



Draft

Somali Joint Needs Assessment

GOVERNANCE, SECURITY, AND THE RULE OF LAW

CLUSTER REPORT

August 2006

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This report was drafted by a team headed by Sylvia Fletcher (UNDP Somalia), Governance, Security, and Rule of Law cluster leader, with subcluster leadership by Olivier Le Brun (Reconciliation and the Rule of Law); Greg Lindstrom (Security); Laurent Marion (Government, Public Administration, and Accountability); and Cynthia Gaigals (Civil Society, Participation, and Media). Coordination and analysis of field data were led by Aues Scek. Major contributors on thematic areas, in addition to subcluster leaders, were Abdullahi Said Osman, Luigi N. Tessiore, Noha El-Mikawy, Giulio D'Ercole, Sidi Zahabi, Ted Morse, Paula Pennanen, Kirsti Samuels, and experts from AWEPA. The work on civil service **[[this isn't a subcluster--why capped, unless it's supposed to be Civil Society?]]** was done jointly with a World Bank team led by Harry Garnett. Input on cross-cutting themes and international experience was provided by Ayoo Odicoh, Hendrica Okondo, Oumar Kane, Johan Svensson, Abdusalam Omer, Mohammad Pournik, Kamil Kamaluddeen and Qais Naoman. The deputy cluster leader was Abdullahi Said Osman. Laurent Marion provided coordination of subclusters, particularly during the stage of fieldwork. Olivier Le Brun coordinated the preparation of subcluster reports. Dozens of experts provided input and participated in field missions, including the following: Aweis Hagi Mohamud, Kassim Ahmed Abdulle, Mohamed M. Guled, Siad Siyad Shirwa, Khalif Farah, Col. Jaotody Jean de Matha, Kamar Yusuf, Rukia Osman Shi, Mohamed Said Mohamud, Ali Doy, John Dingley, Eddie Boyle, Laurel Patterson, Mohamed Abudullahi M., Paul Simkin, Fatuma M. Abdi, Mike Bicker, Hatem Bamehriz, Tahlil Haji Ahmed, Dahabo Omar Mohamed, Keith Biddle, Laure-Helene Piron, H. J. J. Haen, Andiweli Ali, David Bell, Eric Overvest, Mohamed Abdi Hayir, Danabo Cumar, and Rugiyo Cusman. **[[do you not want these in alphabetical order?]]** UNDP Somalia provided general support, under the direction of Country Director El-Balla Hagona. The substantive role of the Somali authorities and experts is widely acknowledged. The Governance, Security, and Rule of Law cluster worked under the coordination of UN Senior Technical Coordinator David Bassiouni and World Bank Senior Technical Coordinator Lloyd McKay, of the Somali Joint Needs Assessment Secretariat, with operational support led by Louise Cottar, coordination officer, ably assisted by a team comprising Susan Muiruri, executive assistant, Nafisa Santur, workshop coordinator, and Margaret Onyango, finance associate.

TABLE OF CONTENTS

ACRONYMS	iv
FOREWARD	Error! Bookmark not defined.
EXECUTIVE SUMMARY	viii
Part One: Introduction.....	1
1.1 Overall Objective and Key Themes.....	1
1.2 Vision and Strategic Objectives.....	2
1.3 Links to other Clusters	4
1.4 Core strategies, principles and cross-cutting issues.....	4
1.5 JNA Methodology.....	5
1.6 From the Vision to Achievable Objectives.....	5
Part Two: Reconstruction and Development Priorities	7
1.7 Sub-Cluster 1: Reconciliation and the Rule of Law	7
1.7.1 Reconciliation	7
1.7.2 The Rule of Law	16
1.7.3 Secular Courts.....	19
1.7.4 The traditional, clan-based system (xeer).....	22
1.7.5 The shari'a courts.....	24
1.7.6 Human rights and gender	26
1.7.7 Land, property and justice.....	27
1.7.8 Reconciliation, Building Peace and the Rule of Law	31
1.8 Sub-Cluster 2: Security	32
1.8.1 Disarmament, Demobilization, Reintegration (DDR)	32
1.8.2 South/Central Somalia	33
1.8.3 Somaliland	35
1.8.4 Puntland	35
1.8.5 Police.....	38
1.8.6 Mine Action	43
1.8.7 Somaliland	44
1.8.8 Puntland	45
1.8.9 South-Central Somalia.....	46
1.9 Sub-Cluster 3: Government, Public Administration and Accountability	50

1.9.1	Constitutional Process ²⁸	51
1.9.2	Parliament, Democratic Processes and Elections	52
1.9.3	Parliament	52
1.9.4	Democratic Processes and Elections.....	53
1.9.5	The Architecture of Government	56
1.9.6	Transitional Federal Government	58
1.9.7	Puntland	60
1.9.8	Somaliland	62
1.9.9	Local Governance for Development.....	66
1.9.10	South-Central Somalia.....	68
1.9.11	Puntland	69
1.9.12	Somaliland	71
1.10	Sub-Cluster 4: Civil Society, Participation and Media.....	77
1.10.1	Civil Society and Participation	77
1.10.2	Media	81
Part Three: Results Based Matrix of Outcomes and Interventions.....		84
1.11	ANNEXES.....	105

ACRONYMS

[[I have deleted many acronyms—those used only once or twice]]

AWEPA	[[spell out]]
CBOs	community-based organizations
	[[used just once]]
CSC	Civil Service Commission
	[[used just in one paragraph]]
CSOs	civil society organizations
DDD&R	Directorate of Demining, Demobilization, and Reintegration
DDG	Danish Demining Group
DDR	disarmament, demobilization, and reintegration
DFID	United Kingdom Department for International Development
DRC	Danish Refugee Council [[watch out for PDRC—different thing entirely]]
	[[only introduced; changed to explosives detection dogs (plural explosives)]]
EOD	explosive ordnance disposal
FCC	Federal Constitutional Commission
FMAC	Federal Mine Action Coordination Centre [[queried FMACC?]]
	introduced once; FPENS may be one such org.
	[[used only once, at introduction]]
	[[not used; no need to use an acronym]]
	[[used only once after introduction]]
ICT	information and communication technology
IDPs	internally displaced persons
IEDs	improvised explosive devices
IMSMA	Spell out in table note in annex—put only in table key
JNA	Joint Needs Assessment
	[[used only one time, as introduced]]
LIS	landmine impact survey
	[[used only once, with introduction
MACC	Mine Action Coordination Centre
MACs	Mine Action Centres [[should all MACs be MACCs? and PMACC or SMACC?]]
	[[abbrev. never used]]
MOU	memorandum of understanding
MRE	mine risk education
	[[used only once while introducing]]
NGO	nongovernmental organization
	[[used once while introducing and in table once]]
NSSP	National Security and Stabilisation Plan
PDRC	Puntland Development and Research Centre [[Centre in text; used only in the endnotes; not to be confused with DRC, Danish Refugee Council]]
PLPF	Puntland Police Force

PMAC	Puntland Mine Action Centre
PRMT	Police Reactivation Management Team
RBM	Results-Based Matrix
RDP	Reconstruction and Development Program
ROLS	UNDP Rule of Law and Security Programme[[leave mme as in UNDP?]]
RRA	Rahanweyn Resistance Army
S/C	South Central Somalia[[is S/C an accepted abbreviation for the region?]]
SDP	Strategic Development Plan
SLPF	Somaliland Police Force
SMAC	Somaliland Mine Action Centre
SNPRC	Somali National Peace and Reconciliation Conference
So. Sh.	Somalia shillings
	[[intro'd/used just once]]
SPF	Somalia Police Force
TA	technical assistance
TFC	transitional federal charter
TFG	transitional federal government
TFI	transitional federal institutions
TFP	Transitional Federal Parliament
	[[change this to TFG?]]
TOR	terms of reference
UN	United Nations
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific, and Cultural Organization
UNICEF	United Nations Children's Fund
UNOSOM	United Nations Operation in Somalia
	[[used only on introduction]]
USAID	United State Agency for International Development
US\$	United States dollars
UXO	unexploded ordnance

Foreword

This cluster report is part of the technical work of the Somali Joint Needs Assessment (JNA), an exhaustive technical exercise involving extensive consultations with Somali stakeholders, ranging from civil society groups to national and local authorities and parliamentarians. It has been produced by an integrated team of Somali and other technical experts drawing on information from (a) existing sources, (b) consultation workshops, (c) selected field visits and meetings with a wide array of Somali groups and individuals, and (d) questionnaire-based fieldwork undertaken by Somali experts in all regions to review priority needs and develop reconstruction and development proposals to address those needs. It responds to specific local needs by providing differentiated suggestions for South Central Somalia, Puntland, and Somaliland. Moreover, it reflects the importance of three key cross-cutting issues—peace building and conflict prevention, capacity building and institution development, and human rights and gender equity—**[[missing word? the paper used gender equality for a while but then uses gender equity—change all to equity?]]**—by addressing them as an integral part of the proposed initiatives to achieve desired reconstruction and development objectives.

The JNA team has used the six cluster reports to prepare an integrated Reconstruction and Development Program (RDP). The RDP presents a proposed set of initiatives to address priority needs from among the wider set of needs. Clearly, not all needs can be addressed immediately or within the five-year time frame of this RDP. Implementation capacity and likely resource availability have been considered in developing RDP initiatives; however, behind all this is the fundamental objective of supporting Somalis in deepening peace and of reducing poverty as quickly as possible in a sustainable way.

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<<CH>>EXECUTIVE SUMMARY

1. Somalia has been without effective government for 15 years. It has survived, but it has not prospered. Various forms of governance have filled the vacuum left by the collapse of the state in 1991, including informal systems driven by the resurgence of the role of clans and by the evolving roles of business, religious, and civic groups. In South Central Somalia, these groups provide an array of services in most communities, and various levels of security, justice, and predictability in a context of continuing conflict and insecurity. In the absence of a functioning central government, Somaliland and Puntland restored peace and security in their states, but both are still too weak to efficiently deliver services.

2. Despite the resilience of local communities and businesses, the absence or weakness of the state¹ is at the root of underdevelopment, as highlighted in successive Somali Human Development Reports.² Whereas many business people have found the ingenuity to cope and make a living, and some have taken advantage of insecurity and unpredictability, the business community as a whole has not prospered either. Lack of regulation, displacement, and conditions of environmental predation during the past 15 years have significantly altered Somalia's natural resources, seriously compromising the future productivity and livelihoods of the rural population.

<<A>>Overall Objective and Key Themes

3. The overall objective of the Governance, Security, and Rule of Law cluster is to support the Somali people to develop government that, through its credibility, legitimacy, and reconciliation of constituencies, can (a) create institutions to ensure security and establish the rule of law; (b) regulate commerce and enable private sector growth with international investment and trade; (c) enable investment in infrastructure to support growth and recovery from war; (d) enable the recovery of livelihoods; and (e) deliver social services to all Somalis, through local governance, with community-led initiatives and partnerships, and thus facilitate the necessary investment in social capital, especially health and education, to achieve the Millennium Development Goals.

4. Peace building and the creation of good governance are two key themes that have emerged from the Somali Joint Needs Assessment (JNA). The challenge for the transitional federal government (TFG) is to achieve substantial progress in building peace over the next three years, and to build a solid foundation for good governance by 2011. Despite their relative success in securing peace, Somaliland and Puntland remain states with weak government institutions and are still vulnerable to conflict in many areas, especially their border districts.

<<A>>Vision and Strategic Objectives

5. Twelve strategic objectives make up the vision for governance, security, and the rule of law over the period 2007–11. These objectives are presented below under the four subclusters used in the JNA process and in this report: Reconciliation and the Rule of Law; Security; Government, Public Administration, and Accountability; and Civil Society, Participation, and Media.

<>Reconciliation and the Rule of Law

1. *Reconciliation.* Reconciliation processes succeed in promoting disarmament, demobilization, and reintegration of militias; resolving land and property disputes; creating conditions for transitional justice to satisfy the needs of Somali survivors; and creating a conducive environment for intercommunity dialogue and local governance, where elections and political dialogue will enable the inclusive participation of all groups within society, including youth, women, and minorities. For Somaliland and Puntland, processes of reconciliation are developed further to support dialogue for dispute settlement and increased participation in governance, including youth, women, and minority groups.

2. *Justice and the rule of law.* All Somali people, including vulnerable and poor men, women, and children, have improved and equal access to basic structures for the administration of justice, functioning in accordance with international human rights standards. All Somalis are respectful of the rule of law and aware of their rights and empowered to exercise them.

<>Security

3. *Disarmament, demobilization, and reintegration.* These three conditions are substantially achieved in all Somali regions.

4. *Police.* Effective, accountable civilian police services are operational throughout all Somali regions. Services focus on local needs policing within an overall national or federal security framework, with full involvement and cooperation of civil society.

5. *Mine action.* Mines and unexploded ordnance are substantially cleared, with survivor assistance programs established and national capacities for mine risk education and clearance operational.

<>Government, Public Administration, and Accountability

6. *Constitutional process.* A new constitution for a federal Somalia is prepared in an inclusive, participatory manner involving all sectors of the population and adopted by popular referendum, laying the groundwork for a legitimate federal Somali state.

7. *Democratization and electoral processes.* Multiparty democracy with inclusion of women, youth, and minority groups is effective in all Somali regions, with capacity built to move from a clan-based system toward multiparty democracy.

8. *Architecture of government.* A minimal, lean, efficient federal structure of institutions is functioning to serve regions and localities and embody good governance processes of transparency, accountability, and participation; decentralization structures for local governance are well defined and operational.

9. *Capacity building for government institutions and the civil service.* **[[add word “building” as in heading in exec. summary?]]** Technically competent and operationally efficient and accountable public institutions are in place, which are capable of building peace and promoting human development to achieve the Millennium Development Goals.

10. *Local governance.* Formal local governance systems are functioning in all Somali regions, with integration of formal and informal systems for service delivery that are participatory and inclusive of all population groups, including women. The systems facilitate delivery (provided directly or indirectly) of good-quality, reliable, affordable, and sustainable services to all

citizens; contribute to reconciliation; and bridge the urban versus rural-pastoralist divide through effective pro-poor policies.

<>Civil Society, Participation, and Media

11. *Civil society and participation.* Legitimate and credible nongovernmental organizations (NGOs), civil society groups, and umbrella organizations and professional associations work independently and with increased capacity to support peace, democracy, and reconciliation in all Somali regions, and with increased coordination and collaboration among themselves. Groups are taking on active advocacy roles, with effective channels of dialogue and mutual respect established between civil society and government authorities. Civil society influences and participates in the constitutional dialogue, peace building, decentralization processes, and poverty-reduction strategies.

12. *Media and information.* Numerous and diverse media channels and outlets, including local, inter-regional, and national organizations, function with independence and integrity, providing information, education, recreation, and culture for all Somalis, using a diversity of methods of dissemination and technology to reach and engage all Somalis.

<<A>>Links to Other Clusters

5. Peace, security and good governance are cited in every other cluster report as necessary preconditions for the successful pursuit of that cluster’s activities and objectives, from resettlement of displaced persons, pursuit of livelihoods, creation of infrastructure, and development of productive sectors and the economy. The Governance, Security, and Rule of Law cluster develops horizontally the critical components of the institutional and human capacities for the framework of government to support the initiatives of the other clusters. In addition, the absorptive capacity for reconstruction and development is directly related to the capacity of government and nonstate partners for efficient, accountable management of resources.

<<A>>Core Strategies, Principles, and Cross-Cutting Issues

6. The vision of what is possible in South Central Somalia, Puntland, and Somaliland over the next five years is different for each region. Thus, two core strategies that have emerged from the JNA are asymmetric development assistance, enabling differentiated assistance across the various regions, and the need to rely on Somali leadership. The option of “wait and see” as a response to continuing insecurity in some areas will exacerbate humanitarian needs, delay development of the productive sectors, and further destroy the natural environment (which is already devastated by 15 years of predation and lack of sustainable use) has an extraordinarily high opportunity cost for Somali entrepreneurs, both in country and in the diaspora, and geopolitical implications, especially for security and humanitarian conditions in the Horn of Africa. Areas that have been able to achieve fragile peace are at risk of a return to violence if peace-building efforts are not enhanced and sustained.

7. A comprehensive peace-building and reconciliation process for Somalia must be founded on an analysis of the root causes of conflict, with attention to the principles of “doing no harm”—

minimizing unintended negative impacts—and of maximizing the peace-building effects of all interventions.

8. In many ways, the cross-cutting issues best describe the fundamental elements of a successful assistance strategy for the Somali people. Peace building, reconciliation, and conflict prevention are the core requirements for any successful strategy in governance, for economic development, security of livelihoods, and social welfare. Capacity building, institutional development, and anticorruption summarize the necessary tools and processes. Gender equity and human rights are reminders that social, political, and economic inclusion are necessary, if not sufficient, and that a prosperous society cannot be built on abuse, marginalization, or subutilization of any of its citizens. **[[meaning of subutilization? underutilization? also, preceding changes made to balance sentence (that...and that), but how does “if not sufficient” fit in?]]**

<>Reconciliation and the Rule of Law

9. Somali reconciliation appears to be fundamentally a political process combining mediation and settlement of disputes, both those disputes that were underpinning conflict and those that have arisen or become deeper as a result of violent conflict. The Somali National Peace and Reconciliation Conference³ led to the establishment of the transitional federal government, but despite this important result, there was no real reconciliation among clans, militia, and political leaders. Delegates at the conference found conflict issues too sensitive and divisive to resolve, and only agreed on power sharing in the new national, political institutions and on the principle of federalism as outlined in the transitional charter, without concrete modalities for its operationalization. As a result, extremely sensitive issues must now be dealt with by the transitional federal institutions (TFIs), such as the return of stolen or occupied real estate, political and military control over towns and regions, the right of all clans to return to live safely in Mogadishu, and the handling of charges of war crimes. Reconciliation did take place to a significant extent in the northern regions, demonstrating that reconciliation is a prerequisite to stability.

10. The vision for a successful reconciliation process relies on the following priority actions or intermediate objectives: TFI structures responsible for peace building and reconciliation are supported. Civil society is supported for its participation in reconciliation. Local reconciliation processes are supported as they emerge and are linked to local governance. Participation of women and integration of women’s issues are monitored, and special targets for representation and inclusion are achieved.

11. Legal pluralism is a key feature of the rule of law in Somalia, with three sources of law: customary law (*xeer*), shari’a law based in Islam, and formal secular law, based on colonial and post-independent developments. Building good governance requires the establishment of an integrated justice system that is accessible to all, and using the strengths of the various systems and mechanisms operating in Somalia under traditional, religious, and secular systems. This vision can be achieved through the following priority actions: (a) strategic frameworks are developed for integrating the three legal systems, and normative frameworks are developed to protect rights, especially the rights of women and children; (b) capacity building of judicial personnel is undertaken, and rehabilitation or construction of infrastructure and equipment is

done by stages, with projects needing quick impact combined with systematic, long-term infrastructure development; (c) land rights issues are addressed through the rule of law; (d) a culture of human rights is developed within rule-of-law institutions; (e) specialized human rights institutions are established or strengthened to work in partnership with rule-of-law institutions, including police; (f) oversight and accountability structures are established or strengthened; and (g) a gender strategy and a child rights strategy are developed and implemented.

<>Security, DDR, and Mine Action

12. Disarmament, demobilization, and reintegration (DDR) of militias is a process linked to reconciliation, legitimacy of the state conferred by factions and groups in conflict, and a decision to transfer the security function to government institutions for the rule of law. Reintegration must consider the large-scale migration of local populations and militias and the prevalent use of *khat* and other narcotic drugs by militias. Weapons control must be addressed at both international and local levels. DDR will succeed only if Somali commanders support it. Whereas successful disarmament and demobilization are largely the product of the decisions by the command structure, successful reintegration helps prevent remobilization and is fundamentally about social adaptation, education, and employment for ex-combatants. Somaliland and Puntland have substantially succeeded in the demobilization process; however, reintegration and weapons control still require attention.

13. South Central Somalia presents an immediate challenge to DDR. The vision is for DDR to be substantially achieved in all Somali regions by 2011, with priority program targeted to communities or areas where there is a commitment to disarm and demobilize.

14. After the collapse of the Somali state, various informal policing structures evolved, linked to militias or to the various informal judicial bodies. A modern Somali state cannot rely on multiple, informal policing structures without systemic and functional integration. However, continuation of parallel, informal police can be helpful and beneficial in a long transition process, as it enables some informal police structures, which have good knowledge and relationships with their communities, to continue to serve.

15. The vision is to have throughout Somalia an effective and accountable civilian police service focused on local needs policing, within an overall national or federal security framework, with the full involvement and cooperation of civil society. The following are the priorities for the 2007–11 period. An integrated police force should be established, with the possibility of (a) absorbing—with proper vetting, qualification, recruitment, and training—elements from the informal police into the state police.; and (b) maintaining some informal police units that would be mobilized under the civilian command and control of the police of the state and would perform specific, delegated functions as part of an integrated framework for policing. The framework for policing will need to be linked to discussions and development of the overall constitutional framework, which is being developed.

16. The identification and clearing of landmines is ongoing, with significant progress in Somaliland and Puntland. South Central Somalia is in the early stages of mine clearance and presents additional problems of unexploded ordnance (UXO) in areas of recent fighting. The

vision is for mine and UXO clearance to be completed in all high- and medium-priority areas by 2011. The priorities are presented in the Results-Based Matrix for this cluster, with significant additional effort required for South Central Somalia (see final section for this matrix).

<>Government, Public Administration, and Accountability

[[add text to break up stacked heads; or just remove the following heading. Other heads at this level are the]]<<C>>

17. Years of dictatorship and political mismanagement have created deep-seated fear and distrust of government among Somalis and have generated a general perception of central government as an oppressive and predatory instrument exerting its power for the benefit of a minority elite and a favored clan.⁴ The past decade has also seen the “radical localization of Somali politics,” characterized by clan-based fragmentation of the society, has placed the center of governance at the local level and put service delivery systems in the hands of the private sector. Though this phenomenon presents interesting opportunities, the reality of many underserved population groups indicates a need for a stronger government role in service delivery, particularly to mobilize local resources and manage national resources for locally provided public services.

18. To overcome these challenges, state-building efforts will need to quickly build the legitimacy and credibility of Somali institutions, through the constitutional process, but also through early and effective delivery of services, with demonstration of impartiality and accountability by the leadership and civil servants in all tiers of government. The core principles of transparency, accountability, and citizen participation must be present even in small projects if Somalia is to begin to create political credibility and ensure that very scarce resources are used for the development of peace and prosperity.

<<C>>*Constitutional Process*

The federal transitional charter empowers the TFG to name a Federal Constitutional Commission (FCC) to draft, within two and a half years, a new constitution for a federal Somalia, which is to be adopted by popular referendum. The process of constitution making can provide opportunities for reconciliation, with parties searching for negotiated solutions to major divisive issues in a nonviolent way and achieving agreement on the modalities of federalism best suited to Somalia. Nevertheless, such a process also faces considerable risk of failure or of increasing conflict in Somalia if it is not undertaken in a peace-inducing and inclusive manner.

19. The achievement of the vision for the constitution for a federal Somalia—prepared and drafted in an inclusive and participatory manner, involving all groups of the population and adopted through popular referendum—will require innovative and Somalia-specific solutions to a number of highly contentious issues. These include decentralization of federal structures for the Somali context,[[what did the preceding slash represent?]] the future role of traditional governance structures, electoral models appropriate to such a conflict-prone environment, judicial and legal structures addressing the roles of customary and shari’a law, citizenship rights in the future states, promotion and protection of the rights of minority groups, and solutions to contested land issues. Priority actions are to support a process of dialogue and resolution of these issues.

<<C>>*Support for Democratization and Electoral Processes*

In the Somali context, the clan-based system of selecting representatives for assemblies and local councils has proved a powerful tool to foster peace and reconciliation and build a national consensus. Nevertheless, and as the transition by Somaliland toward popular vote and a multiparty system shows, elections remain an essential instrument for building the legitimacy of national institutions. The vision or desired outcome is two-pronged: to support electoral processes required by the different constitutions and charters, and to progressively build the Somali capacity to move from a clan-based system toward a multiparty democratic system, as provided by the different charters and constitutions, with inclusion of all groups such as youth, women, and minorities. Priority actions are the development and capacity building of electoral systems and specialized electoral bodies, support for civic education, and the development of political parties.

20. <<C>>*The Architecture of Government*[[I stopped changing the format of this heading, in case the authors or reviewing editor don't want these as heads; though they can't appear periodically for the occasional paragraph, to title just one paragraph]]

Somalia today is characterized as a weak or failed state with strong communities. The strength of communities, especially to mobilize themselves to provide social services, should not be dismantled or reduced as the state is rebuilt. The [[transitional?]] charter, signed in February 2004, specifies that Somalia “shall have a decentralized system of administration based on federalism.” The key construct in this regard is a proposed four-tier administrative hierarchy: federal, state, regional, and district. The charter articulates a division of functions and powers between the federal and state governments but does not identify specific responsibilities for regions and districts.

21. The vision for the architecture of government is for a minimal, lean, efficient federal structure of institutions to serve regions and localities and embody good governance processes of transparency, accountability, and participation, with well-defined decentralization structures for local governance that are operational. The priorities are to (a) determine detailed functions for each tier of government according to the transitional federal charter and the constitutional process; (b) determine staffing needs, budget, and recruitment and deployment plans for each ministry and department; and (c) begin to implement these plans for federal, state, regional, and local government, according to capacity-building priorities, as stated below.

22. <<C>>*Capacity Building for Government Institutions and the Civil Service*

A minimal federal structure of institutions can serve the regions and localities and embody good governance processes of transparency, accountability, and participation. A high priority is assigned to regulatory functions for the productive sectors, standards and regulations for social services, and public financial management. The TFG has taken the first steps toward setting up a civil service.⁵ The “brain drain” presents constraints to the recruitment of qualified staff by the TFG, with qualified Somalis in the diaspora who could play an important role in the new institutions, as they did in the JNA process. [[last clause doesn't follow first—is the diaspora an example of where they have drained to, as it sounds?]] Puntland's civil service faces similar challenges related to the brain drain. Most of the functions of the state are regulatory, with service delivery undertaken by local entities and the private sector. Levels of formal education and training are low, and women civil servants are underrepresented, with most in subordinate posts. Somaliland has a more developed public administration system; however, the

civil service suffers from lack of motivation and poor educational qualifications of staff. Women make up 27 percent of the Somaliland civil service, but most are unskilled workers at the bottom of the employment pyramid. The irony of the lack of capacity in governance is that qualified Somalis are available, both in country and in the diaspora. It is the organization of government institutions, the agreement on functions, and the creation of lean, efficient management systems that are missing.

23. Taking into account the differences between the TFG, Somaliland, and Puntland, a joint strategy can nevertheless be developed to build institutional capacity of government and the civil service, with a vision for lean, professional, efficient institutions that function with competent civil servants, are capable of planning, provide key regulatory functions, and engage partners to deliver social services and promote human development.

24. Major support is required to transform the current status of institutions and civil service into this vision, with the following priorities. Core government functions need to be defined in simple terms, with simple and explicit management and operational processes and systems established that will enable accountability and monitoring of performance. In the case of Somaliland and Puntland, where some staffing was done to support the process of reconciliation, a gradual rightsizing and reprofiling should be done, without jeopardizing the continued security in these regions. Considerable investment in human capacity is required at all levels. A gender quota of 12 percent for women was established in the transitional charter but has not been met. The inclusion of women and minority groups is a priority.

25. <<C>>Local Governance

The collapse of the state, subsequent fragmentation, and the emergence of local initiatives to provide social services, mainly by nonstate actors, present very interesting opportunities for local governance. In Somaliland and Puntland, traditional local governance structures have played an active role in peace- and consensus-building efforts and also form the basis for a decentralization process, mostly to be found at village (*tuulo*) and district levels and at neighborhood levels for urban centers. This phenomenon can become a building block of formal governance structures, provided adequate provisions are made for developing representation, the participation of all citizens, transparency, and accountability.

26. Despite the resilience and initiative of nonstate actors in service delivery, it is important to note the abysmal gap in access to services and extremely low indicators of human development in Somalia today. Thus, the status quo of private service providers is not sufficient in level and coverage of social services, specifically health, education, water, and sanitation, to enable Somalis to achieve the Millennium Development Goals as a minimum target. Nevertheless, it may be advantageous, especially for relatively rapid results, to build on these assets, expanding on the existing informal local governance structures that have already built social capital, and at the same time improving the quality (including pro-poor policies), quantity, and access of services. Such an approach presents a number of challenges. Private sector provision of services is concentrated in urban areas, where service delivery is more readily profitable or self-sustainable. There is a need to bridge the rural-urban divide⁶ and to inject adequate resources to the benefit of the poor and the isolated: pastoralists and the rural population.

27. Somaliland and Puntland both have put in place decentralization systems, with devolution of the delivery of services to district councils. Implementation is well under way in Somaliland but not yet operational in Puntland.⁷ Financial resources are scarce and not commensurate with mandated responsibilities. There is inequality between districts, particularly on a rural-urban breakdown.⁸ Nonstate actors provide the majority of services; however some innovative public-private partnerships have been developed. Technical and administrative needs are considerable to transform district councils into efficient institutions.

