

# Developing an Inclusive Citizenship in Somalia: Challenges and Opportunities

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*“Inta qaran dhiskiisiyo, dhidibkiisu taagnaa, dheeraad nin dooniyo, nin ku dhaga xaqiisoo, dhacsanaayay baa jiray.”* [As long as the state existed, there was a person who wanted to get more than his/her share and one that resisted against that person and fought for his/her rights] (Warsame 1993: 218).

## I. Introduction

In today’s world, citizenship is linked to the modern nation-state system. Although there is a rich literature on the concept of citizenship, in Somalia, it is a new idea that is contested and poorly understood by the political classes. In conducting this study, I consulted with the text of the Somali constitution, various legislations, and secondary literature. Additionally, I used the speeches and media interviews of Somali politicians and clan elders. While conducting research on governance challenges in Somalia (2008–2014), I interviewed a number of Somali politicians, civil society members and business leaders. This article starts with an explanation and review of the concept of *citizenship*. Next, I explain how the legal system of Somalia and practices of its various governments address citizenship-related issues. Finally, I present and analyze the key challenges and opportunities that state-builders as well as citizens of Somalia face in constructing an inclusive national citizenship.

## II. Making Sense of Citizenship

*Citizenship* is about how an individual in a polity relates to other individuals and the state in which he or she is a member. From ancient city-states in Greece to modern nation states, political theorists have discussed the dimensions of the concept of citizenship and debated who is included and who is excluded. During the Aristotelian era, citi-

zens were understood as those individuals that could rule and be ruled (women, the poor, slaves and immigrants were not included). However, with time, the concept has been refined and improved. In the 1950s, T. H. Marshall defined the concept of citizenship as equal and “full membership of a community” (Marshall 1950: 8). Political theorists identified various approaches that can be employed to explain the concept. This article only discusses the two dominant liberal and communitarian approaches.

Marshall’s liberal conception starts with the individual as the primary rights holder. He identified three sets of rights for the individual: civil (18th century), political (19th century) and social/economic rights (20th century). Each set of rights was connected to one of the institutions of the state—civil rights (courts and justice institutions); political rights (parliament and the executive); and social/economic rights (education and other service provision institutions) (Marshall 1950).

Communitarian theorists disagree with the liberals and argue that, although necessary, meeting the basic individual rights is not sufficient in many cases. The communitarian approach presumes that the individual-centric liberal approach neglects the importance of group identities and group rights (nations, cultural groups and racial casts) (Kymlicka 1995). According to Will Kymlicka, these groups seek different rights—self-determination, language rights, special representation and positive discrimination (Kymlicka 2004). As illustrated in the many conflicts around the world, many states have been and are still struggling with reconciling the individual rights of citizens and the collective rights of groups within states. There are cases where the solution, in the liberal approach, to subordinate group rights to individual rights, has failed. The Aboriginal and Quebec disputes in Canada are two contemporary examples.

In the context of Africa, many scholars explained the continent’s experience in dealing with the concept of citizenship. Unlike many European states that have been organic in their state formation, colonialists arbitrarily created contemporary African nation-states and established artificial boundaries. As Alex Thomson notes, the “imperial boundaries not only split social groups, they also caged them together within these new nation-states” (Thomson 2010: 15). Explaining what transpired after many African countries became independent, Peter Ekeh identified “two publics” in Africa, contending that the African individual is a citizen of a nation-state as well as a member of a communal group (Ekeh 1975). Keller agrees with Ekeh and maintains that

national and sub-national identities are not necessarily “in competition with one another” (Keller 2014: 27). However, Mahmood Mamdani, in his seminal study on the issue, argues that colonialism denied Africans citizenship, and instead maintained them as subjects (Mamdani 1996).

Scholars identify three challenges in establishing inclusive citizenship in the African context. First, in many African countries, political leaders often employ autochthony (indigeneity or sons of the soil mentality—“I was in the area first”) for self-serving reasons. Many well-known figures were disqualified from political competition on the basis of an absurd claim that their parents were not born in the country. The former president of Zambia, Kenneth Kaunda, and the former prime minister of Cote d’Ivoire, Alassane Ouattara, are examples of high-profile leaders who once were denied citizenship rights in the countries they ruled (Boas and Dunn 2013; Manby 2010). Morten Boas and Kevin Dunn cite Stephen Jackson, who asserts that autochthony is a “seductive weapon for political entrepreneurs” (Boas and Dunn 2013: 28). Moreover, in the past, many people were denied their citizenship and human rights, for example Rwandan Tutsis in the Democratic Republic of Congo and Eritreans in Ethiopia. These were grounded on the idea that the ethnicities or tribes they belonged to were not indigenous to the area.

