

HOW THE SOMALI MODERN GOVERNANCE WORKS WITH THE TRADITIONAL GOVERNANCE SYSTEM: LITERATURE REVIEW

SOMALİ MODERN YÖNETİMİNİN GELENEKSEL YÖNETİM SİSTEMİ İLE NASIL ÇALIŞTIĞI: LİTERATÜR TARAMASI

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Abstract

Somalia, located in the Horn of Africa, has a complex history influenced by tribalism, colonialism, and internal conflict. During the colonial era, European powers collaborated with clan leaders, resulting in Somalia's division along clan and tribal lines. This division led to the creation of artificial borders, which fragmented the land and fostered regional and clan-based identities. After gaining independence in 1960, Somalia initially aimed to establish a strong, centralized state. The Siad Barre regime, which came to power through a military coup in 1969, tried to suppress clan and regional identities in favor of a communist ideology. However, the regime's downfall in 1991 plunged Somalia into a prolonged period of violence and state collapse. Warlords and clan-based factions fought for power, leading to a protracted civil war. This paper analyzes the intricate relationship between Somalia's traditional and modern governance systems. It examines the potential for collaboration, the challenges faced in nation-building efforts, and the lasting impact of clan-based structures. The study begins by exploring traditional governance, highlighting the important role of customary law, elders, and religious clerics in consensus-building mechanisms and maintaining social harmony. It emphasizes the historical significance and contemporary relevance of these institutions. The paper then delves into the challenges involved in establishing a modern state in Somalia. It examines the obstacles that hinder the realization of democratic ideals and the establishment of a centralized administration. A key focus is evaluating the potential synergies and conflicts between traditional and modern systems.

Keywords: Somali Customary Law, Xeer, 4.5 Power Sharing, Somali Government, TNG, TFG.

Öz

Afrika Boynuzu'nda yer alan Somali'nin kabilecilik, sömürgecilik ve iç çatışmalardan etkilenen karmaşık bir tarihi vardır. Sömürge döneminde Avrupalı güçler, klan liderleriyle iş birliği yapmış ve bu durum Somali'nin klan ve kabile hatlarına göre bölünmesine yol açmıştır. Bu bölünme, toprağı parçalayan ve bölgesel ve klan temelli kimlikleri besleyen yapı sınırların oluşmasına yol açmıştır. Somali, 1960 yılında bağımsızlığını kazandıktan sonra başlangıçta güçlü, merkezi bir devlet kurmayı hedeflemiştir. 1969 yılında askeri darbeyle iktidara gelen Siad Barre rejimi, komünist ideoloji uğruna aşiret ve bölgesel kimlikleri bastırmaya çalışmıştır. Ancak rejimin 1991'deki devrilmesi, Somali'yi uzun bir şiddet dönemine ve devletin çöküşüne sürüklemiştir. Savaş ağaları ve klan temelli gruplar iktidar için savaşmış ve bu da uzun süren bir iç savaşta yol açmıştır. Bu makale, Somali'nin geleneksel ve modern yönetim sistemleri arasındaki karmaşık ilişkiyi analiz etmektedir. İş birliği potansiyelini, ulus inşa etme çabalarında karşılaşılan zorlukları ve klan temelli yapıların kalıcı etkisini inceliyor. Çalışma, geleneksel yönetimi keşfederek, geleneksel hukukun, yaşlıların ve din adamlarının fikir birliği oluşturma mekanizmalarında ve sosyal uyumu sürdürmedeki önemli rolünü vurgulayarak başlıyor. Bu kurumların tarihsel önemini ve çağdaş önemini vurgulamaktadır. Makale daha sonra Somali'de modern bir devlet kurmanın zorluklarına değiniyor. Demokratik ideallerin gerçekleşmesinin ve merkezi bir yönetimin kurulmasının önündeki engelleri inceliyor. Temel odak noktalarından biri, geleneksel ve modern sistemler arasındaki potansiyel sinerjileri ve çatışmaları değerlendirmektir.

Anahtar kelimeler: Somali Örf Hukuku, Xeer, 4.5 Yetki Paylaşımı, Somali Hükümeti, TNG, TFG.

STRUCTURED ABSTRACT

Somalia, located in the Horn of Africa, is bordered by Ethiopia on the west, Djibouti on the northwest, the Gulf of Aden on the north, the Indian Ocean on the east, and Kenya on the southwest. Before colonization, Somalia had a traditional governance system, which later evolved to include elements of modern governance. The traditional governance in Somalia was characterized by customary law and the authority of elders, which played a significant role in shaping social order in the country. Customary law, known as Her, consists of oral customs and practices that have been passed down through generations. It is one of the oldest legal systems in Somalia, alongside civil and Islamic law.

Elders are crucial in traditional governance, guiding communities and resolving disputes based on cultural and social norms. Their authority is deeply rooted in Somali society and dates back to pre-colonial times. During the colonial era, clan elders also served as indirect rulers, further cementing their historical significance.

The influence of customary law and elders in decision-making and conflict resolution has been instrumental in maintaining social cohesion and stability within Somali communities. They have played essential roles in upholding traditional values, resolving disputes, and preserving the cultural fabric of Somali society.

However, traditional governance structures, such as clan elders and Her councils, have often marginalized women, limiting their formal role in decision-making processes. Men primarily dominate decision-making in these structures, which extends to economic opportunities, human rights, and participation in broader societal affairs. Traditional practices, like forced marriages as part of Diya payments and restrictions on widows' rights, have further perpetuated gender inequalities and constrained women's agency within the governance framework.

Somalia's experience with colonialism has significantly impacted its history, governance structures, and societal dynamics. In the late 19th century, European colonial powers such as Britain, Italy, and France gained control over different regions of Somalia. These powers employed various governance strategies, including direct rule by France and indirect rule by Britain and Italy. These strategies have influenced the development of administrative systems and power structures in the region. Colonial rule in Somalia introduced foreign administrative structures and disrupted traditional governance systems. While some traditional leaders were able to retain power under colonial oversight through indirect rule, direct rule by France resulted in the establishment of new administrative frameworks that marginalized traditional authorities.

During the colonial era, European powers collaborated with clan leaders individually to exert control over the region. This approach caused Somali society to fragment along clan and tribal lines, leading to the creation of artificial borders that divided clan territories and encouraged regional and clan-based identities.

The arbitrary drawing of borders by colonial powers continues to have lasting effects on Somali society and politics. These borders did not align with traditional clan territories, which contributed to tensions and conflicts based on competing clan interests and historical grievances.

Somalia achieved independence in 1960, marking the end of colonial rule. Initially, the country aimed to become a centralized state under President Aden Abdullah Osman. However, deep-seated clan and regional rivalries hindered the unity and stability of the nation. The legacy of colonialism continued to influence the post-independence period, presenting challenges in unifying diverse clan and regional identities under a centralized state structure.

In the late 1960s, the Siad Barre regime took power through a military coup and attempted to suppress clan and regional identities in favor of a communist ideology. This led to internal conflicts and eventually triggered a civil war in the late 1980s. The civil war and the subsequent collapse of the central government in 1991 threw Somalia into a state of lawlessness and instability. This period was characterized by clan-based violence, humanitarian crises, and the rise of various factions vying for power. Since the early 2000s, Somalia has been engaged in state-building efforts with support from international partners and regional organizations, aiming to establish a stable and functional government that promotes peace, security, and governance in the country.

The modern governance system in Somalia has undergone significant changes since its establishment in 2012. The federal structure, adopted that year, divides power between the federal government and member states. This system aims to decentralize authority, promote regional autonomy, and address historical grievances among different regions and clans. The Somali provisional constitution, ratified in 2012, outlines the principles and structures of the modern governance system. It establishes a framework for the separation of powers among the legislative, executive, and judicial branches, ensuring accountability and a proper balance of power.

The modern governance system in Somalia prioritizes the protection and advancement of human rights, inclusive governance, and equal rights for all citizens. Efforts have been made to promote gender equality, minority rights, and political inclusivity to foster a more representative and participatory system. Increasing women's participation and representation in decision-making processes is also being worked on, but challenges remain in achieving gender equality, overcoming cultural barriers, and ensuring meaningful inclusion of women in governance structures.