28. The vision or desired outcome is the establishment in all Somali regions of formal local governance systems, and the support to existing systems, that are participatory and inclusive of all population groups, including women and minorities; that facilitate the delivery (provided directly or indirectly) of good-quality, reliable, affordable, and sustainable services to all citizens; and that contribute to reconciliation. The local governance systems should bridge the urban versus -rural-pastoralist divide through effective pro-poor policies. This outcome may not be fully achieved in all areas by 2011, but significant progress can be made, provided there is a concerted effort by all actors, Somali government, and nonstate actors and international assistance providers to adopt a conflict-sensitive and developmental approach to local governance. Priorities and elements of this approach are as follows: (a) build on local existing assets and further develop existing social capital; (b) enable Somali ownership of the process, especially at the local level; (c) support and improve existing structures of local governance where they can evolve into fully participatory and inclusive systems; (d) invest in existing service delivery mechanisms, provided they serve the public good with fairness and access for all citizens; (e) develop and institutionalize participatory processes, including transparent and accountable decision making and resource management; (f) integrate local-level institutions and civil society into the process of policy development at regional, state, and federal levels;⁹ and (g) develop the management capacity of service providers, with an emphasis on principles of accountability, transparency, and participation. The entry point for reconciliation, local good governance, and sustainable development may be the delivery of good, reliable, and affordable services to citizens with efficacy and accountability.

<>Civil Society, Participation, and Media

29. <<C>>*Civil Society and Participation*

Following the collapse of the Somali state and the subsequent years of conflict, civil society in Somalia has emerged as an important social and political force.¹⁰ Although a relatively new phenomenon in Somalia, civil society organizations are today active in service provision; are contributing to peace, reconciliation, and development; and have taken on many of the traditional functions of the state, including dispute resolution and security. At the community level, mechanisms exist that have been able to resolve disputes and reconcile conflicting groups and clans. Civil society, as represented by clan elders and traditional and religious leaders, undertakes important reconciliation functions, and this section of civil society will be crucial to support state-led reconciliation. The Somali Islamic tradition also supports a range of peace-building, justice, and dispute-resolution mechanisms. NGOs are concentrated in the major cities, with pastoral areas underserved by both local and international NGOs. NGOs also appear to proliferate in areas where international NGOs and UN agencies have established bases and program, and there are few national NGOs. At community level, elders and traditional leaders

are primarily involved in peace building, conflict resolution, and dispute settlement. Religious groups have also emerged as a potent force within communities, especially in the fields of relief, education, and justice. Some civil society organizations have provided an avenue for women to participate in public life, and some are a platform for advocacy on human rights and gender issues.

30. A number of organizations across the Somali regions support governance, democracy, and reconciliation at national and regional levels. These range from peace activists to women and youth groups and include research and advocacy NGOs, networks, and religious groups. Professional associations and networks are a relatively new category of civil society actors. The greatest numbers of networks are found in Mogadishu and Hargeisa. Few networks and associations are found where access and communications are constrained by insecurity and poor infrastructure. Somali civil society organizations currently suffer from a range of constraints, including their credibility; they are sometimes perceived to be politicized by clan politics and power relations, lack of accountability, and inadequate transparency, or they are perceived as having vague and ambiguous mandates, low impact in their activities, and poor corporate governance.

31. The vision of a vibrant civil society participating in reconciliation and dialogue; supporting good governance; and advocating for human rights, pro-poor policies, and political inclusion can be achieved through the following priority actions: supporting the development of self-regulation and strengthening of internal governance by the civil society organizations; and ensuring that government provides deliberate and explicit roles and opportunities for participation of civil society, with special attention and resources to develop the participation of women, youth, and minority groups.

32. <<C>> *Media and Information*

Since 1991 there has been resurgence in the Somali media sector, particularly radio stations providing news and entertainment. However, coverage in rural and remote areas is limited, and the information delivery capacities of these stations is limited, with the professional skills of journalists still low and with some functioning as agents of warring parties. The trend in the media in Somaliland and Puntland, as well as in South Central Somalia, seems to be toward a free, market-oriented system that currently is without regulation and without a professional code of ethics. Media coverage of women's issues and concerns is negligible.

33. The vision under the JNA is for numerous and diverse media channels and outlets to function with independence and integrity, providing information, education, recreation, and culture for all Somalis and using diverse methods of dissemination and technology, including information and communications technology (ICT), to reach and engage all Somalis. The priorities are to develop an information and communication policy framework, support self-regulation of the sector, and support training and professionalism through tertiary and technical education, including ethics and technology.

<<A>> From the Vision to Achievable Objectives

34. The vision from the Joint Needs Assessment, as summarized above, may seem remote and unattainable looking at Somalia today. Three strategies are proposed to make progress toward the vision. The first is to disaggregate, or “unpackage,” the vision into achievable outcomes and sub-outcomes, with deliberate, well-identified links between them. These are presented in the results-based matrix. The second strategy is to apply rigorous standards of accountability, transparency, and participation to every governance initiative. Good governance is identified by good processes as much as by coherent institutions and structures. The third strategy is to build capacity, which is the common need, the common theme, and the common key to success. Capacity building must be deliberate, early, sustained, systematic, and inclusive. Resources must be devoted to building capacity, focusing on critical actors, but also including very broad groups of stakeholders of the emerging Somali democracy. Remedial formal education for youths and informal education for young adults, men, and women, are core components of capacity building, as well as primary schooling for all children, both boys and girls. Innovative techniques such as distance learning, which is already being piloted, should be expanded. The entrepreneurship of the private sector must be tapped to build capacity.

35. If Somalis can convert their ability to cope into a determination to achieve good governance, security, and respect for the rule of law, they will prosper, and they will be able to begin the recovery of the environment, the full utilization of their human and natural resources in peace, and the exponential growth from foreign capital and remittances that could generate wealth and well-being for all Somalis.

1 INTRODUCTION

36. Somalia has been without effective government for 15 years. It has survived, but it has not prospered. Various forms of governance have filled the vacuum left by the collapse of the state in 1991, including informal systems driven by the resurgence of the role of clans, and by the evolving roles of business, religious, and civic groups. In South Central Somalia, these provide an array of services in most communities, and various levels of security, justice, and predictability in a context of continuing conflict and insecurity. In the absence of a functioning central government, Somaliland and Puntland restored peace and security in their regions, but both are still too weak to efficiently deliver services.

37. Despite the resilience of local communities and businesses, the absence or weakness of the state¹¹ is at the root of the underdevelopment that is highlighted in successive Somali Human Development Reports.¹² Whereas many business people have found the ingenuity to cope and make a living, and some have taken advantage of insecurity and unpredictability, the business community as a whole has not prospered either. The notoriously high level of remittances into Somalia has not produced the wealth that would be expected from that volume of sustained capital inflow.¹³ Lack of regulation, displacement, and conditions of environmental predation during the past 15 years have significantly altered Somalia's natural resources, seriously compromising the future productivity and livelihoods of the rural population.

1.1 <<A>>Overall Objective and Key Themes

38. The overall objective of the Governance, Security, and Rule of Law cluster is to support the Somali people to develop government that, through its credibility, legitimacy, and reconciliation of constituencies, can (a) create institutions to ensure security and establish the rule of law, (b) regulate commerce and enable private sector growth with international investment and trade, (c) enable investment in infrastructure to support growth and recovery from war, (d) enable the recovery of livelihoods, and (e) deliver social services to all Somalis through local governance with community-led initiatives and partnerships, and thus facilitate the necessary investment in social capital, especially health and education, to achieve the Millennium Development Goals.

39. Peace building and the creation of good governance are two key themes, related but distinct, that have emerged from the Somali Joint Needs Assessment (JNA). The key processes for achieving and building peace are reconciliation; disarmament, demobilization, and reintegration (DDR) of militias; the building of government credibility; and a constitutional dialogue with broad-based participation.¹⁴ The key processes for building good governance are developing political legitimacy, including electoral processes; developing the architecture of government, including integrating federal, state, regional, and local levels of government; building institutions and their capacity, including the civil service; developing the culture and practice of transparency, accountability, and participation; and developing the role of civil society and media, to enable broad-based citizen participation in governance.

40. The challenge for the transitional federal government (TFG) is to achieve substantial progress in the processes of peace building over the next three years and to build a solid foundation for good governance by 2011. Both in Somaliland and in Puntland, all four peace-

building processes have measured some success, as will be described below. Despite their relative success, Somaliland and Puntland remain states with weak government institutions, still on the threshold of developing the core good governance principles of accountability, transparency, and inclusive participation of all citizens, and still vulnerable to conflict in many areas, especially their border districts. The TFG is at the beginning of the process of building good governance.

41. Establishment of good governance, security, and the rule of law are necessary preconditions for Somalia to go beyond the coping strategies supported by humanitarian assistance groups **[[need to add, or OK?]]** over the past 15 years. Development assistance requires a framework of legitimate government, with acceptable and increasing levels of transparency, accountability, participation, and respect for human rights. Moreover, the absorptive capacity for reconstruction and development is directly related to the capacity of government and nonstate partners for efficient, accountable management of resources. Developing the framework for government's regulatory functions at federal, state, and local levels and creating greater capacity for social service delivery with appropriate partnerships between the public and private sectors are thus necessary conditions for success of any peace-building strategy and for future development initiatives.

1.2 <<A>>Vision and Strategic Objectives

42. Twelve strategic objectives make up the vision for governance, security, and the rule of law over the period 2007–11. They are presented below under the headings of the four subclusters used in the JNA process and in this cluster report: Reconciliation and the Rule of Law; Security; Government, Public Administration, and Accountability; and Civil Society, Participation, and Media.

<>Reconciliation and the Rule of Law

1. *Reconciliation.* Reconciliation processes succeed in promoting the disarmament, demobilization, and reintegration of militias; resolving land and property disputes; creating conditions for transitional justice to satisfy the needs of Somali survivors; and creating a conducive environment for intercommunity dialogue and local governance, in which elections and political dialogue will enable inclusive participation of all groups of society, including youth, women, and minority groups. For Somaliland and Puntland, processes of reconciliation are further developed for dialogue intended for dispute settlement and increased participation in governance, including participation of youth, women, and minority groups.

2. *Justice and the rule of law.* All Somali people, including vulnerable and poor men, women, and children, have improved and equal access to basic structures for the administration of justice, functioning in accordance with international human rights standards. All Somalis are respectful of the rule of law and aware of their rights and empowered to exercise them.

<>Security

3. *Disarmament, demobilization, and reintegration (DDR).* These are substantially achieved in all Somali regions.

4. *Police*. Effective, accountable civilian police services are operational throughout all Somali regions; they focus on local needs policing within an overall national or federal security framework, with the full involvement and cooperation of civil society.

5. *Mine action*. Mines and unexploded ordnance are substantially cleared, survivor assistance programs are established, and national capacities for mine risk education and clearance operational.

<>Government, Public Administration, and Accountability

6. *Constitutional process*. A new constitution for a federal Somalia is prepared in an inclusive, participatory manner that involves all sectors of the population and is adopted by popular referendum, laying the groundwork for a legitimate federal Somali state.

7. *Democratization and electoral processes*. Multiparty democracy with inclusion of women, youth, and minority groups is effective in all Somali regions, with capacity built to move from a clan-based system toward multiparty democracy.

8. *Architecture of government*. A minimal, lean, efficient federal structure of institutions is functioning to serve regions and localities and to embody good governance processes of transparency, accountability, and participation; well-defined decentralization structures for local governance are operational.

9. *Capacity building for government institutions and the civil service*.**[[the heading in the exec summary had the word “building,” which makes sense. Add here?]]** Technically competent, operationally efficient, and accountable public institutions are in place, capable of building peace and promoting human development to achieve the Millennium Development Goals.

10. *Local governance*. Formal local governance systems are functioning in all Somali regions, with integration of formal and informal systems for service delivery that are participatory and inclusive of all population groups, including women. The systems facilitate delivery (provided directly or indirectly) of good-quality, reliable, affordable, and sustainable services to all citizens; contribute to reconciliation; and bridge the urban versus rural-pastoralist divide through effective pro-poor policies.

<>Civil Society, Participation, and Media

11. *Civil society and participation*. Legitimate and credible nongovernmental organizations (NGOs), civil society groups and umbrella organizations, and professional associations work independently and with increased capacity to support peace, democracy, and reconciliation in all Somali regions. Groups have increased coordination and collaboration among themselves, taking on active advocacy roles, and effective channels of dialogue and mutual respect are established between civil society and government authorities. Civil society influences and participates in the constitutional dialogue, peace-building, decentralization processes, and poverty reduction strategies.

12. *Media and information*. Numerous and diverse media channels and outlets, including local, interregional, and national organizations, function with independence and integrity, providing information, education, recreation, and culture for all Somalis, using diverse methods of dissemination and technology to reach and engage all Somalis.

1.3 <<A>>Links to Other Clusters

43. Peace, security, and good governance are cited in every other cluster report as necessary preconditions for the successful pursuit of that cluster's activities and objectives, including resettlement of displaced persons, pursuit of livelihoods, creation of infrastructure, and development of productive sectors and the economy. The Governance, Security, and Rule of Law cluster develops horizontally the critical components of the institutional and human capacities for the framework of government, including its architecture of institutions and functions, systems for management with accountability, the framework for decentralized service delivery through local governance, and the building of the civil service. This approach complements the other thematic clusters of the JNA, which identify and determine the cost of priority interventions in their respective fields. Clusters 1 and 2 (Governance, Security, and Rule of Law, and Macroeconomic Policy Framework, and Data Development, respectively) are particularly linked through public financial management, which is substantially covered in Cluster 2, with the basic architecture of government and the civil service covered in Cluster 1. Similarly, sector-specific cost estimates of services and frontline workers (teachers, health care workers, etc.) are covered in the respective cluster reports, whereas the general government framework and core civil service functions that manage line ministries are included in Cluster 1. **[[what are line ministries? referring to the frontline worker sectors? need to define?]]**

1.4 <<A>>Core Strategies, Principles, and Cross-Cutting Issues

44. The vision of what is possible in South Central Somalia, Puntland, and Somaliland over the next five years is very different for each region. Thus, a core strategy that has emerged from the JNA is that of asymmetric development assistance, in which those areas with the greatest absorptive capacity can receive assistance and social investment and be encouraged to progress, while differential programs are provided for according to the particular needs of each region. Investment in governance will reduce humanitarian liabilities plus create the regulatory framework for sustainable development and an environment conducive to private sector-led growth.

45. The option of "wait and see," as a response to continuing insecurity in some areas, will exacerbate humanitarian needs, delay the development of the productive sectors, and further destroy the natural environment, which is already devastated by 15 years of predation and lack of sustainable use. This option has an extraordinarily high opportunity cost for Somali entrepreneurs, both in country and in the diaspora, and it has geopolitical implications, especially for security and humanitarian conditions in the Horn of Africa. Areas that have been able to achieve fragile peace are at risk of a return to violence if peace-building efforts are not enhanced and sustained.

46. Asymmetric engagement is also related to the basic principle of fostering Somali leadership. Strong leadership and competent management by Somalis will enable international assistance to be used promptly and will encourage the expansion of aid and the attraction of foreign

investment. Thus, building the capacity of Somali leadership and management is an integral component of proposed assistance and is a cross-cutting theme of the Joint Needs Assessment.

47. The Reconstruction and Development Program (RDP) planned for Somalia will operate in a politically charged environment. A comprehensive peace-building and reconciliation process for Somalia must be founded on an analysis of the root causes of conflict, with attention to the principles of “doing no harm” and minimizing unintended negative impacts, and to maximizing the peace-building effects of all interventions.

48. In many ways it is the cross-cutting issues that best describe the fundamental elements of a successful assistance strategy for the Somali people. Peace building, reconciliation, and conflict prevention are the core requirements for any successful strategy in governance—for economic development, secure livelihoods, and social welfare. Capacity building, institutional development, and anticorruption summarize the necessary tools and processes. Gender equity and human rights issues are reminders of that social, political, and economic inclusion are necessary and that a prosperous society cannot be built on abuse, marginalization, or underutilization of any of its citizens. **[[see the query in the exec summary re fixing this problem sentence]]**

1.5 <<A>>JNA Methodology

49. The Somali Joint Needs Assessment was a process of preparing a state-of-the-situation analysis based on fieldwork and involved a mix of Somali government and civil society actors, Somali experts from the diaspora, and international partners, including multilateral and bilateral partners and NGOs. Dozens of experts and hundreds of participants were involved, producing over 20 thematic reports collected in subcluster reports, and summarized in this cluster report. In addition, data from field questionnaires and consultations were collated by region and district. Preparations for fieldwork, collection of secondary sources and reference papers, and identification of experts were done from March through November 2005, culminating in the November 2005 formal launch of the JNA. The fieldwork was done from December 2005 through April 2006. Subcluster reports and the synthesis of the JNA in cluster reports were concluded in July 2006, with subsequent work on the Reconstruction and Development Program based on the JNA findings and recommendations.

50. As in previous experience from other needs assessments (Sudan, Iraq, and Liberia), the JNA provided a venue for merging collection and collation of up-to-date information and joint analysis involving a broad spectrum of Somalis and international partners. The assessment process, especially through the fieldwork, consultations, and validation exercises in all regions, creates a robust platform from which Somalis can move forward with strategic, deliberate steps toward developing good governance and from which expanded international assistance can enable a sea change in the humanitarian and geopolitical situation in the Horn of Africa.

1.6 <<A>>From the Vision to Achievable Objectives

51. The vision of the Joint Needs Assessment, as summarized above, may seem remote and unattainable when looking at Somalia's recent history and current situation. Three implementation strategies are proposed to make progress toward the vision. The first is to disaggregate or "unpackage" the vision into achievable outcomes and sub-outcomes, with deliberate, well-identified links between them. These are presented in the Results-Based Matrix at the end of this report. Progress toward the vision of good governance, security, and respect for the rule of law significantly affects the economy, the productive sectors, the pursuit of livelihoods and humanitarian conditions, the development of infrastructure, and the provision of social services. **[[it's hard to read the first (deleted) "conditions" as a verb; plus another conditions as noun follows it—okay to delete?]]** Therefore, progress in governance, security, and the rule of law must be rigorously monitored and strictly demanded both by the Somali stakeholders in the country's reconstruction and development and by their partners.

52. The second strategy is to apply rigorous standards of accountability, transparency, and participation to every governance initiative. Good governance is identified by good processes as much as by coherent institutions and structures. Credibility will be established, and capacity building will follow, if every intervention, including committee meetings, visits to constituents, administrative actions, and financial transactions, is characterized by accountability, transparent processes of decision making, and documentation that is available for scrutiny, and if there is participation by all stakeholders, including interest groups, clans and subclans, assistance providers, and representatives of civil society. **[[simplify sentence: Credibility will be established if every intervention...(back to beginning of sentence).]]** This will accelerate progress on other issues and will enable international partners to assess, reward, and correct their support. The constitutional dialogue is a good example of a seemingly unattainable, remote objective that can be achieved by a carefully sequenced process, with rigorous adherence to the principles of accountability, transparency, and participation.

53. The third strategy establishes that capacity building as the common need, the common theme, and the common key to success. Capacity building must be deliberate, early, sustained, systematic, and inclusive. Resources must be devoted to building capacity by focusing on critical actors, but also must include very broad groups of stakeholders of the new Somali democracy. Remedial formal education for youths and informal education for young adults, both men and women, are core components of capacity building, along with primary schooling for all children, both boys and girls. Innovative techniques such as distance learning, already being piloted, should be expanded. The entrepreneurship of the private sector must be tapped to build capacity.

54. If Somalis can convert their ability to cope into a determination to achieve good governance, security, and respect for the rule of law, they will prosper, and they will be able to begin the recovery of the environment, the full utilization of their human and natural resources in peace, and the exponential growth from foreign capital and remittances that could generate wealth and well-being for all Somalis.

<<CH>>2 RECONSTRUCTION AND DEVELOPMENT PRIORITIES

<<A>>Subcluster 1: Reconciliation and the Rule of Law [[add intro text to prevent stacked heads]]

<>Reconciliation

[[topic already is reconciliation]]<<C>>

Somali reconciliation appears to be fundamentally a political process that combines mediation and settlement of disputes, both those disputes that were underpinning conflict and those that have arisen or become deeper as a result of violent conflict. The Somali National **Peace and Reconciliation Conference**¹⁵ led to the establishment of the transitional federal government, but despite this important result, no real reconciliation occurred among clans, militia, and political leaders. Delegates at the conference found conflict issues too sensitive and divisive to manage and opted to postpone addressing them. They only agreed to plans for power sharing in the new national, political institutions and to the principle of federalism as outlined in the transitional charter, without concrete modalities for its operationalization.

As a result, extremely sensitive issues must now be dealt with by the transitional federal institutions (TFIs), such as the return of stolen or occupied real estate, political and military control over towns and regions, the right of all clans to return to live safely in Mogadishu, and the handling of charges of war crimes. Land and property in the Somali regions have been subject to unregulated, unauthorized occupation and land grabbing. Unresolved occupation of land and property is a major conflict issue that requires acceptable and sustainable solutions before safety and security, a resurgence of medium- or large-scale investment, proper urban planning, macroeconomic stability, and lasting peace are possible.

55. The authority of the legislative and executive bodies of the new Somali federal state is still far from being established, mostly owing to this lack of reconciliation. Key figures of the government are not reconciled with each other. Because the conference[[**or SNPRC, but acronym should be dropped; used only a few times**]] was conducted outside the country, many Somalis residing inside Somalia remain disconnected from this peace process. New political, military, economic, social, and religious actors will emerge over time, and power relations have evolved; still, most of South Central Somalia, except for the Benadir (Mogadishu) region, is characterized by a fragile balance of power that is not durable.

56. Reconciliation did take place to a significant extent in the northern regions. Following the collapse of the Somali state in 1991, in both Somaliland (northwestern Somalia) and Puntland (northeastern Somalia), traditional elders and their conflict resolution mechanisms were able to maintain a degree of peace that eventually led to the reestablishment of public authorities with constitutional frameworks. Somaliland's claim to independence has not been internationally recognized. In northeastern Somalia, the failure of peace talks in the 1990s led political and traditional leaders to proclaim the Puntland state of Somalia, "which they described as the first step towards a future federal Somali state."¹⁶[[**clarify this last—also confusing following the Somaliland statement**]]

57. Reconciliation is a prerequisite to stability. Experience has revealed that no group is in a position to impose its authority in Somalia. As long as a genuine political consensus is not achieved, the state will remain prone to armed conflicts **[[what is this number?]]**(9). Disarmament is not likely to occur without reconciliation taking place first. By addressing unresolved land and property issues, reconciliation can liberate energies for development and the fight against poverty. Reconciliation is also a precondition to the sound and equitable management of public institutions and, more generally, to good governance.

58. <<C>>*The Legacy of the Past*

The issue of reconciliation arises in a context characterized by divisions resulting from colonial times, consequences of the dictatorship and military exploits of the Barre regime and by the legacy of the 1988–92 civil war. The civil war left Somalia with a widespread transfer of the control of land and other productive assets; warlords and faction leaders who benefited from a war economy; a proliferation of weapons; a militarization of society and a culture of lawlessness; a great deal of insecurity in every sense of the word: physical, economic, psychological, juridical; the pillaging and destruction of public goods, institutions, and Somalia’s main cities; deep-seated divisions and fragmentation of society; the exclusion of minorities and the massive movement of internally displaced persons (IDPs) and approximately one million Somalis abroad; still-unaddressed war crimes and complaints by clans pertaining to these atrocities; competing clan-based claims over the possibly oil-rich territory of Sool and Sanaag; and the unresolved secession of Somaliland. All these are problems to be addressed in a comprehensive reconciliation process.

59. The past has left Somalia with various forms of conflict: conflicts between clans and between the state and the citizens; horizontal conflicts at the local level; “conflict constituencies” that benefit from the instability that results from the war economy; and conflicts between warlords and new Islamic groups and between two conceptions of Islam and two conceptions of the state. Box 2.1 describes the “drivers of conflict,” as analyzed by a recent World Bank study.**[[move footnote to source note for box]]**

<<Text box>>

Box 2.1 Drivers of Conflict in Somalia

The 2005 World Bank report “Conflict in Somalia: Drivers and Dynamics,” outlines major factors affecting conflict escalation and de-escalation in Somalia. The following common patterns and common drivers of conflict were identified:

Clannism. Clan identities are a double-edged sword, acting as both conflict escalators and de-escalators. Nearly all armed conflicts in contemporary Somalia break out along clan lines. Yet clan identities are not the basis for conflict; rather, their deliberate manipulation creates and exacerbates divisions. Countering the conflictual aspect of clannism is the potential of clans to act as constructive forces and traditional conflict moderators. Clan elders use traditional laws to settle disputes in non-confrontational ways.

Governance. Governance, if effective, can serve as a potent conflict de-escalator, yet experience of Somalis with a repressive state under **[[title? Mohamed as spelled in other paper; standard spelling?]]** **Mohamed** Siad Barre made them generally suspicious of centralized governance, considering it “an instrument of accumulation and domination, enriching those who control it.”**[[source?]]**

Resources. Competition among clan groups over access to and control over resources has been a key driver of the conflict in all parts of Somalia. Clashes over crop production, animal grazing, and the use of water points have been most common. Negotiations over return of property and land are thus an integral part of achieving peace but could also potentially further escalate conflict.

Militarization. Continued proliferation of small arms from neighboring countries has made small-scale conflict more lethal and has strengthened the militarization of a society in which violence is a norm and guns are an accepted form of conflict resolution. Lack of accountability creates a culture of impunity, which further exacerbates conflict.

Regional Disputes. Sool and Eastern Sanaag remain disputed by Somaliland and Puntland. Inhabitants of the regions are torn over their allegiance, which acts against conflict de-escalation. Mudug region remains disputed by South Central Somalia and Puntland.

International Involvement. International actors exert both positive and negative influences on the complex Somali conflict. With external actors sometimes propping up clans that are willing to broaden their sphere of influence, Somalia has often been the battleground for divisions between its African and Arab neighbors.

Source: World Bank 2005. [“Conflict in Somalia: Drivers and Dynamics,” World Bank, January 2005.]

<<End text box>>

60. <<C>>Clans

61. Somali culture and politics are organized around main clans. Each clan is made up of various levels of subdivision that descend from clan-families to clans, subclans, sub-subclans, primary lineage groups, and diya-paying groups. The latter consist of a number of families bound by the closest kinship ties. Diya groups take collective responsibility for their own security. They have an obligation to compensate other diya groups for any harm done by one of its members.

62. In the period following independence, political governance rapidly assumed a somewhat clan-based character (Balyaruha 2004[[is this a bibliography #5 citation? changing to author-date for now.]]). The clan was used as a means of exerting power. Clan-based political leaders favored clan interests. This practice culminated in the divide-and-rule tactics of the Barre regime, whose troops went as far as to arm so-called loyal clans and incite them to wage war against rebel clans (Boraine 2004[[bibliog citation?]]). As a result, the Isaq people of Somaliland were violently oppressed, as were the Majerteen and Hawije clans in the South. Clan-based factions organized militarily and waged war against Barre and his troops. After the collapse of his regime, Somalia was fractured into fiefdoms controlled by clan-based factions.

63. The civil war led to the displacement of hundreds of thousands of people within the country. This resulted in tensions between members of different clans. Many weaker and marginalized clans have forged alliances with larger clans to seek protection and support. They find themselves in a particularly fragile situation of dependence, which could easily lead to conflict. The diaspora plays an important role in the protection and support of marginalized groups. For weak clans, one strategy to build strength and widen the clan’s constituency consists of building relationships with the diaspora ([[add “for example,” or “such as...?]]remittances, labor migration, immigration, and resource support).

64. Despite interclan conflict, the clan system is not necessarily an insurmountably divisive factor of Somali society. Clan identities are not in and of themselves the basis for conflict. Rather, it is their deliberate political manipulation that has created and exacerbated divisions. Clan groups can serve as destructive or constructive forces as well as conflict moderators, and at present, various types of interclan alliances and partnerships operate in the business and service sectors of the economy.

65. <<C>>*Conflict Constituencies and Other Barriers to Reconciliation*[[combine this little heading that was tacked on a single paragraph]]

66. The Barre regime set the stage for interclan armed struggle, which led to a war economy with extreme levels of violence associated with criminality and fueled by many “conflict constituencies.” In South Central Somalia at least 50,000 militia members belong to different armed factional groups, such as warlord militias, business militias, freelance militias, and shari’a court militias.

67. There is conflict between radical Islamists and those who favor a nonpoliticized, moderate Islam. The upsurge in deadly clashes between pro- and anti-Islamic extremism in Mogadishu since the TFG was constituted is evidence of this current rift. In late March and early April 2006, an important change was manifested in power relations in the Mogadishu region, when a new Islamic group supported by businessmen and various interest groups succeeded in defeating a self-declared anti-terrorist coalition of six warlords. This conflict is ongoing.

68.

69. The following barriers to reconciliation have been identified: (a) the general mistrust of the state among Somali people;¹⁷ (b) the zero-sum conception of the state that most political actors seem to share, (c) the existence of conflict constituencies, that is, groups with vested interests in the status quo of the political vacuum, (d) unresolved issues such as land and property issues, and (5) unaddressed past crimes and other human rights violations.

70. <<C>>*Lessons Learned from Previous Peace and Reconciliation Processes*

71. Multiple reconciliation attempts in the past 15 years through national conferences have failed, which analysts have attributed to several factors. Peace and reconciliation conferences were bent on instituting a central government, rather than on focusing on the deep causes of the conflict. The reconciliation dimension was not part of these conferences, which restricted themselves to brokering power-sharing arrangements among warlords and faction leaders. Many groups militating for peace and reconciliation, such as elders, traditional leaders, civil society figures, women’s groups, academics, and youths, were marginalized or excluded. The key issues of reconciliation and of justice, such as unauthorized occupation of land and property, the return of internally displaced persons (IDPs), and questions about the relationship between citizens and the state, were left unaddressed. These conferences also failed to make reference to war crimes and persecution of civilians.