In addition, according to Lahra Smith, many African countries provide formal legal citizenship, but they cannot grant meaningful citizenship. For Smith, meaningful citizenship is “the ability and environment for exercising the various rights of citizenship and discharging the associated duties in a way that has practical and live implications in one’s life, both on an individual and community level” (Smith 2013: 22). This is important, because provision of civil, political and social/economic rights requires institutional capacities at the state level. In many African countries, courts and executive branches do not deliver these rights equally, because most state institutions in Africa have not yet matured.

Furthermore, women in many African countries have been excluded from the benefits of citizenship in many ways. For a long time, many African countries, including Somalia and Swaziland, legally discriminated against women who married foreigners (Smith 2013). In this case, women could not pass citizenship to their spouses or children. However, because of pressure from human rights agencies and donor countries, at least in the legal documents, this has changed for most of the countries in Africa. That said, Somalia does not yet allow women

to pass citizenship to spouses and children (UNHCR 2014: 4; Somali Citizenship Law 1962), although this cannot be enforced. Besides this conceptual clarification, I now turn to how Somalia's laws and governments addressed the individual and group rights of Somali citizens.

### **III. Citizenship in Somalia: Legal Development**

Like in any other country, Somali citizenship is linked to the Somali nation-state, which is a new polity. As articulated in patriotic Somali poems and songs composed during the liberation struggle, the Somali state was conceived to represent and benefit all Somalis (Legum 1963). Somalis resented and fought against the colonial partition of the Somali people and wanted to replace colonialist administrations with a state that united all of the five regions the Somali flag stands for (Italian Somaliland, British Somaliland, Western Somalia, Northern Front District and Djibouti). In fact, during discussions on the future of the Italian colonies (1948–1949), the Somali Youth League, the nationalist movement, attempted to include a clause on the indivisibility of the Somali people, which reflected the aspirations of Somalis at the time (Trunji 2015). Later on, Somalia's first constitution contained a similar article that stipulated, "The Somali Republic shall promote, by legal and peaceful means, the union of Somali territories" (Somali Constitution 1960).

In terms of rights, at least in theory, Somalia's first constitution, enacted in 1960, guaranteed civil, political and social/economic rights to all citizens. In part two of the constitution, citizens have the right to vote, the right to public office, the right to reside and travel freely in any part of the territory of the state, and the right to political association. In addition, citizens have the "freedom of religion, thought and to own property" (Somali Constitution 1960). Finally, Somalia's constitution clearly promised a number of social and economic rights such as the right to education, health care and so on. The current UN-sponsored draft constitution of 2012 contains an expanded set of civil, political and social rights, although the article that called for "greater Somalia"<sup>1</sup> has been arbitrarily removed (Draft Constitution for the Federal Government of Somalia 2012).

In answering the question of who is a citizen of the Somali state, Somalia's parliament enacted on 22nd December 1962 a law on Somali citizenship, which reconciled the two different citizenship laws that existed in British Somaliland and Italian Somaliland prior to 1960.

According to the legislation, “any person who—by origin, language or tradition—belongs to the Somali nation, shall be considered a Somali” (Somali Citizenship Law 1962). As Paulo Contini wrote, this definition is expansive and was meant to accommodate groups that do not consider themselves “ethnic Somalis” such as Arabs, Indians and Italians (Contini 1967). On the other hand, ironically, the law follows the ethnic conception at the same time and grants citizenship to anybody whose father is a Somali citizen as long as that person does not have another citizenship. As inclusive as it looks, the Somali citizenship law did not allow women who marry non-Somalis to pass on citizenship to her children or to her husband (Somali Citizenship Law 1962).

