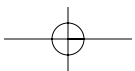
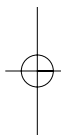
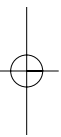


PART I

Traditional Authorities and
Decentralized Governance



CHAPTER 1

Bringing the Sultan Back In: Elders as Peacemakers in Ethiopia's Somali Region

Tobias Hagmann

INTRODUCTION

In many African societies, elders play a crucial role in managing public affairs in their community, both with and in the absence of formal state recognition. Elders assume the most varied tasks in safeguarding the social, political, economic, cultural, religious, and spiritual welfare of the people they (claim to) represent. Yet if we are to believe van Nieuwaal and van Dijk (1999: 9) “there is one aspect of chiefting for which no shortcuts exist”, and that is conflict resolution. Resolving conflicts represents a “chiefting” activity of special importance and interest for the study of recent waves of the incorporation of traditional authorities by sub-Saharan African states. On the one hand, many rural societies lack a complete understanding of formal state institutions such as courts and legal codes, mainly preferring “endogenously defined concepts and procedures” (Just 1998: 108) to manage individual and communal disputes. On the other hand, the state endeavors “to dominate other institutions that provide dispute resolution services” (Merry 1987: 2069) in an attempt to subordinate competing norms that challenge its legitimacy. Controlling and ending violence is among the classic tasks of the nation state seeking to impose a monopoly over the use of legitimate force (Weber 1947).

The tension between these two positions is familiar to most rural Somalis who engage in nomadic pastoralism and agro-pastoralism.

Many Somalis believe in the “inherent fairness” (Bihi 2000: 33) of Somali customary law (*xeer*) that their elders enact and interpret, and which regulates interactions between clan lineages. At the same time, state administrations unsuccessfully tried to expand and popularize modern state law among their Somali citizens in the past. In all Somali-inhabited territories of the Horn of Africa, whether belonging to the “collapsed state” of Somalia (including Somaliland and Puntland) or to internationally recognized entities like Djibouti, Kenya, or Ethiopia, the state’s presence remains weak and sporadic, often having little legitimacy in the eyes of local communities. Peacemaking and reconciling clan groups are among the core activities of Somali elders. Conflict resolution on the basis of blood compensation (*diya* in Arabic, *maj* in Somali) is widely practiced wherever Somalis live.

Yet, their local conflict-resolution systems have to date evaded systematic description (Gardner and El Bushra 2004: 166). This observation fits the general pattern of the neglect of data on peacemaking procedures in tribal societies (Goldschmidt 1994). Conflict resolution in the Somali region of Ethiopia provides an interesting showcase of how state and clan leaders formalize rules in what Ensminger (1990: 662) has called the “peripheral and least developed areas that only minimally recognize state authority and jurisdiction.” In this chapter, I therefore examine how the Ethiopian state coopts and relies on traditional authorities to settle, manage, and resolve communal conflicts within its Somali Regional State (or Somali region), more commonly known as Ogaden.¹

In 2000, the Somali region appointed clan elders as the official counterparts of its district and regional authorities. The recognition and formalization of Somali elders selected by the Ethiopian government is a contemporary form of state-sponsored “traditionalisation” (Benda-Beckmann *et al.* 2003). Known in Somali as *guurti* (council of elders) or *lataliye* (advisor), or as *amakari* in Amharic (advisor),² the incorporation of these traditional leaders into the regional government represents a noteworthy development within Ethiopia’s post-1991 version of “ethnic federalism” (Aalen 2002; Vaughan and Tronvoll 2003; Turton 2006). The implications of the participation of Somali (and other pastoral groups’) elders in decentralized government under the ruling Ethiopian Peoples’ Revolutionary Democratic Front (EPRDF) have not yet been subjected to academic scrutiny. Contrary to what one might assume, the *guurti* elders represent a parallel, not a hierarchically inferior structure to Somali region’s existing administrative levels, the region, the zone, and the district. The establishment of stratified layers of *guurti* elders corresponds to a

remodeling of Somali customary authority based on the state's policy of decentralized administration and the principle of ethnically based representation within the federal Ethiopian state.

This chapter examines the interactions between customary and state authorities in the Somali Regional State in Ethiopia focusing on the elders' involvement in local conflict resolution. Salaried elders advise the local government in matters of peace and security and assist in mediating violent clan conflicts. A detailed empirical analysis of the consecutive steps of peacemaking demonstrates that *guurti* members, state officials, and clan elders closely collaborate in containing, settling, and resolving intergroup conflicts. The chapter concludes that the *guurti* elders play a vital but not uncontested role in a peacemaking process characterized by strong syncretism. Although the state codifies the outcomes of *diya*, customary clan agreements remain flexible. Ultimately, the Ethiopian state has agreed to replace part of its constitutional order with Somali customary law in an attempt to uphold political stability within its troubled pastoral lowlands.