72. In addition, these initiatives were not sheltered from the influence of subregional geopolitical interests. The countries bordering Somalia, which themselves have many inhabitants of Somali origin, participated in the talks. The Conflict Resolution and Reconciliation Committee (Committee 6) of the Somali National Peace and Reconciliation Conference (December 2002) stated that: “The interests of some of the frontline states and other foreign countries in Somalia’s political destiny is [sic] manifested in their support for a faction(s) or through the pursuit of a deliberate policy to keep Somalia divided.”

73. <<C>>*Local Initiatives of Reconciliation*

74. In addition to the peace conferences of the post–civil war period, numerous reconciliation initiatives took place at the community level in several regions of Somalia. At present, several local initiatives are under way, such as the South Mudug initiative, which involves five districts and is led by local communities with backing from the diaspora, with the recent support of the TFG. Another initiative in Western Somalia involves two groups with a history of grievances over access to water. The TFIs, with support from several UN agencies and local NGOs, are undertaking reconciliation processes at the district level, with many activities conducted at the subdistrict level, as a preliminary step before local councils are selected and regional authorities are elected by delegates from the district councils.

75. The following are lessons learned from the peace and reconciliation conferences:

- The reconciliation processes should be Somali owned; they should be organized, conducted, and implemented by Somalis without foreign interference.
- Somali reconciliation should be comprehensive, broad based, and all-inclusive and seek the participation of all conflict parties.
- Women should be fully involved.
- These processes should be participative, be top down and bottom up, and be integrated in all levels of state-building.
- Flexibility is required on the duration of the process.
- They should be conducted within Somali territory (Centre for Humanitarian Dialogue, 2005[[**bib citation?**]]).

76. <<C>>*Traditional Reconciliation Mechanisms*

Customary law, described below, is an important conflict resolution mechanism that is used within clans as well as between clans. The strength of the system lies in the active participation of clan elders and religious and community leaders and in the fact that reconciliation is associated with some form of restorative justice. Clan elders are a primary source of conflict mediation. Clan-based customary law serves as a basis for negotiated settlement, and clan-based groups[[**what is the term “blood-paying? I took it from a later explanation; it’s not yet been explained**]] that pay diya (blood compensation, usually camels or other livestock) serve as a deterrent to armed violence. (Contini[[**need year**]]). This mechanism is especially effective when conflicting parties will all benefit from the resolution of the dispute and when the conflicts occur between neighboring clans.

77. Civil war provoked important population movements and deep transformations of social, economic, political, and juridical relations. The role of customary law also changed. New situations arose, such as conflicts between clans totally devoid of a history of conflict resolution. Some clans took advantage of their military superiority in order to occupy other clans’ territories and seize natural and strategic resources such as fertile land, valuable urban real estate, and harbors. This led to significant changes in clan boundaries in many parts of the country, with various clans consolidating their positions on occupied lands. In such conditions, both for the state and for traditional leaders, the prospect of “winners and losers” emerging from peace and reconciliation processes is increasingly likely.

78. The changed structure of clan distribution is also a challenge for a possible reconfiguration of South Central Somalia into clan-based regions and even into states, which could constitute themselves within the federal framework much like Puntland has done in the past. In the current context, it is the TFG that functions as the state government for the whole of South Central Somalia.

79. The role of traditional mechanisms is also being challenged because of the loss of status of some elders and traditional leaders. In the past, they received allowances from successive state administrations and were seen as serving the interests of the state in maintaining public order. This was particularly the case in the Italian colony, where elders became clients of the colonial powers (Danish Refugee Council 2004). Now, elders solicit personal financial contributions from clan members, and this too compromises their impartiality in settling disputes. It is important to note that the image of elders is different in the North, where elders are highly esteemed. On the other hand, in part of South Central Somalia, their traditional authority has been weakened by warlords. The moral status of clan elders has been affected by their inability to prevent and solve certain conflicts and, in some instances, by their making the conflicts worse.

80. However, traditional leaders are still the prime force for stability and continuity in terms of regulation of access to the resources, including grazing and water, resolving conflicts between clans as well as influencing behavior within their own. Their roles in everyday life vary throughout the country (Elmi 2006). In Somaliland clan elders at the lowest level (*aqils*) uphold the customary law (*xeer*) within and between subclans. Furthermore, the clan system is represented at a national level through the *guurti*, or house of elders, and functions alongside the government ministries and regional authorities. In Hiraan, Central Somalia, where the self-proclaimed local authority has no executive powers, traditional chiefs (*ugases*) oversee the daily work of local elders, *samadoon* (village chiefs), and *nabadoon* (peacemakers) in regulating antisocial behavior. In Mogadishu, Jowhar, and elsewhere in the South, traditional leadership authority has been largely undermined. The Italian colonial rule, as well as the Siad Barre regime, did not allow the traditional leaders to play a role in society, and since the mid-1990s warlords, backed by armed militias, they have ruled on their own interests. Clan leaders and elders still operate as neighborhood mediators.

81. <<C>>Islam and Reconciliation

Islam is a source of dispute resolution based on cultural and traditional practices that have been influenced by shari'a (FOPAG 2003). Somali traditions and values were shaped by Islam over the last millennia. Analyses of sources of law and justice systems in Somalia (see below) reveal that there are close links between *xeer*, shari'a, and Westernized juridical processes and that these systems are complementary. This is clearly evident from the practice of shari'a courts, which emerged in numerous Somali cities. In reaching decisions, the shari'a courts have adopted the guiding principle of *suluh*, which roughly translates to "resolution." According to *suluh*, the shari'a courts, *xeer*, and relevant state laws can be combined to arrive at a resolution that is acceptable to all parties. Successful reconciliation will require the reinforcement of this complementarity.

82. Although customary law is based entirely on conflict resolution without adjudication, the Islamic system, on the other hand, supports both adjudication and mediation of disputes. These

functions will be critical for political and social reconciliation. So far, this potential has been underutilized, since shari'a courts have been playing a limited role in conflict resolution.

83. <<C>>*Human rights, Justice, and Reconciliation*

84. Numerous human rights violations committed by Siad Barre's regime and during the civil war were, to a large extent, clan-based: for example, the forced conscription and quasi-enslavement on farms of weak social groups such as the Bantu, and the ethnic cleansing campaigns. Throughout the country, human rights violations remain endemic. These include murder, looting and destruction of property, rapes, use of child soldiers, kidnapping, discrimination of minorities, torture, unlawful arrest and detention, and denial of due process by local authorities. The continued human rights abuse is a source of continued violence as groups seek revenge.

85. <<C>>[[this is just a topic within the previous heading, which includes justice]]

86. Sooner or later reconciliation and peace building will have to address justice and compensation issues. *Transitional justice* refers to a range of approaches, including prosecutions, truth-telling, reconciliation, reparations, and institutional reform (Ghai 2002).

87. The approaches to transitional justice are both judicial and nonjudicial. They encompass the various dimensions of justice that can heal wounds and contribute to social reconstruction. They rely on international human rights in demanding that states halt, investigate, punish, repair, and prevent abuses. Transitional justice approaches consistently focus on the rights and needs of survivors and their families. Somalia will have to find its own way by taking its unique social and cultural context into account.

88. <<C>>*Women and Reconciliation*

89. Somali women are marginalized from peace-building and reconciliation processes in spite of having played and continuing to play a key role in these areas. The Somali women attending the Somalia National Peace and Reconciliation Conference[[no Peace in the acronym]] in Nairobi expressed their women's agenda for the peace and reconciliation process, with concrete recommendations in each of the committee areas of the conference, as presented in the box 2.2.

<<Text box>>

Box 2.2 *Women's Agenda from the Somali National Peace and Reconciliation Conference*

- Promote an active and visible policy of placing gender perspectives in the mainstream of all aspects of development.
- Provide appropriate training on gender to resource persons undertaking peace and reconciliation initiatives.
- Ensure at least 25 percent representation of women in all offices established on conflict resolution and reconciliation.
- After taking into consideration national security, convert expenditures on the military to national priorities of food, shelter, primary health care, education, and fuel.
- Clear small arms and explosives out of Somalia.

- Condemn the systematic practice of rape and other forms of degrading treatment of women as a deliberate instrument of war.
- Protect refugee women and other displaced women and facilitate their integration back into the community.
- Entrench a conflict resolution committee in the charter and ensure the inclusion of women as a category in the committee.

Source: **[[give date of conference and source of this excerpt]]**

<<End text box>>

90. Reconciliation will have to be closely linked to the reconstruction of the state “while employing state building as a platform for trust-building and enduring reconciliation” (Danish Refugee Council 2004). The processes of setting up a system of local governance and reconciliation at the grassroots level can reinforce a system at the district level, particularly in three areas: rule of law and security, land disputes, and social and economic services delivery (Government of Somalia 1962). The ongoing processes of reconciliation in South Central Somalia, with leadership from the TFIs and support from international partners and local NGOs, link community and district reconciliation processes with the creation of local councils, starting with Bay and Bakool[[**make spelling consistent—also Bakol**]] regions. It is envisioned that local councils will continue the process of reconciliation, as their establishment is seen as a result of consensus and agreement on reconciliation by a broad group of local leaders, including traditional and religious leaders.

91. Despite the TFI’s affirmative action quota of 12 percent, women have not been represented even in this proportion in reconciliation or in the emerging local governance processes linked to reconciliation. More capacity building, and specific programs and activities, are required to help women develop a common vision and plans for their activism.

92. *<<C>>Land, Property, and Reconciliation*

93. Land is a key element of reconciliation. A large number of Somalis were driven out of their home environments and off their land and property because of their clan affiliation and were left with little choice but to migrate elsewhere. The majority of IDPs all over Somalia lack basic protection and security of tenure and can be evicted by landowners or authorities at any time (Harris et al. 1998[[**need full names in refs list**]]). Eviction of public buildings is also a major problem. There are many disputes around unclear boundaries, particularly in rural areas. In towns and cities, high-value land is disputed and grabbed by wealthy groups. With the return of IDPs and the demobilization of some military and security forces, pressure on resources might mount, and with it land and other natural resource disputes.

94. In the absence of a consistent legal framework and adequate local or national institutions or data management capacities in the land and property sector in any region, conflict resolution is a complex mixture of traditional, secular, and religious-based ad hoc practices. Land policies, including a land management system, should be developed and implemented in order to tackle problems of land conflict resolution, prevention of further invasions, land and property restitution, illegal land grabbing, and land and shelter for IDPs. A key element of the strategy could be the establishment of land committees at the district level, with a strong representation of the local community.

95. <<C>>*TFIs and Reconciliation*

The transitional federal charter calls for the establishment of a National Commission for Reconciliation and a Land and Property Disputes Commission. The charter specifies that the commissions' structures and functions shall be proposed by the Council of Ministers and approved by Parliament. The TFG nominated 27 members of the National Commission for Reconciliation in July 2005 and awaits the ratification of these nominations by Parliament. In the interim, the prime minister established, under the **[[all?]]**Ministry of Reconciliation, a body of five persons responsible for working with the members of Parliament to ratify the nominated commission. Following the establishment of the commission, the members will develop a strategic plan for reconciliation. The Ministry of Reconciliation is playing an active role in the district-based reconciliation processes that are preceding establishment of local councils, as are members of Parliament from the respective districts.

96. The Conflict Resolution and Reconciliation Committee of the Somali National Peace and Reconciliation Conference proposed that the National Commission for Reconciliation meet the following responsibilities: policy making and planning, monitoring and building capacity, coordinating and mobilizing resources, liaising with subregional and regional organizations for conflict early warning, organizing conferences and sensitizing populations on conflict and small arms, and preparing materials for training and publication. The committee stated that this body should be free from political and government control.

Parliament has also taken the initiative of establishing a Committee for Reconciliation and Property Restitution, whose 12 members were appointed in March 2006. This parliamentary committee will play an oversight role in monitoring the National Commission for Reconciliation's activities.**[[this was the name earlier]]**

97. <<C>>*Vision and Priorities for Reconciliation*

The vision is for reconciliation to succeed in promoting disarmament, demobilization, and reintegration of militias; resolving land and property disputes or creating an environment in which legal processes of mediation or settlement can develop without recurrence of violence. That environment would be one in which transitional justice instruments will eventually satisfy the needs of Somali survivors, in which intercommunity dialogue and local governance will be maintained to enable local governance to develop, and in which elections and related political dialogue will enable the inclusive participation of all groups of society, including youth and women.

98. In South Central Somalia the priorities for reconciliation are to support the TFI structures responsible for peace building and reconciliation (the National Commission for Reconciliation, the Land and Property Disputes Commission, and the Parliamentary Committee for Reconciliation and Property Restitution); support civil society organizations (CSOs) involved in this field; encourage intercommunity dialogue and promote citizen participation in state building, especially through the constitutional dialogue and local government processes; support local reconciliation processes in strategic areas and regions; and link truth, justice, and reconciliation processes. Priorities for reconciliation in Somaliland and Puntland are to further develop the

existing, relatively successful processes of reconciliation and dialogue toward dispute settlement and participation in governance.

1.6.1 <>Justice and the Rule of Law

[[add intro text to break up stacked heads]]**[[this section has many subheads/sections. I have labeled the italicized (not numbered) headings that fit under this heading as C heads; however, the next numbered heading also fit within this heading and should be C for that reason. I've marked them as B/C heads and the subsequent italic heads as C/Ds. These will have to be resolved as B or C (and C or D) before the typesetter does the layout. Authors should consider these relationships and headings (overlay an outline again to check organization and section/heading organization).]]**

99. <<C>>*Legal Pluralism and Three Sources of Law*

Despite the collapse of the state in Somalia, there has not been a total vacuum in the judicial function**[[cite and put in biblio; delete footnote (Le Sage [[need year]])]]**.¹⁸ Different justice systems coexist in Somalia, as follows: (a) the traditional, clan-based system (xeer); (b) the formal judiciary structures in regional administrations and central governments; (c) the growing number of shari'a courts in urban areas, particularly in Mogadishu; and (d) civil society and private initiatives, as well as ad hoc mechanisms established by militia factions. Several or all of these systems are often found in the same location. Traditional, religious, and secular (modern) systems, functioning in parallel, regulate a wide range of affairs, from the resolution of constitutional disputes in regional political administrations to the enforcement of business contracts and the settlement of family disputes. They have facilitated the development of a private sector economy, a dynamic civil society, and local peace-building initiatives.

100. Map A3 (see annex) shows the provision of justice within settlements, as perceived by the communities, with the legend indicating shari'a, community elders, and the judiciary (meaning secular courts) as the optional systems. It is clear that community elders are the prevalent form of justice in most settlements of South Central Somalia, in the view of communities. Shari'a courts are concentrated in parts of Bakool and Gedo regions, with some present in the vicinities of Merka and Jowhar. Secular courts are predominant along the seacoast in Middle Shabelle district and are also present, together with shari'a and customary courts, along the main road arteries between Mogadishu and Jowhar. Data are not available for most of Somaliland, as is evident from the map.

<<Insert Map A3 about here; or just refer reader to annex? only a few maps are put into text—the rest are just referred to in the annex]]]]

The three main sources of law can be described as follows.

1. *Customary law* (xeer) is the set of rules and obligations developed by traditional elders to mediate peaceful relations between Somalia's competitive clans and subclans. It is an unwritten agreement that has evolved within and between Somali clans and subclans. The sources of xeer date back centuries; it is a tradition that has been passed down orally from one generation to the next. One can refer to a single general xeer, since the most significant principles of this customary law are common across all Somali clans. However, xeer is also localized, emanating from specific bilateral agreements between subclans that traditionally live adjacent to one another. Application of the rule of xeer is flexible and varies from place to place, depending on circumstances and situations **[[add author-date; put source in biblio]]**(PDRC 2002)¹⁹(Hussein

and Ford 1998). Xeer tends to be clan based rather than individualized. Interests of individuals are subordinate to the interests of the clans.

[[I removed a map (A3) from this point to put into figures file (it was already there, from annex). Map callout is above.]]

2. *Shari'a law* is the basis for all national legislation. Somalis are almost entirely Muslims from the Shafi'i school of Sunni Islam. A significant number of shari'a precepts and practices were assimilated within xeer. As a result, many points of shari'a have often been subordinated to clan tradition, particularly in matters of collective responsibility taking precedence over personal liability and in the nature of punishments and family issues. Throughout the colonial time, as well as in the post-independence era until the collapse of the Siad Barre**[[which spelling—Siad before and later; will use that]]** government, shari'a was officially incorporated into the Somali state justice system. According to all presently existing Somali constitutions, shari'a is applied within the formal justice system at the level of courts of first instance in common civil cases, including family matters, marriage, divorce, and inheritance. However, shari'a law cannot be applied to criminal matters, as provided by the 1962 Law on Organization of the Judiciary, which is still in effect. Since the early 1990s, however, with the establishment of shari'a courts, a new form of shari'a has been organized and implemented in a number of different cities and towns.

3. The formal secular legal framework is based on colonial law and framework (Italian and British) as well as on post-independence developments.

101. <<C>>*Constitutional Framework for the Rule of Law in Transition*

102. The Somali constitutional framework is in transition. Somaliland has adopted a constitution by referendum. An important drawback in this constitution is that the judiciary is operating in a legal vacuum. Puntland's first charter (1998–2001) was replaced by a provisional constitution based on the judicial system in place after independence, which includes greater independence for the judiciary and a High Judicial Council supervising the courts.

The charter of the transitional federal institutions (TFI) creates the Judicial Service Council (JSC), an independent supervisory body that will oversee and direct the general policy and administration of the judiciary. The JSC will be responsible for all appointments, transfers, discipline, and remuneration of the judges. The transitional charter has not been made fully operational. Fundamental decisions regarding the nature of the legal framework have yet to be decided, as well as the implications of federalism and its impact on state structures and systems for the administration of justice. The charter will affect, for example, the jurisdictions, powers, and locations of courts of appeal; the development of a legal framework based on federal or regional statutes; and the integration (or not) of shari'a courts into the formal system. It also will affect the integration, management, and oversight of the police, prisons, and prosecution services.

Protection of fundamental rights in these constitutional documents is a pressing concern. Given the absence of a functioning state in Somalia, key international and regional human rights instruments have not been ratified or domesticated, weakening the legal human rights protection of vulnerable citizens. The Somaliland constitution does include a bill of rights, and efforts have been made to integrate fundamental rights in the UNDP Rule of Law and Security Programme

(ROLS) activities (for example, training and law revisions).**[[incorporate fn 22?]]** The Puntland constitution also stipulates that Puntland adheres to the human rights obligations entered into by previous Somali governments. The primacy assigned to shari'a law in Somalia's constitutional documents is seen by some commentators as conflicting with human rights standards and as requiring clarification. There are also concerns regarding xeer, such as unequal treatment of women and the nature of punishments.

<<C>>Challenges of Plurality of Judicial Systems

A key challenge of the plurality of judicial systems lies in establishing an integrated judicial system for a transitional period, with clear and agreed-upon functions and links between the different legal frameworks, links that take into account the various strengths and weaknesses of each one of these systems of law.

In South Central Somalia**[[is this a standard abbreviation?]]** a form of shari'a court has been established by coalitions of local interests, including religious leaders, clan elders, and businessmen. South Central Somalia's new shari'a courts have three roles: they organize a militia to apprehend criminals, they pass legal decisions in both civil and criminal cases, and they are responsible for the incarceration of convicted prisoners. Their structures include (a) a standard hierarchy of a chairman, vice chairman, and four judges; (b) a small but well-equipped militia formed into a police force supporting the implementation of the judges' decisions, but also functioning independently to intervene in community disputes and arrest suspected criminals; (c) separate detention areas; and (d) a finance committee to collect and manage a proportion of tax revenues levied on regional traders by the local administration.

Although these (informal) courts seem to have acquired a degree of local legitimacy, they are not integrated into a formal judicial system; no mechanisms exist for ensuring compliance with international human rights standards. At the same time it is necessary to find peaceful ways of containing courts operating outside the legal framework. This could be undertaken only once federal and regional authorities in the region have themselves attained a sufficient degree of authority, effectiveness, and legitimacy.

Little has been written about the nonstate systems.²⁰ Xeer is the most accessible and common mechanism to resolve local disputes and seek remedies for redress. It is particularly important in rural areas; however, even in urban areas with local administrations, xeer is usually the first recourse in dispute management, settlement, and reconciliation. As various studies clearly demonstrate, xeer is perceived by far as the most accessible of the justice mechanisms. The reconciliation of disputes, according to the perception of communities, follows an almost identical pattern as the provision of justice, as shown in Map A3 (see Map A4 in the annex for data on reconciliation of disputes).

<<C>>Formal Judiciary Structures

Somalia inherited two different secular (colonial) systems, which were unified in 1962 through legislative decree 3 (no. 3). Shari'a and xeer (customary law) continued to operate in parallel. The secular court system comprised a Supreme Court, appeals courts, and primary courts (district and regional courts), as well as a High Judicial Council and a Constitutional Court.**[[I can't tell which of these courts should be capitalized; some have been lowercase and are**

generic sounding]] District courts included qadi courts, which apply shari'a law with jurisdiction over family and personal matters, and a secular section with jurisdiction over lesser crimes and minor civil cases. Qadi courts were legal until 1962, when the Somali government decided to abolish them and give more authority to district courts to try shari'a cases as well as civil cases. In the regions of Somalia where public authorities are operational, this structure is broadly followed.

103. <<C>>*Legal Materials and Legal Reform*

Formal legal materials are not widely available, rendering the law inaccessible to most legal professionals as well as to citizens.²¹ Most key statutes are outdated, either derived from colonial and postcolonial times or marked by the period of military rule under the Siad Barre regime. In Somaliland, a Law Review Commission was established in October 2003 with the mandate of collecting and compiling the different existing laws. Despite the lack of legal training of most of its members, this commission has succeeded in collecting a large number of customary practices and operating secular laws. It has also reviewed the Children's Bill and examined approximately 80 percent of the penal code.

1.6.2 <<B/C>>Secular Courts[[this was styled and numbered as a B heading but should just be a C level heading because it fits within the previous heading, which was Justice and the Rule of Law (one of the 12 objectives, and one of the objectives in Subcluster 1; however, the C heads that follow would then need to be Ds; I have marked as B/C and C/D; see previous query at 1.7.1]]

104. As part of the efforts of the TFG to establish its authority in Somalia, steps are being taken to reconstitute a federal Supreme Court and identify experienced legal professionals and support staff who could be reappointed to the top of the judicial hierarchy. The president of the Supreme Court and the attorney general have already been nominated. In South Central Somalia a number of courts of various kinds are in operation, but these are not formally linked to an established judicial system. These include a number of shari'a courts in urban areas, such as in Mogadishu, as well as private sector, civil society, and militia mechanisms.

105. By contrast, Somaliland and Puntland have been reestablishing functional courts through building rehabilitation, equipment, and the provision of basic training. Somaliland and Puntland both have High Judicial Councils responsible for the appointment, transfer, and promotion of judges, and disciplinary hearings for removing them, and for supervision of the courts. Though officially these councils are guaranteeing the independence of the judiciary, they are in fact often controlled by the government. There is no body of laws that establishes how the legal system should operate, such as by defining the jurisdiction and competence of the different courts, the required qualifications for judges, how seniority among judges will be determined, and how the promotion within the judiciary should be regulated. In both regions, institutional weaknesses include the lack of infrastructure, basic equipment, record keeping, transportation, and reference materials. In addition, management and supervision systems are underdeveloped, and there is a shortage of qualified staff.

106. In February 2006 Somaliland had 93 judges: 52 in district courts, 20 in regional courts, 14 in appellate courts, and 7 in the Supreme Court, plus judicial support staff. Of the judicial

staff, 90 percent have not been educated beyond secondary school. Salaries range from US\$150 to US\$350 for district judges, to US\$450 for Supreme Court justices (higher than ministers' salaries). Of the total number of judges, 17 percent are unpaid and offer their services on voluntary basis. There are five appellate courts, six regional courts, and 30 district courts. Only 18 district court buildings exist, and they have not been rehabilitated. The minister of justice would like to increase the number of judges to 200 (for an estimated Somaliland population of 2 million to 2.5 million), but this would need to be backed up by an analysis of the location and utilization of courts and of the affordability of increasing the wage bill of the judiciary.

107. Puntland now reportedly has 55 judges, of which 13 have law degrees. Most of them are shari'a or traditional judges. The High Judicial Council, composed of four members of the Supreme Court, the attorney general, and two community members, has taken disciplinary action against some judges (10 were suspended in 2004 for corruption, which was possibility linked to the nonpayment of salaries). As there are only seven courts in Puntland, they share common premises and courthouses.

108. It is estimated that more than 75 percent of Puntland has no functioning primary courts, limiting the accessibility of justice to urban centers. Judges, prosecutors, and support staff have low salaries and are paid irregularly, sometimes going for months without pay. Salaries are reported to be US\$100 for first court appearance, US\$120 for appeals, and US\$400 for the attorney general. Fees have to be paid for civil cases (about 3–5 percent of the value of the case), and survivors have to pay the costs in criminal trials. Monies collected are transferred to the Ministry of Finance, and the court has complained about a lack of basic necessities, such as electricity or a filing system. Local district courts are funded by local authorities, and judges tend to have been trained only in shari'a, as opposed to secular law. In Puntland, refresher training courses have recently been provided to all judges and support staff, and a number of court complexes have been rehabilitated, co-locating prosecution, district, and higher-level courts (such as in Bossaso and Qardo).

109. In these two regions, it is necessary to address support to the judicial system systematically, starting with an understanding of the role of the formal justice system in relation to the informal judicial systems: its reach and scope, numbers of judges and support staff, number and variety of courts, funding (including affordability of salary levels and provision of resources for operational purposes), as well as more technical issues such as monitoring case management and the quality of trials. To make the courts more accessible, reforms would need to include strengthening and establishing district courts and possibly introducing mobile courts. Corruption and political interference are reported to be problems, which could be addressed through policy dialogue and public debates on the role and expectations of judicial institutions. Ad hoc training courses will need to be replaced by more sustainable mechanisms for continuing legal education. A mechanism to monitor the performance of courts would help in assessing not only the impacts of the various legal training offered but also the overall weaknesses of the judicial system and would help identify priorities for reform.

110. <<C/D>>*Ministry of Justice*[[change these C level heads to D? they fit within Secular Courts, a B/C head?]]

111. The capacity to formulate legal policy and oversee the performance of judicial, prosecutorial, and correctional services is weak across Somalia and in places is nonexistent. At the federal level a minister of justice has been appointed, but there is no functional ministry.

112. In Puntland, which has no minister of justice, some of the responsibilities of this ministry have been taken over by the Ministry of Religious Affairs (including for the prisons, in conjunction with a commissioner of prisons). The chief justice heads the justice system, and the presidency also has some responsibilities.

113. <<C/D>>*Correctional Services*

114. Several recent assessments of correctional services²² revealed the following problems: overcrowding; a lack of space in cells, proper toilet facilities, and proper beds; food rations that are insufficient in quantity and quality; shortages of fresh air, drinking water, and other basic health needs; extreme temperatures in the prisons (very hot during the day, extremely cold at night); an inappropriate mix of inmates (for example, young boys with often-unfounded light sentences in the same environment as older, hardened criminals serving longer sentences); excessively long waiting periods for remanded people awaiting trial; a lack of appropriate medical services; and a lack of proper vocational and other educational programs. Most of the prisons are fit only for demolition. Some activities to improve prison conditions are under way; however, these interventions are insufficient, and an in-depth transformation of correctional services is required.

115. <<C/D>>*Legal Profession and Legal Training*

ROLS has played an important role in helping to establish bar associations in Somaliland and Puntland. The Somaliland Lawyers Association (SOLLA) was founded in 2004 by 40 professionals, of whom 90 percent are of Somaliland origin. Presently, Somaliland has only one female lawyer and no female judges.

Legal education is a challenge in view of the destruction of educational institutions across Somalia. ROLS helped establish a School of Law faculty in Hargeisa University, including a legal clinic to improve the practical skills of students. A first group of 34 will graduate in August 2006. ROLS has responded to the shortage of legal capacity by emphasising training courses, mixing the various categories of law professionals (judges, lawyers, assessors, registrars, and notaries). The emphasis is put on substantive law, legal analysis, legal writing, and trial practice. Courses on juvenile justice and on HIV/AIDS are being introduced. Parallel discussions are organized on the way cases such as homicides are dealt with through the various sources of law (the penal code, xeer, and shari'a).

<<C/D>>*Accessibility*

As a result of years of war, extreme poverty, and misrule, access to justice remains severely constrained in Somalia. Features have been examined above, but they also include the lack of clarity or knowledge of the full range of legal frameworks and legal protection by poor and vulnerable men, women, and children; unpredictability and inconsistency in treatment by justice providers; remoteness of formal courts; fees and other costs associated with bringing a case; and lack of special attention to the needs of children, women, minorities, and IDPs or refugees.

116. In Somaliland, the Hargeisa legal clinic covers criminal law, civil law, human rights, refugees and IDPs, and land and property. It also has a new section addressing women and children's rights, staffed by the only woman lawyer in Somaliland. In Puntland, Diakonia has funded, on behalf of UNDP ROLS, a paralegal initiative led by Somali Women Concern, a women's rights NGO. This initiative started in 2000 in Galkayo and benefited at first from the support of a Kenyan women's NGO, with three manuals and a number of training courses. **[[clarify who produced manuals—awkward phrasing]]** The project was extended to Garowe, where meetings of volunteers were held. The initiative was then replaced by a legal clinic, which was established in the Garowe Teacher's Training Centre. The Puntland initiative, instead of replicating the Somaliland legal clinic, should be turned into a pro-poor legal service provider (beyond legal aid) and work collaboratively with paralegals, the bar, community elders, and other mechanisms. **[[rephrased because the change to a recommendation, was confusing, especially without knowing who was recommending]]** The institution needs guidance and should be supported in developing a strategic plan to clarify its target audience and its objectives.