Ironically, even though the constitution is clear on civil, political, social and economic rights of the citizen, Somalia’s current government (2012–2016) has enacted legislation that attempts to limit the political rights of its citizens. The Somali Parliament passed the Districts and Regions Administration Act in July 2013, which adopted a clause that prevents Somali citizens from seeking public office in all regions of the country (Districts and Regions Administration Act 2013). The act contradicts the article in the constitution that guarantees the political rights of Somali citizens. To date, it has not been challenged by the Supreme Court and, in theory, has become the law of the land. Taken to its logical conclusion, each Somali can only seek public office in the areas where his or her clan traditionally lived. In the past, this mentality has been one of the drivers of clan conflicts in Somalia (see also Marchal 2002). This claim, regardless of the region, is arbitrary and might create conflicts in the future.

#### **IV. Citizenship, Clan Identity and Islam**

Each Somali citizen has many markers, but Somalis mainly identify themselves by nationality (Somali), clan and religion (Islam) (Elmi 2010). At the national level in the 1940s, political class in general and the Somali Youth League (SYL) in particular, adopted the rhetoric that clannism was detrimental to nation building. This thinking was in line with the dominant nationalist view of statehood in Africa. Many nationalist African leaders came up with different slogans in this regard. As Thomson cites, Mozambique’s president Samora Michel is quoted as saying that “for the nation to live, tribe must die” (Thomson 2010: 37).

In its constitution and oath of allegiance, the SYL required its members to identify themselves by their Somali nationality, not by their clan. According to article 52 of its statute, new members had to take an oath of allegiance that included, "In times of trouble, I promise to help the Somali. I will become the brother of all other members. I will not reveal the name of my tribe. In matters of marriage, I will not discriminate between the Somali tribes and the Midgan, Yibir, Yahar and Tumul" (Trunji 2015: 17). Unfortunately, as Mohamed Trunji (2015) rightly pointed out, the good intentions did not prevent the young and idealist members of the movement from practicing clannism when they inherited the state.

The Republic of Somalia was born in 1960 out of the two regions that became independent (British Somaliland and Italian Somaliland). However, the new state became the home of all Somalis, regardless of whether their region was independent or under the administration of colonial states. In retrospect, one can point out many Somalis from regions outside the republic that were part of the leadership of the country. Two reasons can be given for this inclusive approach. First, most Somali clans identify with the Republic in one way or another. There are examples of Darod, Dir, Digil, Mirifle, Isaaq and Hawiye clans that traditionally settled in different parts of the Western Somalia, Djibouti and Northern Frontier District (NFD) besides the Republic. In this case, even if the new state wanted to discriminate and represent only those people that came from British Somaliland and Italian Somaliland, they could not enforce this decision. Second, the nationalist leaders of the time never recognized the partition of Somalia. The general understanding was that the rest of the country will become independent and join the Republic in due time.

Besides national identity, each Somali is a member of a clan. This strong identity has a long history. With the return of Italy and the Trusteeship system in the 1950s, clannism regained ground in politics. Somalis divided government seats using clan groupings and territorial council members in Italian Somaliland were mostly clan chiefs (Castagno 1959; Trunji 2015). However, as the younger and more educated generation joined the political process, the use of clan names for political parties was discouraged (Castagno 1959: 349). Initially, some groups ignored this call. The leaders of the Digil and Mirifle clans and several clan leaders that were members of the Conferenza coalition, which consisted of a number of parties that opposed the SYL and called for the return of the Italians (Trunji 2015), named their parties

after their clans. Abgal, Mareehan, Shidle and Moblin are other examples of this. By 1960, some of these parties changed their clan names. However, in substance, the system reflected the parochial interests of clans.

In 1969, even though the regime banned the use of clan names and rejected clannism in theory, military leaders employed nepotism in practice. The famous chain of poems of *Deelleey*<sup>2</sup> that Mohamed Hashi Dhama, nicknamed “Gaarriye,” and Mohamed I. Warsame “Hadraawi” started is about a debate between two groups. Gaarriye, Hadraawi and many others believed clannism was the main problem. The government practiced it, and it should be eliminated. The opposing camp, which included Ahmed Farah Ali (Idaajaa), Abdulkadir Hersi Yamyam and Mohamud Abdullahi Isse (Sangub), maintained that clannism has solid cultural and historical roots, and it would take a long time to eliminate. This chain is perhaps the best and only debate that Somali poets and composers engaged in on the nepotism that resulted from both the collectivist and strong tribal identity, and the individualistic approaches to citizenship in Somalia (Deelleey 1979–1983).