The modern governance system in Somalia faces various challenges, including security threats, political instability, and clan dynamics that still play a significant role in decision-making and governance processes. To address the struggle for power between clans, the "4.5 formula" has been implemented as a power-sharing mechanism. This formula allocates parliamentary seats based on a clan-based ratio of 4.5. It aims to provide proportional representation for major clan groups (4) and smaller clans (0.5), ensuring that each clan has a voice in the political decision-making process. However, the 4.5 formula has faced criticism for reinforcing clan identification in politics and potentially hindering progress. Critics argue that it may lead to political stagnation, favor certain clans over others, and impede the development of a more merit-based and inclusive governance system.

This paper examines the governance dynamics in Somalia, focusing on the interplay between traditional and modern systems. It shows that traditional structures, like clan elders, still play a significant role in decision-making and conflict resolution alongside modern governance institutions. The paper emphasizes the enduring influence of traditional governance systems, particularly the clan-based system, in Somali society. Despite attempts to suppress them, these systems have remained resilient and continue to be important in local governance and decision-making. The study reveals a fundamental conflict between traditional and modern governance models in Somalia, which represent different mindsets and approaches. The coexistence of these systems poses challenges to social cohesion, especially in a rapidly changing and modernizing society. The findings suggest that religious clerics have less power in modern Somali administration, indicating a transformation in traditional power structures and the evolving role of religious authorities in governance.

INTRODUCTION

Somalia is a country in the Horn of Africa with a long and complicated history characterized by a blend of tribalism, colonialism, and civil conflicts. Somalia was made up of several city-states and

sultanates that were built on Islamic ideas and customary law until European settlers arrived in the 19th century. These coastal city-states and sultanates conducted business with the Arabian Peninsula, Persia, India, and China. As crossroads for commerce between the Red Sea and the Indian Ocean, the city-states of Mogadishu, Zeila, and Berbera were particularly significant.

The coastal position of Somalia makes it susceptible to outside influence. The Ottoman Empire started to establish itself in the area at the beginning of the 16th century, and the port city of Zeila developed into a significant Ottoman base. European nations started showing interest in Somalia in the 19th century and tried to establish colonial administration there.

Britain, Italy, and France established colonial power over various regions of Somalia in the late 19th century. The western region of Somalia was captured by Britain and became known as British Somaliland, while the southern region was occupied by Italy and became known as Italian Somaliland. Djibouti, a nearby area that subsequently became part of French Somaliland, was seized by France.

The colonial powers used various methods to manage Somalia, with France employing direct rule while Italy and Britain adopted an indirect rule strategy. Traditional leaders were permitted to preserve their power structures under indirect rule because colonial authorities interacted with them on their behalf. In contrast, during direct control, traditional leaders were ignored, and new administrative frameworks were set up by the colonial powers.

During the colonial era, when European powers depended on working with clan leaders separately to rule the area, Somalia began to break apart along clan and tribal lines. This caused artificial borders to be drawn, dividing clan and tribe lands, and it helped regional and clan-based identities to form.

Following its declaration of independence in 1960, Somalia initially seemed to be headed in the direction of becoming a powerful, centralized state. The new administration, headed by President Aden Abdullah Osman, aimed to unite the Somali people by fostering a sense of a common national identity and making investments in public utilities and infrastructure. Deep-seated clan and regional rivalries, which remained despite the establishment of a centralized government, however, hindered these attempts.

The Siad Barre regime aimed to stifle clan and regional identities in favor of a communist ideology after seizing power in the 1969s through a military coup. The administration of Barre tried many measures intended to foster national unity, such as outlawing clan-based structures and fostering a national tongue, but these initiatives eventually failed. Numerous armed groups, including clan-based militias and Islamist groupings, also opposed the government.

In 1991, the Barre administration fell, ushering in a period of continuous violence and state breakdown in Somalia. With warlords and clan-based factions competing for control, the country sank into a period of civil war. Extreme violence, such as clan warfare, warlordism, and the formation of Islamist extremist groups like Al-Shabaab, was prevalent during this time.

International attempts to restore Somalia and set up a functional central government have been concentrated there since then. A complicated interaction between conventional clan-based governing institutions and contemporary state-building aspirations has characterized these efforts. Although the ancient clan-based groups have come under fire for fostering conflict and impeding the development of a powerful, centralized state, they have also been praised for offering some stability and legitimacy in the absence of a functioning government.

This paper aims to explore the literature review on Somali governance. It aims to understand how

the Somali government can coexist with traditional governance. This topic has been well-represented in the literature. Nevertheless, most of the studies focused on modern governance, traditional governance, or peacebuilding in isolation. To this end, this literature review aims to synthesize the findings from relevant studies that have tried explicitly to explore how these systems could coexist and interact to aid state-building and peace processes in Somalia.

Abokor (2016) details the role of clan Elders in state and peace-building, showing the capacities traditional structures could offer in support of modern governance. Ahmed (2017) investigates how to handle relations between clans, state institutions, and external interventions; it features an explanation of the 4.5 power-sharing formula. This study offers insights into challenges and potential for integrating clan-based systems into formal governance. Ahmed (2014) gives an account of clan loyalties and traditional practices in state-building processes within Somalia. Ibrahim (2013) makes a case for clan-based governance in times of political transition. Menkhaus (2007) explained governance without a central government and the role that it played by informal and traditionalistic systems. Notably, this "governance without government" helps to elaborate the way such traditional systems can complement the formal state structures.

The literature is rich in documenting existing interactions between traditional and modern governance in Somalia. This paper attempts to find ways in which traditional and modern governance systems can collaborate by using existing literature. The paper first will look at Somali Traditional governance. It offers a thorough examination of the function of elders, religious clerics, and customary law in traditional government systems as well as the development of these systems over time. Secondly, it aims to explore Somali modern governance, and difficulties state-building attempts in Somalia, including the influence of outside players, as well as the historical background of state-building in the nation. Thirdly, this paper explores the interrelationship and potential conflicts between Somalia's traditional and contemporary governing systems. And finally, it examines the advantages and disadvantages of introducing conventional forms of government into current state-building initiatives. The goal of this paper is to provide readers with a thorough knowledge of the intricate dynamics of Somalia's conventional forms of government and state-building initiatives.

1. TRADITIONAL MODES OF GOVERNANCE IN SOMALIA

Traditional forms of government have existed in Somalia for a very long time and have undergone tremendous development throughout the years. They still play a big role in Somali society today. The most common traditional forms of government in Somalia have been customary law, elders, and religious clerics (Oluma/Wadaadaha).

Understanding the function of traditional forms of government in Somalia is essential for comprehending the political and social dynamics of the country. The literature on the influence of customary law, elders or clan-based systems, religious clerics, and their roles in decision-making and conflict resolution, the effects of these traditional modes of governance on social cohesion and stability, and the place of women in traditional governance systems will all be reviewed in this section.

1.1. The Customary law

According to Bradbury (Bradbury et al., 2010, 58-59), Her is a collection of oral, unwritten customs and practices that are passed down from one generation to the next. The Her legal system, as noted by Kadiye (2020, p.5), is the oldest in Somalia and one of the three that contribute to the formal Somali legal system, along with civil and Islamic law. Although Islam had an impact on it, Her predated Islam, and some of its principles were at first incompatible with Islamic doctrines. But as Somalis embraced Islam,

Her was modified to adhere to God's instructions. However, many of Her 's historic conservative components are still there.

The term "Her" is disputed in origin, but its meaning hasn't changed. According to Miicaad and Ceeleeye (Miicaad & Ceeleeye, 2010, p.15), one explanation argues that it comes from "Xero," which means "camp," and denotes a place encircled by a wall or fence constructed by people to defend themselves against attackers. Over time, "Xero" became "Her," which stands for a commitment among residents of a locality not to deceive or mistreat one another. Another interpretation states that "Her " alludes to a big, strong rope that binds an authentic Somali home (Aqal Somali) together and prevents it from being carried away by the wind. This implies that "Her " is a force that unites individuals.

