

Role of International Aid and Open Trade Policies in Rebuilding the Somali State*

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I. Introduction

Since its formation in 1960 from the union of British Somaliland and Italian Somaliland, the Somali Republic was always dependent on foreign aid to balance its operations and development budgets. In each of the three years after independence, the Republic financed 31 percent of its budget with grants from its former colonizers: Britain and Italy.¹ General Mohamed Siad Barre's socialist military regime of 1969–1991 heavily depended on financial and technical support from the U.S.S.R. until disagreement about the 1977–78 war between Somalia and Ethiopia disrupted the relationship. Due to Somalia's strategic location and the Cold War, Siad Barre was able to replace the financial loss caused by the departure of the U.S.S.R. with aid from the United States, Saudi Arabia, and countries in Western Europe.

The 1977–78 war and its aftermath caused the displacement of a large number of Somali-Ethiopians who sought refuge in Somalia. Siad Barre's regime received massive humanitarian support to resettle the displaced people in refugee camps in Somalia. However, most of the food was diverted to supplement the income of Somali soldiers or was used to fuel the Western Somali Liberation Front's war against Ethiopia.² Siad Barre also received financial and military support from the U.S. and other countries in the West to repel armed and largely clan-based movements against his regime. By 1990, just before it fell, Siad Barre's government was getting annual financial support of \$100 million (second only to Egypt and Israel) from the U.S.³

When the regime fell in 1991, the clan-based rebel groups took control of the majority of the regions in the country and civil conflict erupted. Bi-lateral aid dried up, but humanitarian aid still continued, albeit in an inconsistent and uncoordinated manner. The United Nations and the U.S. both intervened in Somalia in 1992, presumably to facilitate the delivery of food to starving Somalis. Due to significant casualties, however, both withdrew by 1995. Since then, the international community has only haphazardly and without coordinated or well-thought-out plans intervened in Somalia.⁴

Lately, the U.S. and European Union countries have taken a more active role, fearing that Somalia has become a safe haven for terrorists. The U.S. also links the current powerful group al-Shabaab to al-Qaeda.⁵ A Transitional Federal Government (TFG) was set up in 2004, and since then has been struggling to keep any sort of power, even over most of Mogadishu. It controls parts of the capital, with al-Shabaab largely controlling Southern Somalia. Conditions are not improving due to insecurity, the difficulty of humanitarian aid reaching those in need, and/or mismanagement and serious corruption.⁶ Still, United Nations agencies and national humanitarian actors report annual humanitarian and development budgets for Somalia.

This article discusses the nature of foreign aid to Somalia and the efficacy and transparency issues that surround it. Emphasis is placed on the aid that currently enters the country. The essay concludes that foreign aid has *not* achieved its stated objectives and suggests that an aid paradigm shift is necessary. It argues that a program that includes the development of the rule of law, property rights, and legal empowerment of the poor would yield better results than traditional approaches to aid provision for development. If supplemented with foreign and domestic policies conducive to trade, these measures could improve the tax base of any reconstructive government.

II. Rationale and Sources of Current Foreign Aid to Somalia

In 2011, for the fourth year, Somalia is judged as the most acutely failed state in the world.⁷ A failed state is a country characterized by poverty, insecurity, and a disregard for human rights. In introducing this year's current ranking, *Foreign Policy* wrote, "Somalia's unending woes are the stuff hopelessness is made of." The purchasing power parity adjusted Gross Domestic Product (GDP) of Somalia is \$5.4 billion, or a per capita income of \$600, given its population of nine million.⁸ Somalia ranks at the bottom of the community of nations regardless of which index is

Table 1. Aid to Somalia in 2009 and 2010

| Source | 2009 | 2010 | Reference |
|----------------|---------------|----------------------------------|----------------|
| UNDP | \$ 48,767,208 | \$49,534,540 | (UNDP, n.d.) |
| UNICEF Somalia | \$ 79,000,000 | Not yet available | (UNICEF, n.d.) |
| USAID Somalia | \$411,186,000 | \$133,820,000 (only preliminary) | (USAID, n.d.) |
| WFP | \$482,529,259 | \$651,000,000 (Budget) | (WFP, n.d.) |

used. Only 39 percent of the population can read and write;⁹ life expectancy is merely 50 years;¹⁰ and the infant mortality rate is 110 per 1,000 births.¹¹ Furthermore, only 29 percent of the population has access to clean drinking water and only 30 percent of children are enrolled in primary schools.¹²