The empirical data presented in this chapter derive from open and semi-structured interviews conducted between May 2003 and July 2004 in Jijiga, Harshin, Godey, Qalafo, and other localities within the Somali region.³ This chapter is divided into four sections. The first section provides a brief introduction to the sociological and historic context of Somali elders and to the discursive and symbolic imaginary in which they are couched. In the second section I review the modalities and motifs of the recent incorporation of elders into local government within the Somali region in Ethiopia. Thirdly, I describe joint conflict settlement and resolution procedures by elders and district administrators as practiced throughout the Somali region. The last section concludes by discussing the impact of the state recognition of Somali clan elders on customary law. In addition, some of the contradictions inherent in the syncretic peacemaking practiced by *guurti* elders, other elders, and state officials are highlighted.

THE SOMALI ELDER AS PRACTICE AND RHETORIC

If Bourdieu's (1984: 144) casual yet appropriate dictum that "everyone is an elder or a youngster of someone" holds true, then both the phenomenon and the concept of the Somali elder deserve to be called into question. Menkhaus (2000: 186) rightly points out that "the social category of 'elder' is quite fluid, a source of considerable confusion for outsiders." Part of this confusion is due to evolving and competing

ideas of what represents legitimate authority within Somali society. Some of the major implicit assumptions about the concept of the Somali elder must therefore be dissected. A first ambiguity stems from the meaning of “elder” (sing. *oday*, pl. *odayaal*) itself. To quote Ahmed and Green (1999: 123) “not all old men are elders, nor are all elders aged.” Being old enough is thus neither a necessary nor a sufficient condition for being recognized as a Somali elder: a number of distinct and evolving behavioral and sometimes genealogical characteristics are necessary.

Somali society distinguishes itself from African and non-African societies by the fact that, in principle, every married man can speak on behalf of his *diya*-paying group, (primary) lineage group, clan or clan family (Lewis 1999: 132). Representation is based on what many authors describe as an egalitarian mode of Somalis’ “pastoral democracy.”⁴ According to the dominant Somali cultural ideal, every man participates in decision making by taking part in the *shir*, an *ad hoc* assembly that decides all important public matters, which Lewis (1999: 198) describes as “the fundamental institution of [customary] government.” A second implication underlying the concept of the Somali elder is the fact that Somali elders are always men, never women. The idea of a Somali pastoral democracy enacted by wise old men corresponds to a purely patriarchal definition of democracy in which women play a subordinate role in all public affairs. As Glascock (1986: 56) unambiguously points out, “Males are the dominant sex in Somalia.” Curiously, while poststructuralist scholars of Somali studies have challenged the egalitarian myth of Lewis’s “pastoral democracy” by highlighting the social and economic stratification of Somali society (Besteman 1998), with the notable exception of Kapteijns (1995), Somali scholarship remains rather gender-blind. Undoubtedly, the concept of the Somali elder reflects a social imaginary in which the old dominate the young (gerontocracy) and men dominate women (patriarchy).

While all aged men are elders, some individuals distinguish themselves and gain prominence as “effective negotiators, trusted mediators, moving orators, or wise and pious men” (Menkhaus 2000: 185–86)—the people that the folk notion of clan elders refers to. In most cases their authority is not based on hereditary status, but derived from the respect and recognition of their kin as “their elders.”⁵ Important attributes associated with Somali elders are “experience, age, oratory skills, fairness and impartiality, ability to compromise and persuade expertise in *xeer* and religious knowledge” (Ahmed 2001: 7). Glascock (1986) also stresses the importance of wisdom as a trait that Somalis closely associate with age and respectful behavior.

The institution of the Somali elder must be understood in relation to the two basic principles of Somali society, kinship (*tol*) and *xeer*. Somali society is composed of segments such as clan families, clans, sub-clans, and so on, defined through actual and fictitious descent in the patriline. The *diya*-paying group (*jilib*) represents the most stable political and social unit within Somali society, and its members are bound to *diya*-paying groups of other lineage groups through *xeer*. *Xeer* embraces both the general concept of customary law as well as specific oral treaties between distinct lineage groups (*xeer* Isse, *xeer* Ogaadeen etc.). As a customary type of common law, *xeer* “is not static and [is] constantly being revised in the light of new conditions” (Lewis 1999: 175). Membership in a *diya*-paying group and *xeer* thus provide Somalis with the type of collective security that neither the colonial nor the postcolonial state were able to generate.⁶

The role of Somali elders as custodians of the welfare of their kin has attracted controversy. With the advent of “participatory development” as the dominant legitimate mode of international aid, and following the collapse of the Siyaad Barre government in 1991, Somali elders have been increasingly lauded as legitimate and responsive community representatives, being reified too as benevolent sages and peacemakers partly as a consequence of the civil war. They were often opposed to a young generation of militia fighters accused of having created havoc in the country. Paying tribute to the role of Somali elders has become a standard practice of both Somali and foreign development agencies, as well as politicians and even rebel groups. Yet not all commentators uncritically reproduce the idea of disinterested elders working exclusively for the common good.