1.6.3 <<B/C>>The Traditional, Clan-Based System (Xeer) [[see query at 1.7.1; I assigned B/C because it was within the B heading above it (one of the 12 objectives); heads below this would be D, but I'm marking C/D]]

117. The fundamental, accepted rules of xeer are the following:

- Collective payment of diya (blood compensation, usually paid with camels and other livestock) for death, physical harm, theft, rape, and defamation, as well as the provision of assistance to relatives
- Maintenance of interclan harmony, by sparing the lives of "socially respected groups" (including the elderly, the religious, women, children, poets, and guests), entering into negotiations with "peace emissaries" in good faith, and treating women fairly without abuse (International Crisis Group 2002)
- Family obligations, including payment of dowry, the inheritance of a widow by a dead husband's brother, a widower's right to marry a deceased wife's sister, and the penalties for eloping
- Resource utilization rules regarding the use of water, pasture, and other natural resources; provision of financial support to newlyweds and married female relatives; and the temporary or permanent donation of livestock and other assets to the poor

118. Collective responsibility is a fundamental principle of xeer. Nomadic individuals have too few personal resources to pay a given obligation. If diya is not paid, for example, the aggrieved clan may decide to kill the criminal or members of that person's clan. The result would be both that a clan would lose a member and that a cycle of revenge killings and persistent insecurity would begin. Another rationale for collective responsibility is that the idea of "private property has always been subordinate to a notion of collective property that is shared within various levels of a clan and between clans. However, it is not uncommon for members of a diya group to resist paying their obligation for another member's infraction.

119. Implementation of xeer is overseen by traditional elders who are simultaneously considered its “legislators, executors and judges” (IDS[[**queried for date and authors**]]). Decision making is normally based on precedent, which is used when deciding on all common problems that a clan community has faced in the past. Jurisprudence—the informed reasoning of elders—is used to solve new problems for which no applicable precedent exists. The recourse to jurisprudence is guided by the proverb, “If something happens that we have never seen or heard before, we will make a judgement in a way that has never been seen or heard before.” This opens the way to adaptations of xeer to new realities.

120. Elders handle a wide range of matters, including land, murder, rape, divorce, custody battles and inheritance. They play an invaluable role by resolving a large number of disputes within and between communities.

121. Xeer decisions have been recognized by governmental authorities as having “legal validity and executive efficacy” (see Law No. 19 of July 1974 of the Somali civil code). Some limitations of xeer are as follows:

- Elders do not play a role in adjudication but rather try to reach consensual arrangements.
- Xeer has come into conflict with both international human rights standards and Islamic shari’a law.
- In general, the collective responsibility imposed on diya groups by xeer is seen as removing responsibility from individual perpetrators of crime.
- Xeer discriminates against women. The diya remuneration for wrongly taking someone’s life is valued 100 camels in the case of a male, whereas the life of a female is valued at 50 camels. Xeer imposes forced marriages in set circumstances. A widow must marry the deceased husband’s brother. A woman who is raped is forced to marry her attacker. Women are also traditionally “denied the right to inherit capital assets such as camels, horses, buildings, seagoing vessels and frankincense plantations,” and domestic abuse by a husband against his wife is generally tolerated unless the harm becomes so physically damaging or persistent that it is socially disruptive. These discriminatory practices are not surprising, since all elders are male and women are not allowed to speak at proceedings.
- Minorities are also discriminated against in the application of xeer, which is fundamentally a process that reflects the power relations between clans. As a result of the lack of impartial enforcement mechanisms, minority groups—particularly those of Bantu and Arab origin—are treated inequitably. This is not the case when clans are of relatively equal standing.
- The image of elders as impartial has been corrupted in certain parts of Somalia. However, they are still the main providers of justice in the major part of South Central Somalia.
- Many elements of xeer that help maintain social order and a cohesive and supportive family structure are being undermined. Youths reject more and more arranged marriages. The rule of the gun operates in such a fashion as to kill indiscriminately. Militia members fail to protect traditionally valued important members of the community (elders, women, and religious figures). Impoverished by the civil war, members of diya groups are less willing to provide material assistance to relatives and the poor. Illegal ways of making a living that would have been condemned in the past are now widely practiced and accepted.

- Xeer is badly equipped to deal with modern and urban problems. In cities it is difficult for elders to know all the parties and the circumstances as they did in smaller rural communities. The defining lines between clans become blurred. Moreover, modern economies bring new challenges, such as the recognition of private property.

1.6.4 <<B/C>>Shari'a Courts

122. Since the collapse of the Somali state in 1991, Islamic courts have played a lead role in the restoration of security after years of anarchy (IFAD[[queried year]]). Since the mid-1990s, independent shari'a courts have emerged in various parts of Somalia, but particularly in urban areas of South Central Somalia. Often administered on a clan-by-clan basis, these courts have managed their own militia forces capable of establishing basic law and order in their immediate area of operation and of enforcing court decisions. **[[two parts of sentence link to militia forces: establishing and enforcing?]]** The establishment of these courts is mainly motivated by the necessity to improve local security conditions. It is a means for faction leaders to maintain public support and to prevent internal factionalism. The courts also provide a secure environment for Somali businessmen. In addition, they are used by a small number of Islamic radicals to promote the adoption of shari'a as the basis for a theocratic state in Somalia.

123. The shari'a courts are invested with authority by the clan elders. Hence, the court is able to take security actions against individuals from that clan. However, this limits the ability of the courts to reach decisions that go against the interest of the clan. They play a very limited role in mediating interclan disputes, which remain the prerogative of clan elders. Their political role has therefore been limited. The courts generally lack support from a clan's religious leaders, who tend to believe that the shari'a court judges are uneducated.

124. Because each court had jurisdiction only over members of a given subclan, it soon became apparent that in a large and heterogeneous city like Mogadishu a degree of intercourt coordination would be necessary (Brandt 2005). This realization led a group of court leaders to found the Shari'a Implementation Council in early 2000. The group controlled many major courts and prisons. The transitional federal government (TFG) **[[use federal?]]** that set itself up in Mogadishu in September 2000 was open to collaborating with these court leaders to the point of integrating the shari'a courts in the formal judiciary system of Somalia. When the TFG **[[change to TFG?]]** disintegrated, so did the council. In 2004, the vacuum that remained was filled by a new umbrella organization: the Supreme Council of Islamic Courts of Somalia. Since then the shari'a court system greatly expanded in Mogadishu with the support of voluntary "neighborhood watch" committees.

125. Despite some minority views, most courts appear to exist chiefly to serve the populations in their area and do not appear intent on imposing an Islamist agenda on a new Somali government. In Somaliland, what are commonly referred to as shari'a courts are actually privately run offices known as Maduun-al-Sharci, which obtained a licence to operate from the Ministry of Justice. They deal with a range of civil matters far broader than the traditional qadi **[[spelled qadi before]]** courts. Known for their integrity and the quickness with which they come to a decision (the very opposite of the formal courts), they attract a large number of people, including large businesses, who go to them strictly on a voluntary basis to seek advice or legal

resolution or both. However, the fact that these offices deal only with cases on the basis of consensus between the parties limits their utility, as they have no powers of enforcement.

Civil society, the private sector, and militia initiatives are also in operation and apply some of these legal frameworks with little oversight and opportunities for appeals or redress. Some militia factions that control enough contiguous territory established formal judicial administrations along the lines of Somaliland and Puntland. The more striking examples are the administrative structures set up by the Rahanweyn Resistance Army in the Bay and Bakool regions between 1999 and 2002, and the Lower Shabelle administration, which has been proclaimed by its “governor” since 2003. The systems adopted include courts of first instance, which apply secular laws for penal and commercial cases, and shari’a law for private civil matters. These courts are overseen by an appellate court reporting directly to the militia faction’s executive. The Middle Shabelle administration set up a judiciary system in 2002 with an appellate court, a regional court, six district courts, and six police stations. The courts are staffed by three ex-judges; the others were appointed on the basis of shari’a knowledge.

126. A small but growing number of community-based vigilante groups, or *madani*, have been created to provide security in residential neighborhoods of Mogadishu. They operate by arresting local criminals, responding to local distress calls, and chasing away roaming militia that come from other clans and neighborhoods.

127. The private sector is attempting to play an increased role in justice matters. Businesses, communities, and factions hire ex-government judges and lawyers, who are asked to settle important legal disputes on the basis of some pre-agreed combination of state law, clan *xeer*, and shari’a. Private lawyers are involved in drawing up contracts for private companies and doing arbitration for land and commercial disputes.

128. An innovative civil society initiative for dispute settlement has been undertaken by elders in Somaliland’s Togdheer region with the support of the Danish Refugee Council (DRC). The discussions, which started as a series of dialogues with over 100 elders and community leaders from five different clans living in the region, focused on aspects of traditional clan *xeer* that were perceived as ineffective in conflict management and contradictory to basic concepts of justice and fairness, as enshrined in both shari’a and international human rights standards (Hart 2001). After a series of deliberations, the participants issued a declaration of the Togdheer House of Aqils modifying the local *xeer* on the basis of shari’a law and human rights standards. Cooperation between the aqils and the local government and police was strengthened in concrete and tangible ways. The DRC also supports a Community Policing Initiative through which local elders of the Togdheer region are formalizing a relationship with the police. A similar project has now started in eastern and southern areas of Hargeisa, as well as in Belet Weyn in South Central Somalia.

The DRC is currently undertaking a study on the role of traditional structures in relation to the formal judicial and governance structures. Using consultations, the study is assessing the current and potential roles of traditional structures and customary law in the development process, and formulating a policy framework and recommendations for the role of the traditional structures in the various regions of Somalia. The DRC has also conducted applied research, published in two

volumes and titled Pastoral Justice and Somali Customary Law. It identifies the main tenets of xeer, shari'a, and secular Somali state law, which are in conflict with one another, and it proposes a regional process to integrate the laws into a single system. **[[was PDRC a typo? PDRC is something entirely different]]**

1.6.5 <<B/C>>Human Rights and Gender Equity[[not clear under what topic/section this section fits; perhaps a B/C heading is needed to encompass this and the heads following this one within this larger section (which is still Subcluster 1, Justice and Rule of Law)]]

Reports by the Independent Expert on Human Rights in Somalia continue to describe a situation in which fundamental rights are not guaranteed. Children's rights, women's rights, and gender equity are not guaranteed across Somalia. Gender-based violence is prevalent, including rape, female genital mutilation, domestic violence, and restriction of citizenship rights. Women are disadvantaged under all three systems of law that are currently practiced.

Promoting women's rights and gender equity is a significant challenge in Somalia in view of the historical legacy and the deep cultural transformation required. What is urgently needed is to undertake a gender review of the programs currently undertaken by the international community to identify strategic objectives and new activities.

In Somaliland, ROLS has been able to take a number of initiatives designed to increase the number of women in the police and legal profession and has introduced pilot women's and children's desks in police stations. Activities have taken place with a coalition of women's organizations, and a national conference on violence against women was held in November 2005. In Puntland, ROLS supported the paralegal activities of women's groups, and a minister for women's affairs has been appointed. At the federal level, women were included in the first batch of recruits to the Armo Police Academy. **[[name is correct?]]**

The situation of children is particularly serious, especially given that of the most vulnerable children, that is, those without prime caretakers (parents), those deprived of education, those forced to work or obliged to do so in order to survive, those with physical and mental disabilities and those in conflict with the law. Children have suffered and are still suffering from sexual violence, economic utilization, and enrollment in militia activities in violation of the Child Rights Convention. There is no segregation between adults and juveniles in the prisons. As a ROLS survey indicates, sending children and young people to prison, particularly males, has become increasingly common as more and more parents declare youngsters as *caasi walidayn*, meaning disobedient to parents. These children are generally sent to prisons through the extralegal "security committees," which often proceed in an arbitrary manner on grounds of disturbance of the peace. **[[the committees proceed, or the case proceeds?]]**

The children's rights question must be considered in the sociocultural context of Somalia in which, traditionally, the emphasis is placed on children's responsibilities toward their parents, families, and communities and not on their fundamental rights. Ensuring the respect of these rights requires a change in mentality that can only result from a multipronged strategy involving the government, schools, parents, children, and SCOs. **[[spell out—the security committees?]]**

In Somaliland, the minister of justice has expressed interest in working on juvenile justice, and a number of organizations are working on children's rights. In this respect, the draft of the Juvenile Justice Bill for Somaliland is a first step. In 2004 the DRC organized a workshop ("Institutionalizing Human Rights"), which made concrete recommendations for a children's rights strategy (International Centre for Transitional Justice 2006). In both Somaliland and Puntland, UNDP and UNICEF are jointly implementing a Justice for Children project that is designed to create a child-centered environment for children in conflict with the law.

1.6.6 <<B/C>>Land, Property, and Justice[[see query at previous heading]]

There is no consistent and comprehensive legal framework for land and property management, only a mix of dispositions and practices stemming from the three sources of law. Xeer is well adapted to regulate and manage common property such as pasture, grazing land, forests, and water. The secular law pertaining to land was passed during the Barre regime. It considers all land government land, which can be leased by individuals for specific uses. New laws that are currently being developed have adopted this concept. They are out of phase with the practices of the land market and run the risk of being difficult to enforce. They could, however, improve land management in terms of assigning land titles, settling land disputes, and preventing the escalation of dormant land disputes (Harris et al. 1998[[give up to five authors here]]). But even then, they could do so only by being sufficiently equipped to follow up on the enforcement of the new land laws. The situation is complicated by the fact that most records were destroyed during the civil war.

According to Islamic law, land cannot be the basis of a commercial transaction, only the investments made on it. This concept of land tenure could help settle the urban poor on private land with involvement of the municipality; a measure that is being considered in Bossaso.

In Somaliland, only 10 percent of land conflicts are brought to formal courts; the rest are solved by the municipal land committee, traditional leaders, or the use of violence. In Somaliland and in Puntland, the majority of cases are property or land disputes. In Somaliland some judges and lawyers estimate that as many as 85 percent of the cases they deal with relate to land disputes. Land is the main cause of the lack of public confidence in the legal system and in the emerging municipal system. Local councils carry a lot of the blame for this because they tend to award the same plot to several people and also because they refuse to implement the decisions of the courts. In Puntland, draft land and planning laws, submitted to the Parliament in February 2006, intend to regulate allocation of legal ownership of land, mediate land disputes, and distribute planning responsibilities.

In South Central Somalia, land management decisions are made at the local level, as need arises, by authorization of the controlling group or governor, or are made between competing local authorities. The TFG has stated that it will engage in land reform using remaining land records together with traditional dispute resolution mechanisms. The Somali transitional charter calls for the establishment of a Land and Property Disputes Commission, and Parliament has already set up a Committee for Reconciliation and Property Restitution (see[[would need to cross-reference by heading]]).

Land, housing, and property restitution involve legal concepts and human rights. The law of restitution is a law of gains-based recovery, in contrast with the law of compensation, which is the law of loss-based recovery. In a postconflict situation, a problem faced by refugees and IDPs when they return to their area of origin is the loss of land, housing, and property during their displacement. In the case of Somalia, where displaced persons belong to different clans and where land conflicts are often violent, land, housing, and property restitution need to be addressed as a component of the peace and reconciliation process. Restitution is most complex in urban areas, where land has often been changed since the dispossession took place, and many times straightforward restoration is not possible. The restitution process must balance the needs of individual justice (the claims of those dispossessed) with the broader needs of social justice (the need for housing and development).

Because of the general breakdown in the rule of law, the legal foundation of the restitution process needs to be rebuilt, suggesting a short-term approach (for creation of the enabling environment for longer-term strategies) and a medium- to long-term strategy (for legal and institutional development of restitution processes).

Suggested actions and activities are as follows:

[[set bullets]]

Provide technical assistance to Somali authorities to establish provisional regimes for providing refugees and IDP individuals or groups the right to restitution.

Lobby through the Land and Property Disputes Commission (Article 68 of the transitional charter) to include a process for providing restitution or compensation for land, housing, and property in the political agenda as a major issue to consolidate the peace process.

Identify the key actors involved in the restitution process, including an institutional framework at the state and federal level, a decentralized institution to prepare and follow cases, the definition of the most suitable jurisdiction for the procedure.

Define an adaptable model of the restitution process for the Somali context, including reviewing best practices in Kosovo (Housing and Property Directorate), Bosnia, and South Africa (commission of restitution of land rights), and reviewing the different forms of restitution: (a) natural restitution—restitution of the claimed parcel of land; substitutional restitution—restitution of a similar piece of land; compensation in some nonland form—an ownership share in another entity, entitlement to a government benefit, or simply cash.

Develop a mass awareness campaign, including radio discussions, community meetings, and newspaper advertisements.

Identify the key challenges in South Central Somalia, including the scope of the resettlement in terms of the approximate number of displaced persons that could choose to voluntarily repatriate, and major geographical areas that are affected.

129. <<B/C>>*Vision for the Rule of Law* **[[this would be a single level within 1.7.6; either add a second subheading within that section, or make this the same level as that (I have done the latter)]]**

The vision or desired outcome for the rule of law is for improved access of all Somali people, including vulnerable and poor men, women, and children, to basic structures for the

administration of justice, functioning in accordance with international human rights standards. Priority initiatives, under three sub-outcomes, are presented in box 2.3:

<<Text box>>[[DTP: set bullets where dashes are]]

Box 2.3 Priorities for the Rule of Law

Priority 1. Basic systems and structures established for the administration of justice

- Strategic frameworks developed to agree and implement a vision for the delivery of justice
- Legal and institutional frameworks in place to regulate the functioning of the justice system
- Normative framework in place to protect the rights of all citizens, including the disadvantaged
- Basic structures, staffing, systems, and processes in place or strengthened to implement the vision
- Legal training
- Weaknesses in the criminal justice chain identified and addressed (police, prosecutors, courts, prisons, and legal assistance)
- Land rights issues addressed through the rule of law
- Rehabilitation or construction of buildings for the rule of law

Priority 2. Accessibility of justice

- Barriers to having access to justice understood and a strategy developed to enhance access to justice
- Support for the provision of legal awareness and paralegal and legal services
- Partnerships with nonstate providers of justice established
- Proposed reforms to state institutions to improve accessibility of justice identified and introduced (such as location of courts, mobile courts, communication with citizens)
- Piloted, joined-up[[**integrated?**]] local delivery of justice and security services (local partnerships of police, elders, and local authorities, etc.)

Priority 3. Human rights and gender equity issues

- A culture of human rights developed within rule-of-law institutions
- Human rights institutions established or strengthened and working in partnership with rule-of-law institutions
- Oversight and accountability structures established and strengthened across rule-of-law and security institutions in all Somali regions
- Gender strategy developed and implemented
- Child rights strategy developed and implemented

<<End text box>>

105. This approach to rule of law would follow an “access to justice” policy framework that starts with the ability of the poor and vulnerable to understand that they have a legitimate claim through the various stages of the legal and judicial system. Attention to the first level of this chain would be measured using an outcome-level indicator of change in the amount and quality of information available to survivors, witnesses, complainants, and accused persons about their rights to assistance and access to institutions that can resolve their disputes. The media, especially community radios, could play a key role in providing this information.

106. Overall, the approach needs to start with an analysis of barriers to justice faced by the poor and vulnerable in Somalia. A proposed sub-outcome of accessibility would be the ability to influence institutional support. The approach aims to stimulate a number of innovations, including the following:

- Approaches to institutional reforms that start from a bottom-up approach, concentrating on the lower courts
- Greater attention to community-level mechanisms, such as informal institutions and collaboration between the various justice and security providers at the local level
- Engagement on land disputes, a major source of conflict[[it's not clear what is being engaged]]

107. The access-to-justice outcome highlights issues of accessibility as well as a focus on basic rather than elaborate structures, in view of Somalia's limited state capacity and ongoing conflict in some regions. It is proposed that the rule-of-law components and the human rights and gender cross-cutting themes be addressed through three sub-outcomes:

- Establishment and strengthening of the basic systems for the administration of justice
- Enhanced accessibility of justice and security for poor and vulnerable men, women, and children
- Enhanced understanding and investment in the promotion and protection of human rights in Somalia, in particular, fundamental rights, women's rights and gender equity, and children's rights

<<Text box>>

Box 2.4 Strategic Approaches to Develop the Justice System[[need to add a callout in the text for this box]]

National ownership and capacity development. National ownership and leadership are at the heart of a development strategy, with building of local capacity at the center. Capacity development includes more than training and covers the setting up of structures, processes, and incentives to carry out the main functions of a state. Staffing issues are less a matter of quantity than quality in Somalia, and in the northern regions basic processes and structures of public administration are in place and can be supported, including policy formulation, decision making, human resources, and financial management. Year 1 should concentrate on the collection and analysis of data on the rule of law and human rights and gender equity in Somalia; preparation for work plans for years 2 and 3; and support for the development of strategic plans and policies for the administration of justice and for access to justice with regard to human rights, gender equity, and children, both at the federal level and in the regions where there is a minimum level of public authority and stability.

Sectorwide approach and timing. A sectorwide approach will complement strategic planning processes to ensure that development interventions are prioritized and sequenced in order to strengthen links across justice and security institutions. For example, strategies to improve conditions of detention in Somalia require that attention be paid to the whole justice system—the criminal justice chain.

Bottom-up and pro-poor perspectives. In the context of Somalia, these perspectives include paying particular attention to the needs of, and barriers faced by, women, children, rural and nomadic populations, minorities, refugees, and IDPs, with attention to strengthening community-based delivery of justice.

Regional approaches. The present political and security situation suggests that the program should be structured on a regional basis, including support for the development of policy and institutions at the federal level, and support to the various regions, depending on the nature of their security situation and political settlement.

<<End text box>>

1.6.7 <<B/C>>Reconciliation, Peace Building, and the Rule of Law

108. The following conflict-sensitive principles are relevant for development of the rule of law: an analysis of which clan or group benefits from an intervention; attention to stakeholders' perceptions; preference for cross-clan or clan-neutral activities, such as nationwide professional bodies; priority for support to existing initiatives rather than to new projects; respect for the current dynamics to avoid strangling them with excessive support; use of local Somali expertise where possible; and support for transparent and accountable institutions. Lessons drawn from peace and reconciliation processes in Somalia and in other conflict situations indicate that these processes should be Somali-owned, participatory, inclusive, top-down and bottom-up, and integrated in all levels of state building.

109. The support of the international community should be provided as much upstream, in the area of policy and strategy, as downstream, by reinforcing grassroots peace-building and reconciliation initiatives. The initiatives undertaken upstream and those undertaken downstream should be mutually reinforcing. The international community could support two main types of intervention: (a) strategic and institutional support -of structures responsible for peace building and reconciliation and (b) direct support to peace building and reconciliation strategies.

Analysis of the Somali situation and of the most relevant postconflict experiences suggests that the following main complementary strategies could benefit from direct support: encouraging the intercommunity dialogue; promote citizen participation in the reconstruction of the state, especially local governance; creating a community peace initiative; supporting local reconciliation processes in strategic areas and regions; link truth, justice, and reconciliation; and establishing a justice system that is accompanied by reconciliation processes, as justice and reconciliation reinforce each other. Indeed, impunity puts peace at risk in the long term.

110. Although it is important for the partners of Somalia to continue to work with state institutions to establish policy and resource frameworks and to help build institutional capacity (in particular in South and Central regions), greater attention must also be paid to clans, elders, and other community mechanisms. It would be unwise to exclude mechanisms that are in common use, complementary, and widely acceptable to the local population. They provide a minimum core of justice and security to the population in areas where the formal system does not.

Legal pluralism can be addressed by supporting the development of a consensus around the roles and responsibilities of the three main legal frameworks (customary, shari'a, and secular).²³ Rather than support of a harmonization policy that may seek to control or forcibly incorporate these mechanisms, the approach needs to support the mechanisms' beneficial contributions to local security and justice but also regulate some of their problematic features. It is advisable to start by facilitating a wide public debate on the relationship between state structures and nonstate systems. Three areas of intervention are recommended: (a) consensus building around the roles and responsibilities of various elements in the state and nonstate systems; (b) work with communities and nonstate mechanisms; and (c) piloting of new approaches to deliver community justice and security.

111. A debate on how to integrate shari'a into the formal system is particularly needed, for example, on the formal shari'a family courts within the state system, and on the role of shari'a courts or imams outside formal structures. **[[define imams]]** It may be necessary to introduce minimum standards for procedures and judgments, to ensure compliance with fundamental principles of justice and human rights. In Somaliland and Puntland, systematic support for the judiciary is important, beginning with a shared understanding of the formal and informal justice systems, their reach and scope, numbers of judges and staff, number and variety of courts, funding, and performance issues, including case management and the quality of procedures. Corruption and political interference are alleged to be problems. The challenges are similar but more far-reaching in South Central Somalia, where new modalities of shari'a courts have developed in recent years. The TFG is taking steps to reconstitute a federal Supreme Court and reappoint the top of the judicial hierarchy.

1.7 <<A>>Subcluster 2: Security

1.7.1 <>Disarmament, Demobilization, and Reintegration (DDR)

112. Disarmament, demobilization, and reintegration (DDR) are prerequisites for basic governance and development and require the immediate attention of Somalis and international partners. A comprehensive and coherent DDR program is needed for Somalia if further progress toward peace and recovery is to be made. Such a program needs to be developed based on sound principles, realistic plans, and the experience of current and previous efforts in Somalia and other countries. Experience shows that a DDR program that is imposed will not succeed, and may create further division and conflict. The success or failure of the program will ultimately depend on the commitment and full participation of all sections of Somali society. As part of the broader strengthening of community participation, the voices and views of communities need to be part of DDR planning, strategy, monitoring, and evaluation processes.

113. The TFG developed a National Security and Stabilization Plan (NSSP), with DDR forming part of the security sector activities. The NSSP will need to evolve to consider emerging security issues and needs, particularly regarding the challenges of newly mobilized population groups affiliated with Islamic courts and other emerging groups. A possible role may need to be considered in the NSSP for a peace support operation, to assist and monitor DDR of previously active and new militias, if negotiations lead to new DDR commitments.

114. Previous work on conflict analysis identifies the key causes of conflict as competition for resources, lack of meaningful paid employment, and defense of self and family. Somalia's unique situation requires more focused attention on the issues of arms control (disarmament) and alternative livelihoods (reintegration). Second, the words "integrated, comprehensive, and national" are used to describe future DDR program for Somalia. An effective DDR program must be integrated with the peace and reconciliation process, national security strategy, institutional capacity-building, economic reconstruction, and so forth. To achieve this integrated, comprehensive, and national approach, Somalia must establish the legal authorities and comprehensive security sector reviews as soon as possible. **[[provide a subject for the sentence—who is establishing?]]**

115. Reintegration in the Somali context must take into account the large-scale migration of local populations, the widespread mobilization of militia, and the social and economic dislocation that has taken place over the past 15 to 20 years. In this regard, the successful reintegration of former combatants, refugees, and other displaced people within a sustainable development framework is one of the keys to peace and security. Land and land tenure, water and access to social infrastructure, economic opportunities, and assets are among the major elements of contestation and conflict in Somalia today. The equitable resolution of disputes over these resources, in the context of the large-scale reintegration pressures facing communities, will require community-based capacities and resources that effectively address these challenges and establish a framework for sustainable human security and development.

116. DDR initiatives for Somalia require a clear understanding of what militias exist, where, and how many, and what weapon systems they maintain or have access to. When these data are established, more detailed planning can take place that addresses the differing needs of the various militias. Sustainable reintegration program that include training and employment opportunities need to be identified to meet the differing needs of the militia, with a particular focus on child soldiers and youth. Civil society capacity, particularly those capacities that currently exist within various women's groups, need to be integrated and involved in the DDR processes from the outset.

117. The responsible authorities must undertake a comprehensive and coherent security sector review and articulate a security plan for the future needs and development of security forces. Force reduction plans will need to be implemented in those cases where demobilization has already been enacted by incorporating militia into oversize security forces. Weapons control will need to be addressed at both the international and the local levels.

1.7.2 <<C>>South Central Somalia **[[this and headings for other regions discuss just DDR and fit within that heading, so they are C heads]]**

Currently an estimated 53,000 to 65,000 militia members who are operating in Somalia constitute the principal target group for DDR programming.²⁴ The characteristics and distribution of this militia differ markedly from area to area. The characteristics of militias in Somalia that are commonly used in the JNA process include **[[not clear: commonly used by whom, for what; list also provides unbalanced types of information about each, which I tried to**

correct by editing—is meaning (role?) of each still okay?]]freelance (armed youth), factions (political warlords), business (business protection and expansion), courts (enforcement of religious interpretations), and clans (protection, retaliation, and expansion).

118. Accurate collection of data to identify and disaggregate the various types of militia has not been undertaken as part of the JNA process. Disaggregating types of militia and crafting different DDR approaches will be essential. Each of these groups must be addressed individually because one process could not be logically or practically applied across the board. Furthermore, detailed analysis of each group will identify different age groups, which must also be taken into account in addressing alternatives, in particular the large percentage of young people between the ages of 16 to 24 who are active in militias.

119. In Somalia, the meaning of the term *demobilization* may differ in relation to the type of militia. The clan militias will probably stay together, but most likely they will remain under clan, elder, and community control for self-defense. The business militias may continue to be cohesive units but will be redirected as private security guard companies.

120. Years of militia preconditioning have built up an expectation for jobs and income as a condition to disarm and demobilize. This preconditioning has been reinforced because of inadequate work by technical staffs on reintegration options. How to meet or change these expectations for jobs in the context of high general unemployment in the economy is a huge challenge facing all workers involved in Somali DDR and peace processes. Unemployment and the inability to sustain life are the most critical underlying causes of militias. If there is no meaningful employment, a DDR program has little chance of being sustained in the medium to long term. The international community must be actively engaged and involved with the local business community to identify potential areas of employment and subsequent economic growth. Somalis have shown their resilience and have adapted well in an environment of chaos.

