remind various international actors about the principles agreed to in the Somaliland Special Arrangement. Examples include:

- The African Development Banks procurement people put out a call for Expressions of Interest for Statistics Capacity Development in Somaliland. However, the language in the EOI notice implied that a grant had been given to the Federal Government of Somalia, which would then give a grant to Somaliland. The notice produced a public outcry, and the Minister of National Planning and Development had to publicly state that Somaliland could not accept the funds under those terms.
- Technical advisors to the FAO, who insisted they were just technical, put out a communiqué following a technical meeting on the Exclusive Economic Zone (EEZ) signed by representatives of the Federal Government of Somalia, Puntland, Somaliland and Galmudug, which implied that the only authority that had the right to issue fishing licenses was Mogadishu. The ministers involved had to summon a meeting to tell the technical advisor explicitly that his technical actions had political implications.

In October 2014, to avoid such incidents and after being reprimanded by the Government for including Somaliland in communications about federalism and similar issues, the United Nations issued guidelines for communications about Somaliland which have been circulated to all UN agencies and other development partners. Meanwhile, the political dialogue between the governments of Somalia

and Somaliland that was to take place in Turkey has stalled, leaving issues such as debt arrears, development financing, participation in the New Deal, airspace control, and other high-level dialogues unresolved.

TRUST PRINCIPLES

The New Deal sets out the TRUST principles, which include transparency, risk management and risk sharing, use of country systems, the strengthening of capacity, and timely and predictable aid.

T Transparency

'Show us the money' could be the headline of this section. At the New Deal Conference on Somalia in Brussels in September 2013, donors pledged USD 2.4 billion. However, a year on, both Somaliland and Somalia have realized that not all of the money pledged is 'new money', and neither of them have a clear idea of how the money is going to be programmed, and where the money is. Much of this is likely to be allocated to financing AMISOM, the African Union peace support mission in Somalia. At the 6th High Level Aid Coordination Forum in Hargeisa in June 2014, some of the donors indicated which PSGs they will focus on.

The main instrument for ensuring transparent aid flows is the Development Assistance Database (DAD), established by the UNDP in 2010 to record aid flows. But it does not work and has turned into something like a curse for the aid managers who depend on it. During a year-long review by UNDP and the Somaliland Ministry of National Planning and Development in 2013, data was found to be inaccurate. Though imperfect, the Ministry requires all implementing partners to update information on the DAD as part of their annual registration process. A number of donors have delegated the updating of information to their implementing partner, such as the UN or international NGOs. However, several UN agencies have been complaining about some of the Government's efforts to promote the transparency of aid flows, and the Government has noted a certain reluctance to provide this information, as well as annual reports and evaluation reports. Since technically UN agencies do not have to register in the same manner as other implementing partners, arguing privileges and immunities, sanctions cannot be placed on UN agencies for failing to update their information. In contrast, if international NGOs do not have their information updated, they will not receive registration to operate in Somaliland.

In July 2014, the 6th High Level Aid Coordination Forum recommended a review of the DAD, with which there are several fundamental problems:

- The system is not user-friendly either to fill in information or to pull out reports. This is a key deterrent for all users, i.e. those who need to report and those who would like to track aid flows.
- Many programs are still 'Somalia-wide', and implementing agencies claim to be having difficulties in separating out programming flows to Somaliland. If one pulls up information in Somaliland about a program, and the same information is pulled up in Mogadishu, the system produces different information about aid flows to Somaliland, Mogadishu, or elsewhere.

R (Joint) Risk management

The case of the border provinces of Sool and Sanaag illustrates the complications involved in the principle that the Government and its development partners should manage risk jointly. While the Somaliland Government insists that the borders inherited from the British are respected, following the Organisation of African Unity Charter of 1963, neighbouring Puntland claims that borders are disputed along clan lines (OAU 1963). Internationally monitored municipal elections were carried out in 2012, and the Government has devoted part of its limited budget and allocated resources from the Somaliland Development Fund to deliver basic services in the region.

However, there are relatively few development partners engaged in Sool and Sanaag, the region which has the worst human development indicators in Somaliland. The UN has designated the region as 'disputed territories' and has issued an internal order that UN agencies can only work on humanitarian activities, and only through other international and national implementing partners.

U Use and strengthen country systems

The New Deal framework promises improvements in donor practices in terms of using and strengthening country systems of financial management and accountability. As in many other places, past aid models in Somaliland tended to create parallel systems, in some instances even replacing the state. UN agencies and INGOs would conduct needs analyses, raise funds, and implement programs and services, while state institutions stayed on the periphery, with little capacity development. Such experiences form the background for various recent initiatives in the case of Somaliland, such as the public financial management reform (PFM) and the government-led Somaliland Development Fund. The question is, however,

whether, in the framework of the Somaliland Special Arrangement of 2013, donors and implementing agencies will use and strengthen these emerging country systems, or develop and use new systems.

At the end of 2012, the Government concluded that international efforts to support management of the public finances were not working. The main actors involved at the time were the UNDP and the World Bank. With technical support from the UK, the Government reviewed past efforts, built a coalition of support amongst the different stakeholders and launched a PFM Reform Strategy in 2013, with a program of quick wins. Through a number of joint sessions with development partners a division of labour emerged, with the main partners being the World Bank, DFID, the EU, the African Development Bank and USAID. DFID has been a frontrunner, though the World Bank is anticipating that it will take over and scale up some of the projects being currently supported by DFID.

Another recent invention is the Somaliland Development Fund. The Government of Somaliland regards the fund as putting into practice all the elements of the New Deal principles, and in the Somaliland Special Arrangement the Government identified the Fund as the preferred financing mechanism. The decisions on funding allocations are made by the National Planning Commission, and ministries, departments and agencies are involved in every aspect of project design and delivery. The Somaliland Development Fund is about building the capacity of the state's core functions, as well as building state-citizen relations. The first phase of the Fund has produced many practical lessons that can be used in the Somaliland context for other multi-partner funds currently being established. There are also other ways in which the Fund uses country systems:

- Built into the design of the Somaliland Development Fund is an incentive fund. The Government and donors will mutually agree on benchmarks based on the Public Financial Management Reform Strategy; if the benchmarks are met, the Government will manage more of the funds directly.
- The procurement system for Somaliland Development Fund projects is based on the Procurement Bill, which has been drafted by the World Bank and reviewed by the PFM Steering Committee in anticipation of the procurement system in the near future.
- The (private) fund manager of the Somaliland Development Fund reports to the Ministry of Finance and Ministry of National Planning and Development, while the Ministry of Finance reports funding on budget to the Parliament.

Whereas several new donors have joined the Somaliland Development Fund, the EU, historically the largest donor in Somaliland, is negotiating ways to be compliant with the Somaliland Special Arrangement by joining the Fund as well. However, EU rules prevent it from contributing to a multi-partner trust fund that is managed by a private fund manager, as opposed to the World Bank or the UN.