The fact that Somali elders are instrumental not only in making peace but also war is a commonplace that is often ignored, as it upsets the idyllic, state-propagated image of the *nabadoon* (peace-searcher).⁷ In his analysis of local governance in northeastern Somalia, Bihi (2000: 31) points out that “the alternation of so many elders between [the] roles of warmonger[s] (raising funds, recruiting fighters etc.) and peacemakers engendered deep cynicism within the public, many of whom decried elders as opportunists.” Other authors have rebutted the idea of elders’ altruism in resolving conflicts on the basis of blood compensation by pointing out their vested interest in collecting large amounts of *diya* (Gardner and El Bushra 2004: 79). Marchal (1998: 4) has expressed skepticism about foreign and local actors’ “emphasis on the neo-traditional *xeer*,” while concurrently “few people dare to raise controversial issues linked to the *xeer* and to the effectiveness of such governance.” Drawing on first-hand experience in Somalia’s Lower

Shabelle region, Marchal (1998: 4) describes local elders as “accused to have stirred up conflicts in order to get a share of the *diyya*,” of corruption, “missing the basic education to fulfill their current responsibilities,” and marginalizing young people and the educated in their society.

Colonial and postcolonial efforts to incorporate Somali elders into local administration and to curb or accommodate the customary *xeer* produced varied results. The British protectorate in the north tried to coopt Somali elders by creating titular elders known as *caqil* (pl. *cugaal*), who after 1921 acted as a link between the district administration and the protectorate’s inhabitants. In the Italian Somali colony in the south, similar efforts were made to nominate loyal elders as *capos* (Lewis 2002). In legal respects, both the Italian colony and the British protectorate followed a “middle course” by introducing Western criminal law (the Indian Penal Code for British Somaliland and the Italian Penal Code in Italian Somalia), but the *diyya* blood compensation was also partially incorporated into the administration of justice (Contini 1971: 79–80). Imperial Ethiopian rulers in the Ogaden proceeded in a similar manner. By the 1930s, Darood Somali chiefs and clan notables from the Ogaden “were taken to Addis Ababa to express their loyalty to the Emperor” (Barnes 2000: 146). During the British interim rule over the Ogaden (1941–1948), the customary *xeer* of the Darood clan lineages was legally recognized by the colonial administration (Seid and Jotte 2004).

Following Somalia’s independence in 1960, the country’s first government promoted a process of national modernization that had no place for customary institutions. After Siyaad Barre came to power in 1969 and established scientific socialism, all tribal names and allegiances were officially abolished (Lewis 2002). Yet despite the Somali government’s explicit policy of eradicating “tribalism,” the payment of blood compensation “was found to be compatible with the constitutional provision that penal liability shall be personal” (Contini 1971: 83). In neighboring Ethiopia the Dergue’s rule (1974–1991) over the Ogaden was primarily based on military coercion vis-à-vis those Somalis who had not fled the region following the 1977–1978 Ethiopian-Somali war. By the time of Siyaad Barre’s downfall, Somali elders were already following different trajectories. Some “became tainted as ‘stooges’ of the military regime,” others preserved a degree of integrity, and “the majority of elders hovered between the government and their communities, attempting to placate the government and promote the interest of their people” (Bihi 2000: 30).

International humanitarian intervention in Somalia at the beginning of the 1990s sought to reestablish a central government primarily through a top-down approach involving the warlords and faction leaders, but it failed to produce the desired effects. This was followed by the United Nations half-hearted, more bottom-up approach to peace- and state-building in Somalia. According to this “building block approach” (Bryden 1999), the future Somali state was to be reconstructed on the basis of different preexisting regional administrations. If they proved capable of providing governance and security at the local level, regional administrations such as those of Somaliland and Puntland would then become the building blocks of a new central government. But the international community largely failed to involve respected elders and community leaders in local and regional peace initiatives in connection with this process. In the absence of a central state and significant international assistance, indigenous peace-building efforts and institution building by Somali clan elders became instrumental in resolving conflicts and maintaining security within the context of radically decentralized governance in Somalia (Farah and Lewis 1997; Höhne 2002; Menkhaus 2000).

THE (S)ELECTION OF *GUURTI* ELDERS

What were the motivations of the Ethiopian government in “bringing the sultan back in” to govern the Somali region?⁸ Why and how did the government institutionalize “traditional” authority within the Somali region? At a structural level, and as part of a long historical process, the federal government is seeking to increase its control over its pastoral periphery. This particularly applies to the Ogaden, where many Somalis contest Ethiopian rule (Hagmann and Khalif 2005). Ethiopia’s fear of a revived secessionist movement and security concerns related to armed groups, including Islamic militants Al-Itihad (Tadesse 2002), make the Somali region a geopolitically sensitive territory. Therefore, the Ethiopian government has a vital interest in expanding state control over its portion of Somali territory. At the more cyclical level, the establishment of the *guurti* occurred shortly before the 2000 national and regional elections. The *guurti* elders were instrumental in securing a sweeping electoral victory for the ruling Somali People’s Democratic Party (SPDP). Additionally, the Ogaden National Liberation Front (ONLF), which had “taken to the bush” after its falling out with the EPRDF in 1994, continued to confront the federal army militarily within the Somali region. Although formally unrelated, the creation of the *guurti* must also be viewed as an attempt by the government to contain the ONLF.