In both 2009 and 2010, more than 3.2 million people of the nation's nine million people required humanitarian aid.¹³ Since 1991, when the government of Siad Barre fell, more than 360,000 people have been killed, many by violence-created famine.¹⁴ The misery continues into the present. In June 2010 alone, intensified fighting between the TFG and its supporters (including 8,000 AMISON soldiers) on one side and al-Shabaab and its supporters on the other killed more than 100 people and displaced more than 270,000, causing the number of internally displaced persons (IDPs) to reach 1.5 million.¹⁵ Given these statistics, it is difficult to quarrel with the need for both humanitarian and development aid to Somalia. As a result, for the last decade, the annual aid, including humanitarian, that was supposed to reach Somalia was in the hundreds of millions of U.S. dollars. Yet the main questions are: Was the aid effective and was it transparent?

Foreign aid to Somalia from major sources, such as the UNDP, UNICEF, USAID, and WFP, amounted to more than \$1 billion in 2009 and over \$800 million in 2010, as shown in Table 1.

The stated objectives of UNDP for such aid include reducing poverty and civil wars and improving peace and security. UNICEF-Somalia focuses on communication for development; youth as agents of change; protecting children from violence, abuse, exploitation, and discrimination; and HIV/AIDS awareness, prevention, and control. In 2010, UNICEF had 210 staff working with Somalia, 50 in Nairobi and the rest in Somalia. But UNICEF-Somalia is physically located in Nairobi, Kenya. USAID Somalia focuses on fostering conditions for sustainable peace, improving delivery of social services, and meeting humanitarian needs. The World Food Programme (WFP) has similar objectives to USAID.

UNDP works with other U.N. agencies in Somalia to carry out three main programs: Governance, Rule of Law and Society, and Recovery and Sustainable Livelihoods.¹⁶ UNDP states that it uses its budget for Somalia to build governance programs that help central governments perform essential functions, such as rebuilding infrastructure, financial management, and budget development. It also carries on programs to strengthen law and justice to deal with violence and community safety, as well as education programs that foster gender equality and improve maternal health. Both UNICEF and UNDP indicate that they help reduce poverty and hunger. They try to improve water and sanitation as well.¹⁷ However, since these organizations are based in Nairobi, Kenya, there is no guarantee that the amounts allocated to these programs reach their destinations.

The organizations themselves are documenting the difficulties they face in delivering the aid. The biggest problem is the security of their humanitarian aid workers. Aid agencies complain of bandits and militias that target aid workers, loot aid, and carjack vehicles. In early 2010, WFP had to suspend aid to parts of the southern regions of Somalia due to insecurity and demands from armed groups.¹⁸ In 2010, 625,000 persons in al-Shabaab-held areas required aid. Aid agencies say that, in general, these al-Shabaab-controlled regions are some of the most dangerous places for humanitarian workers.¹⁹

Another obstacle to providing aid is the recent increase in piracy. Some countries, the U.S. in particular, are hesitant to provide aid due to recent links between al-Shabaab and al-Qaeda.²⁰ The U.S. is concerned that aid is being diverted to al-Shabaab. Yet even if aid was able to reach its destination, there is no unanimity that it is good for Somalia (or for that matter any other recipient country).

III. Efficacy of Foreign Aid to Somalia

Foreign aid is supposed to transfer resources and know-how from richer countries in order to accelerate social and economic development in poorer countries like Somalia. Unfortunately, foreign aid to Somalia has not produced the expected results. The reasons range from lack of congruency between the objectives of the donors and those of successive Somali governments to a disabling incompetence of those carrying out the projects. In general, the successive governments of Somalia instituted economic policies that could not respond to economic shocks and crises, and as a result could not foster eco-

conomic growth.²¹ Somalia's economic history is replete with misdirected and ineffective economic strategic initiatives by the colonial, post-independence, socialist, and IMF-led regimes.²² In addition to the mismatch between the market and the incentives set by the governments of General Mohamed Siad Barre from 1969–1991, the failure was compounded by conditional loans by the West and the IMF.²³ Most of the time, aid funds were spent on products or services in donor countries rather than making the purchases locally in Somalia for much less cost. Therefore, Somalis have not seen the creation of wealth and development that were expected to follow the provision of foreign aid.