Somalis use multiple sayings to characterize the Her. The saying "Tol waa Tolone," for instance, implies "people are woven together and the Her is what woven them together." "Xeer waa Kab aad ku socoto," another saying, means "The Her is a shoe to walk on." Because shoes protect users from the sand's heat, thorns, stones, and small, invisible creatures, this saying emphasizes the significance of Xeer in Somali society. People risk going into problems without shoes, just as they would if they disregarded Her. "Kabi waa ku sidaa," which means "shoes keep you up," is a similar term that emphasizes how Her helps individuals stay on their feet. It is obvious that the Her is of the highest importance to Somali civilization from the name of Her, its history, and how Somalis describe it (Miicaad & Ceeleeye, 2010, p.5)

The first point that is answered in this part is why Somalis felt the need to create a system like Her and what function it serves in Somali culture. There is a clear need for a consensus code because there is no centralized administration, and the population is separated into tribes. Hobbes noted that the government is a form of social contract and that the necessity for it results from the fact that people cannot coexist peacefully due to a lack of resources, which breeds competition and hostility among them. Somali elders realized the issue with the state of nature. In addition, it is said that without regulations, humans behave like animals ("Meeshaan xeer ka jirin waa lagu xooloobaa"). This phrase appears to be in harmony with Thomas Hobbes' concept of the state of nature.

The Her was founded to stop Greed, Invasion, Murder, and Robbery. Somali elders explain these points by claiming that a person or individuals are first born with lust, then they attempt invasions to obtain more, then they may murder each other (the offender and the defense), and finally, the victor should loot other things, which is robbery. To save the blood, money, culture, asylum, the underprivileged, and the land was another justification for founding the Her (Miicaad & Ceeleeye, 2010).

Her is what unites Somalis, and it can be argued that by settling several issues and preserving peace in the society, it is a guardian of social cohesion. The ancient Her system has been crucial to the Somali people's survival. According to Andre Le Sage (Le Sage, 2005, p.33), conflicts within Somali society frequently result from disagreements over natural resources, especially in pastoral areas. These disputes are often settled utilizing the Her principles and the traditional institution of conflict resolution. When it comes to resolving disputes, the Somali people generally recognize and respect customary institutions. Gundel estimated that between 80 and 90 percent of criminal cases and conflicts were resolved using Her (Gundel 2006, p.46). For decades, Her has been the best method for resolving disputes and fostering communal cohesiveness, making it an essential part of Somali society. Even before resorting to Islamic Sharia or constitutional law, the majority of Somalis, whether they live in rural or urban regions, follow Her standards, which are their initial and preferred method of obtaining justice (Malim, 2018, p.115).

Another query can be, "Who is the Her maker? Who decides which norms to add and which to remove? Who decides which rules are appropriate for society?" Due to the coexistence of several clans, Somali clans created the Her social compact to regulate behavior within the society. Members of the clan

have agreed to and recognized this Her as a binding rule (Miicaad & Ceeleeye, 2010). According to Gundel (2006, p.13), nearly all of these clan members are men. Every society relies on adult males to make decisions since there is no central authority. In this instance, the reliance on the adult male is influenced by Islamic law, but it has also been suggested that Somalis had a patriarchal culture before the advent of Islam. As a result, the clan elders have respect among their clans and are seen as fair and honest decision-makers. Her is both protected and carried out by revered elders known as the Her Begti.

When talking about Her, one question that comes up is how it functions. The traditional Somali legal and social system known as Her has a judicial system that resembles modern court procedures in several aspects. In this system, there are a variety of participants, including attorneys, court reporters, defendants, and plaintiffs (Ahmed, 2019, p.9). Gundel (2006, p.11) claims that the law council is in charge of resolving legal difficulties and conflicts. The council is made up of respected locals who are familiar with the Her system and its varied customs. The law council uses a "veil of ignorance," which implies that they purposefully keep their knowledge of the identity of the parties engaged in a dispute or the particular circumstances surrounding a case to guarantee impartiality in their decisions. This strategy guarantees that their judgments are devoid of any personal biases or preconceptions and entirely based on the facts provided and the merits of the case (Ahmed, 2019, p.9). There was no any hierarchical within the council, it was so democratic system in which all adult males had access to take part (Richards, 2009, p.98).

There are several Her forms as well, each with its practices and perspectives. Guud and Gaar are the two primary categories of Her. Guud deals with the fundamental tenets of conventional clan law that govern everyday interactions between people, civic affairs, and means of resolving conflicts both inside and across clans. For clans and sub-clans that are predominantly engaged in pastoralism, fishing, frankincense collecting, etc., Gaar refers to special regulations that govern localized economic production relations (Le Sage, 2015, p.33).

The most pertinent division for this subject is Her Guud, which is divided into two primary sections: punitive (dhiig) and civil (dhaqasho). Dhiig is further broken down into three categories: Qudh (murder), Qoon (violence), and Tuugo (stealing). There are multiple subcategories of various crime degrees within each of these categories. For instance, Qoon can be either bodily injury, which has around 12 degrees of harm and each with a corresponding amount of Diya compensation, or moral harm, such as slander. This includes little mishaps like ripped clothing as well as serious cuts and fractures, as well as amputations (Le Sage, 2015, p.33).

The four sections of Dhaqasho, the civil code Her, deal with family (xilo), private property (xoolo), territory (deegan), and hospitality (maamuus)-related concerns. There are several subcategories within each of these groups. For instance, rules for the upkeep, distribution, and use of land, inanimate objects, and living animals are included in Her about private property. Inheritance, gift-giving, and the standing of "lost and found" possessions are likewise governed by its regulations. The areas of Xeer where shari'a has been most thoroughly implemented are Xilo and Xoolo, which concern family relationships and private property problems, respectively. It's interesting how this draws a comparison to secular state court systems that largely employ shari'a to handle family, inheritance, and small civil dispute concerns (Le Sage, 2015, p.33).

The dynamic aspect of the Her system, which enables it to alter and adjust to new situations over time, is one of its essential qualities. The Somali people have a long tradition of negotiation and dispute settlement, and the Her method embodies this attitude of adaptation and flexibility, as Gundel (2006, p.12) notes. Agreements formed under the Her system are not sacrosanct and can be changed or even abandoned if the situation warrants it, unlike many current legal systems that are dogmatic and inflexible. This level of adaptability, which enables the Her system to react to shifting social, economic, and political situations, is crucial for its success. Additionally, the Her system's capacity to change over time guarantees that it will

continue to be applicable and efficient in serving the requirements of Somali communities. This is one of the main justifications for why the Her system is so highly valued in Somali culture as a vital protection of social cohesiveness.

It is not always true to declare that Her is without difficulties and inconveniences. Although the Somali clans have recognized and used the Her ancient legal system for many years, it is not always relevant or regularly enforced. Kadiye (2020, p.5) asserts that Her is a polycentric system, which means that various groups within Somali culture have diverse interpretations of it. All Somali groups share basic parts of Her, such as Diya compensation, marriage customs, and property management, although there are differences in the laws that apply to different livelihood systems, such as agriculture and pastoralism. According to Bradbury et al., (2010, 58-59), these laws might vary across urban and rural areas and throughout time.

According to Omar (2018, p. 26), the fact that Her places more emphasis on group accountability than individual accountability for crimes committed within a clan is one of its key features. As a result, people may feel less responsible for their acts, this might result in a rise in violent crimes like murder and physical assault. Her furthermore encounters several difficulties. For instance, the number of seniors who are specialists in Her is dwindling with time and it is an oral system that has not been recorded. There is also an increasing preference among younger generations for modern dispute-resolution organizations over old ones, particularly in cities. Finally, if a party disobeys a Her judgment, there is no practical way to enforce it.

1.2. Elders (Odayada)

Clan elders in Somali society have a position of respect within their clans and are given the authority to speak out for and represent their clan members on any issues that may have an impact on or influence their interests. Although theoretically any adult man can hold the position of elder and have the authority to speak in council (shir), in reality, elders are chosen to represent their clan based on qualities like age, oratory ability, and Money (Ibrahim, 2018, p.62). Menkhaus (2000) asserts that a clan elder's ascent to a position of power is contingent upon a lifetime reputation as a skillful negotiator, a reliable mediator, an orator, or a wise and devout man, rather than on an inherited position. The majority of scholars concur that traditional elders must be skilled communicators. Ibrahim (2018, p.62) pointed out that clan leaders have a bond with the community, live in a conflict-ridden environment, and are respected and trusted. They also possess moral authority and the ability to persuade others. As noted by Bradbury et al. (2010, 58-59), Isim, Suldaan, Garaad, Ugaas, and Malaq are a few senior-titled elders in some clans who are seen as having a lot of authority inside their clan.