The *guurti* system of the Somali region had initially been proposed by the federal government in 1998, but was delayed due to dissent within the regional parliament.⁹ The actual creation of the *guurti* in 2000 was the result of a string of careful appointments by the regional government that made the process more a matter of selection than of election. This (s)election took place in two consecutive rounds, first at the regional and zonal levels at the end of 1999, and later at the district level at the beginning of 2000.¹⁰ In November 1999, an “enclave of seven hundred of the most prominent clan elders and *ugaasyo* (sing. *ugaas*)” from the Somali region (Donovan and Regasse 2001: 13) elected the *guurti* elders at regional and zonal levels for a five-year term of office. The meeting and its procedure had been jointly organized and planned by the federal and regional authorities.¹¹

To begin with, the elders were asked to nominate an organizing committee that was given the task of defining the modalities of the new *guurti* system. The committee proposed that the regional *guurti*, as the highest body within the government-recognized elders’ hierarchy, should be composed of thirty members. Seventy elders should represent the region’s nine zones, and each of the region’s then forty-eight districts was supposed to (s)elect three *guurti* elders. Participants agreed to this proposal, and after a brief presentation of the candidates, approved the nomination of one hundred *guurti* elders at the regional (thirty) and zonal (seventy) levels. After approval of his candidature, each *guurti* elder was asked to swear on the Koran “that he will represent the community as a whole, not his clan” (Donovan and Regasse 2001: 13). Meetings were then held to (s)elect three *guurti* elders in each of the districts at the beginning of 2000. Donovan and Regasse (2001: 30) have suggested that:

Although there was no criteria that one has to meet to be elected as a member to the institution of the *guurti*, the following were agreed to be factors considered in the election: 1. not being a member of groups opposing the government; 2. being free from clannism and favoritism; 3. having a reputation in the community; 4. integrity; and 5. knowledge of traditional law and Islam with the ability of self-expression.

These (s)election criteria are also mentioned by Abraham *et al.* (2000: 30), who state in addition that, “according to our key informants, these include integrity, conviction, articulation, good reputation in the community, being free from clannish attitude, respect for government rules and regulations, personality and leadership quality, etc.” In some districts inhabited by different clans or clan families, the numerically

larger lineage groups excluded smaller ones by nominating all *guurti* elders from their own number.

Since their inauguration, *guurti* elders receive the same salary as the civil servants in the district, zonal, and regional administrations. Zonal and regional *guurti* elders receive their salaries from the regional finance bureau, while district (*woreda*) *guurti* elders are directly paid by the district finance bureau. District *guurti* members earn 609 Ethiopian Birr (ETB), zonal *guurti* members 940 ETB, and regional *guurti* members 1,600 ETB respectively (Donovan and Regasse 2001: 31).¹² A formal mandate or “job description” for *guurti* elders does not exist. Article 56 of the revised Somali Regional State Constitution (SRS 2002) on the “Establishment of the Elders’ and Clan Leaders’ Council” provides the constitutional basis for the establishment of the government-recognized elders’ council.¹³

Yet no corresponding proclamation enacting and implementing this constitutional provision has been decreed so far by the regional parliament. In the absence of a proclamation, the *guurti* elders’ terms of reference and the procedures for dismissing and (re)electing them remain open to interpretation. The minimum common denominator of what *guurti* elders’ tasks consist of has been summarized as “advising the administrators, serving as mediators between the government administrators and the local communities, controlling and resolving major conflicts among communities in the area, and monitoring emergency operation programs (such as food distribution)” (Donovan and Regasse 2001: 31). All sources agree that advising government officials in matters of peace and security represents the main task of a *guurti* elder. Other duties include “resolving problems or conflict between communities and the government,” to “act as a link between government and local communities,” and to “act as informers of the government and disseminate government policy.”¹⁴ The salaried elders even participate in politico-administrative evaluation sessions known as *gem gema* that act as an instrument to control and discipline government and party members at all administrative levels (see Aalen 2002 for Ethiopia, Haggmann 2005 for the Somali region). The fact that *guurti* elders are included in *gem gema* indicates the federal authorities’ strategy of counterbalancing regional and local administration in the Somali region with a government-controlled system of elders.