Other international agencies and organizations, such as the World Bank, the UN and the AfDB, are in the process of establishing multi-partner trust funds under the umbrella of the Somalia Reconstruction and Development Fund, which includes the Federal Government of Somalia in the governance arrangements. Somaliland has strong concerns about how the funds from this framework will flow to Somaliland, particularly as the Somaliland Special Arrangement explicitly states that Mogadishu will have no role in determining financing arrangements in Somaliland. Whereas the World Bank will have an umbrella agreement with the Federal Government of Somalia that funds will be allocated directly to Somaliland, the United Nations has yet to clarify how decisions on financing flows to Somaliland will be made. Some donors are concerned that the fund's management structure, i.e. its being managed out of New York, will add to the overhead costs – something that the various UN agencies have been criticised for by Government, civil society and donors in the case of current programming, where most of the staff are based in Nairobi.

The African Development Bank (AfDB) has been the least visible in terms of discussions with Somaliland as to how it will operate the Multi Partner Trust Fund vis-à-vis Somalia and Somaliland. The AfDB is also trying to use other regional bodies, such as the Intergovernmental Authority for Development (IGAD), to channel funds into various sectors such as the productive sectors.

The Government has an aid architecture in place, but it needs strengthening, for example, with regard to sector coordination. Experience suggests that sector coordination works best where there is a lead donor in place who staffs and resources sector development. Repeated calls for support to strengthen coordination have fallen on deaf ears. There is some pressure from the international community to reorganise the eight Sector Coordination Working Groups, set out in the National development Plan into five PSG working groups. Other than the EU and DFID in education and health respectively, no other donors have come forward to co-chair the sector coordination forums. Thus, the UN, in continuation of its key role prior to 2012, co-chairs the remaining sector working groups. But unlike the EU and DFID, which fund the participation of Somaliland stakeholders from all the regions in Somaliland, the UN does not bring resources to the table for strengthening sector coordination in the same way.

Furthermore, due to the global institutional systems and procedures of the UN, there are many obstacles for many UN agencies to use country systems as stipulated in the New Deal arrangement, as most UN agencies operate under Direct Execution and Direct Implementation modalities in Somaliland (UNDP 2008). Thus, for example, they have to follow their own procurement systems, as opposed to using country procurement systems in Somaliland, and the Government has noted some tensions with regard to the UN's use and strengthening of transparent country systems.

In general, the Somaliland experience with the New Deal process and the comparison with other experiences in the region pose the question of when country systems are sufficiently stable and have appropriate checks and balances in place for donors to channel funds through these systems.

S Strengthen capacities

As in many other countries, capacity development in Somaliland has traditionally taken the form of short-term training programs. Evaluations have shown many of these programs to have little impact, which coincides with the general perception among the civil servants involved. Recently, the Somaliland Government has revitalised civil service reform, essentially changing the focus from supply-driven capacity development to a more structured, demand-driven approach, along with other elements of civil service reform. The objective of the reform is now focused on 'learning by doing', as well as twinning with peers in the African region for practical South-South exchanges. Furthermore, the Somaliland Development Fund will be supporting a capacity surge in the ministries and agencies that work with the Fund.

T Timely and predictable aid

As indicated in the section on transparency, the aid pledged within the framework of the Special Arrangement has not been forthcoming in a very predictable manner. So far, the Somaliland Development Fund is the only fund that has yearly budget forecasts based on the availability of funds, therefore providing a high degree of predictability. As key multi-partner trust funds are being operationalized, the Government of Somaliland hopes that predictability will be expanded to the vast majority of aid entering Somaliland. However, it remains a question to what degree donors and implementing partners will be able to separate out aid flows to Somaliland and Somalia, as has been the case to date.

LESSONS LEARNED

- The case of Somaliland raises the issue of who can enter a New Deal compact with the international community. Given the uneven situations that exist within and across many conflict-ridden countries, different areas can represent very different problems and opportunities for peace and state-building, as well as strong political constituencies for secession. This represents a difficult balance between ownership of the peace process and recognition as a New Deal partner.
- This situation underlines the highly political nature of New Deal compacts with the potential to 'do harm' to ongoing peace-processes. Peacebuilding does not always go along with statebuilding.
- A New Deal compact will rarely be developed in a vacuum or on a blank slate where the process starts from scratch. Thus, rather than a mechanical 'box-ticking' approach, previous, overlapping and parallel processes and relations between local, national and international actors have to be taken into account when planning and negotiating a new compact.
- The recognition of the Federal Government of Somalia provides Somaliland with new challenges related to the potential politicisation of aid. While in the end Somaliland's development partners supported a document that did not prejudice relations between Somaliland and Somalia, it took vigorous diplomatic efforts to pursue an outcome that was not certain at the outset.
- The lack of in-country engagement by the international community and the frequent meetings in either Nairobi or Mogadishu on the Somali Compact has been a source of some frustration in Somaliland during the process.
- The principle of 'do no harm' has not been sufficiently incorporated into the international community's efforts to engage with Somaliland and Somalia. The potential impacts of statebuilding on Somaliland's internal peace and relations with neighbouring Somalia were not properly considered in many international attempts to establish a New Deal partnership with Somaliland.
- Somaliland's level of peacebuilding and statebuilding has been recognised by the international community, as has been demonstrated by an unprecedented number of ministerial-level delegations from 2014, as well as the legitimacy of the Somaliland Government in leading Somaliland's development.
- Public diplomacy initiatives, such as civil-society involvement and proactive use of the media as an awareness-raising and advocacy, tool are crucial in getting broad popular support for diplomatic initiatives that could otherwise arouse knee-jerk public suspicion and political divisiveness.

Implications for future engagement with the international community

- The Somaliland Special Arrangement provides a blueprint for donors' and international organisations' engagement with Somaliland and Somalia that can be followed in other fields. It allows for separate development support for Somaliland and Somalia so that both entities can succeed alongside each other, without exerting political pressure. This contrasts with the approach of the UN Mission in Somalia (UNSOM), in which federal statebuilding is embedded into its development-oriented engagement with Somalia, to the extent that the Government of Somaliland banned UNSOM from operating in Somaliland (Sabahi 2013; Somalilandsun 2013). This ban has been recently lifted to permit limited activities such as human rights training. This cushioning of Somaliland from the political imperatives of federal statebuilding can be used as a precedent for seeking other exclusions of Somaliland from the politics of Somalia.
- Somalia's New Deal partnership priorities contain specific milestones that will potentially have implications for Somaliland, so long as its independence remains unrecognised. This includes the ratifications of Somalia's constitution, Somalia's 2016 elections and the delineation of federal state boundaries.
- Finally, the Somaliland Special Arrangement can now be used by the Somaliland Government and civil society to show donors that engaging directly with the Somaliland Government over Somaliland's development is not controversial, but instead is officially endorsed by most major donors, and is not seen as undermining efforts by Somalia to build its own state (the Federal Government of Somalia endorsed the Somaliland Special Arrangement as well).

1 The 13 April 2013 Ankara agreement between Somalia and Somaliland included a provision on the facilitation of aid and development assistance to Somaliland, which the international community hoped could provide an opening for engagement on the New Deal development partnership framework. Although providing justification for simultaneous engagement on the New Deal, in the eyes of the Somaliland Government the Ankara agreement did little to protect its ownership of its development. Attempts to come to an agreement on special aid provisions for Somaliland at the next round of talks, in Istanbul in July 2013, therefore failed to produce a political solution regarding the New Deal.