A case in point is that Somalia was self-sufficient in food production before the late 1970s when food aid started in earnest after a flood of refugees arrived from Ethiopia in the aftermath of the 1977–78 war between Somalia and Ethiopia.²⁴ By 1984, 63 percent of the food consumed in Somalia was imported, a complete reversal of the situation at independence in 1960 and during the first decade after independence.²⁵ As a result of the massive food aid that arrived with the refugees, grain prices fell dramatically to such a level that local farmers could not cover their costs, thus reducing incentives for domestic production.²⁶

Perhaps the most devastating consequences of food aid to Somalia were the corruption, mismanagement, and lack of accountability and transparency that it fostered.²⁷ Michael Maren, who went to Somalia as a food monitor for USAID in 1981, was taken aback by the level of corruption in food aid distribution. As documented in his book *Road to Hell*, he found that two-thirds of the aid was stolen by the military right from the docks in Mogadishu or from the refugee camps. The reported number of refugees was also inflated in order to receive more aid. But he also found that relief organizations were not concerned at all about whether the food was going to the victims because their primary goal was to remain financially solvent.

Look forward almost four decades and the military government of Somalia is no more, but both food aid and non-food aid have accelerated, and the problems still remain. In addition, the use of food and non-food aid by donors for strategic interest continues. The U.S. is one of the major donors of aid to Somalia, but it seems that the aid is now guided more by the strategic concerns to reduce piracy and terrorism rather than development or humanitarian objectives.²⁸ As Table 2 shows, in 2008, humanitarian assistance accounted for 95 percent of total aid by USAID, while peace and security comprised only 1.2 percent. In 2009, peace and security accounted for 64 percent, while

Table 2. USAID: Fiscal Years 2008–11, by Objective, in Millions of Dollars

| | FY 2008 Total | FY 2009 Total | FY 2010 Estimate | FY 2011 Request |
|---|------------------|------------------|---------------------|--------------------|
| TOTAL | 262.832 | 411.186 | 133.820 | 84.958 |
| 1 Peace and Security | 3.035 | 262.658 | 113.000 | 65.590 |
| 1.1 Counter-Terrorism | — | 2.000 | — | — |
| 1.3 Stabilization Operations and Security Sector Reform | 3.035 | 247.600 | 104.000 | 57.590 |
| 1.6 Conflict Mitigation and Reconciliation | — | 13.058 | 9.000 | 8.000 |
| 2 Governing Justly and Democratically | 1.914 | 8.687 | 11.270 | 8.550 |
| 2.1 Rule of Law and Human Rights | — | — | 0.500 | — |
| 2.2 Good Governance | 1.514 | 3.977 | 5.220 | 4.000 |
| 2.3 Political Competition and Consensus-Building | 0.400 | 3.710 | 4.550 | 3.550 |
| 2.4 Civil Society | — | 1.000 | 1.000 | 1.000 |
| 3 Investing in People | 9.253 | 9.055 | 6.550 | 6.550 |
| 3.1 Health | 2.748 | 2.550 | 1.550 | 1.550 |
| 3.1.6 Maternal and Child Health | 0.248 | 1.550 | 1.550 | 1.550 |
| 3.1.8 Water Supply and Sanitation | 2.500 | 1.000 | — | — |
| 3.2 Education | 6.505 | 6.505 | 5.000 | 5.000 |
| 3.2.1 Basic Education | 6.505 | 6.505 | 5.000 | 5.000 |
| 4 Economic Growth | — | — | 3.000 | 4.268 |
| 4.6 Private Sector Competitiveness | — | — | 3.000 | 4.268 |
| 5 Humanitarian Assistance | 248.630 | 130.786 | TBD | TBD |
| 5.1 Protection, Assistance and Solutions | 248.630 | 130.786 | TBD | TBD |

USAID Website

humanitarian assistance accounted for 32 percent. The statistics for 2010 were not complete at the time of this writing (June 2011). However, out of \$133 million budgeted by USAID for Somalia in fiscal year 2010, \$113 million, or 85%, is allocated for peace and security. In fiscal year 2011, the data is still spotty, but the comparable figure is 77 percent allocated for peace and security. Development seems to have been quite ignored. Humanitarian assistance is also waning, and not as a result of improvement in the food situation.