The opinions of Ethiopian Somalis as well as outsiders about the legitimacy and autonomy of the *guurti* elders vary greatly. Lister (2004), Abraham *et al.* (2000) and my own observations in the following section suggest that the setting up of the *guurti* as a parallel

pillar of governance within the Somali region has been quite effective in containing and resolving communal conflicts, especially those driven by competition over natural resources. The legitimacy of the *guurti* as a state-promoted customary institution is another story altogether. Elders have been criticized for “being in the pay of the government” and “being divorced from their communities they claimed to represent” (Lister 2004: 26). Gedi (2005: 60) mentions how some *guurti* elders have been given derogatory names such as “long-tongued impostor” (*afmiishaar*). One Ethiopian-Somali intellectual explained the lack of popular legitimacy of the *guurti* elders as follows:

The government on the basis of their loyalty to the government selects them. Then [a] major cleavage emerged between the existing elders and the newly established *guurti*. The government seeks the support of the *guurti* to have some propaganda of participating the civil society [*sic*], while it is the other elders who effectively control the clan men.¹⁵

Undoubtedly, the institutionalization of the *guurti* has exacerbated competition over community representation between “government elders” and “nongovernment elders” within the Somali region. Directly related to the contested legitimacy of the *guurti* is the question of their autonomy vis-à-vis the government and party structure. Lister (2004: 26–27) has illustrated how many government elders “openly worked” for the SPDP and were instrumental in campaigning for the ruling EPRDF-friendly party by exerting influence on communities’ voting habits. In view of the region’s neopatrimonial politics (Hagmann 2005), the assumption of elders that material and political benefits can only be obtained within the ruling party structure seems accurate.

“CUSTOMS IN ACTION”: ELDERS AS PEACEMAKERS

This section describes in detail the roles and actions of elders, *guurti* elders, and state officials in containing, settling, and resolving violent clan conflicts. Communal intergroup conflicts within the Somali region are recurrent and mostly undocumented. An exception is the 2004 compilation of casualty figures by regional *guurti* elders, who calculated a combined death toll of over seven hundred from different violent clan conflicts within eleven of the region’s districts (SRS 2004). The EPRDF’s propagation of decentralized administration within

Ethiopia resulted in the drawing up of districts and *kebeles* within the Somali region and their assignment to particular lineage groups and clans.¹⁶ Consequently, violent disputes motivated by territorial control rather than actual resource use have become prevalent since 1991 (see Shide 2005). Elders play a prominent role in mediating both nonviolent and violent disputes.

Conflicts between individuals are usually contained, adjudicated, and settled by the agnatic male relatives of the disputants. Resolving minor disputes usually does not require the involvement of a third clan elder. If a dispute cannot be settled amicably or if the parties to the conflict do not accept the ruling of their elders, they may bring their case before the courts (legal or *sharia*) in their respective district capital. In reality, litigants rarely refer to the formal justice system to settle disputes. This avoidance of the state's legal system can be illustrated by the following example: out of a total of two hundred and fifteen criminal cases (homicide, attempted murder, armed robbery) observed in 2002 in the Korahe zone of the Somali region, only six were dealt with by the courts (Seid and Jotte 2004: 12). The following description of successive steps of peacemaking by district *guurti* elders, other elders, district administration, and security forces is originally based on material I collected in the Harshin *woreda* of the Jijiga zone.

Due to the uncontrolled enclosure of land in Harshin, tensions over land ownership among the local Habr Awal (Isaaq) lineage groups and clans have repeatedly escalated into violent conflicts in the past one and a half decades claiming about 140 lives between 1991 and 2003. The conflict management procedure I describe on the basis of the Harshin case study has been confirmed for other parts of the Somali region, such as Qualafo district in Godey zone (author's field research 2004), and Donovan and Regasse (2001) report an identical sequence of conflict management for Dollo Ado district in Liban zone. Making peace in the Somali context involves consecutive phases, starting from the cessation of hostilities to the fulfillment of preconditions for negotiations, actual bargaining over the *diya* payment, the transfer of such payments, and the final act of reconciliation between the conflicting groups.¹⁷

Upon receiving information about a violent incident (shootings, killings etc.), the district administration and *guurti* elders mobilize all the security forces, including the district militia, police, and sometimes federal soldiers, and appropriate all locally available vehicles.¹⁸ Jointly they rush to the conflict site, sometimes carrying white flags. Time is of the essence, as tensions can quickly escalate into full-blown fighting if both parties to the conflict mobilize their clansmen. Upon

arrival at the conflict site, the intervention team positions itself between the two warring parties, who are told to retreat. The security forces are instructed to disarm the men from both sides and to confiscate their guns. At this point the fighters usually retreat, as they are afraid of losing their weapons. In an initial step to calm the situation, the district administration and *guurti* elders summon elders from the two fighting clans, who are warned that whoever violates the ceasefire or enters the “demilitarized” zone will be “dealt with” by the government. In cases where people have been killed, the district administration removes the perpetrator’s family from the conflict site in order to avoid direct contact between the relatives of perpetrator and victim. After physically separating the parties to the conflict and ending the immediate violence, the district administrators, in collaboration with the *guurti* elders, designate an odd number of elders (usually seven or nine) belonging to a third clan, for example, a lineage group that did not participate in the dispute.