2 As stated in the OECD Evaluation Report on the implementation of Fragile States Principles in Somaliland: Somaliland has a very different context and different priorities to other areas in Somalia. Neither a Somalia cookie cutter approach, nor a supply driven approach is appropriate for the Somaliland context and the national actors suggest alignment with the Somaliland National Development Plan. (OECD 2011: 71). With the exception of the Somaliland Development Fund, which is currently at just over USD 65 million and the only aid that is on budget.

THE ROLE OF DEVELOPMENT AID IN CONFLICT RESOLUTION

By: Kasper Hoffmann

INTRODUCTION

Once again, recent experiences with conflict resolution in national and transnational conflicts have alerted international organizations and donor governments to the idea that there is a premium on ('upstream') conflict prevention and early action to prevent conflicts from escalating and becoming violent.¹ This has revived the experiences and approaches from the 1990s, but influenced by the more recent international experiences in Afghanistan and other countries where the central state has limited presence and legitimacy.

Within the wider field of conflict prevention and conflict resolution, this report examines the practical experiences of local conflict resolution projects supported through development aid in three different fragile situations in northern Uganda, Sudan–South Sudan and Afghanistan. A large number of concepts have been invented to capture the activities of promoting peace and ending violence, such as conflict resolution, conflict management, conflict prevention, conflict settlement and conflict transformation. This report will use the term conflict resolution because it is still the most widely used term among analysts and practitioners and because from the start it has encompassed most of the field from conflict settlement at one end of the spectrum to conflict transformation at the other end (Ramsbotham et al. 2011: 9-10).

Since the early 1990s, the field of international peacebuilding has seen a multiplication of ways to further peace and curtail violent conflict. Informed by liberal peace theory, there has been an increased focus on building accountable and democratic states and, to a much lesser degree, on local peacebuilding, which is the focus of this report. Local peacebuilding is built on the idea that civil society is an essential component of liberal democracies, and peacebuilding theories, researchers and policymakers have increasingly accepted that local actors should be responsible for it. This has led to a rise in conflict resolution peacebuilding initiatives and projects in support of local actors in practice (Paffenholz 2013: 11-12).

Until recently the debate about the role of development aid in local conflict resolution has revolved primarily around the characteristics of three inter-related approaches (Bigdon and Korf 2004: 1):

- The do no harm approach developed by Anderson (1999), which primarily seeks to avoid doing more harm than good, and is concerned with the unintended negative impacts of development aid. It points out that development aid often aggravates conflict instead of contributing to its resolution.
- The peace and conflict impact assessment (PCIA) approach (Hoffman 2004). The PCIA emerged as more and more development agencies found themselves operating in areas of conflict while lacking the methods and tools to assess the potentially positive and negative impacts of aid in situations of conflict. The PCIA stresses the need for a thorough analysis of the context of the conflict, develops a methodology for the assessment and evaluation of peace and conflict impacts, and offers a framework for peacebuilding.
- The local capacities for peace approach (Anderson 1999; Heinrich 1999), which attempts to identify possible entry points for conflict transformation through development aid and recommends that external donors should focus on supporting local capacities for peace. Its crucial point is that peace cannot be imposed from the outside, but must be driven by local actors. A popular approach since the 1990s has been what Duffield (2007) calls co-operative integration, the idea that communities in conflict will cooperate with each other if this is necessary for achieving common development goals. In this regard we should also mention Lederach's (1997) influential 'middle-out' approach, which holds that 'Track II', involving civil-society leaders, contains the most potential for conflict transformation because it is able to influence peacebuilding both at the top among political and military leaders (Track I) and at the grassroots levels

(Track III). His approach has been criticized for failing to incorporate any analysis of power into its framework (Fetherston 2000), for paying limited attention to the role of outsiders and for its uncritical concept of the 'local' (Paffenholz 2010).

The classical approaches in the 'do no harm' mould operated primarily at the programme and project levels, asking aid managers to consider the impact of their interventions, but in a somewhat limited, immediate and direct manner. More comprehensive approaches have sought to build systems for conflict prevention and resolution, including monitoring violence, institutionalizing mediator roles and building infrastructures for peace (see Ganson and Wennmann 2012).

The volatile conditions of fragile situations and armed conflicts place high demands on continuous monitoring and analysis. However, reports repeatedly emphasise that the complexities of local contexts are poorly understood. Assessments have often been an afterthought, poorly conducted, slowly produced and/or subsequently ignored in programming (Gordon 2013; Stepputat and Greenwood 2013). Moreover, a lack of coordination and coherence among donors has resulted in a diverse array of conflict resolution frameworks. In such environments there are risks that external actors will implement conflict resolution initiatives that contradict one another's efforts (Ganson and Wennmann 2012).

In response, both policy-makers and academics in this field argue the need for analytical tools that move beyond the 'do no harm' generation of peace and conflict impact analyses focused on development cooperation at the project and programme levels (Barakat and Waldman 2013). The new generation of tools has to be more comprehensive and capable of incorporating all major aspects of conflict causation and drivers of stability. One example is the tri-departmental strategic conflict assessment tool (the Joint Analysis of Conflict and Stability, JACS), introduced by the British Government (Barakat and Waldmann, 2013). JACS includes the potential impact of the simultaneous use of aid for conflict resolution and the undertaking of security-related operations such as counter-insurgency and counter-terrorism (Stepputat and Greenwood 2013).

In the following we will consider three recent experiences with some of the approaches indicated above. They illustrate more local and limited approaches in which development aid has been used in attempts to transform and prevent the escalation of potentially violent conflicts. The first case gauges the lessons that can be learned from a stranded local peace conference on the Sudan–South Sudan border and discusses the potential role that external actors could play in support of

local peace processes. The second case examines the effects and side-effects of a co-operative integration project through a study of the Kobebe Dam development project in Karamoja, northern Uganda, which was created to resolve conflicts over scarce water resources and diversify livelihoods. Drawing on material from the Sar-i-Pul sub-basin in northern Afghanistan, the third case examines how potential disputes over scarce water resources are resolved in a program to build infrastructures for peace.

LOCAL PEACEBUILDING ATTEMPTS IN THE WESTERN CORRIDOR ON THE SUDAN–SOUTH SUDAN BORDER

In 2005 Sudan and South Sudan signed a Comprehensive Peace Agreement (CPA), and in 2011 South Sudan became an independent country. In spite of these significant political events, violence persists locally. The fighting that broke out in South Sudan in late 2013 between different faction of the SPLM/SPLA shows that there are many question marks with regard to the sustainability of peace in South Sudan. The persistent conflicts and the violence are caused by a mixture of local, inter- and intra-ethnic conflict infused with national-level rivalries and patronage politics (Munive 2013).