121. South Central Somalia represents the most immediate challenge to a DDR program. Although UNDP has initiated some pilot projects, particularly within Mogadishu, the program has reached only limited numbers of militia and has been held back by the lack of sufficient resources, a resurgence of fighting, and limited involvement of controlling powers. Initial DDR projects have focused on the freelance militias, with an emphasis on youth. All militia groups need to be taken into account, and programs must be designed that reflect the differing needs of each group.

122. One of the major issues facing DDR in South Central Somalia, Mogadishu in particular, is the prevalent use of the drug *khat* by the militia. Previous experience has shown that a high percentage of the militia members that undertake training are addicted to khat. Khat addiction does not allow for a long attention span, with candidates exhibiting very restless behavior.

123. Within South Central Somalia the need is to target DDR programs in areas where there is a commitment to establishing a more secure environment within and from the communities. Grassroots law and order and security initiatives that also begin within the time frame of this program would alleviate concerns about the reemergence of new freelance militia activity.

1.7.3 <<C>>Somaliland

At the end of the civil war, Somaliland had approximately 50,000 combatants, of whom 15,000 to 20,000 were absorbed into the army, police, prison service, other security forces, and civil service during the official disarmament and demobilization process of 1993–97. To a considerable extent, the authorities have managed to disarm their heavy weapons brigades, while an estimated 10,000 ex-combatants have managed to partially reintegrate themselves into society over the past five years.

124. The Somaliland government is using the War Veterans Association, SOOYAAL, as the designated representative of all former combatants, to facilitate the demobilization and reintegration process. One of their major constraints to date has been the lack of resources and capacity to support the process, hence the need for increased international support. One of the major restraints on the government's ability to fund rehabilitation, development, and social programs is the fact that the budget is heavily committed to the funding of an oversize security force.

125. The absorption of ex-combatants into the security forces has achieved the original aim of moving the militias off the streets and sustaining local peace and stability, but in the long run this is neither sufficient nor sustainable. At present, more than half of the government's budget goes into maintaining its security forces. The parastatal technical demobilization agency, the National Demobilization Commission (NDC)[**add to acronym list**], is attempting to address this problem through a force reduction project to reintegrate retiring service members. This and other pressures for effective and sustainable reintegration, including both economic and psychosocial aspects, remain the greatest strategic challenges facing continued DDR efforts in Somaliland. The region's current DDR management capacity—comprising SOOYAAL, the NDC, and a strong network of community and civil society organizations, as well as UNDP—is the most advanced in the country. The groups have gained considerable experience in recent years, achieving a broad understanding of the main issues and challenges involved and having several highly competent DDR managers.**[sentence was passive and didn't hang together well; can restore to original but fix: ...and the groups have several...managers (is that currently or over time?)**.

126. Whereas DDR in Somaliland is effectively over, more efforts must be defined and approved: downsizing of the current force strength, the time frame for their demobilization, and the success indicators for their reintegration.**[it wasn't clear what parts of sentence remained to be done; if not correct as edited, clarify what part is over and what remains]** There will continue to be war veterans (and their families) whose voices need to be heard and needs addressed within the logical constraints of social fairness and equity.

1.7.4 <<C>>Puntland

127. When the Puntland state of Somalia was formed in July 1998, its authorities inherited an estimated 15,000 former militia personnel. Over the past four years, some 6,500 of this number have been absorbed by the security forces and civil service, while an additional 3,000 have voluntarily demobilized and reintegrated into civilian life. To date, an estimated 6,000 ex-

combatants remain unemployed and in need of reintegration assistance. There are reports that DDR is incomplete in some parts of Puntland.

128. The government of Puntland recognizes that the Somali transitional federal charter stipulates in Article 68 the formation of a Special Commission on Disarmament and Demobilization to develop policy and coordinate and manage strategies on DDR. The Puntland administration has established a Directorate of Demining, Demobilization, and Reintegration (DDD&R) to facilitate the demobilization and reintegration of local combatants. Although poorly resourced and understaffed, the DDD&R is a well-managed body with the capability of developing a strong local DDR capacity. At present, this capacity needs to be strengthened through training and technical assistance, particularly with regard to community organizations. A security sector reform process needs to be undertaken immediately to correctly size the security forces required to ensure stability and respect for the rule of law.

<<D>>*Youth*. A decade of civil strife and social disruption has taken its toll on Somalia's young people, almost all in the 12 to 20 age group, who have missed out on a formal education. Many of this "lost generation" have been drawn into armed militia activities and find it increasingly hard to abandon the familiarity of militia life.

<<C>> **[[add a heading <<C>> for Youth, Gender, Arms Control, and the other topics that follow within this section. These sections do not fit within the preceding heading, Puntland, but relate to DDR (the heading above this still) and all of Somalia. Also, add a brief introduction to the section to avoid stacked heads, per Bank style]]**

<<D>>*Gender*. Understanding the different effects of war on women and men is crucial in designing programs that will cater to both. Women are naturally involved in all aspects of civil protection: as the mothers, wives, and sisters (and occasionally members) of demobilizing militias; as the widows and orphans of deceased combatants; as social actors whose livelihoods are jeopardized by small-arms and militia activity; and as citizens who should be able to actively pursue their rights through the courts and in the public domain. At the same time, war widows and other women-headed households are among the most vulnerable sectors of Somali society.

129. Women's groups have, on their own initiative and with limited outside support, been actively engaged in several peace-building efforts in the area of militia demobilization. Many of the militia members of today have been raised without parents or have been abandoned because their family has not been able to support them. The intervention of the Somali women can provide that vital link back to the important role of the family. DDR programs must build on the knowledge and experience of these women's groups and actively engage with them in the preparation and implementation of grassroots programs. The role that women have traditionally played in Somali society is changing, and the voice of women has in many cases become the voice of reason and reconciliation. They are a vital link in the community and have much to offer in assisting the development and sustainability of DDR initiatives.

130. <<D>>*Arms Control*. The disarmament of all militias is not an obtainable objective. Weapons are such a part of the culture of the people not just within the militia, that alternative approaches must be considered. Somaliland has passed legislation that prohibits the carrying of weapons in the cities. Certainly in Hargeisa this has proved to be very effective and has

contributed significantly to the drop in gun-related violence. Lessons learned from the experience in Somaliland could be useful when addressing the issue in the South Central region's towns and cities. Weapons control within the towns would be a critical entry point into longer-term arms-control planning, and it is possible that such controls could be enacted by local authorities in cooperation with the clans on a district-by-district basis.

131. Of more concern is the continuing availability of new weapons being brought into the country in spite of the UN-imposed arms embargo. Although the embargo has at times helped to reduce the large numbers of weapons coming into the country, especially medium to heavy weapons, it has not been effective in stemming the flow. The arms market continues to flourish, and in times of conflict the market expands. It has been noted that several key personalities are involved in procuring weapons. In some cases, external authorities and their agencies have facilitated the availability of weapons. The arms embargo, if it is to remain, must be effective, abided to by all parties, and policed. Currently this is not the case.

Several risks have been identified in developing a sustainable DDR process: Large- and small-scale clan and freelance militia fighting continues. The militias, businesses, and individuals may choose not to participate in the program because they see the militia as their only source of security, particularly among the smaller and disadvantaged clans and subclans. Government fragility will limit the contribution of any DDR project to the peace-building efforts. Access to and availability of weapons and ammunition continues, and weapons control mechanisms are absent. No coherent ceasefire agreement exists among militia in the South Central area. No coherent peace-building and reconciliation process has been initiated. **[[make it a complete sentence, as others, but what is correct: not initiated?]]** The militia, warlords, and the international community have unrealistic expectations. **[[about anything in particular?]]** **Finally**, external influences compete with the internal affairs of Somalia.

<<D>>*Institution and Capacity Building.* Although the transitional charter authorizes a DDR commission, it has not yet been created. Its establishment should be a precedent for involvement in DDR. The commission must be appropriately staffed and resourced and must be linked to related peace processes. What is missing is any structure for reintegration planning. Either the sought-after National Security Council or an authorized DDR commission will need to establish an interministerial reintegration planning structure that is coordinated with the international community and includes NGOs, the business community, and community service organizations. The commission would function within the framework of the NSSP, including capacity building for relevant ministries. A large number of local NGOs and civil society organizations throughout the country represent considerable local capacity that could continue to engage community reintegration options. TFG leadership and central planning structures are essential. But they must not ride over existing regional and local capacities. The community-based approach to DDR in Somalia has much validity, especially if integrated into national DDR and security programs. **[[this paragraph could be more coherent. First, the national security council hasn't been introduced, must less described as sought-after. The rest has a lot of points all strung together.]]**

<<D>>*The Vision for Disarmament, Demobilization, and Reintegration.* The DDR processes described above could be substantially achieved in all Somali regions by 2011. Priorities for DDR are as follows:

- *Somaliland.* Review and restructure the security sector; conduct a force reduction exercise; equip and train the remaining force, develop reintegration programs for the demobilized; develop support systems for war widows and families; and support war veterans.
- *Puntland.* Undertake a comprehensive security sector review; equip and train the security force; implement reintegration programs for the demobilized; and support war widows and families and war veterans.
- *South Central Somalia.* Establish a DDR commission within the TFG, as called for in the charter; conduct a comprehensive security sector review; develop and implement DDR initiatives, as feasible; develop special programs for youth and child combatants; plan support systems for war widows and families and war veterans.

1.7.5 <>Police

[[add text to avoid stacked heads]]

<<C>>*Historical Background*

The Somalia Police Force (SPF) was formed by the amalgamation of the two colonial police forces that shared common procedures following Britain's World War II management of the two territories from 1942 until 1950. In the decade following independence, the SPF developed as a model police service, was highly regarded, followed good democratic policing principles, and practiced community policing, as described in box 2.5.

<<Text box>>[[need to add a callout in text for this box]]

Box 2.5 Principal Duties of the Somalia Police Force, Historically

- Defend institutions of the state
- Maintain public order and security
- Protect the life, individual safety, and property of citizens
- Ensure the free exercise of individual rights given by law, without prejudice to the security of the state
- Enforce laws, general and social regulations, ordinances of the public authorities, and provisions relating to economical and political interests of the state, and to prevent, investigate, and report offenses and apprehend offenders
- Investigate and suppress violations of financial laws of the state and local government taxation as well as customs and foreign exchange
- Perform frontier police duties and fiscal and currency exchange duties on the borders of the land, in air space, and in the territorial waters of the republic
- Carry out any other guard and security duties for which the law requires police action

<<End text box>>

132. The emergence of the military regime of Mohamed Siad Barre heralded the beginning of the end for the SPF. The SPF was formally recognized through the Police Law January 17, 1973, but its civilian managerial and operational independence from the armed forces also was eroded by the law. The regime used the law to make the SPF an organ of the state, as a part of the armed forces, with the president as the commander in chief. The SPF was slowly degraded to the point that salaries became too low to maintain a fair standard of living, the police service was starved of resources and logistics, and standards of recruitment were lowered, enlisting poor-quality

personnel. Through progressive neglect, inefficiency and corruption began to characterize the organization, and the high principles that were previously established were lost.

After the collapse of the Somali state, various informal policing structures evolved, linked to militias or to the various informal judicial bodies (see below).

<<C>>*Current Situation*[[**this section could be tightened to reduce confusing repetition; I've noted some places and queried statements that don't clearly identify the source or cause of the authors' observations**]]

The situation in the South Central areas differs from the formal policing arrangements found in Somaliland and Puntland. In Puntland a police force (PLPF) has been reconstituted so that it can be amalgamated into a future SPF, and in Somaliland, the Somaliland Police Force (SLPF) has been created, reflecting the norms associated with a police service of an independent nation. In both regions, former police and military personnel, together with militia, were brought together to constitute the force. The operating procedures and style of both the PLPF and SLPF mirror those of the deactivated SPF. They have received assistance from UNDP.

133. In the South Central region of Somalia, policing is not being undertaken by the SPF. The SPF is being reactivated, but it is still not effectively operational, and the function of policing is done by a number of uncoordinated informal groups. They are loyal to, and answerable to, traditional (xeer) bodies, warlords, faction leaders, the business community, the shari'a courts, and others. The informal police appear to be respected by many people because they are the only body that can maintain some form of security within communities.

134. Many members of the former SPF are reported to be maintaining police stations in the principal areas of population, but they are subservient to the informal police because they lack equipment, resources, and command and control elements.

135. Somalis' perception of the status of law and order is presented in Map B2 (see annex). The legend classifies the current status of law and order in the respective settlements as good, average, poor, and no response. The responses indicate that law and order is perceived to be poor in the southern regions of Lower Juba, Middle Juba, Gedo, Bakool, and Bay, with pockets of poor law and order in Lower Shabelle, Benadir, Nugal, and northernmost Bari. **[[first sentence says perceptions—is that the sole basis and okay to add in preceding sentence?]]** At the time of this report, the data were still being verified, and data for Somaliland were not available, at the time this report was produced.

[[deleted Map B2 from this point (already in annex of figures). Maps B2 and B3 have the same title—legend may be different, but it is unreadable—titles should be different]]

Some preliminary attempts to restore policing in South Central Somalia have been made but without any substantial success. Many deactivated police officers are reported to have been attending their duty stations, but even senior officers of the SPF who have remained at their posts are subservient to the commanders of the informal police. The SPF is not effective and is having difficulty in becoming the recognized national police service.

136. The minimum number of police required for the South Central areas of Somalia is estimated to be 10,000 personnel who are professionally led, adequately equipped, and properly trained. Presently, only 600 formal training spaces are available at the new UNDP-built SPF academy at Armo in Puntland, which is insufficient to meet the demand. There are other SPF facilities, but they are in areas not readily available to the SPF and are in need of refurbishment. It will therefore be necessary to create training capacity either through the rehabilitation of these facilities or through the establishment of temporary facilities capable of completing the training of the minimum number of police.

The future policing of Somalia was comprehensively addressed at a UNDP-sponsored seminar, hosted by the government of Uganda through the auspices of the Uganda Police Force (UPF), that was held in Kampala in September 2005 (referred to as the Kampala Seminar).**[[add footnote below]]** The Kampala Seminar was attended by 65 senior officers from the SPF, including from Puntland and Mogadishu. Somaliland did not participate in the Kampala Seminar. The outcome of the seminar was a Strategic Development Plan (SDP) for the Reactivation and Development of the Somalia Police Force. The plan states that the policing of Somalia needs to be civilian and be community based, with a participative and consultative approach. As stated in the SDP, the goal is “a police force that is professional, effective, acceptable and accountable to the law, the people and the government . . . a police force that meets the needs and expectations of the democratic nation and its communities.”**[[add a footnote citing the plan and giving dates of the seminar]]**

137. An option considered by the Kampala Seminar is to leave the informal police in place while the new SPF is recruited and trained. The recently qualified element would be closely aligned to this process and be responsible for assisting those informal police who have either were not selected to the SPF or opted not to become career police officers to find an alternative livelihood. The informal police left in place would receive a short intensive course on their role and come under the command and control of the commissioner of police.

138. This option uses the informal police to maintain law and order while the new SPF is put in place and helps the reconciliation process by providing alternatives for former combatants. It also has disadvantages. A possible risk is that the informal police, or the leaders or groups they report to, may refuse to take part or relinquish their influence and control over the informal police; the community may also reject the initiative.

The people currently performing informal police duties would have to be considered and their future dealt with sympathetically, with suitable candidates recruited into the new SPF.**[[this was mentioned a little earlier—could combine this consideration]]** To merely stand down the informal police would lead to many problems, including the continuation of violent conflict. Likewise, to merely reactivate former police personnel without qualification and recruitment, from either those resident in Somalia or in the diaspora, is not recommended.

A national or federal police service will need to have high-level management from an efficient and effective headquarters that relates well to national government and is totally accountable from bottom to top and from top to bottom. The standards and methods set now will determine the quality of the SPF for the future. National administrative and operational plans, together with

standards of behavior for police personnel and methods for ensuring accountability, will be developed before or in parallel with the introduction of a new style of locally based policing.

139. The Kampala Seminar recommended that the SPF be reactivated area by area through properly recruited and professionally trained personnel. It was envisaged that the new police would be recruited from three sources: former and existing members of the SPF, suitable members of the informal police, and men and women recruited directly from civilian life.

140. A complex component of this process of decommissioning local police is that those who serve the xeer and shari'a courts cannot be decommissioned without affecting the performance of those judicial bodies. Therefore, a systematic approach is needed to reach agreement of all stakeholders and determine the functions and respective jurisdictional limits of each of the components of the judicial system (xeer, shari'a courts, and secular courts). Stakeholders would then agree and determine the corresponding functions of the police units that would interface with and service these judicial bodies. The same applies for the correctional function. It may be that all coercive policing would be performed by the SPF, with auxiliary police serving the xeer and shari'a courts. **[[original paragraph was rough; verify edits]]**

The Kampala Seminar's recommendation for a civilian, community-based force with a participative and consultative style **[[repeats paragraph describing recommendation from the seminar.** will have to meet the needs of local people, while taking into account national standards and directions. This will mean moving away from the authoritarian and military policing style that emanated from the Police Law of 1973. The SPF needs to move toward being a police service that is accountable to the law for its operational activity, to the legally elected government of the day to effectively deliver national objectives of ensuring the safety and security of the people and the use of the resources allocated to it, and to local people for the manner in which it polices their community.

Local needs policing will be the foundation of the new SPF that relates to community, district, regional, and federal levels. **[[under what plan or agreement is this change taking place? the same Kampala Seminar? need to restate origin]]** Policing has the most effect in bringing about peaceful and just communities when it is delivered and managed from the lowest level of operations. This change from the status quo toward a civilian and community-based style of policing will necessitate the following:

- Changes in rank structure and a less militaristic approach to problem solving
- New standard operating procedures through the promulgation of fresh "force standing orders"
- A new uniform for police instead of the current military khaki
- A more sympathetic approach to survivors of crime, particularly the poor and vulnerable members of Somali society
- Better terms and conditions for police personnel that reflect the importance of the task they undertake
- High-quality personnel from all clans and groups of Somali society
- Close and meaningful consultation with all communities
- New legislation and the repeal of former statutes, police regulations, and other outdated ordinances

The SDP recommended that a preliminary step in the police reactivation process would be the establishment of a team of well-motivated SPF senior personnel as a Police Reactivation Management Team (PRMT), as follows:

- The PRMT process must be expanded to include stakeholders from the informal police.
- The PRMT will report directly to the commissioner of police (CP) and will be responsible for planning and monitoring the implementation of the Strategic Development Plan.
- The officer commanding the PRMT should have the rank and status of a deputy commissioner of police.
- The PRMT will assist the commissioner in his requests to government and the international community for assistance, both financial and technical, to enable the reactivation and modernization of policing in Somalia.
- The PRMT will coordinate all activities and ensure a consistent approach by setting Somalia Police Force (SPF) standards. For example, all training and international assistance to training will be delivered in accordance with the standards set by the CP through the PRMT process.
- The PRMT will advise the CP on logistics and communications requirements.
- The PRMT will help the CP to prioritize actions and will be the engine to enable the CP to implement the SDP.
- The PRMT will be staffed by SPF personnel who are well educated—both in the academic and professional senses—and who are committed to the principles outlined in the SDP.

<<C>> *Vision and Priorities for Police*

The vision is to have throughout Somalia an effective and accountable civilian police service focused on local needs policing, within an overall national or federal security framework, with the full involvement and cooperation of civil society. During the 2007–11 period, an integrated police force should be established, with the possibility of absorbing (with proper vetting, qualification, recruitment, and training) elements from the informal police into the state police; and the possibility of maintaining some informal police units, mobilized under the civilian command and control of the police of the state, performing specific, delegated functions as part of an integrated framework for policing. The framework for policing will need to be linked to discussions and development of the overall constitutional framework for Somali institutions, as it develops over the next two and a half years, **[[give rough dates here so we know what start date is being proposed]]** under the terms of the transitional charter.

141. The following are the policing priorities over the period 2007–11:

- Sustain the established police forces in Somaliland and Puntland.
- Continue capacity building of the Somaliland and Puntland police forces to ensure that they are given the appropriate knowledge, skills, and techniques in order to carry out their functions in the community in a professional and fair manner.
- Recruit and train members for the SPF from the South Central areas, with a current requirement to establish a force of up to 10,000 personnel.
- Provide capacity-building support to the designated responsible line ministry or ministries within the TFG.

- Develop and implement plans for the involvement, integration, and reorganization of the informal police,
- Establish and support a Police Reactivation Management Team (PRMT).
- Reequip the police force and provide new uniforms.
- Provide command and leadership training for the command element and ensure that systems are in place for the continued development of professional police officers.

<>Mine Action

The problem of land mines in Somalia reflects 30 years of conflict. In addition to land mines, large amounts of unexploded ordnance exist countrywide, and the stored and stockpiled ordnance and explosives, if not controlled, could be used for lethal unlawful means.

142. The socioeconomic impact of land mines and UXO is apparent in almost every aspect of Somali society, affecting physical security. Landmine impact surveys (LISs) have been conducted in Somaliland (LIS Phase 1) and Puntland (LIS Phase 2), with most affected areas being covered; however, the contested regions of Sool, Sanaag, and parts of Togdheer were not included at the time. Funding is available and planning is under way to complete these outstanding areas in 2006 as Phase 3 of the LIS in the northern areas of Somalia. No surveys have yet been undertaken in South Central Somalia.

Successful mine action activities have been conducted in northeast Somalia (Somaliland) and northwest Somalia (Puntland), leading to sustainable mine action coordination structures in both areas. Although the security situation remains unstable in the south and central areas of Somalia earlier clearance activities were conducted during the UN operations in Somalia (UNOSOM) period, and limited activities have been conducted in local capacities since that time. Recent preparatory dialogue in South Central Somalia has taken place to ensure that mine action–related challenges could be addressed in affected communities within the coming years as peace and security take hold.

UNDP currently supports two Mine Action Centres, in Somaliland and Puntland, plus seven explosive ordnance disposal (EOD) teams that are deployed by the individual police forces of Somaliland (five teams) and Puntland (one team), and one independent EOD team operating in the area of Jowhar, South Central Somalia. Two international NGOs are still active in Somaliland: the HALO Trust and the Danish Demining Group. **[[text later refers to UNDP Mine Action; is this an agency? introduce here? Also, SAC is used**

To support the successful signing of the Deed of Commitment to the Geneva Call for Adherence to a Total Ban on Antipersonnel Mines and for Cooperation in Mine Action by some of the leaders and warlords from those areas, Geneva Call conducted a mission to Puntland and South Central Somalia (Hiraan, Bay, and Bakool regions) in September 2004. **[[introduce Geneva Call--an organization, right?]]** Land mines identified by the mission are a mixture of blast and fragmentation mines and AT mines manufactured in the former Soviet Union, Eastern and Western European countries, Egypt, and Pakistan. UXOs range from artillery, tank, and mortar rounds to rocket-propelled, rifle, and hand grenades. The dangers of UXO are persistent throughout the country and present a higher immediate risk to the population. Although no

specific mention was made of improvised explosive devices (IEDs) during the Geneva Call mission, it was noted that explosives have been removed from land **[[add?]]**mines and ammunition and sold or used illegally.

There is little evidence of sustainable mine risk education (MRE) or survivor assistance activities in most areas of Somalia, although Handicap International has been cooperating with UNICEF on MRE activities in Somaliland. Map J3 in the annex presents findings of this JNA on awareness of mines and unexploded ordnance. A recent survey of local communities suggests that the public has a good awareness of the dangers of mines and UXO, as evidenced by the reduction in the number of civilian casualties over the past few years. [DATA] **[[intended to add more information here?]]**However, there is a need for further community awareness activities that are focused on removing the hazards of UXO and stored or stockpiled mines and munitions. Mine survivor activities will need to be incorporated into the broader efforts to improve the health infrastructure and support services, particularly in regard to war veterans and their families. The engagement of civil society is appropriate in support of these activities.

143. **[[this was the only subhead in this section—should have a minimum of two]]**Within a mine-affected community, men, women, boys, and girls often have distinct roles and responsibilities. Consequently, their exposure to, and knowledge of, possible threats from land mines and explosive remnants of war (ERW)**[[spell out (ok?) and introduce abbreviation; put in acronym list]]** will differ. During landmine impact surveys and other mine action processes, input is sought from individuals representing the different gender and age groups in each affected community. Meetings of women from affected communities will be consulted when developing and planning MRE and awareness-raising programs and activities. Local women's NGOs have been particularly successful in Somalia, and their expertise, experience, and knowledge must be incorporated into mine action plans within the affected communities. Positions within the mine action environment should be equally available to women when they meet the same selection criteria. Recruitment policies for mine clearance and EOD teams need to take into account all potential volunteer candidates. In taking these issues into account, mine action planners should be guided by the UN Mine Action Service Gender Guidelines for Mine Action Programmes (2005).**[[add to refs list]]**

1.7.6 <<C>>Somaliland

144. In Somaliland mine action is organized under the office of the vice president. Somaliland has established an interministerial committee with eight participating ministries; Resettlement, Rehabilitation, and Reconstruction; Planning; Defense; Health; Education; Interior; Foreign Affairs; and Information. The national coordination body is the Somaliland Mine Action Centre (SMAC), which is supported by UNDP. The SMAC coordinates mine action on behalf of the Somaliland authorities and is under the office of the vice president. The SMAC organizes monthly mine action coordination meetings at which all aspects of mine action coordination are discussed. In addition, an MRE working group has been established to coordinate mine risk education in Somaliland. Two international demining agencies (Danish Demining Group and HALO Trust), one international MRE agency working in cooperation with UNICEF, and a national police EOD capacity.

145. Somaliland has developed a national policy on mine action. A strategic plan was developed in the latter half of 2003 when the results of the LIS were made available. The plan is in line with the national development plan drafted in 2003 and clearly lays out the structure for mine action, including a mine action commission, a board of donors, and implementing partners.

146. Somaliland does not currently have its own mine clearance capacity. Although a majority of the mine clearance work in affected areas has been completed (including those activities carried out by commercial contractors in the 1990s), Somaliland needs to develop its own clearance capacity to deal with any residual land mines. This is consistent with similar programs in other mine-affected countries. The SMAC has proved to be an effective coordination mechanism, and as an institution of the government, the center should continue to be appropriately supported by the government, with assistance from the international community, for at least the next three years. At present, the SMAC is funded by donor contributions to meet staff resources and operational costs, and this support will need to continue into the immediate future with a view to the SMAC being fully government supported by 2010.

147. The priorities for mine action in Somaliland for the period 2006–10 are to do the following:

<<bullet list>>Reduce the number of accidents and incidents from mines and UXO.

- Sustain and continue the capacity building of the SMAC.
- Continue the professional and technical training of the established police EOD teams.
- Develop a professional technical capacity to deal with IED.
- Develop a mine clearance capacity to deal with any residual land mine problems.
- Strengthen community relations through programmed MRE and UXO awareness activities.
- Strengthen and support advocacy of the Deed of Commitment, and the Ottawa Treaty. **[[this treaty not mentioned—add footnote?]]**
- Clear the high-impact areas identified by the LIS by 2007. **[[clarify the use of the word impact when discussing mines—lots of mines?]]**
- Create an environment free from the effects and risks associated with land mines and UXO.

1.7.7 <<C>>Puntland

148. Until late summer 2003, Puntland had no functioning Mine Action Coordination Centre. Since then mine action has been accepted as a responsibility of the Puntland government, and as such, mine action is embedded as a directorate within the Ministry of Interior, Security, and DDR. **[[ministries? three separate ones?]]** The Puntland Mine Action Centre (PMAC) was established by presidential decree in 2003 (No. 79, July 13, 2003). During the latter half of 2003, UNDP, funded by the European Commission, began to establish and build the capacity of the PMAC; this capacity- building phase was completed in 2004. The PMAC acts as a coordinating agency, with a Somali national officer appointed as the PMAC manager. With funding from Canada over a sustained period, the PMAC has developed into an efficient, effective mine action coordination body. A proposal for the establishment of an interministerial committee for mine action has been submitted to the Puntland government for consideration and implementation. A

memorandum of understanding MOU on mine action capacity-building, between the Puntland state of Somalia and UNDP Mine Action, has also been submitted to the government for approval. **[[UNDP Mine Action (a group?) was not introduced; queried earlier]]**

149. The PMAC implemented the LIS Phase 2 in partnership with Survey Action Centre **[[what group is this?]]**. A strategic planning workshop, similar to the one run in Somaliland, was conducted and at the end of 2005 a strategic plan had been formulated. The results of the LIS in Puntland show that the problem is limited to a confined area in the southern and western areas of Nugaal and Mudug. It is estimated that two to three years of concerted action will render Bari, Nugaal, and Mudug free from the effects of mines and UXO.

183. Police EOD teams have also been established within the Puntland Police Force and are coordinated by the PMAC in collaboration with the police command structure. A LIS Phase 3 has been funded to complete the survey of those areas that could not be accessed for security reasons during the LIS Phase 2. The LIS data provide the primary tool for identifying and prioritizing clearance activities. The police EOD teams have been successful in clearing UXO from affected communities; however, more consistent international technical advice and oversight are needed to ensure that the EOD teams become more professional and efficient.

184. No international mine action NGOs are active in Puntland, and the state has no current clearance capacity. However, it is planned in 2006 to select, train, and establish a mine clearance capacity within the engineering component of the Puntland Darawish force. **[[who is planning?]]** This force will be trained and employed in a manner similar to the state clearance capacities currently in existence in Lebanon and Yemen. Handicap International is also developing a mine risk education strategy to address the issues of mines and UXO in the area.