The mandate of these mediating elders is to reach a negotiated agreement on *diya* payments between the disputing clans. These mediating elders include members of the *guurti* who belong genealogically to a third-party clan. One precondition for engaging in negotiations over the blood money is the identification and arrest of the killer(s) so that the victim’s clan members may refrain from revenge and instead engage in negotiations that will eventually make them forgive the perpetrator(s).¹⁹ District officials face the challenge of apprehending the killer(s) and the gun(s) that are requested by the aggrieved party. Often the local government is not in a position to catch the killer(s) by force as it lacks the coercive means (transport, police etc.) and military strength (being outnumbered by the fighting clans) to do so. Consequently, the district officials arrest close agnatic relatives, for instance the father(s) of the killer(s) in order to pressurize the relatives into handing over the perpetrator(s) to the mediating elders.

After apprehending the perpetrator, the mediating elders commence with the actual negotiations of the blood money. Each side chooses an equal number of elders to represent them, usually between five and ten. The negotiations take place between these three groups of elders: the mediating elders and the two groups of elders representing the parties to the conflict. Both sides present their complaints to the mediators in the presence of the other clan. The mediating elders then reach their final decisions in seclusion. Negotiation of the amount and timing of the *diya* lies at the centre of what Somalis consider “conflict resolution” in cases of interclan conflict. As a general rate, the homicide of a man is compensated with one hundred camels,

the homicide of a woman with fifty camels, and both can be compensated in cash of equivalent value.

The ratio of hundred: fifty camels constitutes the standard amount for *diya* in the Somali-inhabited territories (Lewis 1999). A number of other wrongdoings are partly or fully compensated with cash. People injured in fighting are entitled to obtain *diya*, and their case is included in the negotiations. The amount of *diya* depends on the gravity of the injuries as decided by elders knowledgeable in *sharia* law. Wounds are mostly compensated in cash, though often only half the total amount of *diya* provided for to compensate for wounds is paid to the victim. After the district administrators and *guurti* elders have brought open hostilities to a halt, the perpetrator's relatives have to hand over 1,500 ETB to the injured person(s) to cover expenses for medical treatment.²⁰

Special circumstances and motives of the killing are taken into account in determining the total amount of *diya*. Blood compensation can increase up to 150 or 180 camels if someone is killed unexpectedly (while sleeping or traveling) or in a very brutal and inhumane manner. Conversely, the amount of blood money will decrease if, for example, the two lineage groups involved had agreed in the past that less than 100 camels would suffice to compensate a murder. Existing contractual agreements between different lineage groups are taken into consideration in each negotiation. One can thus speak of a body of customary rules that are interpreted and reinterpreted through each new conflict and case of mediation. The camels and cash that comprise the *diya* are presented to the victim's *diya*-paying group. Approximately half of it is given to the next of kin of the victim and the other half distributed among the members of the entire *diya*-paying group.²¹ The major task of the mediating elders is to determine the time schedule and the amount of *diya* that is usually paid in three consecutive installments.

The first installment is known as *axan* (camel slaughtered at a funeral) and *kafan* (white garment used to cover the corpse before burial). For *axan* and *kafan* the killer presents his gun and three thousand ETB to the victim's clansmen, the latter being intended to cover the funeral expenses. It is only after *axan* and *kafan* have been paid that the amount of *diya* will be decided by the parties to the conflict and the mediators. Usually within five to twenty days, the second installment of blood compensation, known as *rafiso*, has to be given to the victim's immediate kin. In the case of the Habr Awal lineage groups inhabiting Harshin district, the *rafiso* currently consists of twenty to thirty young camels of less than five years of age and in good physical condition.²² Finally, the third and last installment of blood money,

called *mag dheer* (the long or tall *diya*), is paid within two to four months of reaching the original blood compensation agreement. The animals given as *mag dheer* are usually weaker and older than those paid for *rafiso*.

The mediating third-clan elders and district officials remain at the conflict site until the *rafiso* is completed. During this period, the killer's clan relatives have to provide food, including *qaad* (a mildly narcotic leaf), and accommodation to the elders and officials, expenses that are known as *siifad*. Although not formally part of the *diya*, they are indirectly part of the compensation, as the *siifad* often becomes a real financial burden for the killer's family. The *guurti* and mediating elders also determine the sanctions to be imposed in any case of non-compliance by the conflicting clans with the blood compensation agreement. Penalties take the form of financial sanctions in the range of five thousand to twenty thousand ETB. In cases of highly aggravated clan conflicts with numerous casualties, the mediating elders might encourage the victim's clan to accept a young girl from the killer's clan as part of the reconciliation process (*godob reeb*), in which case the total amount of *diya* to be paid will be reduced. Furthermore, the mediation between the clans is accompanied by prayers and, upon successful reconciliation, by the slaughtering of animals for joint consumption by the clan elders.