Since the Transitional Federal Government, supported by the U.S., is trying to repel attacks from al-Shabaab, which is considered by the U.S. to be a terrorist group, one may understand the strategic shift in aid to Somalia. But Somalis seem to be disappointed with the pervasive ineptitude of the current Somali government. Learned and informed Somalis with whom I have discussed this situation are by-and-large in agreement that humanitarian and development aid should not be sacrificed for security support to the TFG, which seems to have neither the will nor the means to fight al-Shabaab. These Somalis would like to see

a large portion of the development aid going to more stable parts of Somalia like Somaliland and Puntland, while providing more humanitarian aid to the southern parts of Somalia.

Other critics of the U.S. and U.N. aid to Somalia base their conclusions on the aid's general effect on Africa²⁹ and the failure of the \$50 billion per year that currently goes to Africa to help improve the standard of living. George Ayittey believes that the U.S. and U.N. initiatives are unlikely to help because they are not *African* solutions. Dambisa Moyo argues that in the past sixty years, more than one trillion dollars have been transferred to Africa, but the lives of those living there have not improved. In fact, poverty levels have gone up and growth rates have gone down. Countries are trapped in a cycle of dependency, corruption, market distortion, and further poverty.³⁰ Matthew Jallow contends that foreign aid mostly benefits the ruling elites and enables corrupt governments. The majority of the funding does not reach the intended groups. Jallow cites a study in Uganda, which found that of money designated for schools, only 30 percent reached them. Jallow also uses the World Bank finding in Somalia in 1998 that concluded that aid undermined civil society because people became dependent on foreign food, which depressed local prices and reduced the incentive to grow food. These critics also argue that foreign aid is dictated by strategic and political goals. Other critics recommend cutting off humanitarian aid to Somalia and fighting terror.³¹ Chris Harnisch argues that humanitarian aid only strengthens terrorist groups that oppress the people.

IV. Can the Situation be Rectified?

Most of the foreign aid that Somalia currently receives is in the form of humanitarian aid. In 2010, aid agencies asked for \$669 million to help feed and shelter 3.2 million Somalis who depended on them. However, some of the supporters of aid to Somalia are bothered by the fact that these foreign aid agencies are now located in Nairobi. This not only increases overhead costs, thus reducing the amount that ultimately reaches Somalia, but it also inhibits the transparency of the delivery system.

A. Should Aid Agencies be Moved to Somalia?

Aid agencies contend that locating in Nairobi was never their first choice. They are in Nairobi for the safety of their international workers.

In early 2010, the World Food Programme had to suspend operations in Southern Somalia due to insecurity in the region.³² Al-Shabaab also banned the World Food Programme after receiving complaints from local farmers about the impact of food aid on their ability to earn a livelihood.³³ A recent conference on Somalia in Istanbul, Turkey, concluded that the environment in Somalia is very volatile and unpredictable and there is a shortage of humanitarian funding.³⁴

In a typical year, there are about 1,500 aid workers for Somalia with over half located in Nairobi.³⁵ Somalis deliver the majority of the aid because the situation is deemed too dangerous for international workers. Local and international staff are targets of killings and kidnappings. Unlike in Iraq and Afghanistan, where private security is used, aid budgets for Somalia are not large enough to incorporate foreign private security protection so any protection is provided by the local area.³⁶

The Somali government has been asking aid agencies to relocate back to Mogadishu from Nairobi since 2010.³⁷ Somalia's Humanitarian Affairs Minister at the time, Mohammad Abdi Ibrahim, asked agencies to relocate, arguing that they would be better able to provide help from where it is needed, which is Mogadishu. Analysts believe that the relocation alone would raise hope and increase the employment of Somalis, thus improving economic activity and decreasing the response time to emergencies.³⁸ The pressure to move to Mogadishu also came from the former U.N. Secretary-General's Special Representative for Somalia, Ambassador Amadou Ould-Abdallah, in early 2010. He argued that Somalia is not a hopeless case and peace should be relatively easy to achieve.³⁹ He reasoned that to achieve peace, democratic and humanitarian efforts must move inside Mogadishu and provide the TFG with tangible assistance.