By the late 1970s, the many Somalis who did not have the opportunity to participate in politics through peaceful means organized themselves along clan lines, crossed to Ethiopia and openly challenged the Siyad Barre government. After a long and destructive civil war, Somalia’s faction leaders decided to embrace clan identity as the basis of political representation. In Sodere, Ethiopia in 1997, they adopted the 4.5 clan formula—that is each of the four main clans would get equal numbers of seats (61 members) while a number of unarmed clans would get 31 seats (half of one so-called major clan).

Unlike the exclusivist clan identity, Islam unites all Somalis. Almost all Somalis are Sunni Muslims. That said, there are powerful Islamist movements that are at least as old as the Somali state (Elmi 2010). Besides Sufi traditions, a number of Islamist groups engaged in Islamic proration (*Dawa*) and political activism from the 1960s to the present. Most of these groups have accepted and worked within the Somali state. Like the early generation of Somali nationalists, most of the Islamic movements’ leaders expressed territorial dispute with the neighboring countries of Ethiopia and Kenya. However, al-Shabaab is an exception as it rejects all colonially imposed boundaries. As such, one can say many Islamists, including moderates, have worked towards strengthening and thickening the Islamic identity of Somalis.

Each of the above three identities (national, clan and Islam) is thick or thin depending on the strength of the education system that nourishes it (Elmi 2010). There is a strong, informal education system linked to the tribal system in Somalia. When children are young they learn how the kin system works, and which clan and sub-clan they belong to, and how the clans relate to each other. This is embedded in the language and culture. Moreover, most Somalis learn the basics of Islam from Islamic and Quranic schools. There are religious scholars that provide this education system informally and instill the Islamic identity.

Unfortunately, Somalia's national identity did not have an education system that is linked to it or institutional practices that thickened it. Even though there were civics classes in the first 10 years of independence, the military regime changed the education system and replaced civics with *Kacaan* (Revolution) and *Barbaarinta iyo Cilmiga Beesha* (Social Studies of the Community). By all standards, educational and other institutions were not employed in constructing and thickening the national identity effectively.

From the above analyses, one can see that the Republic (1960–1990) struggled to address both the civic and the identity aspects of citizenship. Its policies were confused, at best, when it came to properly identifying who was included and excluded in the new state. This confusion still haunts the progress of building the Somali state and there continue to be sporadic discussions on the subject. Recently, members of the parliament traveled to a number of countries to gauge the views of the diaspora. If anything, the debate on the subject shows that Somalis are in a very early stage in the conception of the citizenship. With respect to the provision of civil, political and social/economic rights, it seems that laws are for the books while in reality a different political culture is practiced based on clan membership rather than civic citizenship.

## V. Challenges and Opportunities

This brings me to the final section of my analysis—the challenges and opportunities of developing an inclusive national citizenship in Somalia. There are *three key challenges* in constructing inclusive and equal citizenship for all Somali citizens. First, citizenship is an offshoot of a state and the essence of the state of Somalia is contested (Menkhaus 2014; Bryden 2013). The question of whether the citizens of the Repub-



lic of Somalia that were born in 1960 will have one or more states is not settled yet. As things stand at the time of writing this article, the Republic of Somalia exists only on paper. Somaliland, which was one of the two regions that created the republic, has openly been seeking to secede since 1991. It created its own functioning polity albeit one that is not recognized internationally. Additionally, Puntland has also been operating a de-facto state since 1998 (Menkhaus 2014). In the politicians' rhetoric, Puntland is part of Somalia, but in substance it has little to do with Mogadishu's authority.

From the international community's perspective, prior to the New Deal<sup>3</sup> (a project designed in order to engage Somali authorities) in Brussels in 2012, Somalia was divided into three development zones—Somaliland, Puntland and South-Central Somalia. Relief and development aid was divided among these three regions. However, when Somaliland refused to participate in the New Deal, the international community decided to engage the country by dividing it into Somalia and Somaliland (Hearn and Zimmerman 2014).