Elders in the Her system, often referred to as Her begti, are essential to preserving social order and mediating conflicts (Kadiye, 2020, p.5). These elders have the moral clout and power to gather resources for the safety of the community and to arbitrate conflicts. When resolving conflicts, they take precedent and tradition into consideration. They also serve as judges and mediators in legal proceedings. In Somali communities, clan elders have been instrumental in preserving social order and security for many years by using the traditional Her method of handling conflicts.

The elders' power derives mostly from their historical standing in Somali culture, which grants them influence over assets, marriage ties, and networks that transcend clan, ethnicity, and generational lines. Many Somalis also think that elders have superhuman abilities, which increases their perceived authority. Clan elders mediate and set the standards that regulate behavior and relationships both inside and outside the Mag-paying commune under the Her system. The elders, who are mostly males, interpret the Her in a way that serves the interests of all the participating clans, making them crucial in mediating and settling

conflicts between various local groups (Malim, 2018, p.120).

Furthermore, elders have a role in more than just resolving disputes. They serve as cultural and moral watchdogs and are crucial to upholding traditional values in Somali society. According to Malim (2018, p.113), Somali clan leaders assumed the role of guardians of Islam and traditional culture during the colonial era and instructed their people to oppose the introduction of Western education. As a kind of protest against Westernization, many parents therefore forbade their kids from attending Western schools. Due to this opposition, an educated or modified form of Islam maintained its supremacy and is still very important to modern-day Somali culture and way of life. The elders are a vital part of Somali society because of their effect on preserving harmonious relationships and a community-centered way of life.

In addition to their traditional responsibilities, Somali elders now participate in contemporary governmental organizations in places like Puntland and Somaliland. Their participation in these institutions demonstrates their significance and influence in modern Somali society. For instance, according to Bradbury, the Guurti, or Upper House of Elders, in Somaliland has formalized the elders' function as guarantors of safety and peace (Bradbury et al., 2010, 58-59). They have moreover taken a leading role in choosing party candidates. The nomination of candidates for parliamentary seats has also involved elders in Puntland.

It is crucial to keep in mind, nevertheless, that the prestige and function of Somali elders have evolved. They have historically been of utmost significance in pressing warring parties to agree to a truce, starting talks between parties, and making decisions based on Her. However, since Somali governments have been paying the elders to uphold public order since the colonial era, their function and reputation have degraded. As a result, people began to believe that elders were corrupted and that their authority had been compromised (La Sege, 2015).

Despite these difficulties, Somali elders continue to have a substantial amount of power and play a crucial part in many facets of society, such as governing, resolving disputes, and upholding traditional norms. The changing function of elders is a reflection of Somali society's dynamic character and their ongoing usefulness in adjusting to contemporary conditions while retaining traditional norms and rituals.

1.3. Religious Clerics (Oluma/Wadaadaha)

As a country with a large Muslim population, Somalia is heavily affected by Islamic clerics who have significant influence over Somali society. Clerics, or leaders of the religion in Somalia, are important in influencing the country's religious and cultural discourse. Their engagement extends across several fields, including politics, administration, dispute resolution, and the implementation of Sharia law.

The religious elders of Somalia have important positions and play crucial responsibilities in the community. Gunther Schlee discusses the function of religious leaders in the implementation of Sharia law (Schlee 2013, P. 260). These clergy carry out judicial duties including administering marriage and divorce processes and assist elders in fostering peace amongst feuding clans. The traditional Somali culture, in which religion is seen as the most important component of life, is upheld in large part by Somali religious leaders. Their moral impact and respect come from their in-depth understanding of religion and Sharia law.

Within the framework of Her, the customary law of Somalia, religious leaders are partly essential in settling disputes and promoting peace. According to Schlee (2013, p. 260) and La Sage (2015, p.16), sheiks and leaders of religion, referred to as wadaad and ulema, had no direct say in them but they assisted elders in attempting to mediate a peaceful settlement between rival clans. They don't directly arbitrate or resolve conflicts between parties. They collaborate with elders to promote amicable discussions, consensus-

building, and the prodding of adversaries toward reconciliation. As they are seen as being impervious to financial influence and having the power to "curse" disobedient clansmen, religious leaders are viewed as having greater moral authority and objectivity, which contributes to their impact on dispute resolution (La Sage, 2015, p.36).

Religious leaders in Somalia have proven their power in several areas. It was shown their part in endorsing certain practice guidelines for the use of contraceptives, particularly the promotion of birth spacing to improve the health of women and children (Egeh, Dugsieh, Osman, 2019, p. 28). Additionally, according to a report by the United Nations Population Fund (UNDP), some religious leaders have actively promoted the use of family planning while others have aggressively opposed practices such as female genital mutilation (FGM) in Somalia. They have banded together in recent years to combat religious extremism and terrorism, releasing a fatwa condemning such actions and promising to back the government's fight against radical groups like Al-Shabaab.

While Somali religious clerics play an important role in fostering peace, prosperity, and stability in the country, they face several obstacles. The many ways that Somali society interprets Islamic law is one difficulty. Some religious authorities urge strict devotion to Islamic law, which can spark disagreement and discussion among the populace. Finding consensus on particular problems can occasionally be difficult due to the range of viewpoints.

The existence of misunderstandings and misrepresentations about the implementation of Sharia law in Muslim nations in Western media is another difficulty for Somali religious leaders. Such misunderstandings might reinforce unfavorable preconceptions and make it difficult to comprehend the real function and influence of religious authorities in Somali culture. Günther Schlee (2013) emphasizes the need to dispel these myths in order to promote greater communication and discussion.

For religious leaders, the security risk presented by terrorist groups like Al-Shabaab adds still another level of difficulty. Al-Shabaab is still capable of carrying out large-scale operations in Somalia and its neighboring nations, according to a study by the Council on Foreign Relations (2022), which poses a serious security danger to Somali society and its religious leaders. The safety of religious leaders is at risk, and their attempts to advance peace and stability in the area are hampered by this threat.

1.4. Women

In traditional governance structures, such as clan elders and Her councils, women may have a limited or nonexistent formal role. Decisions are primarily made by male clan leaders by agreement, which often marginalizes women and reduces their interests to those of the clans (La Sage, 2015, p.16). The exclusion of women from participation is also seen among the Guurti, whom they are not allowed to participate since they are unable to advance to the position of elder in the traditional system (Omar, 2018, p.27). Women face discrimination and are not permitted to serve as Her Begti or to represent any party, claims La Sage (2015, p. 36). To put it succinctly, Her is predominantly male. Women have very little influence on the creation and operation of Her since they are not granted the same political rights as males. Due to Somalia's patriarchal society, women are not actively involved in resolving disputes; instead, they subtly convey their opinions through males, according to Yusuf (2018, p. 14).

Based on La Sage (2015, p. 38) when it comes to the treatment of women, a number of Her practices stand out for criticism: Godobtir, which is the forced marriage of a girl into an enraged clan as part of a Diya payment; Higsin, which is the forced marriage of a deceased wife's sister to the widower; and Dumal, which is the forced marriage of a widow to a male relative of her deceased husband. Oftentimes, a raped woman is coerced into marrying her perpetrator. Although the stated purpose of this is to preserve the

woman's honor, it serves to guarantee that the victim's clan will receive the entire amount of the attacker's dowry. Further bloodshed is also avoided since marriage strengthens the link between the man and woman's respective clans. In addition, women are customarily "denied the right to inherit capital assets such as camels, horses, buildings, seagoing vessels, and frankincense plantations," and husbands' abuse of their wives is typically accepted unless it becomes so severe or ongoing that it disrupts society. In addition to limiting women's access to property and money, this restriction on their rights also jeopardizes their general status and well-being (Kadiye, 2020,p.27).

In summary, women have been marginalized in Somalia's traditional systems of government, with few political rights and limited access to the legal system and decision-making processes. These restrictions go beyond conventional forms of government and have an impact on their economic chances within society as well as their more extensive human and Islamic rights.

2.MODERN GOVERNANCE SYSTEM IN SOMALIA

It is said that modern governance started from the democratic principles and ideas that were developed during the Enlightenment era of the 17th and 18th centuries. These principles act as a catalyst for how governance systems have changed over time. The peace of Westphalia was one of the most significant factors that marked the basis of the establishment of independent sovereign states. As a result, the growth and sustainability of the state were linked to the territorial control and mobilization of force.