Michael Michalski from Doctors Without Borders, who worked in the Galgaduud region of Somalia (an area that has been off limits to the U.N. for years), wrote in 2007 that he has seen first-hand the benefits of providing aid from within Somalia and believes that it needs to be done by all agencies.⁴⁰ In many ways the situation of Somalia in 2007 was even more dangerous than it is now. Michalski asserted that humanitarian aid administered from afar breeds a lack of accountability, which causes the community to be suspicious.

It seems that all those who opine on whether aid agencies should move inside Somalia agree in principle on the desirability of donor agencies setting up shop in Mogadishu. The disagreement is on

whether any authority operating in Somalia—including the TFG, the U.N., and local administrations—can guarantee a normal level of security. Even if the security situation improves, it would be difficult to convince the employees and heads of those aid agencies to abandon the fairly comfortable life that they have in Nairobi. Furthermore, the TFG does not have much bargaining power to demand such a move. Therefore, it is unlikely that the agencies will move unless a credible Somali government is set up in Mogadishu. But even if the aid agencies can be convinced to relocate to Mogadishu, that does not eliminate the corruption and lack of transparency of which both aid officials and Somali officials have been accused.

B. Should Funds Go Directly to the TFG?

There are arguments that aid funds should go to the Somali Transitional Government directly. Wafula Wamunyinyi, the deputy special representative for the African Union Commission for Somalia, argued in April 2010 that the government of Somalia did not receive enough funding to achieve its objectives. He contended that the TFG has restored sufficient state institutions and accountability, and that its administration can now handle more funds directly.⁴¹ Others also believe that more accountability can be found through programs such as the PricewaterhouseCoopers (PwC) contract that the government entered into in 2009.

The contract stipulates that PwC checks ministers' spending plans before they are given the money and follows up to ensure it is spent transparently.⁴² PwC planned that a staff of about twenty will be located in Nairobi and operate in and out of Somalia. Will this contract prevent money from going into the pockets of corrupt officials and promote more direct funding to Somalia?

The funds that PwC contracted to track include millions pledged for health care, education, and security.⁴³ PwC promised that it would set up a money tracking system so that the government would be able to take control of its own financial institutions in the long run. However, PwC did not explain how they were going to accomplish this goal. PwC Kenya has over 250 employees in the Nairobi and Mombasa offices.⁴⁴ The contract stipulated that, while PwC Kenya staff would go to Mogadishu occasionally, the only people permanently located in Mogadishu would be local agents that deliver small cash payments and record them in electronic ledgers.⁴⁵ To make sure that money is being

transferred properly, the local staff must obtain receipts and signatures from the people involved. This would then form the basis for reports that would go to donors every fifteen days.⁴⁶ This was designed to reassure donors who pledged money for TFG operations but who were slow to release it due to the perception of corruption.⁴⁷ For its trouble, PwC would receive a commission of 2–4 percent of all funds that reach the intended destination.

PwC is the largest accounting firm in the world, with yearly average revenue of over \$20 billion. It operates in 148 countries and has the most experience in international financial affairs among the Big Four accounting firms (the others being Deloitte, Ernst & Young, and KPMG). PwC gained additional experience when it was hired to help the U.N. track aid for the tsunami victims.⁴⁸

The PwC Kenya office won the Financial Consultancy of the Year Award in 2008, conferred by the African Investor Investment Awards. PwC International was selected as the 10th most admired knowledge enterprise in the world, ahead of other accounting firms.⁴⁹ However, PwC also endured its share of scandals around the world. PwC was involved in the well-publicized Tyco Scandal, in which former Tyco chief executive L. Dennis Kozlowski and former chief financial officer Mark H. Swartz were found to have defrauded investors of \$600 million and were sentenced to prison terms of 8 to 25 years. In an out-of-court settlement in July 2007, PwC agreed to pay \$225 million to Tyco investors for its failure to catch the fraud.⁵⁰ Shareholders stated that, as the independent auditor, PwC should have detected the fraud, because Tyco overstated its income by 5.8 billion from 1999 to 2002.