But in spite of the recurring conflicts, successful peacebuilding between different communities and actors does occur. The western corridor, which runs through the Sudanese State of Kordofan and the South Sudanese state of Northern Bahr al-Ghazal, is a case in point (Wilson 2014: 5). During the dry season part of the western corridor is used for livelihood activities by both the Fiyareen clan of the Arabic-speaking, cattle-herding Missiriya pastoralists of the state of South Kordofan in Sudan and the Dinka Malual, the largest sub-clan of the larger Dinka community that spans much of the northern part of South Sudan. This concentration of livelihood activities in the area puts pressure on communal relations. Historically these communities have developed different ways of coordinating cultivation and grazing, resolving conflicts and mutual integration (e.g. through intermarriage). Furthermore, the whole area is dependent on the road which connects south and north for vital supplies and for trade. But during the Sudanese civil war and the post-CPA violence these structural conflicts, which were partly determined by ecological conditions, were worsened because national elites instrumentalised communal identities and because the western corridor became a locus for the fighting.²

The escalating conflict prompted local leaders from both communities to create a peace conference. Their efforts were buttressed by the Sudanese Government of

National Unity. This led to the creation of the Dinka–Missiriya peace conference in November 2008, which had the objective of finding resolutions to the many issues dividing the communities and their leaders and which ended with a comprehensive action plan. However, soon afterwards conflicts flared up between the two communities, resulting in the blocking of the important north–south road, cattle raids, and killing. It was later revealed that a host of lingering grievances and issues had not been addressed.

In an effort to understand why peace processes such as the Dinka–Missiriya peace conference had become stranded, the United States Institute for Peace (USIP) convened a meeting with local peace practitioners, elders, and other opinion leaders who had experienced violent conflict and participated in a variety of local peace processes. The participants identified many reasons why these processes had not been successful. Among other things they mentioned:

- Lack of resources. Lack of means of transport, lack of means of communication.
- Weak capacity to mediate disputes. Local participants did not have capacity to mediate disputes or to deal with disputes.
- Lack of trusted and trained third parties. No solution for perceived mediator bias. Lack of trained mediators.
- Agreements not implemented. The recommendations required resources that participants did not have access to, resulting in a lack of follow-up.

This case shows that a peace conference should be preceded by a robust analysis of critical stakeholders and of the root causes of the conflict. Without a robust analysis of the conflict to inform the agreements of peace processes and without the participation of the key stakeholders, the agreements of peace conferences are not likely to last. Furthermore a mutual vision with common objectives should be developed. A plan for how to address the root causes of the conflict should be put in place with appropriate resources, as well as binding commitments and responsibilities among the stakeholders. This case also shows that, although peace processes must be locally owned, donors can support the process by providing resources, training and in certain cases through mediation.

KOBEBE DAM: A JOINT DEVELOPMENT AND PEACE-BUILDING VENTURE IN KARAMOJA

The Kobebe Dam project in Uganda's subregion, Karamoja, is a combined development and peace-building project (Mulders, C.M. et. al. 2012; Olandason 2014a), which in its primary goal can be said to have been reasonably successful³. The work was commissioned by the Ministry of Water and Environment to the Chinese Zhongao Construction Company, and formed part of the National Development Plan for Uganda, authored in consultancy with the IMF and the World Bank (Olandason 2014b; Water for Production Department 2014). The project was part of a larger nationwide programme called Water for Production which aimed to transfer water from areas of plenty to areas of scarcity in order to ensure an adequate supply of water all year round for multiple purposes.

The Karamoja subregion is characterized by its scarcity in water resources due to highly unpredictable rain patterns and is the region in Uganda with the highest poverty indices. The Karimojong have managed the semi-arid ecological conditions through time by adhering to semi-nomadic pastoralism because herds can be moved in search of water and grazing. This has been a source of alliance-building between different pastoralist groups in Karamoja and Turkanaland on the Kenyan side of the border. It has, however, also been the source of many conflicts, and in recent decades, enmities between pastoralist groups in close vicinity to each other have been exacerbated, in part due to the proliferation of small arms. Constructions such as the Kobebe Dam in Karamoja are meant to resolve some of the potential disputes associated with nomadic pastoralism.

The Kobebe Dam is a convergence dam and is meant to service several subgroupings of the pastoralist Karimojong in Uganda and the Turkana of Kenya. It was believed this would prevent conflicts among herders by reducing the movements of herds into other areas of Karamoja, as well as into adjacent regions. Moreover, it was intended to diversify livelihood possibilities by enabling livestock farming, agriculture and fish farming. The overarching rationale behind the construction of the dam was to reduce the reliance on livestock and thereby decrease competition over grazing areas. Additionally encouraging communities to settle was intended to create the conditions for children to go to school rather than being shepherds (Olandson 2014a).

As a peace-building project, the Kobebe dam was built on the principle of co-operative integration (Duffield 2008). It involved pastoralists from all the subgroupings in the vicinity of the water resource to collaborate in building the dam. The collaboration component in the project was meant to provide a sense of ownership and to bring people together towards a common goal and thus reduce hostilities from past conflict experiences. The construction of the dam was completed in 2011.

The effects of the dam project have been both positive and negative. Action research carried out in 2012–2013 showed that when the dam provided the water it was intended to, it was regarded as a success by the pastoralists, and they collaborated in using it to water their herds (Scott-Villiers, P. et. al. 2013). However, in terms of its unintended negative consequences, the area has experienced environmental damage due to overuse (Swidiq et al. 2014). In addition, conflicts have arisen between pastoralists who herd their cattle to the water resource and local farmers who have settled in the area. Some of the pastoralists claim ancestral rights to the land, since they were originally relocated to provide that land for its construction (Lominda, A. 2014; Olandason 2014c). Moreover, the Karimojong farmers are in conflict with the Uganda Wild Life Authority (UWA), which has annexed part of the area for game reserves and bans farming in the area, as well as banning the illegal shooting of animals. Finally, both Karimojong farmers and pastoralists are in conflict with mining stakeholders, who extract gold and other minerals from the land.

The lessons learned from the project can be found in its successes as well as its problems. Its success was linked to its ambition to build on the normative ideas of the Karimojong in two ways. First, the development component improved the ability of people to live the lifestyle they value, namely pastoralism with subsidizing alternative livelihoods and education. Secondly, the peace-building component, built around co-operative integration between the different groups, fitted well with existing modes of building alliances to overcome hardship (Eaton 2008).

In order to address the unintended consequences of the problems created by the project, it would be necessary to involve all stakeholders in the project, especially in making durable arrangements over the use of the land so that herders and farmers do not fight over it. Projects need to be aligned with other governmental implementations, such as the annexing of game reserves, so that one government body does not allow what another prevents. Potential investors in mining endeavours must be sensitized to the established arrangement of land use and be encouraged to engage with local communities in an empowering manner.

INFRASTRUCTURES FOR PEACE IN AFGHANISTAN'S SAR-I-PUL SUB-BASIN

Due to the scarcity of water resources in Afghanistan's northern river basin, the regulation of water flows holds the potential to create conflict between communities and actors there. Since 2004, international donors have supported the Government of the Islamic Republic of Afghanistan in developing an integrated water management system modelled on internationally recognized 'best practices' of good water governance. Since the prevention and management of conflicts over the distribution of water in rural areas is a major rationale behind the system (Thomas et al. 2013, 2014), we may take it as an example of an internationally promoted system – or 'infrastructure' – for conflict prevention. Briefly described, the system is based on the devolution of decision-making power from government to water users (with government institutions as technical advisors) and from the central government to well-defined multi-stakeholder platforms at the level of river sub-basins (Sub-basin Councils). These platforms have fixed membership based on water-use categories (Thomas et al. 2013).