185. The priorities for mine action in Puntland for the period 2006–10 are to do the following:

- Reduce the number of accidents and incidents from mines and UXO.
- Sustain and continue the capacity building of the PMAC.
- Continue the professional and technical training of the established police EOD teams.
- Develop a mine clearance capacity to deal with high-priority mine-affected areas identified by the LIS and any residual land mine problems.
- Develop a professional technical capacity to deal IEDs
- Strengthen community relations through programmed MRE and UXO awareness activities.
- Strengthen and support advocacy of the Deed of Commitment and the Ottawa Treaty.
- Clear the high-impact areas identified by the LIS by 2008. **[[what is this in relation to above bullet regarding the “high-priority mine-affected areas identified by LIS...”?]]**
- Create an environment free from the effects and risks associated with land mines and UXO.

1.7.8 <<C>>South Central Somalia

Mine action in South Central Somalia is almost nonexistent. Some local NGOs have a limited capacity, particularly in the Banaadir region (Mogadishu has a local NGO, SOMAC, which consists mainly of ex-Somali army engineers). A police EOD team was trained and established in Jowhar in support of the administration authority there; however, command and control issues

have limited technical oversight and monitoring. They currently operate independently providing support to the Middle Shabelle administration. **[[was this something special?]]**

186. LIS activities have not been carried out in South Central Somalia and need to be planned and implemented for those areas identified as being affected by land mines. During the JNA preliminary workshop in Jowhar in December 2005, the governor of Hiraaan region identified land mines as one of the region's priority issues. LIS will identify priority areas for clearance and will help develop a clearance plan for the South Central regions. Land mine problems had also previously been identified in the Middle Juba region (see Request for Support from Juba National Foundation Agency, dated Oct. 1, 2004). **[[make this a note? request to what entity? Is it a necessary source?]]**

187. LIS activities must be planned over the next three years to cover those regions and districts identified as being mine-affected. Not all regions of South Central Somalia are affected, and resources must be directed to the priority areas. Those areas are identified by the numbers of survivors in the past two years, **[[not the number of injuries or incidents?]]** blockages to security, blockages to food and water availability, and blockages to local infrastructure and economic development at the community level. This preliminary assessment must be based on priority areas identified by the TFG in consultation and coordination with the district and regional authorities.

188. Although land mines present a risk to the population in the South Central regions, reported incidents have been declining over recent years as people become more aware of dangerous areas and avoid them. Of more immediate concern is the prevalence of the UXO and stray ammunition that litter the contested areas, particularly in the towns and cities, with Mogadishu being the most affected city. Access to explosive materials that have been recovered (in whole or part) from mines and ammunition is also a concern, as these can be readily used in the manufacture of improvised explosive devices (terrorist bombs).

Given the direct and indirect impacts of UXO and ERW, including stored and stockpiled ammunition, it is critical that EOD teams be selected, trained, and deployed to deal with this situation. Following from the successful establishment of EOD teams within the Somaliland and Puntland police forces, it is strongly recommended that a similar approach be taken to develop the EOD capacity in South Central Somalia. Plans are in place for 2006 to select, train, and deploy three police EOD teams, with the final deployment locations to be decided in coordination with the security and rehabilitation needs of affected communities. Likely areas for deployment of these initial teams are Mogadishu and Baidoa. It is estimated that an additional 11 police EOD teams will need to be trained and deployed within each of the regional main centers, four additional teams for Banaadir (Mogadishu), and one team each for Galgudud, Hiraaan, Bakool, Bay, Lower Shabelle, Middle Shabelle (the team is already established but needs to be reactivated), Middle Juba, and Lower Juba.

189. Although the police EOD teams will be under the command of the established police authority in each region or district, their operational activities will need to be coordinated through a regional Mine Action Coordination Centre (MACC) or the Federal Mine Action Coordination Centre (FMAC). It will not be feasible or cost-effective to establish MACCs in

every region; however, those regions identified with high-priority mine and UXO impacts will require such a capacity. According to the assessment, **[[whose assessment?]]** regional MACCs will need to be established to cover the following regions: Banaadir (Mogadishu), Bay (Baidoa), Hiraan (Belet Weyn), Middle Juba (Bu'uale), Lower Juba (Kismayo), Middle Shabelle (Jowhar), and Lower Shabelle (Merca). The FMAC should ideally be located close to the seat of the federal government. **[[is federal correct?]]**

Given the constantly changing security situation in the field, it is not viable to consider the use of international mine clearance NGOs or commercial companies for clearance operations, as was the case in Somaliland. It would be more practical to train and develop clearance capacities from within the regional authorities' security forces. Such a clearance capacity could be developed within a national defense force as is being planned for Somaliland and Puntland, although this force may take some time to raise and train. Alternatively, a clearance capacity could be established within the security forces of the affected regions. This approach would reduce logistical and command-and-control problems and give the regional or district administration responsibility for clearing those areas. The training, technical oversight, and monitoring of clearance capacities will need to be provided through international assistance, while the overall coordination of the mine action effort may be carried out by a central agency (FMAC). The UNDP Mine Action Plan **[[this plan wasn't introduced by this name]]** supports this concept and is working toward the development of a federal agency, along with regional MACCs in affected areas, in the coming three years.

One of the greatest risks to lasting security is the ready availability of mines and munitions that are stored throughout the area, in some cases inside houses within towns and villages. The field visit conducted by the Geneva Call team in 2004 identified several instances of mines and ammunition stored in unsafe and unstable conditions, with some items of ammunition showing signs of severe deterioration. In addition to dealing with UXO, the EOD teams, with technical assistance, will need to be prepared to conduct safe removal, retrieval, and disposal operations to alleviate this threat. One senior member of the TFG has already declared a stockpile of mines and ammunition for disposal. It is essential that such opportunities be acted upon quickly. Two years have passed since the above-mentioned stockpile was declared, and as of early 2006 no substantive action had been taken to provide the required funding and technical assistance to destroy those items. Funding will need to be identified to specifically support stockpile destruction tasks, and the EOD teams' capacity to conduct disposal operations must be developed so that stocks will be destroyed as soon as possible after they have been declared and surrendered.

The location and destruction of IEDs is not specifically considered a component of mine action in current thinking; however, there is a need to consider the wider implications of ERW related to IEDs in the Somali context. Specialized capacities to deal with the potential IED threat will need to be trained and established within key towns and cities: Mogadishu, Baidoa, Jowhar, Kismayo, and Merca. IED teams should ideally be selected from the police force; however, they may need to be drawn from the security forces once these are established. The use of explosives detection dogs must also be considered as a critical asset in the inventory to locate explosives and explosive devices before they can be used to do harm. High-risk search teams should also be established in conjunction with the development of capacities to deal with IEDs. It is

assessed[[**make sure it is clear where, by whom?**]] that a minimum of two high-risk search teams will be required. [[**make the following an endnote, although it reiterates what has been said at the top of this paragraph, so it could just be incorporated better in this paragraph**]] The development of capacities to deal with the threat of IEDs is more a security concern; however, this issue is included here in the mine action subcluster because the skills, equipment, procedures, coordination, and incident management required are closely linked to the presence and availability of explosives from mines, UXOs, and other ERW. Lessons being learned from the Iraq and Afghanistan experiences highlight the need to find and neutralize munitions and explosive supplies to minimize the threat of IEDs.

With the formation of the TFG, the minister of the interior (also deputy prime minister) was appointed as the TFG line ministry responsible for mine action. To date, the minister has participated in meetings and conferences at the international level regarding mine action, and he is one of the signatories of the Geneva Call Deed of Commitment. To the extent possible within the current political and security climate, the minister has actively promoted engagement in mine action as one of the programs that must contribute to the overall security and development environment. It is necessary to establish direct links with the line ministry when developing specific mine action activities in the South Central areas. The TFG should be guided toward establishing an interministerial committee that involves those key ministries with direct links to security, rehabilitation, and development concerns.

190. The importance of mine risk education cannot be understated. As has been shown in other mine-affected countries, awareness campaigns are a critical tool with which to involve the community and reduce the threat of death and injury caused by land mines and UXO. The establishment of community awareness and liaison teams in Kosovo, southern Lebanon, and elsewhere has proved to be very effective. The involvement, support, and development of civil society and of those local NGOs already active in this area within the South –Central areas would be a key asset in the establishment of a more secure environment. Community awareness and liaison teams should be coordinated with the regional and district MACCs and the police EOD capacity.

191. Little is known about survivor assistance activities in South Central Somalia. Health facilities and access to long-term care and rehabilitation are almost nonexistent. Mine survivors are not specifically identified as a vulnerable group and are more likely to be considered within the context of all war- or fighting-related injuries. Support to land mine survivors and survivors [[**missing word? survivors of something else?**]] must be considered in the wider context of the rehabilitation and development of the public health sector. Immediate priority should be given to the rehabilitation of emergency medical and surgical facilities.

192. The priorities for mine action in South Central Somalia for 2007–11 are the following:

- Reduce the number of accidents and incidents from mines and UXO.
- Select, train, and deploy three police EOD teams in 2006 and an additional 11 EOD teams after 2007.
- Conduct Landmine Impact Surveys on identified mine-affected communities.
- Develop a mine-clearance capacity to deal with high-priority mine-affected areas identified by the TFG, in consultation and coordination with district and regional authorities.

- Clear the high-impact areas identified by the LIS by 2008.
- Develop professional technical capacities to deal with the location, retrieval, and safe disposal of IED and materials used in their manufacture in coordination with, and as a part of, security sector reform initiatives.
- Strengthen community relations and awareness through programmed MRE and UXO activities, including establishing community awareness and liaison teams in consultation with the civil society.
- Strengthen and support advocacy of the Deed of Commitment and the Ottawa Treaty.
- Rehabilitate emergency medical and surgical facilities to respond to mine, UXO, ERW, and IED incidents and accidents.

193. The vision for mine action by 2011 for all Somali regions is that mines and unexploded ordnance be substantially cleared, with survivors assistance programs established and national capacities for mine risk education and clearance operational.

1.8 <<A>>Subcluster 3: Government, Public Administration, and Accountability

194. <>[[this would be B level because it follows A, but it acts more like just a little description—the B head is 1.9.1, Constitutional Process]]

195. Years of dictatorship and political mismanagement have created deep-seated fear and distrust of government among Somalis and have generated a general perception of a central government as an oppressive and predatory instrument exerting its power for the benefit of a minority elite and a favored clan.²⁵ This works [[**wrong use of the word *mitigates* in this context; should it mean “this works against”**]] against the development of political legitimacy, a fundamental requirement of the state. The past decade has also seen the “radical localization of Somali politics,” characterized by centrifugal clan-based fragmentation of the society, which lowers the loci of trust to the community or village level, and by the resurgence of “a mosaic of fluid, highly localized polities[[**politics?**]], involving authorities as diverse as clan elders, professionals, militia leaders, businessmen, Muslim clerics, Islamic fundamentalists and women’s associations.”²⁶ This phenomenon has placed the real center of governance at the local level and service delivery systems in the hands of the private sector. Though this phenomenon presents interesting opportunities, the reality of many underserved population groups indicates a need for a stronger government role in service delivery, particularly to mobilize local resources and manage national resources for locally provided public services.

196. To overcome these challenges, state-building efforts will have to focus on quickly building the legitimacy and credibility of Somali institutions. Legitimacy will develop through the constitutional process and also through the support given to parliaments and the holding of democratic elections. Credibility will be the result of concrete achievements in the areas of peace, security, and service delivery. Somalis are likely to judge their governments by actions and results. Strategic and consistent steps by government leaders will be required to address the skepticism of some groups and win the confidence of the population by demonstrating credibility, impartiality, and accountability of the top leadership. The creation of a credible, impartial, and accountable civil service, and of a lean and efficient central government, will also

promote credibility in government. Finally, these efforts will need to build on the existing assets of local governance and service delivery as existing instruments of good governance for development.

197. The core principles of good governance must be present even in small projects, to begin to create political credibility and ensure that very scarce resources are used for the development of peace and prosperity. These principles are transparency and accountability in political, economic, and financial management; and participation, including inclusion and equity, in access and opportunity to social investment. The establishment of government's accountability to the people is one of the key components of creating and maintaining legitimacy. The national authorities must be seen by the regional and local administrations to be accountable to them before they will be willing to cede authority and resources to it. **[[not clear antecedent of "them": who needs to be accountable to whom? rephrase]]**

1.8.1 <>Constitutional Process **[[not linked to footnote, which is earlier anyway]]**

198. As required by the transitional federal charter, the TFG is embarking on the drafting of a new constitution for Somalia. This process creates an opportunity to build a national vision for the future of Somalia. According to the charter, the federal constitution must be drafted within two and a half years of the formation of a Federal Constitutional Commission (FCC), and is to be adopted by popular referendum during the final years of the transition period. The transitional federal charter does not prescribe a strategy for the drafting of the constitution. It is up to Parliament to agree on the constitution-making process. Thus far a minister **[[or ministry as below and further down—give full name: Constitutional Ministry, capped if full name or lowercase if generic]]** and the Parliamentary Committee for Constitutional Affairs have been designated. Parliament is yet to pass a proposed bill or appoint FCC commissioners. The FCC will be independent and responsible for managing the constitution-making process and producing the draft constitution; the minister and parliamentary committee have oversight functions. **[[minister or ministry (need name of the ministry)]]**

199. The process of constitution drafting can provide considerable opportunities for reconciliation. It can support basic civic education of the population and begin a societal dialogue to forge a new consensus vision for the future of the state. Nevertheless, the process faces considerable risks. Failure or exacerbation of conflicts is possible if the process is not undertaken in an inclusive manner. Constitution drafting will require innovative and Somalia-specific solutions to a number of highly contentious issues. These include decentralized versus federal structures for the Somali context, **[[what did slash mean in preceding? as edited or something else? clarify—no slash]]** the future role of traditional governance structures, electoral models appropriate to such a conflict-prone environment, judicial and legal structures addressing the roles of customary and shari'a law, citizenship rights in the future states, and solutions to contested land issues. There is also popular distrust. A majority of the population have grown up with no experience of state governance.

<<C>>Vision and Priority Interventions for the Constitutional Process **[[this is a single subhead right now—need to either delete this (incorporate into sentence) or add another above it (without stacking heads); sections should be divided into a minimum of two subsections]]**

The vision is for a new constitution for a federal Somalia that is prepared and drafted in an inclusive manner, involving participation by all groups of the population, and adopted through popular referendum, setting the ground for the revival of a legitimate federal Somali state.

The following are priority interventions for the constitutional process: the establishment of the FCC and relevant subcommittees and appointment of its members; development of interim measures for operation of the transitional federal government during the transition period, particularly regarding fiscal decentralization, security, and the civil service (task forces can develop appropriate recommendations for adoption by the TFG); determination by Parliament (or the FCC, if it has been delegated the authority) on the constitution-making process, ensuring that it is inclusive and participatory and reflects the views of all population groups; launching by the FCC of a wide civic education campaign (three years), with civil society as a key partner (a post-constitution national civic education program should also be implemented); and a broad consultative process (nine months) and national debate on key issues. Once the consultation process has been undertaken, a draft constitution will be prepared. A validation exercise should be undertaken before the draft is submitted for a popular referendum. **[[the following list repeats some of what is covered in preceding—avoid repetition; put detailed actions only below (for example, remove reference to task forces in above since it’s covered in bullet list)]]**

The above-mentioned areas of intervention require the following actions:

- Provide the Constitutional Ministry **[[is this the actual name of ministry? lowercase it if it’s generic or descriptive]]** core staff, training, premises, and equipment.
- Establish of the Federal Constitutional Commission and subcommittees, including staff, training, premises, and equipment.
- Support the TFP for its role in the constitutional process.
- Establish task forces to address TFG matters.
- Support civic education on constitutional issues, provided by a wide range of NGOs. **[[they are giving, not receiving education?]]**
- Conduct a public information campaign, overseen by the commission.
- Assign subcommittees to draft the constitutional text, overseen by the FCC.
- Establish a representative validation meeting to debate and refine the draft.

1.8.2 <>Parliament, Democratic Processes, and Elections **[[change to wording of the objective? *Democratization and Electoral Processes*]]**

[[add introductory text to avoid stacked heads; for example, clarify where these specifications have come from—sounds as if the charter has specified—and if they are being covered in the constitution]]

<<C>>Parliament

200. The transitional federal Parliament (TFP) has 275 members, which are chosen by the four major clans (each of which has selected 61 members) and a consortium of smaller clans (which has designated 31 members). Article 29 of the charter stipulates that 12 percent of the members of Parliament should be women, but that quota has not been met; only 8 percent of seats in Parliament are held by women (21 women members of a minimum quota of 33). The TFP is unicameral and will have a life of five years. A dispute between factions resulted in the

Mogadishu-Jowhar split, which has affected the development of committee structures; however, with the subsequent Aden Declaration and reconvening in Baidoa, committee structures have been agreed to, with 14 committees balanced for clan interests. The committees are not functioning fully owing to a lack of facilities, staff, and experience of most members. At the time of the JNA fieldwork, 16 staff members were serving the TFP, of which only 6 were professional staff. Very little infrastructure is available, and no proper communications. Many of the functions of ministries, and even of other branches of government, depend on the enactment of legislation for the new government, making capacity building for the TFP a top priority. As of May 2006, no bills had been presented to Parliament.

201. The TFP has received support for basic rehabilitation of an old warehouse that is of sufficient size to be temporary premises. Parliamentarians receive stipends; however, technical assistance has not been sufficient for committees and for drafting some of the basic framework legislation. Some orientation workshops have been conducted, particularly by international NGOs; however, a comprehensive capacity building program is needed. **[[not actually required? if so, by whom?]]**

The parliaments of Somaliland and Puntland have not received any systematic support to develop capacities, either for their representation and constituency functions, or for law-making or oversight functions. The two parliaments and the TFP all require capacity-building in the following areas: (a) definition of roles and functions as representatives of their constituencies, and on principles of good governance; (b) support for committees, especially those with oversight functions; (c) staff and technical assistance for priority sectoral issues, such as security sector, public financial management, local governance, and service delivery; and (d) staff and technical assistance for legal drafting.

1.8.3 <<C>>Democratic Processes and Elections

202. Elections remain an essential instrument for building the legitimacy of national institutions. In the Somali context, the clan-based system for selecting representatives for assemblies and local councils has proved a powerful tool to foster peace and build a national consensus. However, the successful Somaliland experience of transition to a popular vote and a multiparty system demonstrates the value of democratization.

203. A key challenge in all regions is the need to conduct national censuses and voter registration. This process has the potential to inflame regional conflicts, especially in areas with contested borders. Any process that identifies and classifies Somalis by region must be handled with caution and make significant up-front investment in dialogue for the process to be acceptable to all parties. The TFG currently has no capacity to undertake the required census process. The independent electoral commission has not been appointed, and no legal frameworks have been devised. Considerable support will be needed to build the capacity of the TFG in this regard.

204. The shift from a clan-based system to a multiparty system must be implemented with caution, and clan dynamics need to be carefully considered to prevent clan identity from being the basis of party structure. Gender and human rights issues must also be addressed in legal

frameworks and promoted during electoral processes. Somalis have very little experience of electoral processes. Comprehensive civic and voter education campaigns will be needed to raise awareness and will require the active involvement of civil society.

205. Representation of women is a significant challenge in all parts of Somalia. Without affirmative action, it is not likely that women will be represented in accordance with their numbers or needs. In addition, both women and men require orientation to overcome the historic lack of participation of women in political issues. Capacity building is needed to empower women to participate in meetings, to allow them to be considered in reconciliation and community-based processes to create local government, and to make women part of the expansion of social service delivery. **[[does “They both” refer to both men and women? how do you build their capacity? that needs to be a more explicit term**

<<D>>Transitional Federal Government **[[the level and hierarchy of this heading is not clear; D heading because it’s a subsection of the electoral process? but maybe it could be phrased to more clearly relate to election processes?]]**

According to the transitional federal charter, the draft federal constitution will be submitted to a national referendum. In addition, simultaneous with the constitution-drafting process, a national census is to be conducted and an independent electoral commission formed. The TFG currently has no capacity to undertake this process and is only starting to consider its needs and priorities. An independent electoral commission has not been appointed yet, and no legal frameworks have been devised. Considerable support will therefore be needed to build the capacity of the TFG in this regard.

206. Somalis have very little experience with electoral processes. Comprehensive civic and voter education campaigns will need to take place to raise the awareness of the population on the process and on voting rights. The active involvement of civil society organizations will be needed to support the process.

<<D>>Puntland. Puntland has achieved a level of stability that has allowed for the development of functioning administrations and constitutional frameworks, enabling it to pursue democratic processes. Until now, elections have not been organized in Puntland, and the authorities are still struggling to complete the selection process of the local councils. Nevertheless, elections are planned for the ratification of the state constitution that has been drafted, and for Parliament, in 2008–09.

207. Puntland authorities have yet to establish an independent electoral commission to oversee the organization of the elections. In addition, discussions will need to take place on the question of the future of such a commission in the context of a federal Somalia. Voter registration and civic education campaigns will also have to be organized to prepare for the elections. The move toward a multiparty system is envisaged, and a three-party system is currently considered that follows Somaliland’s model to a great extent.

<<D>>Somaliland. Somaliland has a far more developed democratic and electoral system, and therefore has the opportunity to strengthen its electoral capacities and to continue to lead by example. The legitimacy of elected authorities (the president and the members of Parliament

have all been popularly elected) as well as democratic institutions, such as the Somaliland electoral commission, has been reinforced, and people in Somaliland are more aware of their rights. Several electoral processes have been conducted. The Somaliland constitution was ratified by popular vote in 2001, which introduced universal suffrage and a restricted form of a multiparty system.²⁷ Local elections took place in 2002, and party-based local councils were formed. Presidential elections followed in 2003, and in September 2005 parliamentary elections were organized. These were considered by observers to be a successful process, marking “arguably the most important step in establishing a constitutionally-based, democratic governmental system in Somaliland, [...especially as] “they established political parties as an alternative form of political association to the clan.”²⁸ The next elections will take place in 2007–08 (local and presidential) and 2010 (parliamentary).

Following the September 2005 parliamentary elections, Somaliland civil society, in collaboration with the electoral commission, held a series of workshops throughout Somaliland to reflect on the election, identify its strengths and weaknesses, and define priorities for strengthening future electoral processes. **[[the note was a clearer statement of what the deleted sentence was summarizing—just use the note]]**The main needs and priorities identified were to strengthen the capacity of the electoral commission, establish a voter registration system, review the existing legislation to eliminate flaws, and strengthen the role of the civil society and the presence of women in the electoral process.

<<D>>*Vision and Priorities for Democratization and Electoral Processes.* The vision or desired outcome is two-pronged: to support electoral processes required by the different constitutions and charters, and to progressively build the Somali capacity to move from a clan-based system toward a multiparty democratic system, as provided for by the different charters and constitutions, with inclusion of all groups such as youth, women, and minorities.

Priorities for the transitional federal institutions are as follows:**[[set bullets** Establish and develop the capacity of an independent electoral commission.
Draft and adopt the electoral legal framework.
Conduct a national census or a voter registration or both.
Organize comprehensive civic and voter education involving the civil society, and promote gender issues in particular, including affirmative action and human rights.
Conduct the national referendum on the federal constitution.Support, over the long term, the implementation of the multiparty system foreseen by the charter, broaden civic awareness, and conduct national and local elections.**[[why only at one point?—if specifying, should explain]]**

Priorities for Puntland are as follows:

Establish and develop the capacity of an independent electoral commission compatible with the emerging federal system.

Draft and adopt the electoral legal framework.

Create the political multiparty system.:

Organize comprehensive civic and voter education, involving civil society and promoting gender issues in particular, including affirmative action and human rights.

Complete the constitutional reform process and conduct a popular referendum.

Organize presidential and parliamentary elections.

Priorities for Somaliland are as follows:

Establish a voter registration system. Review constitutional and electoral legislation. Provide institutional support to Parliament, the electoral commission, and local authorities, the three key bodies that have the mandate to ensure the proper execution of elections.

Strengthen the role of civil society.

Organize comprehensive civic and voter education, involving the civil society and promoting gender issues in particular, including affirmative action and human rights.

Conduct local and presidential elections in 2007–08 and parliamentary elections in 2010.

1.8.4 <>The Architecture of Government

208. Somalia today is characterized as a failed or weak state with strong communities. The strength of communities, especially to mobilize themselves to provide social services, should not be reduced as the state is rebuilt. Instead, the government should consist of a small, lean, technically competent, unifying body to ensure security by promoting the rule of law and reconciliation among communities and clans and to create a framework for expanding and improving the quality and coverage of social services, not replacing current service providers. **[[long sentence needs to be better balanced to make it easier to follow]]**

The transitional federal charter, signed in February 2004, specifies that Somalia “shall have a decentralized system of administration based on federalism” (see box 2.6 for a summary of the TFC guiding principles). The key construct of the decentralized system is a proposed four-tiered administrative hierarchy: new federal institutions, state governments (created by regions forming into states according to their free will), regional administrations, and district administrations. The charter articulates a division of functions and powers between the federal and state governments but does not identify specific responsibilities for regions and districts. The federal government is given responsibility for foreign relations, defense, national security and immigration, finance and the central bank, import and export taxation and indirect taxation, natural resources, planning and economic development, ports administration, and communications. The states are given responsibility for a series of functions within state borders, including direct taxation; water and electric power; roads, transport, and communication; income-generating activities, including business development and licensing, agriculture and livestock, and infrastructure development; and social welfare services, including education, health and public sanitation, and state legislation.

<<Text box>>

[[I am editing as if not quoted material, though it may be; ignore unnecessary changes if it is quoted]]

Box 2.6: The Transitional Federal Charter: Summary of Guiding Principles

The “Transitional Federal Charter of the Somali Republic,” approved in February 2004 at the Somali National Reconciliation Conference in Nairobi, provides a temporary legal underpinning of the Somali state. The charter will be operational until a federal constitution is adopted through a popular referendum during the final year of the transitional period. The 1960 Somalia constitution and other national laws apply in respect to all matters not covered and not inconsistent with the charter. Key guiding principles are as follows:

• **Inclusive Governance.** The charter upholds democracy as the guiding principle of a future governance structure. Sovereign authority of the Somali state is deposited with the people of Somalia, who might either directly or indirectly exercise their democratic right.

•**Decentralization.** Article 11 of the charter provides for a decentralized system of administration based on federalism. The Somali republic is envisioned to comprise three levels of governance: (1) the Transitional Federal Government (TFG); (2) state governments (two or more, based on free will); and (3) regional administrations. The TFG shall ensure that the process of federating Somalia will take place within a period of 2½ years from the date that the Federal Constitutional Commission is established.

•**Resource Sharing.** The charter sets as the task of the TFG the fair and equitable appropriation and allocation of resources. Land should be used and managed in a manner that is equitable, efficient, productive, and sustainable. Natural resources of the country, such as the minerals, water, flora, and fauna, should be public property, and a law shall be enacted that defines the manner of utilization for the common good.

•**Power Sharing.** According to Article 13 of the charter, the TFG shall ensure that all appointments in the service of the government are based on qualifications and fair distribution among the citizens. The “4.5 formula” applies for power sharing among major clans: 61 seats go to each of the four major clans and 31 seats go to the “minority” groups. **[[4.5 isn't self-explanatory, is it?]]**

•**Gender Balance.** According to Article 29, at least 12 percent of all members of the Transitional Federal Parliament should be women. According to Article 26 of the charter, the government promises to promote participation of women in all aspects of society.

•**Free Market Economy.** The charter stipulates that free enterprise should form the basis of the economic system. The government shall encourage and provide full guarantee to foreign investment, guarantee right to private property under law, and protect intellectual property. Personal property may be expropriated for public interest in exchange for equitable and timely compensation.

•**Respect for Human Rights.** The Somali republic pledges to recognize all international human rights conventions and treaties. It guarantees equality of citizens before the law, providing for rights guaranteed under the charter, including right to law and legal proceeding in a competent court; right to personal liberty, security, protection of family; right to freedom of information and media; right to assemble and strike; right to establish political parties and social organizations; right to properly remunerated labor; and right to political asylum and education.

•**Social Welfare.** The charter pledges the government will be responsible for protecting and providing public health; safe motherhood; childcare; control of communicable diseases; and welfare of persons with disabilities, orphans, widows, heroes who contributed and fought in defense of the country, and aged persons. The government shall encourage the establishment of the civil society and social development institutions for the public. The charter further stipulates that the law shall regulate the establishment of private health centers and clinics. The government shall safeguard public morality of the society and promote social welfare of the rural population.

[[if summary is part of charter, give location; authors?]]

<<End text box>>

209. The TFP and government (as of mid-2006) consist of 275 members of Parliament; and drawn from that body are 84 ministers and deputy ministers, plus five ministers of state.²⁹ Ministers and members of Parliament have unofficial advisers but no formally established civil servants. Some staff members are working for the TGF on a voluntary basis.

<<C>>*Functions and Financial Feasibility*

The TFG requires assistance to consolidate some of the ministries under functional categories and assistance to incrementally develop the scope and functions of the various ministries and determine what regulatory, policy-making, standard-setting, and supervisory functions each office will perform, and in some cases what direct provision of services will be done at the federal and regional levels. **[[clarify what their “requiring assistance” entails—who or what might provide that?]]** A high priority is assigned to establishing regulatory functions for the productive sectors, standards and regulations for social services, and public financial management. The feasibility of financing the government structure must be a fundamental criterion in staffing.

<<C>>*Vision and Priorities for the Architecture of Government*

The vision for the architecture of government is for a minimal, lean, efficient federal structure of institutions to serve regions and localities and embody good governance processes of

transparency, accountability, and participation, with decentralization structures for local governance well defined and operational. The priorities are to determine detailed functions for each tier of government, according to the transitional federal charter and the constitutional process; to determine staffing needs, budget, and recruitment and deployment plans for each ministry and department; and to begin to implement these plans for federal, state, regional, and local government, according to capacity-building priorities, as described below.