The mediating elders and district administrators document the conflict resolution process in two written agreements that bind the conflicting clans to the agreement reached. The first document relates to the decisions of the mediating elders' committee. It is addressed to the two disputing clans, and a copy of it is sent to the zonal administration. The letter briefly describes the conflict, lists the amount of and deadlines for the *diya* installments, and lays down a fine for non-compliance. It is signed by the mediating elders and three district officials. The second document spells out the agreement reached between the elders of the two disputing clans. In this letter, the parties to the conflict vow to accept the decision of the mediating elders that has been approved by the district administration. The disputants commit themselves to peace and accept the proposed fine. Finally, the document again lists the installments and conditions of the *diya* payments. This second document is signed by the elders of the two conflicting clans, who thereby consent to abide to the agreement reached by the mediators.

This portrayal of a sequence of joint peacemaking steps by the *guurti*, other elders, and local government officials does not imply that these steps are uncontested, evolve linearly, or always successful—the

contrary is the case. Often mediators and government officials are able to contain violence and to engage disputants in some kind of agreement on *diya* payment, usually by threatening a recourse to coercive state measures. However, such agreements do not automatically translate into implementation, and especially in protracted clan conflicts, *diya* remains unpaid and the local government is unable, and sometimes also unwilling, to resolve the conflict. Revenge killings during negotiations may considerably disturb the mediation process. Such killings indicate that some factions within the disputing lineage groups are more interested in direct confrontation than in settling the issue.

CONCLUSION

As the above description demonstrates, district authorities and elders closely collaborate in resolving local-level clan conflicts in Ethiopia's Somali region. The salaried *guurti* elders embody a vital link between the state and traditional forms of authority in a syncretic peacemaking approach that merges the *xeer* with state coercion and *diya* compensation with administrative sanctions. A key question is whether the recognition of traditional authorities and laws by the state "freezes" the customary system's inherent flexibility (Benda-Beckmann *et al.* 2003: 302). In other words, did the setting up of *guurti* in the Somali region "freeze" the authority of the elders, the *xeer*, and *diya*-based blood-compensation system?

The question is not easy to answer straightforwardly due to the inherent ambivalence of the *guurti* system. On the one hand, district officials codify the contractual agreements negotiated between the clan elders. However, the state does not record these agreements in an unchangeable manner, as only the conflict resolution outcomes, not the procedure itself, are codified. The key feature of the *xeer* is its common law character that provides for highly differentiated and contextualized legal solutions. Somalis perceive the *xeer* as legitimate not only because it provides material and political security, but also because it is constantly (re)negotiated to fit the demands of the parties and local circumstances. As long as the state documents and sanctions the *diya* modalities on a case-by-case basis, the flexibility and credibility of the *xeer* are maintained. The "freezing" and manipulation of the customary norms would only occur if the government were to universalize particular blood compensation agreements for the whole of the Somali region, irrespective of existing local inter- and intra-clan contracts, or if it were to impose the *guurti* elders as the exclusive mediators of clan conflicts.

Despite the setting up of the *guurti* and the important role they play in bridging the gap between the state and customary norms, the flexibility of the *xeer* has survived so far. This is undoubtedly because conflict resolution by blood compensation enjoys great legitimacy among Somalis, including those in Ethiopia. Seid and Jotte (2004: 33) rightly point out that the *xeer* “has a moral force, hence it is accepted by all the parties in most of the cases.” Thus, any elder who has knowledge of *xeer*, negotiation skills, and a record of being a neutral mediator will be respected, regardless of his relationship to the government. That said, peacemaking by elders and state officials is accompanied by a number of contradictions inherent in the amalgam of customary and state conflict resolution. One contradiction relates to the way in which the state rationalizes the incorporation of the *guurti* into local government. On the one hand, the *guurti* are rhetorically presented as traditional authorities representing “community,” not narrow genealogical interests. One of the official (s)election criteria to become a *guurti* elder is the lack of a “clannish” attitude. On the other hand, in practice elders are recognized by the government precisely because they personify the interests of their respective lineage groups or clans and because they are capable of mobilizing political support for government policy among their kin.

A second contradiction derives from the state’s tacit agreement to settle criminal cases such as homicides outside its formal justice system. Involuntarily, regional and local administrations undermine state sovereignty by not only tolerating, but also actively promoting the application of customary *xeer* to resolve clan conflicts. Although the Ethiopian federal constitution recognizes the adjudication of personal and family disputes on the basis of religious and customary law, criminal cases must be decided according to modern state law (FDRE 1995). However, in its Somali lowlands the Ethiopian state accepts the payment of blood money compensation negotiated by elders rather than individual punishment decided by its legal courts.

A third contradiction concerns the state’s self-proclaimed agenda of democratizing Ethiopian society by guaranteeing the civic rights of its citizens while at the same time implementing customary norms that exclude participation by different social groups. In Somali custom, its interpretation and application, women and minority groups such as occupational castes (blacksmiths, leather-tanners etc.) are excluded from decision making. The ultimate reason why the Ethiopian state agrees partly to replace its constitutional norms with Somali customary rules is its feeble legitimacy and very limited performance in terms of service delivery in the Somali region. Although the state is

compromising its sovereignty by delegating some conflict-resolution and security functions to customary authorities such as the *guurti* and other clan elders, it is able to guarantee basic political stability within its troubled semi-arid lowlands.