The Westphalian state and the notion of sovereignty were limited to focusing on the state's ability to control its territory and to gain enough capital that is required for territorial integrity and security. However, this perspective looks over domestic affairs within the state's boundaries. When Max Weber defined the state, he highlighted the control of a democratic territory (Richard, 2014, p.3).

Nevertheless, how modern statehood is understood has expanded beyond the control of territory and monopolization of force. According to the Montevideo Convention on the Rights and Duties of States in 1933, a State is a legal entity that has a defined territory, a permanent population, an effective government, and independence (Brownlie, 1998, 70-72). The term effective government emphasizes the importance of the actions and responsibilities of the central government in areas that are beyond physical and territorial security. It emphasizes the need to fulfill domestic sovereign responsibilities through institutional authority and organizational capacity (Richard, 2014, p.3).

In the case of Somalia, the origin of its modern governance can be found in its colonial past. Before European colonialism, Somalia had a long history of clan-based and customary systems of government that were important in forming societal structures and resolving conflicts. But when European colonial powers arrived, they overthrew these established structures and imposed their own.

2.1. Pre-Independence Era/Colonial Era

If we examine the pre-independence era or the colonial era, we can understand how modern governance evolved in Somalia. The 'Mad Mullah,' Sayyid Mohammed Abdulle Hassan, started the fight for Somali independence and the reunion of all Somalis in 1899, which marked the Somali resistance to colonialism. The "Dervish Movement," a resistance movement that took place throughout the nation, began in the north and continued until 1920 (Sheikh-Abdi, 1977, p.659). Hassan tried to bring Somali clans together in their struggle against colonial powers through his poetry. Due to Hassan's military achievements, the British and Ethiopians eventually teamed up to fight him (Hess, 1964, p.416).

Fighting against forced labor and slavery was one manifestation of colonial rule's opposition in the

South. Nassib Buunto was the leader of the "Gosha Revolt," which took place between 1890 and 1907 and was directed against both the colonizers and the Somali overseers who served them (Mukhtar, 1996, p.545). The southern Somalis were subjected to forced labor, which led to several fatalities from disease and grueling efforts.

The political evolution of Somalia accelerated following the Second World War and the end of Italian colonization in 1941 (Ahmed, 2019, p.11). The British Mandate ruled the Somali areas as a result of Italy's defeat in the conflict. After World War II, proponents of self-determination and democracy became more vocal, leading to the founding of the Somali Youth League (SYL) in 1945, which was made up of former British workers. Hassan's demand for the unity of Somali clans under Somali sovereignty served as the SYL's main source of motivation. They emphasized supporting education, creating social institutions, and fighting clan rivalries among Somalis (Barnes, 2007, p.280)

Amministrazione Fiduciaria Italiana della Somalia (AFIS), an UN-approved program created by Resolution 289, was in charge of Somalia from 1950 until 1960. The AFIS looked to help Somalia create a contemporary nation with a democratic administration. The AFIS sent Somali youth, mostly from the SYL, to Italy for three years to receive education in a variety of subjects related to governance, law, history, civilization, Islam, international law, UN organization, economy, geography, and the international statute for the organization of Somalia (Tripodi, 1999, p.368). This was done as part of the effort to develop future Somali leaders.

Two other prominent parties appeared during the trusteeship period, Hisbia Dighil Mirifle (HDM), which represented the inter-river region in the south, and Partito Democratico Somalo, which was created by the union of various parties. Political participation increased from 38,567 to 62,509 people between 1950 and 1954 (Ware, 1965). However, throughout the AFIS, problems appeared, such as political violence in Somalia that was frequently linked to the rhetoric of north vs south. The HDM in the south, which considered the presence of nomadic clans as reflecting northern interests and was concerned about the economic repercussions, fought with the SYL, perceived to have substantial British support and representing nomadic clans (Mukhtar, 1988, p.85).

To evaluate how Somalis might behave in contemporary state elections, Somalia held its first municipal election in March 1954. To prepare for the elections, the nation undertook a registration process. On July 1st, 1960, Somalia finally achieved independence as a result of this (Sheikh-Abdi, 1977, p.661).

As we see Somalia has gone through numerous stages of trying to adapt to contemporary governance practices throughout its history. We will study pre-conflict governance, during-conflict governance, and post-conflict governance in the coming section. These times illustrate Somalia's development and the difficulties it experienced in building efficient governmental institutions in the wake of war and state breakdown.

2.2. Pre-Conflict Governance

Due to the introduction of universal suffrage, the 1958 elections in Somalia were a significant turning point (Tripodi, 1999, p.367). The former Somalia colonial possessions of the British and Italian powers were combined to establish the new state of Somalia in 1960. In a democratic parliamentary system, Ali Sharmarke served as Prime Minister, while Aden Abdullah Osman was elected as the nation's first president. The creation of "Greater Somalia" or "Somali-Weyn," which aspired to combine all Somali lands, including French Somalia (Djibouti), the Northern Frontier District (NFD) in Kenya, and the Ogaden region in Ethiopia, was the main goal of the Somali government. This cause was brought up during the Cairo Conference in 1961, as well as in front of the United Nations and the Organisation of African Unity

(which is now the African Union). These attempts, however, did not result in appreciable advancement because of the vested interest in maintaining established international borders (Sheikh-Abdi, 1977, p.661).

The newly constituted state had numerous difficulties during the early stages of independence due to attempts at colonial control in the government and the use of clan ties in politics. Italians desired political power during their retreat from Somalia, and they tried to do it by replacing Italian workers with Somalis from their colonial region (Mukhtar, 1989, p.88). According to Samatar & Samatar (1987, p.682), the government also depended on foreign aid from former colonial powers, which had an impact on the budget of the country. Sadly, lawmakers used this outside funding for personal wealth and power, which led to a rise in the number of political parties from 24 in 1964 to 62 in 1969.

Clan loyalty persisted in playing a key role in Somali politics notwithstanding the creation of a modern sovereign state. As seen in the elections of 1956 and 1958, clan affiliations were used as a strategy to take control of the government (Mukhtar, 1989, p.83).

The clan ties created in earlier years were put to the test in 1964 when the first general parliamentary elections were held. Despite 21 political parties running in the elections, the Somali Youth League (SYL) won 69 of the 123 seats in parliament, claiming victory. Politicians from both the southern and northern areas held places in the new government, giving the impression of a balanced representation. However, due to problems like politicians breaking their early vows or not providing the support they had promised, the administration resigned in 1966 (Ahmed, 2019, p.15)

2.2.1. Somalia Under Siyad Barre's Ruling

Political parties were outlawed and replaced by the Supreme Revolutionary Council (SRC) following Barre's coup. The SRC sought to end the use of clan connections as a political platform in addition to adopting Marxist socialism as the official system of government. According to Sheikh-Abdi (1977, p.662), Somalis are familiar with socialism and its concepts. Their culture combines elements such as the old communalistic system of Hanti Wadaag, which entails sharing animals and wealth. This mechanism guarantees that less fortunate relatives and individuals who have suffered misfortune obtain reparation via Xoolo-Goyn. Xoolo-Goyn is analogous to severing a portion of the herd or biting off a piece of bread to feed a hungry partner. Somalia also values other socialist principles like Iska Wax u Qabso (self-help) and Isgargaar (cooperation).

The dictatorship carried out several nation-building projects, including the development of a written form of the Somali language, literacy drives, and improvements to the nation's healthcare system (Davidson, 1975, p.28).

Clan politics made a comeback in Somalia under Barre's rule as a way to acquire and hold onto power. Political tensions along clan lines were exacerbated by the Barre regime's use of public finances for the Ogaden war (Samatar and Samatar, 1987, p.683). To start a war with Ethiopia over the Ogaden region in 1977, the government eventually revived the idea of "Somali-Weyn" (Adam, 1992). According to Adam (Adam, 1992, p.22), while portraying his cabinet ministers as mediators, Barre started damaging clan relationships, inciting tensions subtly, and giving opponents money and weapons. He stifled the growth of Somalia's minor bourgeoisie while favoring his own Darood family clan and concentrating power there. Ahmed (2019, p.24) noted that to create the MOD, Barre brought together three Darood sub-clans: the Maheran clan (his father's clan), the Ogaden clan (his mother's clan), and the Dolbahante clan (his son-in-law's clan).