<>Capacity Building for Government Institutions and the Civil Service [[head level should be B; one of the objectives under subcluster 3]]

210. Building the state does not require creating a heavy or elaborate set of government institutions, and it is important to differentiate between institution building and good governance processes. A minimal federal structure of institutions can serve the regions and localities and embody good governance processes of transparency, accountability, and participation. **[[these headings are confusing. This paragraph seems fine as part of the preceding section, or it could be an introduction for the subsequent sections (an A head?). For now, I've made it an A head. Please review heading hierarchy.]]**

1.8.5 **<<C>>Transitional Federal Government[[this fits under the preceding B head, Architecture of Govt.; for now I'm marking as D level the heads that appear to fit under the TFG; authors should review]]**

<<D>>Civil Service. The TFG has taken the first steps toward setting up a civil service.³⁰ Given the relative absence of revenues at the present time, the budget to support the TFG is provided by donors and loans from the private sector. The TFG's proposed 2006 budget is primarily consumed by salaries and some operating costs, with little development or capital expenditure. The structure and staffing of the civil service should be limited, given resource constraints, and be consistent with the charter's limited functions assigned to the federal level of government. It will be important for the civil service regimes of the TFG, Somaliland, and Puntland not to replicate conditions of many other countries, where staffing levels are high and salaries are low. Such conditions are a recipe for low productivity in the public sector and create difficulties in recruiting and retaining qualified personnel and demanding performance. Further constraints to recruitment of qualified staff are presented by the "brain drain," which severely affects all regions of Somalia. The irony of the lack of capacity in governance is that qualified Somalis, both in country and in the diaspora, are available. It is the organization of government institutions, the agreement on functions, and the creation of lean, efficient management systems that are missing. With the proper structures and systems, and adequate conditions of service, people could be recruited to fill the posts and perform satisfactorily. Information and communication technologies (ICT) are being pioneered for university and specialized education in Somalia and can play an important role in capacity building for the civil service, especially at the management level. The civil service will cover core government ministries as well as independent and semi-independent bodies such as the central bank and Auditor General's Office.

<<D>>Structures and Staffing. Given the limited funds and the already high expectations for a big civil service,³¹ seemingly in contradiction with the charter's assignment of limited functions to the federal level, several proposals have been made to review structures and staffing.³²

Nevertheless, these proposals should be regarded as a long-term goal, as their objective is more related to establishing a balanced, federal state in a country where, at the moment, there are only “emerging government structures.”

211. It will therefore be important to plot a course from the current situation to the ideal laid out in the report. However, for many years, administrative solutions, and associated donor support, will have to be asymmetric, in line with Somalia’s being, in fact, an asymmetric state. Plotting this course will require a task force consisting of members of the TFG, the Civil Service Task Force, and donors to work together closely over the coming months. This task force should not be cut from the constitutional process and its deliberations. Rather, it will require that a small unit attached to the Civil Service Task Force plan the meetings with actions, milestones, and follow-up.

212. A more immediate problem with the structural proposals is that there is no Somali budget, as opposed to donor funds, to pay for any TFG civil servants. Accordingly, the structures and staffing of the civil service in the TFG need to be evaluated.

<<D>>*Salaries and Recruitment.* The challenge of the brain drain and of the deep-seated mistrust of government will have to be surmounted in order to build a more peaceful, stable, and good governance regime in Somalia. Recruitment policy and career management that are based on transparent, impartial, and accountable professional guidelines, along with sustainable salary levels that attract competent people and create positive incentive for performance, are the cardinal mechanisms of establishing a civil service that can tackle such challenges.³³ Recruitment of staff based on clan, following the political “4.5 formula,”**[[described already? explained as power-sharing but doesn’t explain 4.5 itself]]** may be a political imperative in the short term but should not be practiced once the Civil Service Commission and civil service legislation are enacted, because the goal is to create a professional cadre recruited and promoted on merit. Transparency in recruitment and equal opportunity for all qualified candidates must be included in legislation, regulations, and operating procedures of the civil service.

213. The JNA team discussed salaries with the Civil Service Task Force in Jowhar. Assuming an immediate need of 210 staff and a medium-term need of 2,000 employees, and assuming a TFG budget of US\$300 million, the task force is proposing salaries ranging from a US\$155 minimum wage to a maximum of US\$1,910 (for the chief justice and governor of the central bank). This, they said, would mean that salaries would cost less than 10 percent of the budget. As for the structure of the civil service, it will therefore be important to discuss the options and choose one that is along a course from the current situation to the ideal. The task force mentioned above would be instrumental in this regard.

<<D>>*Office of the Auditor General.* The transitional federal charter foresees the establishment of an office of the auditor general to ensure the transparency and accountability of the new administration. Little progress has been achieved so far. A study has been prepared by UNDP for the TFG outlining the main functions and requirements of the office of the auditor general.³⁴ Considerable effort will have to be focused on this aspect to provide the TFG with efficient and authoritative instruments that can ensure a good level of accountability and, hence, credibility.

1.8.6 <<C>>Puntland[[this wouldn't be a B level because it is fitting within the topic of Architecture (and not under the preceding C level on the TFG]]

214. Puntland's civil service faces similar challenges related to the brain drain and development deficits. Views widely held by the general public are that the state government is doing (and achieving) little, and that there is a lack of transparency in the government's operations. However, the Puntland civil service has a constitutional framework that clarifies the future to some considerable extent.

215. The state is managed by an elected president and is supported by a four-tier structure of government. Because of its extremely limited fiscal capacity, the Puntland state government has had little involvement with service delivery responsibilities and has transferred the large majority of its responsibilities in this regard to the district administration (without fiscal transfers). It has been concerned largely with regulatory functions and with some revenue collection. In practice, service delivery is essentially done through private initiatives.

216. Budgets are generally sufficient to cover only staff salaries and to provide for limited recurrent costs. Levels of revenue collection are low by international standards, and the state government has experienced problems in raising revenue levels.³⁵ Most of Puntland's central revenues come from customs duties, essentially from the port of Bosasso. Given this extreme dependence on the port, financial planning is difficult because of the unpredictability of revenues.³⁶ Furthermore, evidence shows that budgets are released to the respective ministries upon request, and that allocations are based on cash balance and availability rather than on firm commitments and expenditure heads[[meaning of heads understood? caps?]] presented in the annual budget.

217. <<D>>*Structure*. Public administration at state level comprises 14 ministries, each headed by a minister and either one or two vice ministers.³⁷[[citation to footnote]] Although an exercise was conducted [[be more concrete—in 2003?]]three years ago to define the functions of all the ministries and to standardize their structures, the proposal was not implemented, and each ministry determines its own internal structures. In some cases this has led to a proliferation in the number of departments, with staffing sizes that would generally not be considered operationally viable.

218. <<D>>*Salaries and Recruitment*.

219. Puntland currently pays salaries to an estimated 10,000 people, of which approximately 8,000 are police and militias and about 2,500 are civil servants. The three largest ministries are Health (419 staff members), Finance (412 staff members), and Education (206 staff members). The need to achieve clan balance appears to influence appointments to both the political posts of minister and vice minister and the senior civil service post of director general. A rightsizing exercise is yet to take place in Puntland.

220. Civil service salaries range from So. Sh. 2.5 million (US\$172, based on (US\$1 = So. Sh. 14,500) for a director general (the senior civil servant in a ministry) to So. Sh. 600,000 (US\$41,[[missing?]]) for a secretary. Staff and wage bills have increased recently: 2,516 persons were on the government's payroll in 2006, up from 2,320 in 2004, an increase of 8

percent.³⁸ The major increase in staff is due to an addition of 200 teachers proposed to be hired in 2006. The total budget wage bill for 2006 is So. Sh. 190,753 million (US\$13.2 million), up from So. Sh. 178,845 million (US\$12.3 million) in 2004. Thus, the share of the budgets that is wages has gone up from 58 percent in 2004 to 63.6 percent in 2006. **[[is this what the percentage means?]]**

221. The Ministry of Labour, Youth, and Sports in Puntland's state government is responsible for civil service affairs. However, at present the ministry does not have the capacity to plan and execute policy in this field because it lacks sufficiently detailed data, skills, and equipment to do so. In addition, it appears to lack the influence to ensure that all ministries adhere to existing civil service regulations. The state government does not have an overall plan on the size of the civil service, with policy apparently being developed in a piecemeal fashion, often as the result of intense lobbying of senior government figures.

222. <<D>>*Human Resources Capacity and Ethics*

223. In Puntland, the majority of civil servants have no university or secondary education. About 60 percent do not have a secondary education; 35 percent have a secondary education, and about 5 percent are university graduates. In addition, the majority lack the basic skills to fulfill minimum requirements and lack an ethos of self-improvement and professional pride, and the notion of client service appears to be only marginally developed within the existing civil service.

224. <<D>>*Planning, Legislation and Policy Making*

225. Though recent remarks by the president have pointed to the need for a cultural change in the administration, decision making in a significant proportion of ministries appears to be centralized in the person of the minister. In addition, there is little evidence of ministries developing and then implementing their own strategic plans. The Ministry of Planning, with UNDP support, has nearly completed the preparation of a five-year development plan. Nevertheless, it is unclear to what extent other ministries have been involved with this process. By the same token, ministries do not generally develop legislation in their field of operation and in fact lack the capacity to do so, and most current legislation dates from pre-1991.

226. <<D>>*Office of the Auditor General*

227. In Puntland, the office of the auditor general, established under Law 15 of 2000, is an autonomous government agency that operates under the direction or guidance of the Office of the Presidency. The auditor general is to audit public institutions and report to Parliament on the way public resources have been managed. Since its establishment, the auditor general's office has recorded little significant achievement: budgets were audited and submitted to the Parliament and the president, but no action was taken to correct any of the mistakes mentioned in the reports.

228. <<D>>*Gender Balance.* The Ministry of Labour, Youth, and Sports does not have disaggregated figures by gender for civil servants. However, it is clear that female civil servants are disproportionately underrepresented, with most of them in subordinate posts. Hardly any women hold senior civil service posts or have been appointed to high political office—only one female minister, at Women's Affairs, and no women vice ministers or directors general.

1.8.7 <<C>>Somaliland

229. Somaliland possesses a more developed public administration system. According to 2002 Civil Service Commission figures, ministries and agencies exhibit large disparities in size: the largest, the Ministry of Education, employs over 1,700 staff members, and the smallest ministries have fewer than 20 posts. Most ministries have a similar internal structure; they are divided into three departments—a department of administration and two other departments with subsectoral responsibilities. Larger ministries, such as Health and Education, have two additional departments. Despite these advancements, Somaliland faces challenges similar to Puntland's and the rest of Somalia's with regard to the brain drain, financial constraints, and efficacy of the civil service.

230. The activities of the civil service are constrained by low government revenue collection, (US\$13 million in 2003) and significant security spending, with more than 55 percent of expenditure reportedly allocated to the security forces in 2001/02.³⁹ Though the civil service in Somaliland has a clearly delineated structure, and roles have been defined at least at ministry and department levels, the service suffers from various endemic problems. Two major problems are a widespread lack of motivation among civil servants and a significant number of staff who lack the level of basic education expected for the positions held. This situation is compounded by the fact that the wage bill remains considerable and leaves very few resources for developmental plans and service delivery.

231. Nevertheless, the central government continues to provide some degree of frontline service delivery, even though services in some locations are provided by the private sector, NGOs, and public-private partnerships. Teachers, health workers, and other direct service providers make up more than half the staff.

232. <<D>>*Structure*. The executive branch of government is led by a directly elected president. Somaliland has 40 ministries and agencies, six regions, and 42 districts. It also has four autonomous public agencies (Port Authority, Central Bank, Water, and Electricity authorities). The legislative branch of government consists of a House of Elders and a directly elected House of Representatives.

233. Management of the civil service is the responsibility of the Civil Service Commission, which reports to the president and was set up in 1993. The CSC advises the president on matters of policy; is responsible for recruitment, promotions, and discipline; examines and interviews candidates for vacant positions and promotion; advertises vacancies; and prepares and supervises the implementation of rules and regulations on the civil service. The CSC is also responsible for reviewing structures and functions of central government ministries, including human resources management in the central government. Achievements to date include establishing a screening system for all staff, applying the screening system for all ministerial and agency staff, and reducing staffing levels by about 2,000, including eliminating ghost workers.

[[verify that all of this section under Somaliland are Somaliland; add that in a few places to make sure it's clear to reader; Somaliland isn't mentioned again until the Auditor General heading]]

<<D>>*Staffing and Restructuring.* Central government employs 5,559 staff members, 37 percent of which are in Education and 18 percent of which are in Health. Finance is the next largest ministry, with 6 percent. The employee structure consists of four grades: A (most senior), B, C, and D. About 60 percent of the staff members do not have a secondary education, 35 percent have only a secondary education, and 5 percent are graduates.**[[of high school? university?]]** Women make up 27 percent of the civil service; two women are ministers or vice ministers; one of the 40 directors general is a woman; and seven out of 420 directors are women. Almost all women are in very subordinate jobs, such as cleaners and clerical workers. Of total staff, 60 percent work in the regional offices of central government agencies or in schools and hospitals. There are about 15,000 military personnel who are progressively being demobilized.

Staffing has been cut back in the past but is now on a rising trend. Staffing was reduced to 3,750 persons following the 2001/02 restructuring.**[[slash used before and I left—fiscal years?]]** Since then some 900 teachers, 300 health workers, and a number of other staff have been added. A further rightsizing is anticipated at the center and in some local authorities, but not for frontline service providers. The CSC would like future staffing needs to be based on the preparation of strategic plans by ministries.

234. <<D>>*Salaries and Pensions.* Salaries range from an average of So. Sh. 120,000 (US\$20, based on US\$1 = So. Sh. 6,000) a month for grade D to an average of So. Sh. 326,000 (US\$54.3) for grade A. Taking account of a 115 percent devaluation of the currency since the last increase in pay, the CSC has proposed a higher stopgap pay scale ranging from an average So. Sh. 286,000 (US\$47.7) in grade D to So. Sh. 725,000 (US\$120) in grade A. This would more than double the wage bill, from So. Sh. 14 billion to So. Sh. 31 billion. In addition, the CSC has proposed what it calls a “permanent” pay scale that would increase salaries further and make it easier to attract and retain the better qualified staff. On this scale, salaries would range from So. Sh. 294,000 (US\$49) at the bottom of grade D to So. Sh. 1,543,000 (US\$257) at the top of grade A. The CSC would also like to introduce an element of pay for performance and has proposed that senior staff receive responsibility and housing allowances.

A new pension and gratuity law was drafted in July 2005 to replace the 1996 law. No benefits have been paid from pension funds for 45 years. The CSC believes that many older staff members that are blocking younger staff would be encouraged to leave if they could be paid reasonable pensions. In the future, staff and government would each contribute 8 percent of their salary to the pension fund, as well as 4 percent each to the gratuity fund, which would be used to compensate retrenched staff. The law has not yet been approved.

<<D>>*Human Resources Capacity and Ethics.* Following the 2004 training needs assessment for senior staff, the Civil Service Institute was established in May 2005 and began to offer courses that September. The objective of the institute is to support the reform of the civil service through practical training and workshops. Trainers are hired from the university and ministries. The institute's long-term objective is to become more self-sustaining from fee income, partly by

offering courses to the private sector and NGOs. The institute will offer longer-term, certification-based training as well as provide distance learning services.

<<D>>*Policy and Law Making.* **[[this is still Somaliland? say that]]**The policy-making process is the mandate of the presidential office and the state ministries. The main challenges with regard to policy making appear to be that staff in the ministries are not trained in policy analysis and formulation, and that the minister for the president, the president's principal policy adviser, and the chief of cabinet do not have specialized professional staff to monitor the implementation of cabinet decisions. The policy process is characterized by considerable informality, with ministers going directly to the president to gain his support for their proposals. There is little consultation with civil society in the preparation of policies.

235. Similar deficits afflict **[[of just affect?]]**the law-making process within the executive ministries. The civil service does not have many qualified staff to prepare legislation. New laws and regulations have been prepared, but usually with help from outside the civil service. For example, for the recent review of pension legislation, the CSC pulled together a wide range of stakeholders and informants from within and outside the public sector.

236. Overall, inclusive and participatory mechanisms for policy formulation, deliberation, and buy-in by the Somali population are lacking. This is particularly important in a context in which private initiative, whether of NGOs or the private sector, dominates service provision.

<<D>>*Office of the Auditor General*

Public accountability agencies in Somaliland are the accountant general, the auditor general, and the Public Account Committee. The overall perception is that the office of the auditor general has so far been unable to fulfill its potential and has not acted as an effective watchdog of public management. Technical proficiency is low, particularly in auditing techniques and in areas in which specialist expertise is needed to uncover mismanagement, such as in construction. Although theoretically independent, accountability agencies are often placed under the directive of the Office of the President or the Ministry of Finance.

<<D>>*Vision and Priorities for Building Capacity of Institutions and the Civil Service*

Taking into account the differences between the TFG, Somaliland, and Puntland, a joint strategy to build institutional capacity of government and the civil service can nevertheless be developed, with a vision for lean, professional, efficient institutions that function with competent civil servants and are capable of planning, providing key regulatory functions, and engaging partners to deliver social services and promote human development.

Major support is required to transform the current status of institutions and civil service into this vision. Core government functions need to be defined in simple terms, with simple and explicit management and operational processes and systems established that will enable accountability and monitoring of performance. The core principles of accountability and results-based management should be instituted at every level, from cleaners and clerks to directors. In the case of the TFG, the creation of new entities and departments and the recruitment of new staff enable the government to have a fresh start. In the case of Somaliland and Puntland, it is clear that staffing of the civil service was done to support the process of reconciliation. Therefore, a

gradual rightsizing and reprofiling should be done, without jeopardizing the continued security in those regions. Considerable investment in human capacity is required at all levels, with fulfillment of the gender quota of 12 percent for women that was established in the transitional federal charter. **[[last sentence seems just stuck on; does edit make sense? Sentence should just be deleted—the quota is in the following footnote.]]**

The following are TFIs' priorities for reforming the architecture of government: **[[recall the topic of the section (this objective of the subcluster) here]]**

- Support the transitional role of the civil service, including establishing a core administrative structure to perform key functions, within a framework of financial feasibility.
- Define the constitutional role of the civil service to support the Federal Constitutional Commission and to clarify roles and functions of the federal structure.
- Build capacity for policy making, development planning, and service delivery.
- Build capacity of the federal presidential office and cabinet of ministries to monitor state performance in finance and development.
- Establish the internal and external instruments and rules for transparency and accountability, including internal ministerial auditors and the auditor general's office.
- Invest in human resource development.
- Ensure gender equity and empowerment in the development of the civil service.⁴⁰

The key actions of the TFG to achieve these priorities are as follows:

- Establish the Civil Service Commission and support development of comprehensive policies for government functions and employment.
- Recruit the required directors and key staff members with experience in policy analysis, human resources management, public finance, and revenue mobilization.
- Delegate a subcommittee of the CSC to the Federal Constitutional Commission to plot the TFG's course to federal government.
- Recruit and train a policy unit attached to the presidential office and serving the cabinet.
- Provide immediate capacity building to the recruited staff in all line ministries on ethics, transparency, accountability, good governance practices, basic administrative skills, and policy planning.

The priorities for Puntland are as follows:

- Institutionalize civil service reform and set policy for staffing structures, functions and salaries, recruitment and promotion procedures, and training.
- Develop capacity for planning and monitoring of social service provision within ministries.
- Strengthen transparency and accountability to build public trust; enhance the office of the auditor general along with parliamentary oversight and civil society monitoring.

The key actions for Puntland to achieve these priorities are as follows:

- Establish a Civil Service Commission.
- Institutionalize capacity building.
- Promote gender equity and empowerment through targeted initiatives, both in recruitment and training and in the drafting of a gender strategy.

- Establish a policy unit to serve all state ministries.
- Map the level of accessibility of services.
- Support the office of the auditor general.
- Support the participation of nonstate actors in planning and policymaking.

Priorities for Somaliland are summarized in the 2006 CSC's Civil Service Reform Program Action Plan and are as follows:

- Support development of a lean, professional, and motivated civil service that addresses overstaffing relative to available resources and the negative incentive structure created by overstaffing, low salaries, and the lack of professional prospects.
- Develop the capacity for planning and monitoring social service provision.
- Combat fraud, corruption, and nepotism.
- Strengthen women's equality, empowerment, and representation in decision-making posts.

The following are key actions for Somaliland to achieve these priorities:

- Promote the ongoing civil service reform immediately, including the introducing a pension scheme and continuing rightsizing and capacity building.
- Enhance policy and law-making functions through capacity building and the creation of a policy unit to serve all state ministries.
- Draft a strategy for women's empowerment in the civil service and for gender mainstreaming in policy making and law making.
- Map the level of accessibility of services.
- Support the office of the auditor general.
- Provide capacity building in forging partnerships with nonstate actors.

<>Local Governance

The collapse of the state—and the subsequent fragmentation and “radical localization of politics,”—plus the emergence of local initiatives to provide social services (mainly by nonstate actors), present very interesting opportunities for local governance. **[[grouping of the above was not clear—okay as edited?]]** In Somaliland and Puntland, traditional local governance structures have played a very active role in peace- and consensus-building efforts. These structures have also formed the basis for a decentralization process, mostly to be found at village (*tuulo*) and district levels and at neighborhood levels for urban centers. The village or tuulo level represents an informal structure of local governance in which the lineage and traditional socioeconomic power structures converge or conflict. **[[what are lineage structures if not traditional? unclear meaning; and in next, what does “this” refer to? convergence or conflict? both can't be “this”]]** This is a component of local governance can become a building block of formal governance structures, provided adequate provisions are made for developing representation, participation of all citizens, transparency, and accountability.

Map A1 shows the distribution of settlements by system of governance, as perceived by the communities (see annex), with the following types of government systems: administration (the formal government body); community elders; shari'a; and customary law. It is clear that in the perception of the communities themselves, the majority of settlements are governed by

community elders, and in South Central Somalia, with a concentration of customary law in Bay region and of shari'a in parts of Bakool and Gedo regions. Data from this survey are not yet available for most of Somaliland, as is evident from the map.

<<Insert map A1 about here or just refer to annex>>

The “social capital”⁴¹ constituted by all forms of nonstate actors (private and community based) has contributed to the country’s resilience, adapting to the collapse of the state by providing services through various delivery mechanisms. This situation has created new local development dynamics and enabling conditions for some private investments.⁴² This social capital also represents a solid foundation for the future institutional framework of local governance.

Despite these positive indications of resilience and initiative, it is important to note the abysmal gap in access to services and extremely low indicators of human development in Somalia today. Thus, the status quo of private service providers is not providing the level and coverage of social services, specifically health, education, water, and sanitation, to enable Somalis to achieve the Millennium Development Goals, as a minimum target.

Nevertheless, it may be advantageous, especially for relatively rapid results, to build on these assets, expanding on the existing informal local governance structures that have already built social capital, and at the same time improving the quality (including pro-poor policies), quantity, and access of services. This strategy of building formal governance structures through and with these informal structures of social capital probably has a higher possibility of success than projects generated from the top down at state, regional, or federal levels.

Such an approach presents a number of challenges. Private sector provision of services is concentrated in urban areas, where service delivery is more readily profitable or self-sustainable. There is a need to bridge the rural-urban divide and to inject adequate resources to benefit the poor and the isolated: pastoralists and the rural population.⁴³ Currently, urban districts are endowed with more resources,[[I don’t see a section to cross-reference by heading]] can raise more revenues, and often attract more external support than rural districts. Another challenge is the tendency to use quick-fix approaches for state building in Somalia and to formalize informal mechanisms without considering the complexity of the institutional process. Such fixes could create further divisions and preempt consensus building if they are not anchored in genuine participatory processes. Failed attempts or difficult transitions could create further scepticism toward government. Local governments face formidable challenges in raising resources to deliver services that will demonstrate their will to serve the interests of the people.

In addition, over the years, diverse forms of local governance have evolved in Somalia. This diversity is a challenge in itself for any attempt to support the reemergence of or strengthening of local governments. The presence of self-appointed regional administrations and of district-based local governance systems is likely to generate tensions between the different administrative levels.

Despite the gains and achievements the nonstate actors have made in the last several years, some local governments may contest their legitimacy and participation in local affairs. They may see

civil society organizations as competitors for resources, power, and influence, rather than as potential partners. Similarly, nonstate actors often do not coordinate their activities with local governments, which they see as “empty shells” with no legitimacy to supervise and monitor their activities. Hence, it will be necessary to promote partnerships and responsibility-sharing between nonstate actors and local governments on the basis of comparative advantages.

To strengthen their credibility and gain public confidence, local governments must demonstrate that they add value to the lives of the citizens by providing some public good, usually expected to be the provision of social services. However, improving the provision of services and contributing to local development can only be done by mobilizing resources. **[[fixed dangling modifier]]** The capacity of local governments to mobilize resources through taxes or fees depends, in turn, on the confidence they can inspire from the public. Funding from international sources can help begin the cycle that goes from increased service delivery to increased confidence and credibility in government to increased local resource mobilization to increased services delivered. Some experience in this regard has been developed by UN-Habitat in projects in urban areas throughout Somalia, which combines capacity building with projects involving community contributions and some resource mobilization. The major lesson learned is the importance of integrating early, concrete results with capacity building and citizen participation.

<<C>>South Central Somalia

In South Central Somalia in general, the district-level, rather than regional, governance structures have been more successful. The district level may constitute a more relevant entity for communities because of their proximity. Minimal services are provided by local governance structures, primarily security, conflict negotiation, and elements of justice. A few incipient municipalities provide more. Services are financed and managed by communities themselves—through shari’a courts, councils of elders, or neighborhood vigilantes, which are managed by self-appointed governors who are “accepted” by the people collecting taxes in exchange for security and predictability. **[[people collecting taxes are from what level?]]** Other services are provided by other nonstate actors, including the private sector, NGOs, and community-based organizations. Coverage of basic services is very low. A challenge **[[for whom?]]** will be to provide pro-poor services in a context of predominantly private provision. **[[state more directly whose challenge this is]]**

Some regional forms of power have been attempted but have had limited success, and they often have attracted “rent-seeker” militias and factions. The authority of such factions rarely has gone beyond the control of urban capitals, probably because the regional level is more distant from the traditional lineage structures that have contributed heavily to the revival of the district level.

<<D>>*Political and Administrative Structures.* The forms of local governance that have emerged in Somaliland are diverse and encompass the district level, but also town, village, and neighborhood initiatives, which are the most prevalent and coincide with clan-based traditional structures involving local councils of elders. The basis for the authority of these structures varies, from factions, militia leaders, and self-appointed governors to consensus-based arrangements, such as resurrected district councils (from the Siad Barre period **[[spelling—Siad?]]**), remnants of UNOSOM structures, and councils of elders or shari’a courts.

<<D>>*Financial and Service Delivery Issues.* Only a modicum of services is being provided by South Central Somalia's local governance structures. These services generally comprise security, conflict mitigation and negotiation, and judiciary services, though a wider range of services is also provided by incipient municipalities in places such as Wajid, Xudur, Bulobarde, Cadale, Mogadishu, Haradherre, and Belet Weyn. These services are financed and managed by the communities themselves—through shari'a courts, councils of elders, or neighborhood vigilantes paid for by the communities, or by militia leaders and self-appointed governors accepted by the people (especially businessmen), collecting taxes in exchange for security and predictability.

Other services are being provided by nonstate actors, such as the private sector, NGOs, or ad hoc community entities, often with little or no coordination with local governance structures: schools are managed by education committees and funded by student fees; water, electricity, and health clinics are usually managed by private businesses. In general, a full range of services is not provided, and the level of coverage of basic services remains insufficient and dependent on private profitability or viability. The poor and the pastoralists are excluded because they are unable to pay for services or cannot be reached by existing providers.

<<C>>Puntland

Puntland recently approved a comprehensive decentralization system, with devolution of services to district councils, although the reform is not yet fully operational. Out of 33 districts, only seven district councils have been selected and are trying to operate, deliver services, and prepare and implement budgets. Financial resources are scarce and not commensurate with mandated responsibilities, with a mere US\$0.70 to US\$2.50 per inhabitant per year. Local taxes and fees are the nominal source of revenue; however, there is inequality between districts, particularly on a rural-urban breakdown.⁴⁴ Nonstate actors provide the majority of services. Governors at the regional level are appointed by the state government and entrusted mainly with security issues.

District councils are now selected by clan elders in a consultative process. Previously, councils and mayors were appointed by the president. This change is yet to be fully implemented but will enhance council legitimacy and may promote a leaner administration. Technical and administrative needs are considerable to transform district councils into professional and efficient institutions. Little progress has been made in the conclusion of partnerships with nonstate actors to deliver services. Some district councils seem to be aware of the potential for such partnerships but have been appointed too recently to conclude such arrangements. Popular support for the councils seems to be high, but councils risk being undermined by the impossibility of fulfilling service delivery mandates in the absence of sufficient resources.

The recently created Ministry of Local Governance and Rural Development is an important initiative. Experts recommend the adoption of a redistribution mechanism and a review of the law and of other fiscal legal documents. The vision should include transfer of resources from the state commensurate with the increase in devolved responsibilities. Building the financial, administrative, and technical capacities of the local administration is a prerequisite to efficiency and accountability.

<<D>>*Political structure.* In terms of territorial administration, the state of Puntland is composed of seven regions and 33 districts. It consists of a four-tier administration, with governors at the regional level (appointed by the state government and entrusted mainly with security issues), district councils, and village committees. At the central level, local administrative issues are managed by the Ministry of Local Government[[**Governance? as earlier?**]] and Rural Development.