ENDNOTES

This article was prepared with the support of the Swiss National Centre of Competence in Research North-South (NCCR North-South). I am indebted to my research assistants, Dr Ahmed Mohamed (2003) and Abdillahi A. Dakane (2004), for translating interviews, and the Pastoral Development Coordination Office of the Somali Regional State for permission to conduct the research. I would also like to thank Lars Buur, Nathalie Gasser, and Markus Höhne for their comments on an earlier draft of this paper.

1. Conflict settlement is defined as “outcome-oriented strategies for achieving sustainable win-win solutions and/or putting an end to ‘direct violence’” (Reimann 2001), while conflict resolution refers to “a process that transforms conflicts in an enduring manner rather than settling disputes . . . by addressing basic human needs and building . . . relationships” (Fisher 1997: 268–69). I use the geographical terms “Somali region” and “Ogaden” interchangeably. To distinguish Ogaden as a geographical area from the clan, I use the Somali spelling Ogaadeen to refer to the latter.
2. The term *guurti* (council of elders) projects a symbolically more powerful image than *lataliye* (advisor). While the first refers to wise and honored elders, the latter implies that the actions of these elders are conditional on government endorsement.
3. Interviews with elders and local government officials concentrated on resource use and the management of violent conflicts over land and water. Informal focus group discussions were held in a number of “teashops.” More sensitive information pertaining to clan politics, intra-clan conflict, and conflict resolution procedures was collected through longer, open-ended conversations with elders and district administrators. These intense discussions usually involved the consumption of tea and *qaad*, a mildly narcotic leaf mostly chewed by Somali men. The overwhelming majority of the interviews were conducted with middle-aged and older men, many of whom occupy a comparatively higher social status within their community. Due to culturally prescribed roles, access to and interaction with female Somalis is very difficult for male researchers.
4. Lewis’ (1999) seminal study has greatly influenced the perception of Somali society as an egalitarian social body in which feud and violence are but a functional expression of segmentary kinship.
5. Although a difference exists between titled (such as *boqor*, *garad*, *sultan*, *ugas*, or *isimo*) and untitled elders, the legitimacy of an individual elder is

not primarily determined by this factor. See Höhne's contribution in this volume.

6. For a comprehensive discussion, see Lewis (1999). A more summary account of *xeer* is found in Menkhaus (2000).
7. A title given to elders by the Siyaad Barre government in an attempt to depoliticize their role.
8. A reference to Evans, Rueschemeyer, and Skocpol (1985).
9. The ruling SPDP had been established in 1998 as the successor to the Ethiopian Somali Democratic League (ESDL), which by 1998 was in a state of paralysis as a result of infighting and the imprisonment of some of its members on corruption charges. The outbreak of the Ethiopian-Eritrean border war (1998–2000) provides another explanation for the federal government's delay in establishing the *guurti* in Somali region.
10. I deliberately use the ambiguous term "(s)election" to refer to the nomination of the *guurti* elders. Several key informants used the term "selection" to describe the nomination of these elders, as well as candidates of the ruling SPDP.
11. The Ministry of Federal Affairs (MoFedA) is the central organ of the central government, responsible for overseeing politics, pastoral development, and security in Ethiopia's "peripheral regions." Its representatives maintain regular contacts with the region's leadership. See Samatar (2004); Hagmann (2005).
12. At the time of writing (2005), US\$1 is exchanged for almost nine ETB.
13. "The State Council shall, in accordance with this constitution, establishes [*sic*] elders' and clan leaders' Council. Particulars shall be determined by law" (Art. 56).
14. Interview with former zonal administrator, Jijiga, July 14, 2003.
15. Personal communication, October 21, 2004.
16. *Kebeles* are the lowest administrative level in Ethiopia with a nominal existence in the sparsely inhabited pastoral lowlands.
17. For comparative purposes, I refer to Ahmed (2001: 7–8) for an account of the successive phases and peacemaking modalities of Somaliland's major post-1991 peace conferences, in which elders played a key role.
18. The Ethiopian National Defense Force (ENDF) has military camps in all of the region's district capitals and reports directly to the federal government. Since the mid-1990s the federal army has been engaged in counter-insurgency operations against ONLF rebels. It only intervenes in cases of major clan conflicts that are perceived to threaten the security and power balance of the region.
19. According to a strict interpretation of *sharia* law, the victim's relatives have the moral right to kill the offender. This norm receives little acceptance among pastoralist Somalis, as it provides no material benefits for the victim's relatives.
20. Medical expenses are later deducted from the total blood compensation to be paid.

21. The division of the compensation between the victim's immediate family and his *diyya*-paying group also varies. For a different form of division, see Lewis (1999: 172).
22. Numerous variations apply in the determination of the age and condition of the livestock paid for compensation. For the Ogaadeen clans inhabiting Godey zone, the *rafiso* and *mag dheer* consist of camels of four years of age.

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