Bantu Somalis were at risk during this time because their lands were taken by the government and

given to Barre's allies as incentives (Besteman, 1996, 581-582). As noted by Luling (1997, p290), Barre upheld the ban on using clan names in public while also acting in clan clientelism, giving weapons and cash to his allies, and promoting attacks against rival clans. Barre indirectly encouraged resource scarcity and instability by damaging the nation's economy, which encouraged clan loyalty as the only means of surviving. The protracted civil war that Somalia has been experiencing for the past 20 years was eventually caused by Barre's obsession with elevating his clan to the position of the ruling elite (Ahmed, 2019, p.16).

Barre used collective punishment to quell clan dissent. According to Elmi and Barise (2006, p.35), the military administration utilized disproportionate force and collective punishment to stifle dissenting voices, denying people the ability to express their dissatisfaction. When a group of soldiers tried to take over the regime in 1978, the government of Siad Barre retaliated by using the national army and police to punish civilian Majerteen clan members. As a result, the military slaughtered people, committed widespread violations, and devastated clan-inhabited places.

Barre also gave the order to bomb Hargeisa in the late 1980s, which caused a large number of fatalities, internal displacement, and infrastructure destruction (Samatar, 1997, p.704). According to Ahmed and Green (1999, p.119), there may have been 100,000 fatalities as a result of the Hargeisa attacks. By using strategies akin to those used by the KGB, Barre effectively converted the entire nation into an open-air prison. The actions in Hargeisa, which purported to exterminate Isaaq clan members exclusively based on their clan ancestry, have been compared to genocide.

2.3. During conflict: Somalia's Collapse and Humanitarian Aid

Under Barre's rule, Somalia's government disintegrated, sparking a protracted civil war and a significant humanitarian disaster. Barre's methods consolidated clan differences among Somalis, escalating tensions that carried over into the civil war. Diverse Somalis had diverse experiences as a result of the civil war; some, like the Darood, were the targets of violence, while others, like the Bantu, who had weak clan ties, were subjected to killings by Barre's soldiers (Adam, 1999, p.176).

During the civil war, several groups emerged, representing various clans and regions in their struggle against Barre, including the Somali National Movement (SNM), the Somali Salvation Democratic Front (SSDF), the Somali Patriotic Movement (SPM), and the United Somali Congress (USC) (Luling, 1997, p.294; Samatar, 1997, p.177). A fragmented and chaotic post-Barre era characterized by small-scale civil wars along clan lines resulted from the faction leaders' struggle for power following Barre's overthrow (Adam, 1999, p.176). Originally organized to combat Barre, clan militias grew out of hand and split into sub-clan and sub-sub-clan militias, which engaged in theft, bloodshed, and destruction over all of Somalia (Samatar, 1997, p.704).

Organizations like the Worldwide Committee of the Red Cross (ICRC) and the United States Agency for International Development (USAID) started worldwide humanitarian aid initiatives in the 1990s to improve the dreadful situation in Somalia. These initiatives, however, ran into serious obstacles and were mostly ineffective. Out of 8 to 10 million inhabitants, 4.5 million Somalians, or more than half the population, were projected to be starving and in need of aid (Adam, 1999, p.181). An estimated 300,000 to 500,000 people perished as a result of famine and other problems, such as infectious diseases (Ahmed and Green, 1999, p.120).

According to Menkhaus (2010, 323-324), despite being targeted by clan militias, humanitarian organizations engaged militias as security guards and gave them financial support under the pretense of "technical support". The aid provided by NGOs was nevertheless still at risk of being seized due to tribes' fluctuating territorial control. Ahmed and Green (1999, p.122) noted that such organizations

unintentionally gave clan militias more power and influence by giving them a new source of income. Moreover, the United Nations (UN) and other entities attempted external interventions, such as conflict resolution conferences, but these efforts encountered substantial obstacles and failed to result in a peaceful conclusion (Ahmed and Green, 1999, p.122). External forces have occasionally been blamed for escalating the crisis and lessening the likelihood of a peaceful resolution (Adam, 1999, p.186).

Following the civil war, de-facto nations like Somaliland and Puntland with their distinct clan dynamics and governmental systems arose (Johnson and Smaker, 2014, p.5). Clan elders in Somaliland were instrumental in forging power-sharing agreements amongst clans, resulting in some degree of stability (Johnson and Smaker, 2014, p.6). Despite not being recognized by the African Union or the UN, Puntland, which is primarily inhabited by the Majerten sub-clan of the Darod tribe, pursued self-governance (Njoku, 2013).

Clan agreements in southern-central Somalia produced a power-sharing arrangement that made the area somewhat stable. To summarise, the Pre-conflict and during-conflict periods in Somalia, from 1960 to 2000, demonstrated the complex dynamics of clan politics, external influences, and the pursuit of establishing a modern democratic system. Somalia had a protracted civil war and a humanitarian disaster as a result of the breakdown of the government in 1991. Somalis and international groups worked to rebuild the nation throughout the period of government that followed the conflict. We shall examine Somalia's post-conflict government in the following part, as well as the difficulties encountered during the restoration effort.

2.4. Post-Conflict Governance

In the last three decades, efforts have been made in Somalia to rebuild and establish a contemporary governing structure. The goal is to develop a system that supports consistency, openness, and efficient government both at the national and local levels. To reconstruct state institutions, advance security, and foster political reconciliation, later initiatives including the Transitional National Government, Transitional Federal Government, and Federal Government of Somalia have been put in place. These initiatives signify ongoing attempts to install a reliable and efficient system of government in Somalia.

2.4.1. Transnational National Government

After Somalia's central government fell apart in 1991, the country descended into a protracted period of upheaval and violence. Several international and regional peace conferences were convened to create a transitional governing authority. In the early 1990s, these conferences were held in far-off nations like Egypt and Yemen as well as close-by states like Djibouti, Kenya, and Ethiopia. These conferences' main goal was to bring together various warlords and factions for talks with the ultimate goal of reaching a power-sharing agreement (Menkhaus, 2007, p.360).

Warlords became powerful figures during these peace discussions, presenting themselves as clan representatives. With each succeeding session, there were more warlords claiming to speak for their respective tribes. For instance, there were six factions representing six clans at the Djibouti conference in 1991, and there were fifteen clan-based groups at the Addis Abeba conference in 1993. There were 28 factions present at the Cairo summit in 1997, up from the previous year (Elmi, 2010, p.35). The predominance of warlords and their connections to clans complicated the peace process and hampered government attempts.

The Transitional National Government (TNG), headed by President Abdi Qasim Salad Hassan, was established in 2000 as a consequence of the peace talks held in Arta, Djibouti. A power-sharing plan based

on the 4.5 formula was enacted by the TNG, which had a 245-member parliament. With a 0.5 allocation set aside for minorities like the Bantu and Benadiri, this method distributed parliamentary seats among the four largest clan families, the Dir, Darood, Hawiye, and Digil-Mirifle (Ahmed, 2019, p.5).

The TNG represented Somalia in the international community and worked to bring back stability and government in the nation. However, internal strife and warlord hostility limited its efficacy. According to Menkhaus (2007, 359-360), Somalia's TNG, which is predominantly represented by clans centered in Mogadishu, notably the Hawiye/HaberGedir/Ayr sub-clan, has failed to operate as a cohesive administration. It was opposed by the Somali Reconciliation and Rehabilitation Council (SRRC), led by Abdullahi Yusuf and supported by Ethiopia. This schism has had a considerable influence on Somali politics, with the SRRC calling for federalism and opposing Islamism, and the Mogadishu-based alliance opposing Ethiopia, including Islamists, and supporting a strong central authority. Moreover, the Isaaq clan, which was regarded as the fifth main clan, was combined with the Dir clan during the peace negotiations, which caused tensions and accusations of aggression (Elmi, 2010, p.29). Hussein Aidid and Musa Sudi were serious threats to the TNG, which led to internal conflict and, eventually, the government's collapse after roughly 18 months (Le Sage, 2005, p.5).