PwC was also involved in the ChuoAoyama scandal.⁵¹ ChuoAoyama PwC, one of Japan's largest accounting firms, was ordered in 2006 to stop providing audits to its largest clients for two months (from July to August 2006). The firm certified false earnings for cosmetics giant Kanebo, which falsified financial statements for several years. PwC was also implicated in the PwC Satyam audit scandal in India.⁵² Known as India's Enron, investors demanded to know how PwC missed the one billion dollar fraud at Satyam, an IT outsourcing company. A reported one billion dollar cash pile was only 78 million and the auditors should have detected it if they had run a check on the group's bank accounts.

The upshot of this discussion is that the hiring of an international accounting firm may contribute to the overall credibility of the government's financial reports but it cannot rule out fraud and corruption. By definition, international accounting rules, promulgated mostly for

profit-making entities, are not designed to replace internal homegrown control systems. And it certainly cannot replace the role of leaders to set an ethical tone. There is a close connection between corruption and the ethical mettle set by leaders of government. If the higher echelons of the TFG and regional administrations demonstrated competency, ethics, and integrity, then other leaders and their staffs would be more likely to uphold those values. In Somalia, the efforts expended by top leaders just to survive and keep their jobs has outweighed all other efforts, including setting standards for ethical behaviour.

V. Paradigm Shift in Development Aid

A. Emphasis on the Rule of Law

It would be cruel, at this junction in the history of the Somali people, for anyone to recommend cutting off the humanitarian support that 3.2 million Somalis (36% of the population) depend on for their livelihood. It would also not be practical to suggest that the money spent on peace and security be eliminated in this era of piracy and al-Shabaab. Yet, it must be acknowledged that aid, as it has been administered so far, has failed to reduce poverty or cause a growth in wealth. It has been argued that part of the failure was due to a constant change of priorities.⁵³ For example, in the 1960s, aid was supposed to help industrialization; in the 1970s, it had a poverty agenda; in the 1980s, it was to help in stabilization and liberalization of the economy; in the 1990s, aid was supposed to help governance; and the 2000s saw what Dambisa Moyo calls “rise of glamour” aid.⁵⁴ In this article, however, I suggest another paradigm change. This time, I proffer that aid to countries like Somalia should have a legal empowerment objective. In order to reduce poverty, the poor must be legally empowered.

My suggestions follow the recommendations of the Commission on Legal Empowerment of the Poor that was set up in 2005 by the United Nations. The commission was co-chaired by Madeleine K. Albright, former U.S. Secretary of State, and Hernando De Soto, President of the Institute for Liberty and Democracy, headquartered in Lima, Peru. It included such notable members as Lloyd Axworthy, former Minister of Foreign Affairs for Canada; Benjamin Mkapa, former President of the United Republic of Tanzania; Mary Robinson, former President of Ireland and former High Commissioner for Human Rights; Lawrence

Summers, former U.S. Secretary of Treasury; and Ernesto Zedillo, former President of Mexico. It released its recommendations in 2008.⁵⁵

The United Nations, through the Millennium Declaration of 2000 and the associated Millennium Development Goals (MDG), has agreed to cut extreme poverty in half worldwide by the year 2015. Not addressed explicitly in the MDG is that the vast majority of the world's poor, like Somalis, live their daily lives in what is often referred to as the *informal* or *extralegal* sector that is often excluded from the benefits of a legal order. Poor women and men generally lack effective legal protection or recognition of their economic assets and transactions.⁵⁶ The poor in Somalia live in an environment characterized by insecurity and constrained opportunities for participating in and benefiting from economic development. Any government installed in Somalia right now will face lower growth, less revenues, and less room for investing in health, education, and infrastructure, as well as perhaps more instability and armed conflict. In line with the legal empowerment commission's recommendations, it is argued that a central question in poverty reduction should be how best to unlock the potential of local assets, entrepreneurship, and institution building. One of the main impediments to development in Somalia, as in other developing countries, and a main source of poverty is a lack of capital.