Research based on eight case studies in the Sar-i-Pul sub-basin in north-western Afghanistan in the drought-stricken year of 2011 concluded that the new institutions were changed as they were adapted to local systems and practices. In fact, in the low-lying parts of the canal systems, the new governmental institutions had left no footprints, and communities made their own consensus-based and informal decisions in local disputes.⁴

At higher (upstream) levels, practices were more complex. 'Multi-stakeholder' platforms were formed ad hoc in order to manage water crises as they developed, and their membership shifted according to specific, practical problems rather than the general, fixed stipulations of the reform. With regard to the potentially violent conflicts linked to the regulation of the water flow – typically between communities and stakeholders at higher and lower hydraulic levels – a broad and shifting range of institutions and actors was involved. Usually disputants vested sole authority for solving disputes in a 'deadlock breaker'.⁵ 'Deadlock breakers' are normally locally elected government officials, MPs, or state representatives, but they are elected on the basis of the individual's personal reputation, conflict mediating experience and social capital, rather than their institutional position or affiliation (Thomas 2014). 'Deadlock breakers' are usually not eligible for a seat on the water councils, and their legitimacy is based on the support of not one, but several complementary actors, including the Sub-basin Councils. Importantly, the main concern of the 'deadlock breakers' is not the strict application of water rights, but rather to avoid the escalation or broadening of the conflict.

This case shows that informal and flexible local infrastructures for peace are sometimes better adapted to the ecological and social conditions than the more rigid rule-bound approaches and frameworks introduced and supported by international agencies and donors, however participatory and democratic they may be. Recognition and support for such local infrastructures for peace, which largely work through dialogue and mediation, can help the promotion of peace.

REFLECTIONS

Over the last decade conflict resolution practices have diversified considerably, and there has been an increasing focus on the sub-national level and on the need for local ownership. But international support to local conflict-resolution processes is confronted with difficulties, in regard both to how conflicts are understood and to the practicalities of supporting conflict resolution. The cases summarized in this report raise four sets of reflections.

First, all too often the notion of the 'local' is understood as a discrete local sphere. But stakeholders in local conflicts are usually linked to several translocal networks and have ambiguous roles spanning conventional public–private boundaries. 'Local' conflicts are thus rarely, if ever, only local. In this sense, models that rely on fixed spatial typologies such as Lederach's three-track model are oversimplified. However, at the same time it must be recognized that, although conflict resolution is embedded in an international context, it is a profoundly 'local' effort that involves existing national or sub-national actors' networks or institutions.

Secondly, some conflict resolutions initiatives, such as the Kobebe Dam project in Karamoja and the Missiriya–Dinka peace conference on the Sudan–South Sudan border, do not seem to have been anchored in sufficiently sound conflict analysis capable of identifying all the key stakeholders and roots causes of the conflicts. The analytical framework has to be sufficiently flexible to capture and analyse the constantly changing landscapes of conflicts. Such a framework would depend on receiving timely information about evolving tensions and other factors which may lead to conflict. This information should not be restricted to broad quantitative surveys and measurements, but should include in-depth analysis of people's changing attitudes to and perceptions of political authorities – both state and non-state – conflict-resolution projects, the political economy of the conflict and its cultural and historical contexts. This is crucial to understanding the context of operation and the legitimacy of conflict-resolution projects. Similarly, in-depth knowledge about the evolution of conflicts should be a staple of conflict analysis, as the positions of the various stakeholders cannot be assumed to

remain static. Country-level representations could play a key role here, since they have the potential to facilitate the incorporation of local- and country-level conflict knowledge (Stepputat and Greenwood 2013) by virtue of having closer links to local governments and organizations (de Coning et al. 2009). In light of the recognised need for local ownership and the lack of context-specific knowledge, the analytical capacity of local partners should be a priority (Ganson and Wennmann 2012).

Thirdly, fragile situations and conflict-affected areas can often be described as 'hybrid political orders' which are characterised by the co-existence and overlap of competing forms of order, multi-layered security systems and conflicting claims to authority and economic resources (see Moe, this report). These conditions need not be detrimental to conflict resolution, and some of these forms of order can even contribute to the promotion of peace. There is much untapped potential for conflict resolution in pre-existing, local infrastructures for peace, in particular if we recognize that the word 'pre-existing' does not refer to a static set of institutions. Not least in areas of longstanding conflict, shifting alliances and forced migration change the institutions, practices and structures of power. As the case of Afghanistan's Sar-i-Pul Basin shows, the fixed frameworks of donors and governments may not be appropriate for supporting conflict resolution in societies with fluid and flexible practices of dispute resolution. The latter tend to favour reconciliation rather than the strict enforcement of rights, which has a tendency to produce winners and losers in disputes which in turn may cause grievance-based conflicts.. This serves as a reminder that existing practices for regulating conflict over natural resources often work best without strong outside interference. However, by supporting such structures, donors can facilitate constructive responses to tensions and stress factors and help create resilient systems. In order to be able to respond to evolving conflict dynamics, there is a need for flexible and decentralized financing mechanisms to promote conflict resolution.

Lastly, in relation to national and transnational armed conflicts such as the one in Afghanistan, it has been suggested that there is scope for preventing the escalation of violence by disconnecting 'smaller', localized conflicts from the 'larger' conflicts that otherwise tend to fuel and militarize the localized conflicts (Kalyvas 2006; Surhke et al. 2009). While this provides a rationale for outsiders to engage in the facilitation of local conflict resolution, donors should consider whether their legitimacy may be tainted by, for example, their simultaneous engagement in counterinsurgency or counter-terrorist campaigns in the region. This is why a new generation of conflict analysis tools, such as the UK Government's JACS, seeks to move beyond the previous focus on the role of development aid in relation to conflict dynamics (Barakat and Waldman 2013).

Overall this study finds that:

- Donors should apply an analytical framework, which incorporates all major aspects of conflict causation, and factors which can promote stability. The analytical framework should be sufficiently flexible to capture and analyse the constantly changing landscape of the conflict. It should include information about the historical and cultural contexts and the political economy of the conflict, up-to-date data about evolving conflicts and in-depth data about people's attitudes to and perceptions of the political authorities and of conflict-resolution projects. Such a dynamic framework would be dependent on receiving timely information about evolving tensions and other factors which may lead to conflict.
- The analytical capacities of donor representations in fragile and conflict-affected states should be strengthened due to their key role in facilitating the incorporation of knowledge of local- and country-level conflicts.
- Local monitoring capacity should be strengthened so as to improve the assessment and analysis of evolving conflict patterns and to integrate knowledge of local complexities and concerns into decision-making mechanisms at the local, national, regional and international levels.
- Where appropriate, donors should support pre-existing, local infrastructures for peace, which are often better adapted to local social and ecological conditions.