Puntland's local administration is ruled by Article 83 of the constitution, which provides for the devolution of power to the tuulo (village) level and by Law 6, 2003, which gives district councils autonomy in the management of local affairs. In practice, the district level, with more financial, technical, and administrative capacity, seems to be the active level of Puntland's decentralized system. According to the law, district councils are selected by clan elders in a consultative process. So far, in the 33 districts, only seven district councils have been selected. In all other districts, councils and mayors remain appointed by the president. The selection process started in January 2005 and was supposed to last one year, but negotiations have appeared to take more time and effort than expected. In return, this selection process, though lengthy, imperfect, and not fully representative of the different categories of the population, guarantees a strong legitimacy for the selected district councils.

District councils are composed of 21 members, who elect their mayor and vice mayor and an executive committee of six to eight members to lead the technical departments. The municipal staff is entirely recruited by and placed under the authority of the municipality. The central state does not have a representative in the municipality. The law also provides for the appointment of village committees of five to seven members, who are to be selected by the clan elders of the village and approved by the district councils.

<<D>>*Financial, administrative, and service delivery structures.* According to the law, district councils are entrusted with the delivery of a wide range of services. These legal requirements are currently applied, and in particular, in contrast with Somaliland, district councils in Puntland are in charge of managing primary education and health care. The state only intervenes in this sector to provide a limited number of staff.

To implement these services, the financial means at the disposal of district councils are local taxes and levies that municipalities can collect in the districts, such as fees and levies on markets, land, and property, plus fees collected for services delivered (see comparative table[[**table number or title or location**]]). Customs duties are collected by the Ministry of Finance, including export fees on livestock, frankincense, salt, and fish that should by law be collected by the districts. The budget is prepared by the executive committee, is approved by the council, and is supposed to be posted outside the municipality. No prior consultation takes place, and the budget is not discussed in public. It is also important to consider that decentralized governance is a relatively recent experience, and most districts have a very limited capacity to do budgeting. Many do not yet have a budget.

Financially, Puntland's local governance structures suffer from the state's general inability to generate sufficient resources. The levies and fees collected in the districts are low, rarely

exceeding US\$2 per capita per year (see table 2.1). In terms of assets, land is the major resource managed by the local governments[[correct?]]. Well managed, this asset could represent a significant source of income. However, it can become a source of conflict or corruption, especially considering that cadastral records do not exist and that the financial procedures of local public finance are not clear. There is no transfer of resources from the state to the districts. This situation increases the divide between richer urban districts, which can generate more resources and where service delivery can be a sustainable economic activity, and poorer or more rural districts, where fewer resources can be generated and economically sustainable services are more difficult to deliver.

The system of financial and technical devolution may encourage the creation of a leaner administration; however, staff salaries still constitute around one-third of the total budget. In terms of technical and administrative capacities, the need is considerable to transform district councils into efficient institutions capable of service delivery.

Table 2.1 [[need to add title; for column heads, give units for currency]]

District	Executed Budget Total	Wages & Salaries	Salaries as % of Total Budget	Number of Inhabitants	Budget per Inhabitant
Galkaio	360,000	106,800	29.67	137,667	2.62
Garowe	82,470	38,700	46.93	57,991	1.42
Burtinle	30,960	13,230	42.73	34,674	0.89
Bossaso	664,610	114,965	17.30	164,906	4.03
Qardho	52,133	15,600	29.92	70,825	0.74
Total			33.31		1.94

Source: Puntland District Council budgets 2005 and UNDP. [[source? did JNA team take numbers from PDC budgets? give actual name and put in refs list? Also, what document from UNDP (source should be in refs list with year)]]

1.8.8 <<C>>Somaliland

237. Somaliland has adopted a system of decentralized governance that is a mix of decentralization and deconcentration. The system provides for the direct and democratic election of district councils but leaves to the central state an important role in the management of local affairs. To increase the resources available to district councils, a state transfer mechanism has been put in place. However, this is still insufficient relative to the resource generation capabilities and mandates at the district level and does not constitute a redistribution mechanism that would support poorer districts. Little service delivery is provided by district councils, but some innovative public-private partnerships have been developed. A review of the current law is under way to increase local autonomy and enhance the role of the councils in economic development.

238. Somaliland consists of a three-tier administration, with a regional-level governor appointed by the Ministry of Interior and democratically elected district councils. At the central level, the Ministry of Interior manages local administration issues. District councils are composed of 13 to 21 directly elected council members that are elected on party tickets with a mandate of five years. A mayor heads the district council. **[[this paragraph up to here is repeated verbatim under the subsection “Political and administrative structure, para. 2; remove or rewrite one of these versions]]** District councils are entrusted with a wide range of services; however, primary health care and education remain the central government’s responsibility.

239. The financial base of the district councils is local taxes and levies. Customs duties, which were previously collected by district authorities, are now placed under the authority of the central government. Income or business taxes are not collected. Some revenue is transferred from central government to the districts.⁴⁵ There are significant inequalities in these transfers. Resources available to the district councils remain very low (on average US\$2 per inhabitant per year) and insufficient to enable them to deliver significant services.⁴⁶ Another issue faced by Somaliland’s local councils is their bloated administrations, which affects the capacity of district councils to deliver services or to invest in development projects.

240. **<<D>>***Political and administrative structure.* Somaliland’s decentralization is governed by Articles 109–12 of the Somaliland constitution and by the Regions and Districts Law (No. 23/2002). Under that law, Somaliland is composed of six regions and 43 districts divided into four grades (A to D). Of those 43 districts, 19 have been recently established, with boundaries that are not completely defined. Nevertheless, they are equipped with a budget and an appointed council.

241. Somaliland applies a three-tier administration, with a regional level headed by the Governor appointed by the Ministry of Interior to represent the government in the region and the district, and a district level of democratically elected district councils. At the central level, local administration issues are managed by the Ministry of Interior. District councils are composed of 13 to 21 council members that are directly elected on party tickets and with a mandate of five years. The district council is headed by a mayor and a vice mayor elected by the council. Elections took place only in the 23 previously existing districts. **[[most of this paragraph is in the beginning of this Somaliland section, as queried there]]**

242.

243. Prior to the reform, district authorities were appointed by the Ministry of Interior. This reform has resulted in changes in some localities where mayors have been voted out and replaced. The district administration is run by an executive committee consisting of the mayor and his deputies from among the council members and by the executive officer appointed by the Ministry of Interior. The executive officer is the chief of the local government’s administration and is charged with the control of legitimacy of the government’s decisions, which he **[[or she?]]** countersigns. The central government therefore retains an important oversight power through its executive officer. **[[is the LG the local govt aka district council?]]**

<<D>>*Financial and service delivery structures.* The law provides that district councils are entrusted with a wide range of services. Nevertheless, the law has not been fully implemented,

and primary health care and education remain the central government's responsibility. The financial means at the disposal of district councils are the taxes and levies that they can collect within the districts, including market, sales, and land and property fees. Customs duties, which were previously collected by district authorities, are now placed under the authority of the central government. Income or business taxes are not collected. To increase the resources of the district councils and to compensate the loss created for the district councils by the fiscal reform, which transferred customs duties under the responsibility of the central government, a double transfer mechanism has been put in place.⁴⁷ The first form of transfer consists of revenues shared between the state and those districts that have customs collection points. In that case, districts receive 10 percent of the customs taxes collected in their districts. The second form of transfer consists of the distribution of 12.5 percent of the total customs taxes collected by the Ministry of Finance (after the 10 percent deduction noted above) among all districts (except for Berbera and Darbulakhare). The formula for redistribution is roughly aligned with the size of district expenditures.

244. These transfer mechanisms are not based on the actual needs of the population or on the capacity of local authorities to deliver services. On the contrary, amounts of money transferred are proportional to the size of the districts' budgets and proportional to the importance of the port of entry where customs duties are being collected (World Bank 2006). For the 12.5 percent transfer, the first 10 districts receive a percentage ranging from about 35 percent for Hargeisa, to 14.85 percent for Burco, 6.85 percent for Boroma, and 1.09 percent for Erigabo. The next 22 districts (essentially C and D grades) receive 0.95 percent each, while the last eight districts (all grade D) receive 0.7 percent each.

245. This system does not result in any redistribution to poorer districts. Despite the state transfers and the resources available to the district councils (see table 2.2), resources are low and insufficient to enable the councils to deliver any significant level of services. As an average, they barely exceed US\$2 per capita per year, and can fall as low as US\$0.8 per inhabitant per year. District councils have a limited capacity to collect taxes, and even Hargeisa cannot mobilize more than US\$5 per capita. **[[add table number and title: Table 1.2 ...; add units in col. heads; how are districts listed—not in alpha order or by budget, number of inhabitants, etc.; use one of these to order]]**

Table 2.2 [[add title]]			
District	Total Provisional Budget	Number of Inhabitants	Budget per Capita
	[[currency]]		[[currency]]
Hargeisa	2,816,625	560,028	5.03
Burco	677,778	288,211	2.35
Borama	285,992	215,616	1.33
Erigabo	172,222	114,846	1.50
Odweyne	19,254	42,031	4.62
Sheikh	61,941	33,625	1.84
Elafweyn	55,734	65,797	0.85
Seilac	76,819	28,235	2.72
Lughaya	39,683	30,802	1.29
Caynabo	45,109	30,702	1.47
Darasalam	19,229	20,000	0.96
Averages			2.18

Source: Somaliland Ministry of Interior (2005 figures), UNDP 2006.

As in Puntland, urban land is an important taxable asset that is underutilized because of the absence of a functioning cadastral service. Budget formulation is not a consultative process, and often district councils only post the budget in the municipalities after approval. Moreover, budget formulation appears to be a purely mechanical exercise, with a reporting of previous headings with minor adjustments. Lack of capacity for budgeting is evident. The lack of predictability of state transfers and the discretionary handling of the transfers also contribute to the discrepancy between provisional budgets and real income.

246. Despite their democratic legitimacy, district councils in Somaliland appear to be suffering from a lack of empowerment to deliver services because of a limited amount of resources. Their intervention is limited to the provision of some levels of sanitation, cleaning of streets, garbage collection, and support for maintenance costs of some educational and health institutions.

Table 2.3 **[[move this table below the callout in next paragraph; is currency US\$? what order are districts—not in order according any of the columns]]**

District	Wages & Salaries		Recurrent Costs		Capital Investment and Projects		Support to the MOI		Other Expenditures		Total \$
	US\$	%	\$	%	\$	%	\$	%	\$	%	
Hargeisa	927,755	33	863,373	31	353,375	13	121,587	4	550,735	20	2,816,625
Burco	209,795	31	220,922	33	99,600	15	78,564	12	68,897	10	677,778
Boroma	105,299	37	109,047	38	45,789	16	18,554	6	7,302	3	285,992
Erigabo	45,225	26	75,238	44	23,651	14	26,997	16	1,111	1	172,222
Odweyne	57,603	30	89,111	46	31,190	16	10,952	6	5,397	3	19,254
Sheikh	32,259	52	18,016	29	5,159	8	3,968	6	2,540	4	61,941
Elafweyn	8,828	16	14,250	26	18,125	33	3,281	6	11,250	20	55,734
Seilac	26,708	35	34,916	45	8,846	12	5,079	7	1,270	2	76,819
Lughaya	13,651	34	14,127	36	2,222	6	2,698	7	6,984	18	39,683
Caynabo	11,488	25	21,845	48	5,481	12	1,983	4	4,311	10	45,109
Darasalam	6,705	35	6,087	32	3,261	17	3,080	16	96	1	19,229
Averages		32		37		15		8		8	

Source: Somaliland Ministry of Interior (2005 figures).

Another major issue faced by Somaliland's local councils is their bloated administrations. As shown in table 2.3, a considerable amount of the district councils' provisional budgets is consumed by salaries and wages and by recurrent and administrative costs, and the share left for investment is often less than 15 percent of the total budget. When actual revenues fall short of projected revenues in the budget, wages and salaries consume even that low allocation to capital investment.

Several district councils, such as Boroma or Hargeisa, have devised innovative partnerships for the provision of water and electricity and for tax collection and management and maintenance of marketplaces.

Decentralization is one of the main priorities of the current government and Parliament in Somaliland. Priorities are changing, with security and stability achieved, and the new focus on economic development calls for new decentralization policies. A review of the existing law is under way, and it is expected that the new law will strengthen local autonomy and enhance the role of local councils in economic development. Somaliland is also demonstrating the same burgeoning culture of community self-reliance. This is in stark contrast to the past, when people relied on government for primary services. Nevertheless, the poor who cannot buy services are disadvantaged by the loss of the provision of public goods by the government.

247. <<D>>General Vision for Local Governance. The vision or desired outcome is the establishment of formal local governance systems and the support for existing systems that are inclusive of all population groups, including women; that are participatory; that facilitate the delivery (provided directly or indirectly) of good quality, reliable, affordable, and sustainable

services to all citizens; and that contribute to reconciliation. The local governance systems should bridge the urban versus rural-pastoralist divide through effective pro-poor policies.

248. This outcome may not be fully achieved in all areas by 2011, but significant progress can be made provided there is a concerted effort by all actors—the Somali government, nonstate actors, and international assistance providers—to a conflict-sensitive and developmental approach on local governance. Some elements of this approach are as follows: build on local existing assets and further develop existing social capital; enable Somali ownership of the process, especially at the local level; support and improve existing structures of local governance where they can evolve into fully participatory and inclusive systems; invest in existing service delivery mechanisms, provided they serve the public good, with fairness and access for all citizens; develop and institutionalize participatory processes, including transparent and accountable decision making and resource management; integrate local-level institutions and civil society into the process of policy development at regional, state, and federal levels;⁴⁸ and develop the management capacity of service providers, with an emphasis on principles of accountability, transparency, and participation.

249. The strategy should focus not only on supporting local governments but also on ongoing local processes when they aim (explicitly or implicitly) for sustainable service delivery. The entry point for reconciliation, local good governance, and sustainable development may be the delivery of good, reliable, and affordable services to citizens with efficacy and accountability.

[[Make lists bulleted as some previous ones are? (earlier in paper it just had long run-in lists as well—change all to bullets or all to run-in)]]

Priorities for the transitional federal government in South and Central Somalia reflect the expected outcome of a new legal framework for decentralization at the federal level, including political, administrative, functional, and fiscal devolution. The priorities will be to support the creation of local government, including the following:

<<set bullets as in the next two sections>>Design the local governance system. Develop policy lessons on public-private partnerships for service delivery. Facilitate a structured dialogue between public authorities, the private sector, and other nonstate actors (national conferences on services). Define mechanisms for subsidiarity, coordination, and redistribution. Design policies to reach the poor and the rural or isolated areas. Develop networks of decentralized cooperation. Build links with the Somali diaspora.⁴⁹ The proposed TFG policy would improve local service delivery as a basis for sustainable reconciliation and distribution of peace dividends and the building of a sustainable democratic system for decentralized governance. Local governance interventions should be linked with district-based reconciliation efforts. Links also should be created between the Ministry of the Interior, the TFP, and the Federal Constitutional Commission, potentially through a subcommission for federal, decentralization, and local governance.

250. Priority interventions for Puntland are the following:

- Complete the selection of the councils in all districts.
- Strengthen the policy-making capacity in the decentralization framework.
- Strengthen the fiscal framework (taxation policy and redistribution mechanisms).
- Further define the legal framework for decentralization and clarification of competencies at different levels.

- Build capacity for better accountability and legitimacy (including civil society).
- Have conferences on services as an institutional mechanism for consultation with the private sector and other nonstate actors and facilitate development of pro-poor policies.
- Provide investment funds to enable district councils to deliver services. In the medium and long term these investment funds should be replaced by an increased local tax base and by fiscal transfer from the central government.

251. Priority interventions for Somaliland are the following:

- Support completion of decentralization reform, including further definition of the legal framework and clarification of competencies at different levels.
- Provide technical assistance for mechanisms for interinstitutional dialogue and subsidiarity.
- Provide technical assistance on state fiscal transfer, redistribution policies, and pro-poor service delivery.
- Support conferences on services to engage the private sector and other nonstate actors in policy development to extend service delivery to the poor and underserved areas, while exploring public-private partnership.
- Support development of a sustainable and equitable tax base.
- Build capacity for accountability, transparency, and legitimacy.
- Provide investment funds to district councils for capital development in social services.

1.9 <<A>>Subcluster 4: Civil Society, Participation, and Media

1.9.1 <>Civil Society and Participation

252. Following the collapse of the Somali state and the subsequent years of conflict, civil society⁵⁰ in Somalia has emerged as an important social and political force. **[[give years of collapse and conflict?]]** Although relatively new phenomena in Somalia, civil society organizations are today active providing services; are contributing to peace, reconciliation, and development; and have taken on many of the traditional functions of the state, including dispute resolution and security.

253. NGOs are concentrated in the major cities of Bossaso, Hargeisa, and Mogadishu. Pastoral areas are underserved by both local and international NGOs. NGOs also appear to proliferate in areas where international NGOs and UN agencies have established bases and programs. There are few national NGOs, with the exception of the Somali Red Crescent Society. The activities of NGOs reflect regional variations. Many Mogadishu-based organizations are engaged in popular peace efforts, whereas in Somaliland, the activities of NGOs have shifted from rehabilitation efforts to include attention to social issues, including political reform, human rights and freedoms, gender equity, and HIV/AIDS. At the community level, elders and traditional leaders are primarily involved in peace building, conflict resolution, and dispute settlement. Religious groups have also emerged as a potent force within communities, especially in the fields of relief, education, and justice. Religious groups, through Koranic schools, have been able to provide basic education, and shari'a courts have replaced government rule-of-law structures in many

parts of South Central Somalia. Civil society organizations have provided a significant avenue for women to participate in public life. Civil society organizations are an important platform for addressing human rights and gender issues.

254. Professional associations and networks are a relatively new category of civil society actors. The greatest numbers of networks are found in Mogadishu and Hargeisa. Few networks and associations are found where access and communications are constrained by insecurity and poor infrastructure. Networks have tended to develop around sectoral specialization (for example, FPENS, a national association of educational organizations). Networks can also be regionally based and often represent clan or regional interests. Networks and associations are often competitive, and often more than one association claims to represent the interests of a particular group. This competition is usually due to issues around resource capture, clan divisions, and organizational survival.

255. A number of organizations across the Somali regions support governance, democracy, and reconciliation at national and regional levels. These include peace activists, women and youth groups, research and advocacy NGOs, networks, and religious groups. The diversity of the groups is not just in the actors, but in the aims they pursue. Generally speaking, civil society supports the return to the stability of peace and a political environment that recognizes their concerns and allows popular participation. This JNA finds that large segments of civil society want a voice in ensuring that government is accountable and led by democratic norms and processes. Civil society organizations are already supporting civic and rights education processes, particularly in the more politically stable environment of Somaliland, where civil society was active in supporting the process of parliamentary elections.⁵¹ Map A6 shows the presence of cultural groups and Map A7 shows the presence of women's groups or associations (see annex).**[[these were the wrong map numbers; also, these social group maps should have different titles: the one for cultural groups should say cultural groups in title; same with women's groups]]**

256. At the community level, mechanisms exist that have been able to resolve disputes and reconcile conflicting groups and clans. The clan in Somalia is often presented as a cause of ongoing conflict and as an obstacle to peace, yet the clan holds within its traditions the means, motivations, and expertise for contributing to enduring peace, in particular through *xeer* (customary law). Civil society, as represented by clan elders and traditional and religious leaders, undertakes important reconciliation functions, and this section of civil society will be crucial to support state-led reconciliation. The challenges facing clan elders and religious leaders using traditional means are acute, particularly in South Central Somalia. Clan demographics and alliances have shifted over the course of the civil wars, and land and other resource appropriation has caused great changes that will have to be the focus of much effort.**[[though it is okay to end a sentence with a preposition, I rewrote to avoid that, knowing that someone will object to that ending "with"]]** These factors have implications for both traditional and governmental reconciliation mechanisms. The reconciliation context is further complicated by the loss of status of some elders and traditional leaders.

257. The Somali Islamic tradition also supports a range of peace-building, justice, and dispute resolution mechanisms. In South Central Somalia, where conflict has been acute, shari'a courts

have evolved as an important community mechanism for adjudicating cases and restoring a level of law and order. The viability of the shari'a court system is important, and government- and donor-led processes that seek to impose a centralized system of justice and rule of law will need to be aware of the danger of wittingly or unwittingly undermining local systems of justice and reconciliation. Traditionally, religious leaders and groups did not engage in political activities or policy influence in Somalia. However, an emergent group of religious actors, influenced by international trends, is now asserting that religious leaders should be participants in the political field and share in the political power structures of the country. Members of this group would like to see the application of shari'a in all spheres of society and in state legislation.⁵²

258. A range of peace-building, reconciliation, and research organizations have arisen over the past 10 years in the regions of Somalia.⁵³ Their understanding of conflict and expertise in the field of conflict resolution and reconciliation has deepened with experience. Such groups offer opportunities to bring communities together through the establishment of dialogues for peace. Civil society groups have even established “neutral spaces” in some areas, where elders and clan leaders can come together and discuss issues. These processes and projects may also offer future models and lessons for enduring reconciliation.

259. With the emergence of transitional federal structures, the role and nature of civil society will necessarily change in areas of South Central Somalia, and the role of civil society in relation to governance will become increasingly important. This changing environment provides an important opportunity for Somali civil society to develop and play a crucial role in strengthening popular participation, providing channels of dialogue and debate, exerting public pressure, raising awareness, and acting to improve government accountability. By working with electoral commissions and in parliamentary and constitutional reviews, and by undertaking civic and electoral education, civil society can have an impact on democratic change.

260. However, Somali civil society organizations currently suffer from a range of constraints. The question of legitimacy of the sector emerges as a key constraint to the effective operation and impact of civil society in all Somali regions. Legitimacy is inextricably linked to lack of accountability and inadequate transparency. Problems include the proliferation of “briefcase” NGOs that undermine the credibility of the NGO sector as a whole. **[[explain the term briefcase here—would everyone understand? if following is an explanation, that’s not clear]]** There is no registration or legal regulation of the sector in South Central Somalia. Lack of registration or of a legal framework for operation acts as a deterrent to direct funding from international sources in some cases, thus, though it is important to safeguard their independence, having a legal framework might enhance fund raising by nongovernmental organizations. Some NGOs are perceived as having vague and ambiguous mandates and low impact in their activities, along with poor corporate governance. Registration and regulation in Somaliland are weakly enforced.

261. Civil society is sometimes perceived as the preserve of wealthy and elite groups, usually urban based, that are able to organize themselves and secure resources more effectively than poorer or socially disadvantaged groups. Closely linked to issues of transparency and accountability are questions about representation. Communities, donors, and international agencies alike have difficulty ascertaining the constituencies of civil society and determining which organizations more genuinely represent the concerns and views of local people. Civil

society organizations have also been perceived as politicized by clan politics and power relations. If representation is perceived as unbalanced, it undermines the independence and legitimacy of the civil society sector in engaging in governance issues. In general, the legitimate role and function of civil society organizations are questioned by the authorities; CSOs are seen as competitors, not just for resources but also for power and influence.

262. The range and diversity of Somali CSOs has strong positive aspects; it also has a downside. The lack of common agendas, cross-clan links, and experience working in a more regulated environment, combined with competition for resources, has led to rivalry and fragmentation in the formally structured parts of the sector. Additionally, individual organizations often lack specialization. There is an absence of coordination mechanisms or arbitration bodies that could bring groups together to resolve issues. Although many problems remain around coordination and collaboration, advances have been made. Local NGOs in all regions have been working to form nonstate actor forums and working groups, and some training has been provided, with international support. An example of the potential strength of civil society when well coordinated is the approach to the elections in Somaliland. International NGOs, including Oxfam Netherlands, Saferworld, CARE International, and WSP International are all supporting civil society in Somalia and are promoting enhanced coordination.

263. A fundamental issue for civil society is the dearth of financial and human resources currently available. The generally weak capacity of organizations is directly related to the loss of education, to insecurity, and to the migration of skilled labor and professionals.

264. The vision for civil society and participation is as follows: legitimate and credible NGOs, civil society groups, and umbrella organizations and professional associations work independently and with increased capacity to support peace, democracy, and reconciliation in all Somali regions; the organizations work with increased coordination and collaboration among themselves, taking on active advocacy roles, with effective channels of dialogue and mutual respect established between civil society and government authorities; and civil society influences and participates in the constitutional dialogue, peace building, decentralization processes, and poverty reduction strategies.

265. The following priority initiatives are proposed to develop civil society for its role in governance: **[[list elements need to be parallel (as edited); verify that elements still say what is intended]]**

- Help civil society create self-regulation mechanisms to enhance legitimacy and build transparency and accountability, including codes of conduct and standards of ethics, regulatory councils, and independent arbitration bodies.
- Have civil society create a system of legal registration.
- Train organizations in coordination and collaboration so that organizations can better support and effectively participate in national planning processes.
- Train members of organizations in oversight and monitoring functions to enable them to take an active and effective role in governance accountability.
- Enhance the capacity of CSOs and institutions to contribute to policy making and advocacy.

- Support existing conflict prevention and management mechanisms at the community level.
- Evaluate and develop the absorptive capacity and competency of CSOs to manage external assistance.
- Encourage authorities to accept the relevance and necessity of engaging with civil society.
- Encourage government policies and regulatory frameworks for engaging with civil society.

1.9.2 <>Media

266. Since 1991 a resurgence in the Somali media sector has taken place. Local newspapers started appearing on the streets in Mogadishu and Hargeisa just one year after the popular uprising against the military regime; however, their distribution is limited to urban settings, as is evident from Map I10 in the annex. Today, private radio stations are striving to fill the information and communication gap as well as provide news and entertainment. The information delivery capacities of these stations are very limited, and the professional skills of journalists are still low. Some function as propaganda outlets for warring parties. Few have formal journalistic training, and the public frequently complains about the lack of professionalism, characterized by bad reporting, unethical language, and poor programming and presentation.

267. The trend in the media in Somaliland and Puntland as well as in South Central Somalia seems to be toward a free, market-oriented system. In South Central Somalia and Puntland, media businesses are currently run on a free-market basis with no regulation whatsoever. In the case of Somaliland, at present only one radio station (Radio Hargeisa), which is owned and controlled by the government, and two TV stations (one state-owned and one private). Authorization for new private radios is under way.

268. Radio stations in Somalia are the main tool to deliver information and to raise public awareness. However, coverage in rural and remote areas, where information is needed most, is limited. Low-cost community radio stations or, alternatively, repeating stations in rural areas should be considered to widen the coverage. **[[define “repeating stations”?]]** Media coverage of women’s concerns is negligible. Most media houses are managed by men, and the majority of senior producers and journalists are men. Women’s issues and views on security, socioeconomic, and political issues are ignored, despite the fact that women have made inroads into public life as breadwinners, peace advocates, and activists.

Currently, at least half a dozen journalist associations are present in Somalia. The situation is extremely fluid given the lack of either an official or self-regulating system to establish rules and regulations for associations. The majority of these associations and their members are new to the profession and lack basic journalistic skills, training, and journalism ethics. The journalists’ associations bring together journalists from the print media, radio journalists, freelancers, local representatives of international media organizations, and others. It is important for the international community to provide support and promote security for these journalists’ associations, through training in basic journalist skills and by promoting mutual solidarity among the journalists and press freedom. Extensive experience of UNESCO, UNICEF, and other

partners in the media environment, especially the British Broadcasting Company, provide a good background for further projects and enable consideration of lessons learned.

In Somalia the absence of a professional code of ethics is reflected in the partisan behavior of the media. Introduction of an ethical approach to journalism and media production could contribute significantly to a culture of peace. The development of better links, through capacity-building activities, between civil society groups and the international community would increase and improve their collaboration, and maintain contacts for rapid response, as needed.

<<C>>Vision and Priorities for Media. The vision under the JNA is for numerous and diverse media channels and outlets to function with independence and integrity, providing information, education, recreation, and culture for all Somalis. Media would use a diversity of dissemination methods and technology, including ICT, to reach and engage all Somalis. The availability of the Internet is presented in Map I 9 in the annex.

Priority initiatives for media are grouped under three categories, as follows:

Capacity building priorities for the Somali media include the following:

- Map, assess, and support the media's capacity for production and distribution.
- Establish a media training council and strengthen the training of institutions.
- Train trainers on journalism (basic skills and thematic training with a specific focus on media-based civic education).
- Train managers for media outlets.
- Develop management and technical skills for community media.
- Develop curriculum for media and journalism studies.
- Establish a platform for development of professional associations and coordinated media training.
- Use media as a tool for civic education.

<<C>>Priorities for developing a communication and information policy framework are as follows:

- Provide advisory services for drafting of media laws and regulatory frameworks.
- Train public officials on the principles of freedom of expression, freedom of the press, and the right to universal access to information.
- Train government officials on information management.
- Coordinate and develop networks of media professionals.
- Establish a platform for participatory development of regulatory frameworks for the Somali media through a partnership between Somali media institutions, human rights organizations, international NGOs, and professional organizations.
- Provide assistance for the creation of an independent media commission.
- Facilitate public campaigns on fundamental rights (freedom of expression and universal access to information).

<<C>>Priorities for developing civic and social education through community media programming include the following:

- Establish Communication for Peace centers.
- Train community agents on PRA at the community level. **[[define or spell out PRA]]**
- Provide equipment for public information as well as for evaluation and monitoring.
- Train Communication for Peace center staff on information management and radio production techniques.
- Organize community groups on radio production and evaluation.
- Train specialized radio teams on radio production and script writing.
- Include women and youth participants and gender issues in all training.
- Negotiate memorandums of understanding with relevant authorities for the setting up of CMCs. **[[spell out CMC]]**

[[make the matrixes part of the annexes?]]