Somali's poor possess far more capital than anybody has ever understood, but that capital is "dead" in the sense that it does not produce additional capital. There are very few legally enforceable economic transactions based on property rights because there are no addresses attached to these assets. Somalia's economy is almost exclusively extra-legal. In the few parts of Somalia where law exists to some extent, the citizens do not trust the law or the government that enforces it. The extra-legal capital in Somalia is estimated to be about 200 percent of GDP, or \$12 billion. Like the situation in other developing countries, extra-legality has always been the norm in Somalia and has accelerated since the collapse of the formal system in 1991.⁵⁷

Many Somali citizens are entrepreneurs who do not think that they can benefit from the law due to entry and operational costs. The best remedy is to reform the law and bring in a more "citizen-friendly" law.⁵⁸ These laws should be crafted with the help of the citizens; the common people can identify what the problems are. Official law should be aligned with how people actually live and work. Concerns are primarily about how to gain legal access to property (real estate or business) and how to leverage it. If government does not protect the

common people's property, it surrenders the function to "vigilantes" and clan militias who seek the community's allegiance. More importantly, as Hernando De Soto puts it, "Without a legal property system, efforts to create a sustainable market economy are doomed to fail."⁵⁹ A property rights system should be a component of any well-integrated legal empowerment project.

For a legal empowerment project to work, the committee put forth three main concepts. First, certain general conditions must be created. The identity of the person as a citizen, as an asset holder, and as a worker or a businessperson must be documented. The citizen must also be given a voice through information and education as well as through organizations and representation. Second, pillars of legal empowerment must be set up. A system of rule to which all citizens have access should be built. The principles enshrined in the law should include property rights, labor rights, and business rights. Third, there should be systemic change that leads to legal empowerment. For any system, change leading to legal empowerment must be focused on access to justice, assets, decent work, and markets. It must also be able to provide protection and opportunity.

As the committee also suggested, legal empowerment may in fact be smart politics and good economics. The decay and ultimate collapse of Somalia's governance system led to politics gravitating to informal channels. Giving identity, voice, and representation to the poor may lead to justice for all, while property rights may lead to functioning markets, which may increase the productivity of assets.

Reviving the Somali economy requires building effective institutions. Property rights make transactions easier and cheaper. They also make contracts enforceable. This may lead to the appearance of financial institutions like credit and insurance entities. Momentum should come from citizens and grassroots organizations. In the end, reforms should be based on local needs and conditions. Legal empowerment must travel bottom-up. Powerful actors, including religious groups, must be won over. There are no off-the-shelf blueprints for implementation. However, for this important paradigm change to occur, political leadership is imperative. The government has to be run by presidents and prime ministers in cooperation with ministers of finance, justice, and labor—not by individual ministers.

B. Strengthening Regional Ties and Instituting Open Trade Policies

Somalia's immediate neighbors are Kenya to the southwest, Ethiopia to the west, and Djibouti to the northwest. Both Yemen and Saudi Arabia are also accessible by sea. Thus, in essence, Somalia's closest trading neighbors are Ethiopia, Kenya, Djibouti, Yemen and Saudi Arabia. However, according to the CIA World Factbook for 2009, Somalia's top three import partners were Djibouti (\$233.6 million), India (\$95.2 million), and Kenya (\$60.8 million), while the top three export partners were the United Arab Emirates (\$168.6 million), Yemen (\$63 million), and Saudi Arabia (\$10.8 million).⁶⁰ These statistics, however, do not capture the large informal trade that takes place between Somalia and neighboring countries like Ethiopia and Kenya. It is estimated that Somalis consume about \$200 million dollars annually in *qat* imported from Kenya and Ethiopia.

As Uganda and Eritrea were so involved in the Somali conflict lately, it could be instructive to include them in the list of Somalia's political neighbors. The total population of Djibouti, Ethiopia, Kenya, Somalia, and Uganda is over 160 million in an area of 2,750,000 square kilometers.⁶¹ The potential gains from trade between Somalia and its neighbors could be huge, yet their Gross Domestic Product (GDP) per capita are at the bottom of the world GDP rankings (Djibouti: \$2,800; Ethiopia \$900; Kenya: \$1,500; Somalia: \$600; and Uganda: \$1,200). Trade among these countries is hampered by the political instability in Somalia and the hot conflicts between Ethiopia and Eritrea and between Djibouti and Eritrea. Proxy wars among Somalia's neighbors contribute immensely to the continuation of Somalia's political instability. At the moment, the combined GDP of these countries is about \$110 billion, less than half of the tiny trading nation of the United Arab Emirates (\$230 billion) with a population of 4.2 million and an area of 84,000 square kilometers. Except for Kenya, the inhabitants of these countries live in abject poverty. They are members of the 49 Least Developed Countries (LDC) in the world. (See Table 3.) Yemen, Somalia's neighbor on the other side of the Red Sea, is also on that LDC list. But as Table 3 shows, most of these countries are not landlocked and should have benefited from trade with the outside world.