1 For the case of the UK Government, see Allouche 2012.

2 A complex set of national issues related to the Comprehensive Peace Agreement converged on the western corridor. Topics such as a national census and the demarcation of the border between Sudan and South Sudan were further complicated by the disputed border area of Abyei. These were infused with name-calling, struggles related to land and other resources, notably oil, and fears over the potential withdrawal of permission to graze Missiriya cattle on Dinka land (Cf. Johnson, 2008).

3 I thank Marianne Moseby for providing this case description.

4 The Sar-i-Pul sub-basin is one of the four sub-basins that compose the Northern River Basin. The Northern basin is Afghanistan's most water-scarce and is barely above the absolute scarcity threshold of 500 m³ per capita per year (Thomas et al. 2013: 20).

5 The principle of ekhtyar (Thomas 2014).

HYBRID GOVERNANCE: NEW POSSIBILITIES AND DILEMMAS

By: Louise Wiuff Moe

A recent trend in development and security policy is the increased focus on local systems of governance that maintain order in areas where state institutions are weak. These decentralized forms of political order and authority are often described as 'hybrid governance', as they combine different sources of authority and local institutions and take on roles and functions commonly associated with 'government' and the state. These non-state or hybrid actors and processes were previously seen as obstacles to development and security, but there is now a growing focus on how they can be incorporated as partners into more 'bottom up'-oriented approaches to reform.

This section focuses on the key dilemmas and possibilities that arise in relation to security and justice if 'hybrid governance' is given a more prominent position in Denmark's policy in relation to fragile and conflict-affected states.

THE CONCEPT OF HYBRIDITY

The concepts of hybrid political orders and hybrid governance have been proposed as part of a critique of the 'fragile states' debate and its corollary, the promotion of state-building along the lines of the Weberian ideal type state inherent in OECDs reports (Boege et al. 2009). A main criticism of the fragile/failed state discourse is that it is Eurocentric and normative. It focuses on what is allegedly lacking or absent, namely an effective liberal-democratic state, rather than on the actual order that prevails. This in turn produces state-building policies that are disconnected from

local contexts. The scholarship on hybridity aims to comprehend existing political orders in conflict and post-conflict settings in their own right, rather than simply as a failure of liberal-democratic state government (Albrecht and Moe 2014).

In hybrid political orders, 'diverse and competing claims to power and logics of order coexist, overlap and intertwine' (Boege et al. 2009: 606). Thus state authority is both challenged and complemented by traditional leadership, religious authority, militia organizations, civic networks etc. Until recently, this complexity of local and informal actors and arrangements has primarily been represented as a problem for the democratic and institutional consolidation of states, citizenship and the provision of public services. However, in recent analyses on hybridity and hybrid governance, the accounts of the multiple local security and governance providers and arrangements operating in areas of limited statehood have become more nuanced and give more emphasis to the constructive features of socio-political arrangements beyond (or in interaction with) the state (Boege et al. 2009; Brown et al. 2010; Richmond 2010, 2011; Clements et al. 2007; MacGinty 2010). From this perspective, the variety of actors such as traditional chiefs, spiritual and religious leaders, neighbourhood watches, militias etc. are recognized as part of governance, rather than being dismissed as just spoilers or 'non-state actors'. Meanwhile the scholarship on hybridity points out that 'hybrid political orders is not an "ambition" or a goal to be reached. Rather, scholars argue, 'it is what is the case in many so-called fragile states and situations' (Boege et al. 2009b: 88; see also Andersen et. al 2007).

While hybridity and hybrid political orders have thus been introduced by scholars primarily as analytical concepts, they have increasingly been turned into policy notions for international involvement in fragile and conflict-affected settings (Moe 2014).

HYBRID GOVERNANCE AND POLICY DISCOURSE

While the ideal of the strong central state with a monopoly of violence and the will and capacity to act as a primary provider of security and governance remains powerful in international discourse, there is increasing acknowledgement that this ideal may not be realizable in the foreseeable future. From a pragmatic perspective, donors and international agencies have come to recognize the need to adapt governance, security and conflict prevention programs to empirical realities where non-state actors are functioning as key providers of public good.

Adopting hybridity as a policy notion that engages non-state actors and informal governance and security mechanisms is seen to offer an approach tailored to two common characteristics of post-colonial conflict-affected states: the absence of a strong institutional state, and the presence of local non-state alternatives (Moe 2014).

The framework of 'practical hybridity' (Booth 2012) suggests exactly that donors should pragmatically work with local arrangements and actors based on custom and local agency. This represents the understanding that 'real governance' is not necessarily state governance and that international policies need to rethink their approaches accordingly (Moe 2014; Stepputat, under review).

The shift from a narrow focus on formal state institutions to increasing attention to societal processes, institutions and local dynamics of ordering and hybrid governance can be traced in different key policy domains such as governance, development, justice and security. With regard to governance, notions of 'good enough governance' (Grindle 2004) and 'good fit' (Booth 2012) have taken over from the more comprehensive 'good governance' benchmarks (Stepputat, under review). Justice and security, in turn, is a key sector in which there has been a growing interest in 'informal' and 'hybrid' justice systems and institutions (Baker and Scheye 2007; Baker 2010; Albrecht 2010; Albrecht and Kyed 2010). Already during the 1990s international aid has supported informal justice systems, and during the 2000s such attention to legal pluralism and hybrid governance rapidly increased. The understanding that informal systems must be included in justice and security reform programming because of their greater accessibility and their resonance with local norms was advocated in the first major United Nations 2004 Security Council report on the 'rule of law' in post-conflict settings, and this understanding has since been promoted by a range of donors and international agencies (UN Security Council 2004; see also Chopra and Isser 2011).

While the notion of 'hybrid governance' has made its way into policy language, and while it is seen as a potential alternative approach offering more accessible and locally adapted forms of governance, there are also a number of associated dilemmas. Donors are especially wary that engagement with non-state actors may compromise core liberal principles, such as international standards of human rights (see, for example, Andersen 2012). And there are also practical challenges in 'shifting from the usual means of legal support to state institutions to more diffuse and complex types of programming' (Chopra and Isser 2011). Moreover, it is one thing

to appreciate the significance of informal and non-state actors and institutions, but quite another to understand how donor involvement with these institutions affects the local contexts and dynamics of peace, security and justice.

The following sections provide insights into different dilemmas and possibilities using cases studies from Afghanistan, Kenya, Somalia, South Sudan and Yemen. These studies focus on policy domains in which the idea and practice of hybrid governance has been both particularly pertinent and particularly challenging, namely peacebuilding, security and access to justice. The key insight emerging from these examples is that 'hybrid governance' is a reality to be reckoned and engaged with, but that it cannot be understood as a new and better policy 'tool' or approach.

Supporting Localized Peacebuilding Versus Creating New Security Structures: HYBRID GOVERNANCE AND STABILIZATION IN AFGHANISTAN AND SOMALIA

Afghanistan and Somalia are textbook cases with regard to 'hybrid governance' approaches. Both countries are characterized by a history of profound state collapse and the predominance of informal security and justice practices. Both countries are also examples of the difference between 1) international actors facilitating the space for negotiation and hybrid peace, and 2) interventions instrumentally attempting to establish 'hybrid' security structures to serve specific state or international interests (Schmeidl 2009; Moe, under review).