Interestingly, a few more regions emerged from the South-Central zone. First, although the Somali government resisted its formation, with the help of Kenya, Jubaland was inaugurated in 2013 (Elmi 2015). Additionally, after long disagreement among politicians of the Digil and Mirifle clans and the Somali government, a South-West state that represented three regions was created in 2015. Moreover, the government in Mogadishu single-handedly established the Galmudug state, which led to controversy and open conflict between Galmudug and Puntland. Nonetheless, the government is in the process of creating Hiiraan-Shabelle state in Jowhar and determining the status of the capital Mogadishu.

The relationship of these states and that of the central government in Mogadishu is complex. The standard practice has been that each state operates as an independent polity. The leadership in Hargaysa has articulated its intention to create an independent Somaliland. The leaders of other states behave in the same way as in Somaliland. They have their own security, foreign affairs and economic policies. They openly deal with the neighboring countries that helped to establish all these states and now have a say in the state-building project (Elmi 2015). The Mogadishu government, meanwhile, has not been able to control the behaviors of these other states. In practice, Ethiopia and Kenya deal with the divided political elite of Somalia as competing

clans, not as a responsible state. Ultimately, where there is no state, there is no citizen.

Ironically, even though these states do not respect the authority of the central government, Somalis, regardless of the region they live, use the passport of the defunct Somali state. Citizens of Somalia have the right to nationality and identity cards, the two key documents that prove the nationality of a person (Keller 2014). Somaliland attempted to create its own passport, but because it is not recognized internationally, most of its citizens use the Somali passport when traveling overseas (Samatar and Samatar 2003).

Each state has its own constitution that defines citizenship of the region as a real-estate for one-clan family. The rights to land and political participation are strictly limited to specific groups. This autochthony is based on traditional claims of what the literature calls the “sons of the soil” (Boas and Dunn 2013). In the case of Somalia, there are hundreds of thousands of Somalis that have been displaced because of conflict or draught. These internally displaced persons (IDPs) moved from one part of their country to another part that was safer. Yet, the administrations of the states where they live do not consider them citizens. In the past, Somaliland and Puntland forcefully ordered these IDPs to leave. Recently, Somaliland’s Interior Minister ordered what he called “foreigners” including Somalis from the south to leave Somaliland.

In comparison, Ethiopia and Nigeria have experienced similar issues. Both countries have attempted to accommodate multiple ethnicities and languages in their countries. Even though citizenship at the national level is guaranteed in the constitution, each state (in Nigeria and Ethiopia) has been identified with a particular ethnic group (Keller 2014). The ethnic groups that identify with the particular states have excluded others and limited their rights (Manby 2010). In both cases, the national government controls the natural resources of the country and have strong national armies that can control the centrifugal tendencies. In Somalia, the regions are way too powerful and therefore the majority clan that is identified with a given state owns the entire region. The rest of Somalis are, at best, guests (Marchal 2002; Menkhaus 2006; Barnes 2006; Cassanelli 2015).

The second challenge in constructing citizenship in Somalia is in reconciling the role of the individual and that of the collective groups—clan identity. It is not clear whether the Somali state is for individual citizens or for the collective groups such as clans. Often the debate

is framed as though clans are the primary rights holders. There is an over-emphasis on the fluid clan identity in political dispensations, which has a long history. During the colonial era, Somali clans were divided into Italian-protected tribes, British-protected tribes and Abyssinian-protected tribes. For example, the colonial agreement between Italy and Ethiopia defined the boundary in terms of clans (Touval 1963). This had negative implications for many clans that lived on both sides of the artificial boundary. For the sake of clarity, if a person's clan is not Ethiopian or Kenyan, he or she cannot claim citizenship even if born there.

The third challenge is that the sense of obligation towards the state is absent from the understanding of many Somalis, who see the state as an entity that is just there to benefit them. While everyone expects the state to provide security, economic opportunity and national identity, few voluntarily pay taxes or participate in civic duties. In fact, Somali authorities at all levels struggle to collect taxes from citizens (Leeson 2007). There are many stories that illustrate an evidence of "all-rights and no-obligations mentality" or "Aan maalno hasheenna *Maandeeq*" (Let's milk our *Maandeeq* she-camel)—a famous Somali song. Somalis in diaspora often use money transfer agencies to send remittances to their families. As a member of this community, I asked a number of operators of the transfer agencies whether they have met anyone sending money to the Somali government. None had ever seen this. As long as able citizens (financially) are not paying for their own security and welfare, state formation will take a long time.