Given the relative availability of natural resources in these countries and the strategic geographical location of the region with its access to the Red Sea, the Gulf of Aden, and the Indian Ocean, it is unfathomable that the population in this region is as poor, if not poorer, than that in

Table 3. List of the Least Developed Countries in the World⁶²

| Countries in the three continents of Africa, Asia and Latin America and the Caribbean | | |
|---|---|---|
| Africa (33) | | |
| 1 Angola | 2 Benin | 3 Burkina Faso [#] |
| 4 Burundi [#] | 5 Central African Republic [#] | 6 Chad [#] |
| 7 Comoros [*] | 8 Democratic Republic of the Congo | 9 Djibouti (\$2,800) |
| 10 Equatorial Guinea | 11 Eritrea (\$700) | 12 Ethiopia (\$900) [#] |
| 13 Gambia | 14 Guinea | 15 Guinea-Bissau [*] |
| 16 Lesotho [#] | 17 Liberia | 18 Madagascar |
| 19 Malawi [#] | 20 Mali [#] | 21 Mauritania |
| 22 Mozambique | 23 Niger [#] | 24 Rwanda (\$1,300) [#] |
| 25 São Tomé and Príncipe [*] | 26 Senegal | 27 Sierra Leone |
| 28 Somalia (\$600) | 29 Sudan | 30 Togo |
| 31 Uganda [#] | 32 United Republic of Tanzania | 33 Zambia [#] |
| Asia (15) | | |
| 1 Afghanistan [#] | 2 Bangladesh | 3 Bhutan [#] |
| 4 Cambodia | 5 Kiribati [*] | 6 Lao People's Democratic Republic [#] |
| 7 Maldives [*] | 8 Myanmar | 9 Nepal [#] |
| 10 Samoa [*] | 11 Solomon Islands [*] | 12 Timor-Leste [*] |
| 13 Tuvalu [*] | 14 Vanuatu [*] | 15 Yemen |
| Latin America and the Caribbean (1) | | |
| 1 Haiti [*] | | |

* Also Small Island Developing States

[#]Also Land-Locked Developing Countries

landlocked countries. This region should be the fulcrum of international trade. It is now getting a lot of attention from the international community, but not for trade. The world is spending billions of dollars in fighting terrorism and piracy off the shores of Somalia. France and the United States have semi-permanent military bases in the region. The United Nations is financing international forces on the border between Ethiopia and Eritrea. It is also financing Ugandan and Burundian forces to protect the weak TFG of Somalia from al-Shabaab and its supporters. However, fostering trade and security cooperation in the region is the only way around the current quagmire. Countries in the region should spare no effort in bringing back stability and effective governance to Somalia. The question is how? Should they get involved militarily in Somalia? Are there any lessons that can be learned from the disastrous 2006 Ethiopian military invasion of Somalia? Are the Ugandan and Burundian forces currently in Somalia doing any better? Is there a way around a military solution to Somalia's instability? What non-military role could the African Union, the Arab League, or countries in the region play? Finding answers to these questions is the key

to generating stability in the region. The next question would be how to set up flexible and open trade policies for these countries.

C. Summary Recommendations

1. Although past foreign aid did not achieve many of its stated objectives, for Somalia to become a functioning country again any reconstructive government will require a massive amount of financial and strategic support from the international community in order to rebuild national institutions.
2. The focus of foreign aid should be on legal empowerment of the poor and on incorporating the extralegal assets, businesses, and labour of the poor into the country's formal economy.
3. A system of flexible decentralized governance is necessary to facilitate a bottom-up legal empowerment of the poor.
4. In order to create the proper conditions for governmentality and good governance, the reconstructive government should attempt to finance the majority of its operations with tax levies on residents rather than foreign aid or debt.
5. In order to improve the government's tax base, initial international aid must include funds for setting up viable taxation systems and projects that create employment and business activities.
6. To encourage trade, a Somali reconstructive government must enter into trade agreements with its neighbours and other trading partners to reduce tariffs and other border taxes.
7. Somalia's foreign policy toward its neighbours must balance sovereignty with the flexibility necessary to optimize gainful trade.

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