Examples of the former include the creation of the Commission on Conflict Mediation (CCM) in Khost Province, Afghanistan (Schmeidl 2009). The CCM was created jointly by local elders and a visionary governor of the region. It had substantial success in resolving land conflicts, which are key in regional conflicts. The CCM was facilitated by the Tribal Liaison Office (TLO), which has been supported by the Institute of Peace to facilitate 'informal-formal' cooperation. TLO itself developed gradually as two Pashtun tribes (the Ahmadzai and Mangal) approached the NGO Swisspeace for support to ongoing peace efforts. Rather than introduce a pre-designed approach, Swisspeace conducted a six-month study during which they consulted with civil society, elders and government officials on how to best support peace efforts and informal-formal cooperation. The Liaison Office was born out of this process and maintained a focus on research – i.e. understanding and consulting before acting – and dialogue as the key means of peacebuilding. The TLO has remained involved in facilitating 'engagement between traditional and modern governance structures, trying to find synergies and ways of interaction', including support to hybrid structures such as the CCM (Schmeidl 2009).

A comparable project started in Somaliland in 2003, when a group of leading clan elders approached the Danish Refugee Council (DRC) to ask for support to begin dialogues and experience-sharing among clan leaders, as well as to facilitate better cooperation between these leaders, the Somaliland state actors and religious actors (Moe and Simojoki 2013). The aim was to be better able to address the problem of revenge killings, which had escalated during the 2000s.¹ The first dialogue brought together policing actors, religious leaders and over a hundred customary authorities from five clans in this region. Interest in the initiative spread across several regions in Somaliland and later to Puntland. The role of the DRC was one of facilitating the dialogues, mainly by providing support and funding for the logistics, such as transportation, food and planning. Reports and field data indicate that there was a significant decrease in cases of revenge killings and in cases where the perpetrators of killings received their clan's protection, coupled with a corresponding increase in the number of murder cases being handed over to and processed by the courts since the dialogues had taken place.² Relationships and networks across different clans and sub-clans were strengthened, and a number of regional conflicts (in particular, cases of revenge killing, and conflicts over water, grazing and land) were addressed subsequently to the dialogues. In a number of districts more permanent district peace committees were established to provide forums for ongoing interaction and consultation among elders from different sub-clans, as well as between them and the district authorities (Moe and Simojoki 2013).

These examples of support building on existing forms of hybrid governance, aimed at solving locally defined security challenges, can be contrasted with attempts where such structures have been created 'top down' as part of state or international agendas and political interests. This is illustrated by, for example, the establishment of local pro-government militias during the rule of Communist People's Democratic Party of Afghanistan (PDPA), which ended up as raiding bands and were later used against the government (Schmeidl 2009). Their allegiance was to neither the population nor the state, but to their respective factions and networks. Along similar lines, foreign governments have on several occasions established, trained and equipped 'community defense initiatives (CDI)', monitored and propped up by Special Forces stationed in Afghanistan (Schmeidl 2009). The context of Somalia features similar examples, as some of the recent international efforts to combat al Shabaab have relied on the arming of local militias and sub-state administrations. This has been framed as 'dual track' support to local security and government (Moe, under review). While these approaches to 'hybrid security' may be seen as a means

of undermining insurgents, they run the risk of militarizing civil relations, propping up self-styled strongmen and thereby side-lining local leaders and actors with an interest in sustainable peace and political order (Schmeidl 2009; Moe, under review).

REFORMING LAW OR CREATING SPACE FOR CONTESTATION: HYBRID GOVERNANCE AND JUSTICE IN YEMEN, SOUTH SUDAN AND SOMALILAND

The rule of law and justice are key policy domains in which the notion of hybridity and hybrid orders have become central, as legal pluralism has developed as a policy field (Kyed 2011). This reflects an apparent shift away from legalist approaches focusing narrowly on state justice providers towards efforts also to target the multiple informal and localized justice systems that take care of as much as an estimated 80-90 percent of all cases in fragile and conflict-affected states (Albrecht and Kyed 2010). Notwithstanding the key trend of increased international attention being paid to informal justice systems, justice is also a policy domain in which the normative dilemmas associated with engaging hybrid governance are particularly pertinent for Western donors and policy-makers. While local informal justice systems are seen as more embedded and accessible, the key normative concern is that these systems and actors may contradict international human rights standards and may prioritize communal stability over individual rights. Against this backdrop, international approaches seeking to adapt to 'local conditions' and to engage with informal providers often maintain as their key aim the reform of law systems and putting 'acceptable' laws in place.

However, policy research has shown that seeking to 'fix' local justice systems tends to suffer from the same limitations of falling back to overly technical approaches while failing to facilitate transformation in practice, like more conventional technical legalist approaches, even if the former target a different level (i.e. the 'local' rather than only the state). Instead of attempting to revise local justice systems, support should focus on 'assisting community processes of contestation and negotiation over the norms that reproduce legal systems' (Moe and Simojoki 2013: 405; see also Chopra and Isser 2011). As the examples below will demonstrate, such support can focus on facilitating dialogues between ordinary community members and established providers over the norms that shape justice provision, thus strengthening existing advocacy networks and capacities, and adopting an end-user perspective (rather than a strictly legalist perspective) as the basis for adjusting policy approaches.

The Limitations of Legalist Approaches

One example which illustrates the pitfalls of technical legalistic approaches to 'fix' local judicial processes is the codification of customary law. This was a prevalent approach in, for example, justice reforms in South Sudan during the 2000s. Here the codification policy has been promoted by a number of policy-makers and the government in South Sudan, with the aims of updating and 'modernizing' the legal sector, and in particular of 'modernizing' custom by eliminating practices deemed discriminatory and seeking to ensure predictability in the application of the law (Chopra and Isser 2011).

While these policies have been driven by good intentions and an acknowledgement of the significant impact of non-state actors (especially customary law) on judicial processes, the approach assumes that the issue of justice is narrowly a matter of law reform alone. In doing so, it underestimates the underlying politics, structural inequalities and socio-political lines of inclusion and exclusion that determine access to justice in both the formal and informal systems.

Research on codification in South Sudan concluded that the approach was in fact likely to formalize social and power relations in favour of those already holding power (Leonardi et al. 2010). A number of chiefs interviewed for the research were in favour of codification, as it was seen to increase their standing, while they also admitted that it would be unlikely to lead to changes in their practices of dispute resolution (Leonardi et al. 2010). In conclusion, 'prohibiting discrimination or rewriting norms may produce a law that looks good on paper, but is unlikely to be enforced or to have any impact on social norms' (Chopra and Isser 2011: 31-32).