2.4.2. Transitional Federal Government

According to Elmi (2010, pp. 94-95), Ethiopia, with the support of Kenya, pushed the IGAD regional organization to hold another reconciliation meeting in Kenya. At the 2001 IGAD conference in Khartoum, the Ethiopian delegation said that Somalia's peace process was inadequate, noting the exclusion of major partners. Consequently, a summit hosted by Kenya, sponsored by IGAD, and dominated by Ethiopia began on October 15, 2002. After two years, this conference finished with Ethiopia imposing a charter, parliament, and government on Somalia, with practically all of Ethiopia's proxies serving in parliament. During the meeting, the Transitional Federal Government (TFG) was formed, and its representatives chose Abdullahi Yusuf, a long-time Ethiopian warlord, as president. According to La Sage (2005, p. 13), Colonel Abdullahi Yusuf was chosen by a clan-based Transitional Federal Assembly of 275 MPs.

According to Ahmed (2019, p.5), the TFG used the same 4.5 clan power-sharing method to elect officials as its forerunner. The entire number of parliamentary seats was distributed according to the 4.5 formula, yielding roughly 62 seats for major clan groups and 31 seats for smaller clan groupings. Although the precise number of members in parliament has changed between elections, the general idea of applying the 4.5 formula for seat distribution has stayed constant.

The Transitional Federal Government (TFG) faced several problems, both within Somalia and from external parties. Interference from neighboring nations impeded the peace process that culminated in the foundation of the TFG. Elmi (2010, p.21) claims that Ethiopia and Kenya put their interests ahead of long-term stability in Somalia. Fearing a unified "Greater Somalia" that would threaten their rule over Somali-inhabited lands, they sought to build a weak administration that would not pursue such a goal.

Elmi (2010, p.23) goes on to say that, while Ethiopia and Kenya participated, other regional actors like as Eritrea and Egypt were disappointed with the outcome. According to news reports, Egypt's cold welcome of President Abdullahi Yusuf on his 2004 visit to Cairo typifies this displeasure.

Historically, Arab states have had a rivalry with Somalia's neighbors, Ethiopia and Kenya. Somalia and the Arab world are naturally linked by their shared religion and culture, but Ethiopia and Kenya share borders and a history of conflict with Somalia. These regional tensions, combined with Ethiopia's alleged efforts to undercut Egypt's earlier peace proposal from 1997, exacerbated the situation.

This outside interference not only hampered the peace process but also harmed the TFG's legitimacy. Furthermore, Elmi (2010, p. 22) argues that Somalia lacks the key ingredients for a viable federation. The country could not simply successfully handle various tiers of government—local, regional, and federal. Further complicating matters, there was no agreement on how to divide Somalia into federal states. Some, like northern federalists, called for two regions, while others, such as Puntland and the Rahanweyn Resistance Army, preferred four or five. Others, including several members of the Darod clan, opted to return to the 18 regions formed during Siad Barre's reign. In contrast, some Hawiye clan members advocated for a restoration of the eight districts that existed before Barre's dictatorship. The lack of agreement on a federal structure was a key challenge to constructing a stable and unified Somalia.

According to Elmi (2010, 95-139), the establishment of the Islamic Courts Union (UIC) in 2006 was a watershed moment. The UIC vanquished the majority of warlords, restoring calm to Mogadishu and the surrounding territories. This popularity among Somalis concerned Ethiopia, which saw the UIC as a danger and responded militarily. However, Ethiopia's withdrawal in 2009 was prompted by a mix of vigorous UIC opposition and discussions with Somali parties. This opened the door for a new era in Somali politics.

Building on this momentum, Djibouti conducted a series of peace negotiations in 2008, concluding in the creation of the Government of National Unity (GNU) in February 2009. This was an important milestone because prior attempts at reconciliation had been mostly fruitless (Elmi, 2010).

Sheikh Sharif's 2009 election used the 4.5 formula, which is a power-sharing system based on clan representation. This system would continue to play a part in subsequent Somali administrations, including the 2012 administration that saw the founding of the Federal Republic of Somalia (FRS). (Ahmed, 2019, p. 6.)

2.4.3. Why The 4.5 Formula?

Power-sharing is defined by Papagianni (2007, p. 24) as political systems that ensure the involvement of representatives of all major communal groups in political decision-making, particularly in the executive. Conflicting parties come together through power-sharing to agree on representation in all facets of government. It is usually applied in societies where concerns about identity, such as those based on religion or race, are prevalent. A predetermined formula or a formula based on political parties' electoral performance can be used to accomplish power sharing in the executive (Papagianni, 2007, p. 25).

Power-sharing, according to Papagianni (2007, p. 27), not only makes agreements easier to sign but also makes them last longer. Power-sharing agreements, however, can impede political advancement and freeze the realities of wartime. They are hampered by the key players' persistent lack of confidence in one another. Power-sharing arrangements frequently overlook the interests of minorities in decision-making and are unable to address all the many problems that confront a nation that has experienced violence.

The 4.5 formula for Somalia is predicated on the possibility of power-sharing amongst Somali clans. It aims to specifically address the long-standing power struggles and clan-based disputes that afflict the country. After the Somali 4.5 power-sharing formula was established, executive power-sharing was used as a political tool. This meant that the allocation of power was based on a predetermined formula that allocated parliamentary seats according to clans in governmental representation. Lewis (1993, p. 495) states that the four main clan groups in Somalia are the Hawiye, the Darood, the Dir (which includes the Isaaq clan), and lastly the Digil and Mirifle. These clan groups comprise the bulk of the country's population. These clans have traditionally had a great impact on the social and political dynamics of the country. There are minority clans, according to Ahmed (2019, p. 6), including the Gabooye, Tumaal, Yibir, Midgaan, Somali Bantu, and Banadiri Reer Hamar. These clans, who make up the formula's 0.5 representation

component, are usually marginalized and underrepresented.

Therefore, the 4.5 formula aims to specifically address the long-standing power struggles and clan-based conflicts that have afflicted the country. Clans in Somalia operate much like ethnic groupings in other nations. By allocating authority among the four major family clans and providing 0.5 representation to women and minority clans, the formula seeks to guarantee that all important stakeholders are included in the governing process (Ahmed, 2019, p. 28).

According to Ahmed (2019, p. 29), the 4.5 Formula has been successful in putting a stop to clan animosity, but it has also caused politics to stagnate and made it difficult to move away from clan-based politics. Furthermore, minority clans and Somali Bantus have suffered as a result of the 4.5 Formula, which has created challenges for the government in terms of legitimacy and democratic governance.

2.4.4. Current Governance

After twenty years, the government of Somalia received worldwide legitimacy in 2012 when Hassan Sheikh Mohamud, a former teacher and member of civil society, was elected president. The Somali provisional constitution, which established a federal structure of member states sharing power, was ratified that same year. According to the constitution, the Somali government has control over the entire country, including the self-declared independent state of Somaliland. By building effective political institutions and responsive, responsible government, the adoption of the constitution was primarily intended to put an end to protracted tensions, wars, political turbulence, and disorder (Kouroutakis, 2014, p.196).

According to Ahmed (2019, p.37), the protection and advancement of human rights, as well as inclusive governance, are prioritized by the Constitution, which supports a liberal and inclusive administration. It divides government into three distinct branches: the legislative, executive, and independent judicial, all of which are intended to preserve a proper balance of power and guarantee accountability. Article 11 of the constitution states that all citizens have equal rights and obligations under the law, regardless of their sex, religion, social or economic status, political viewpoint, clan, disability, occupation, birth, or dialect (Som. Const.).

Presently, Jubbaland, Gamudug, Puntland, the Southwest State of Somalia, Hir-Shabelle, and Somaliland are among the states that make up the federal government of Somalia. The federal government and the member states each have their level of government, according to the Constitution. The federal government is given authority over issues like foreign relations, national defense, immigration and citizenship, and monetary policy (Som. Const. art. 54), whereas the states have more control over local issues. The particular authority given to the states is still being worked out (Ahmed, 2019, p.37)

The significance of the 4.5 power-sharing model's absence from the constitution lies in its indication of a shift away from clan-based governance and towards a system that grants each individual the right to vote for themselves, so bolstering the notion of one person, one vote (Ahmed, 2019, p. 37). A major challenge when it comes to upcoming elections in Somalia, according to Crouch & Njagi (2017, p. 12), is how to handle the transition from the stable but undemocratic clan power-sharing formula of 4.5 to the introduction of a direct, one-person, one-vote democracy, which could have unpredictable results and jeopardize the tenuous stability that has been established.