Consequently, in 2016, the budget of Somalia's national government is USD200 million (East African 2015). If you add the budgets of all of the states (Somaliland, Puntland, South-West, Jubbaland, Galmudug and others), the total is about USD500 million. The Somali state cannot be expected to function properly with such small financial resources. Ironically, the country has the potential to significantly increase its revenues. Businessmen, who are not willing to pay taxes, control all the sectors that could contribute to revenue generation. At the national level, these powerful business interests have blocked the bills that should regulate the private sector.

Despite the challenges explained above, there are at least *three opportunities* that are present and can be capitalized on in constructing inclusive and national citizenship in Somalia.

First, unlike many African countries, Somalia is "a nation in search of a state" (Laitin and Samatar 1987). Somalis share culture, religion

and language, similar socio-cultural background and a common destination. For serious state builders, the default position of the Somali people, in terms of the common attributes they share, is a great opportunity. This, however, does not mean that homogeneity is a panacea and heterogeneity is a curse. In fact, homogeneity did not help Somalia avoid its long civil war. There are also many countries with heterogeneous populations that have lived in peace and harmony. The argument here is that common culture, language and religion is an advantage that can be used in constructing inclusive national citizenship. In fact, during the anti-colonial struggle, Somali nationalists utilized the homogeneity of the Somali nation, and to some extent it worked. That said, Somalia's current political classes have failed to transform this into a viable national project.

Second, colonial and Somali government policies (from the Italian invasion in the Horn of Africa in the 1930s) and natural disasters (the latest famine of 2011) created opportunities where Somalis intermingled with each other as people moved from one region to another in large numbers. This important development created new realities where many people who left their hometowns for different reasons moved to other regions. In the past, many Somalis from the northern regions moved and settled in the southern part of Somalia. For instance, during the 1974 drought, often known as the *Dabadheer*, tens of thousands of Somalis were re-settled in the Jubba and Lower Shabelle regions. Many went back to their hometowns after the drought while many more stayed behind. Moreover, besides more than one million refugees in neighboring countries, there are more than 1.2 million internally displaced people in Somalia today (Hammond 2014). War, drought and at times floods have forced many people in the south to move to other regions of the country.

The fact that people from different parts of the country are now living in close proximity can be considered an opportunity. People come to know each other and establish business ventures together. For state-builders, this can be used to enhance social harmony and peace. However, as noted above, this can also be a challenge that results in communal violence if it is not managed constructively.

Third, since the Somali state collapsed in 1991, there has been no government that could guarantee the territorial integrity of the country. Yet on paper, Somalia is still a state with all of its juridical powers. This happened because of the international community's decision to discourage centrifugal tendencies. The attitude is that there is only one

state-sovereignty for the country and it will be rented to the UN agencies and neighboring countries while Somalia's political class matures. The case in point is the practice of the regions. Somaliland established a functioning administration in 1991 and is far ahead when it comes to governance compared to the rest of the country. However, it has been seeking international recognition for more than two decades. Regardless of whether the case of Somaliland has merit, it is the international community that refuses to recognize Somaliland as a state, but rather, to assist it using other means. Although other Somali regions substantively behave as though they are independent, they have not openly sought independence.

## **VI. Conclusion**

Citizenship is a dynamic concept that has evolved throughout time. At any given time new groups are being included in polities. Somali laws and governments failed to address the challenges associated with this concept, partly because of state failure and partly because of poor capacity and lack of will of the political classes. The civil war was the result of this poor response to the citizenship question.

In this article, I argued that the contestation of the essence of the Somali state, clan claims of ownership of territories and the all-rights and no-obligations mentality of Somalis are the main challenges to constructing inclusive citizenship. In addition, I contended that a homogeneous population, inter-regional movement of that population and the international community's decision to control the centrifugal tendencies present crucial opportunities for building civil citizenship.

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### **Notes**

1. See Article 6(4) of the Somali Constitution which says "The Somali Republic promotes, by legal and peaceful means, the union of the Somali territories and encourages solidarity among the Peoples."
2. *Deelleey* or *Silsiladdii Deelleey* is a chain of poems in which Somali poets and composers engaged each other on the subject of clannism from 1979–1983.
3. The New Deal for Engagement in Fragile States, in general, is an agreement between fragile states, civil society and international partners which aims to improve development policy and practice in fragile states (International Dialogue 2016).

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