Codification is often accompanied by efforts to push cases from informal systems over into the state system, under the assumption that the 'formal' system is the vanguard of human rights. This overlooks the interconnections between providers and systems across both 'formal' and 'informal' systems and misses how 'both systems are just players in the much larger theatre of social and political processes and power dynamics' (Chopra and Isser 2011: 33). The fluidity of judicial processes means that a case may originate in customary arbitration, but be appealed before a court or transferred to a Sharia process or a combination of the different mechanisms. In Yemen, for example, 'Resort to nonstate mediation or arbitration has been so common historically that it is officially recognized under Yemeni law' (Gaston and al-Dawsari 2014: 5). While the merging and combining of these different forms of dispute resolution are facilitated by the Yemeni legal framework, such

merging and interaction is predominantly shaped by and 'a product of the subordination of justice provision (whether formal or informal) to political actors and dynamics' (ibid.). This interconnectedness entails that a very similar power dynamics is underpinning both the formal and informal systems, and pushing cases from one system to the other tends to have little effect in terms of addressing issues of discrimination.

Codification, the establishment of transfer mechanisms and expert-led training in legal standards are all examples of reform approaches that work in a top-down and technical manner. Despite their targeting of informal justice institutions, they all fail to engage with the socio-political realities that shape judicial processes. Responding to this, recent research on access to justice in conflict-affected fragile settings advocates a refocus: rather than aiming to 'fix' legal systems, it is argued that attention should be directed towards a user perspective on power and interests, and that priority should be given to working with 'human resources' and the opportunities for empowerment that lie in the 'fluidity' of legal pluralism (Chopra and Isser 2011: 34-35).

Facilitating spaces for local contestation

The alternative way of conceptualizing the issue of access to justice and the possibilities for addressing it takes as its point of departure the idea that justice is not narrowly about the law (formal or informal) but about working with processes of social change as a basis for sparking gradual legal change. Rather than codification, legal reform and training, an approach working with 'human resources' focuses on facilitating a space for processes of contestation over judicial processes and facilitates entry points for the involvement of community members in justice and security arrangements (Chopra and Isser 2011; Moe and Simojoki 2013).

Approaches along these lines have, for example, promoted dialogues between women affected by injustices and the actors providing justice in the local community. As an example, the Kenyan National Human Rights Commission facilitated meetings between community authorities and Kenyan Luo women who were denied their inheritance of the lands of their deceased husbands (Chopra and Isser 2011: 36). The Commission provided a framework in which women were encouraged to express their grievances, while the participating elders had to prove that 'Luo culture does protect women'. 'Challenged this way, elders started to help women to obtain the land titles from the families denying inheritance' (Chopra and Isser 2011: 37). The example shows how the women managed to contest local practice, how they

were enabled to shape the interpretation and their culture in a way that improved their situation, while 'formal rights (women have a right to inherit) underwent a process of vernacularization and are now formulated in a "local" way' (ibid.).

Another example is provided by an INGO initiative in Somaliland that assisted existing women's groups and associations in the districts of El Efweyne and Ainabo in getting together and forming 'women's peace platforms' (Moe and Simojoki 2013). In this case the INGO researched the existing roles and capacities of women and assisted in further mobilizing, organising and making visible these capacities by arranging meeting rooms for the women, helping to organise women's dialogues, and bringing together and co-ordinating the different existing groups. This strengthened women's existing roles in influencing conflict management and resolving small-scale conflicts in their neighbourhoods. It is often in these smaller cases among family members, between spouses or within neighbourhoods that everyday issues of justice are particularly pertinent. The women's peace platforms became key in both complementing and challenging the established providers with regard to how cases should be interpreted, judged and solved, as well as in using agreements with leading elders as tools of contestation (Moe and Simojoki 2013).

Insights and recommendations

This section has discussed the opportunities and dilemmas associated with attempts to incorporate informal and hybrid governance into internationally supported peacebuilding and reform processes in fragile and conflict-affected states. The increased focus on hybrid governance among international policy-makers conveys a search for alternatives to top-down, internationally driven, state-centric approaches. Gradual shifts towards seeking to work with 'what is there', rather than imposing what from a normative international perspective 'ought to be there' (Wiuff Moe 2010), resonate with the key objectives set out in the Danish peace and stabilization policy for fragile states 2010-2015 (Danish Foreign Ministry 2010). This includes a commitment to tailor-making Danish support to specific local contexts; the prioritization of local ownership as a basis for sustainable governance; and an emphasis on the need to support inclusive political and reconstruction processes through the facilitation and capacity-building of local institutions and fora (Danish Foreign Ministry 2010). Meanwhile, as illustrated by the above examples, international engagement with hybrid and informal forms of governance also comes with a number of practical and ethical challenges in the form not merely of the challenges that 'hybrid governance' and non-state actors may pose to liberal principles, but also the potential harm that international actors can inflict when meddling in local socio-political and security processes (Moe 2014).

The following key points summarize the insights derived from the examples above:

Peace and security

- 'Hybrid governance' is a reality to be reckoned and engaged with, but it is not a new and better policy 'tool'.
- Thinking in terms of hybrid orders rather than fragile states opens up possibilities for facilitating existing local initiatives and drivers of peace and security below the state level that tend to be ignored in conventional state-building frameworks. Logistical support (food, planning, transportation) can be basic but valuable in facilitating what already works in terms of locally led peace and reconstruction processes.
- Not all hybrid arrangements are inclusive or 'bottom up'. International or state-led attempts to create hybrid governance need to be considered with particular caution. Experiences in the field of security show that, when international security agendas are pursued through the creation of localized hybrid security arrangements, this poses a great risk of militarizing civil relations.
- This highlights the need for understanding and consulting before acting and supporting.

Access to justice

- Access to justice is not simply about the 'law'. Underlying politics, structural inequalities and socio-political lines of inclusion and exclusion are key in shaping judicial processes within both the formal and informal systems.
- The different providers and judicial systems typically do not operate as discreet 'state' and 'non-state' systems, but rather as entwined and hybrid systems. Both formal and informal judicial arrangements are, therefore, 'just players in the much larger theatre of social and political processes and power dynamics' (Chopra and Isser 2011:33).
- Given the interdependence of formal and informal judicial systems and the subordination of the provision of justice to the dynamics of politics and power, approaches to enhance access to justice must move beyond a legalist focus on 'fixing' legal systems and instead direct attention towards a user perspective and give priority to working with 'human resources' and processes of contestation over the norms that replicate legal systems (Chopra and Isser 2011, Moe and Simojoki 2013).

- 1 Revenge killings typically happen when a clan or sub-clan involved in a conflict is unable or unwilling to pay compensation in accordance with Somali customary law, the Xeer, and the aggrieved clan responds by killing the perpetrator or other members of his clan. This may set off a spiral of revenge killings.
- 2 According to the United Nations Development Programme (UNDP) in 2006, the caseload for the state courts across Somaliland was 1,852 cases; by 2007 this had increased to 3,293, and by 2008 to 3,833. These results were crosschecked in terms of the variable of the overall number of serious crimes during these years. On this basis, the research concluded: 'there is reason to believe that these changes are at least partially linked to the National Declarations' (Simojoki 2010).

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'Results Culture and Knowledge Management', closed seminar, DIIS, 3.10.14

'Multi-stakeholder Initiatives: Human Rights and Global Public Goods', public seminar, DIIS, 20.11.14

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