In the 2012 elections, 135 elders who voted for the president helped elect 271 members of parliament using the 4.5 formula. Following the 2017 elections, a two-tiered government system with the House of the People (Lower House) and the Upper House was established. The National Leaders Forum increased the electorate to 14,025 delegates, constituting 275 electoral colleges with 51 electors for each

parliamentary seat, to strengthen democracy and fight corruption. President Farmaajo was elected as a result of this procedure (Crouch & Njagi, 2017, p.12).

Moreover, Somalia's President, Hassan Sheikh Mohamud (HSM), took office in May 2022. Despite expectations of a permanent constitution with public input by 2016 (Ainte, 2014), the 2022 election, like its predecessor, relied on the existing 4.5 power-sharing system based on clan affiliation. This system assigns key positions like speaker, prime minister, and president to specific clan groups. Clan elders and state legislatures select national parliamentarians, who then elect the president.

Somalia in 2024 is a nation in negotiation, not just with itself but with its very foundation – the constitution. The ongoing review process exposes the complexities of building a unified nation from the fragments of a turbulent past. Media reports paint a picture of a contentious process fraught with both potential progress and significant setbacks.

On March 30, 2024, a significant milestone was reached as both houses of the Somali Federal Parliament approved the first four chapters of the revised constitution (Hiiraan Online, 2024). This vote represents a critical step forward, but the process is far from complete.

One major point of contention is the shifting balance of power between the president and the prime minister. The parliament's earlier approval of a bill granting the president the authority to appoint and dismiss the prime minister marks a significant change (Africanews, 2024). This altered the previous system where the prime minister required parliamentary approval. Proponents argue this change addresses long-standing power struggles that have plagued Somali politics for years. However, skepticism lingers regarding its effectiveness in fostering lasting stability.

The review process has also reignited tensions between the federal government and some regional states. Puntland, a semi-autonomous region, reportedly threatened secession if the revised constitution failed to address their concerns (Bloomberg, 2024). This episode highlights the ongoing challenge of balancing federalism with national unity, a tightrope walk Somalia has struggled with since its inception.

Further complicating the situation are concerns raised by Human Rights Watch (HRW) regarding proposed amendments that could weaken child protection measures (HRW, 2024). The potential reduction of the age of majority to 15 and the possibility of loopholes permitting certain forms of female genital mutilation (FGM) have sparked outrage from human rights advocates (HRW, 2024). These proposals expose the fault lines between progress and tradition, highlighting the need to prioritize the well-being of children, particularly girls.

2. INTERRELATIONSHIP OF BOTH SYSTEMS

Traditional Somali governance and modern Somali governance share numerous striking parallels. Both systems place a high value on clans as social entities, similar to tribal groups in other countries. The 4.5 Formula implemented in Somalia aims to promote opportunities for clan involvement in government without guaranteeing specific government positions. This reflects the recognition of clans as powerful entities in both traditional and modern settings.

Furthermore, both traditional and modern governments recognize the historical importance of clan elders as political figures. This practice extends back to pre-colonial times and became increasingly prevalent during the colonial era when colonial forces relied on clan elders as indirect rulers. The continued role of clan elders in modern governance highlights the enduring influence of traditional structures.

Leadership and decision-making procedures also exhibit shared characteristics. Traditional clan-based systems rely on clan elders to guide communities and settle disputes, while modern governance entrusts elected officials and government authorities with leadership and decision-making on behalf of the state. Both systems acknowledge the need for representation and participation, achieved through clan elders in the traditional system and democratic elections in the modern system.

Finally, both traditional and modern governance systems emphasize legal structures and standards. Traditional clan-based systems rely on customary law, reflecting the community's established norms and social values. Modern governance systems are guided by statutory laws and regulations that govern the state and its institutions. Notably, the Somali constitution integrates customary law principles, underscoring the interconnection between traditional and modern legal frameworks.

On another hand, there are substantial contrasts between Somali Traditional and Modern Governance Modes. Customary law was not written down in traditional modes, but rather dynamically interpreted based on the community's cultural and social norms. In modern government, on the other hand, there is a written constitution that gives a framework for administering the state.

Another distinction is found in the gender and age dynamics. Power was primarily controlled by men in conventional ways of administration, with no opportunities for engagement for women or younger generations. All clans, however, were treated equally and had representation in decision-making procedures. Modern administration, on the other hand, has made achievements in increasing the participation of women and younger generations, but it has also resulted in the marginalization of particular clans. For example, the 4.5 power-sharing formula has resulted in unequal representation, with certain clans having fewer representatives than others.

Traditional and modern governance have different representation processes. Traditional means of representation relied on clan elders' wisdom, expertise, and experience, who were chosen to represent their clans. There were no elections, and the elders' authority was acknowledged by the community. Representatives in modern administration are elected through elections, but the selection process does not always prioritize skill or ability. Individuals aspiring to enter parliament, on the other hand, may rely on clan support and resort to bribery or other methods to win votes.

Furthermore, decision-making in traditional models of administration was frequently seen as trustworthy and free of bribery or corruption. Elders would convene to deliberate and make choices in the best interests of the community. However, there has been an upsurge in bribery and corruption in modern government, where monetary incentives play a role in influencing decisions.

These distinctions emphasize the changing nature of the Somali government and the difficulties in harmonizing traditional and modern systems. In Somalia's state-building efforts, balancing the need for inclusive representation, accountable decision-making, and effective governance remains a difficult issue.

In Somalia, the possibility of collaboration between traditional and modern governance is crucial for achieving stability and legitimacy. The current 4.5 power-sharing arrangement, which distributes power based on parliamentary seats and clan representation, has, however, been a source of disagreement and criticism.

The 4.5 formula and other power-sharing arrangements have limitations and can contribute to political stagnation. The 4.5 system in Somalia reinforced clan identification in politics, resulting in a lack of progress and the inability to construct a legitimate and effective government. Former warlords and conflict actors gained legitimacy and influence by participating in the power-sharing system (Papagianni,

According to Papagianni (2007, p.24), political power-sharing has some important features such as proportional representation, proportional allocation of positions and funds, and minority protection. In Somalia, the 4.5 power-sharing formula does not correspond to these features of political power-sharing. Certain groups in Somali society are disadvantaged as a result of historical discrimination and power distribution based on clan representation.

To develop collaboration between the traditional and modern governments in Somalia, it is critical to address the flaws of the 4.5 power-sharing system and shift towards more inclusive and transparent practices. This could include efficiently executing the constitution, establishing clear participation criteria, and prioritizing capacity-building of governmental institutions and security forces. Somalia may move towards a more peaceful and prosperous future for all of its residents by fostering equal representation, accountability, and legitimate governance.

4. REFLEXIVITY

As a Somali born and raised in Somalia, I have experienced firsthand the tumultuous events that have shaped our country's history. I witnessed the devastating impact of the conflict between the Ethiopian army and Islamic forces, which ravaged our communities and left deep scars on our society. The Somali system has influenced every aspect of my life, from economic opportunities to education, health, and social dynamics.

In this paper, I aim to provide a comprehensive literature review on the topic at hand. Despite the personal experiences that have shaped my perspective, I endeavor to approach this review with scholarly rigor and objectivity. My goal is to present a balanced analysis that encompasses both traditional modes of Somali governance and modern governance structures. By exploring how these systems can coexist and sometimes conflict, I hope to provide readers with a synthesized understanding of this complex topic.

CONCLUSION

To summarize, upon reviewing the literature review on both the Somali traditional system of governance and the modern system of governance, the paper research demonstrated the strong influence and inevitability of traditional ways of governance in Somalia, particularly the clan-based system. These traditional systems have deep roots and continue to play an important role in government, especially at the local level. The findings show that the previous Somali authorities' attempts to repress clan-based systems have been futile. These mechanisms have resisted such repression and have remained key participants in the country's governing dynamics. Moreover, the research highlights the inherent conflict between traditional and modern models of governance, as they represent opposing mindsets and methods. Traditional systems' flexible structure can occasionally provide problems for social cohesion, especially in a quickly changing and modernizing society. The findings indicate that religious clerics' power has been diminished in the setting of modern administration in Somalia. Further investigation is required to comprehend the elements that contribute to this phenomenon and its repercussions.

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