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NED-FUNDED PROGRAMME ON DEMOCRACY, RULE-OF-LAW, CONFLICT MANAGEMENT AND CONFLICT RESOLUTION

HAMAR-WEYNE DISTRICT, MOGADISHU

4-9 December 2006

Summary

NED has agreed to partner SAACID in promoting democratic principals in the Somali context – particularly the city of Mogadishu, which has historically been the capital of the country.

The proposal was developed in the context of prevailing warlordism in the central and southern part of Somalia. SAACID believed that the education and development of grassroots communities in democratic principles and adherence to the rule-of-law would influence those communities toward an effective opposition of the lawless warlordism that was prevailing.

In the interim period between writing and implementation, US-backed warlords clashed with Islamic court's militiamen and the Union of Islamic Courts (UIC) expelled those warlords from the city. The UIC now militarily control the city and are also claiming a judicial, governance and economic monopoly over the city and central Somalia.

It has now become clear that SAACID will not be able to continue the programme as it was initially designed. After consultation with NED, it was decided that in the present context, SAACID would be unable to implement the proof-of-concept district-based conflict resolution centres, as the UIC was claiming that role for themselves through a series of district-based Islamic courts.

What was agreed was to extend the 4 training workshops to all districts (16+) and review the political situation after that.

This workshop was thus the 5th in a series of workshops that will cover all districts in Mogadishu City.

Hamar-weyne is one of the oldest residential areas in the capital. It abuts the Indian Ocean; and the residents engage in fishing, small businesses, and handcrafts, such as garment-manufacturing, etc. The majority of the old residents of Hamar-weyne have left the country - fleeing from the civil war; while those that have remained behind overwhelmingly did not take part in the civil wars that have plagued the country. Hamar-weyne people are known for

their cool temperaments, unlike the generally more aggressive temperaments of Somalis from the rural areas of the country. The Hamar-weyne people are the direct descendants of those who first settled Mogadishu about 1,000 years ago – who had trade relations with ancient China and Egypt.

The district has 4 sub-districts: Horseed, Gobannimo, Kacaan and Hillac.

The workshop was started with a few verses of the Quran, and then a code of conduct was agreed to.

Day 1

Monday, 4 December 2006

The day's theme was **Good Governance**

Participants first discussed the meaning of good governance, confirming that in the present context in Somalia, clanism and good governance cannot co-habitat, concluding that clanism was the evil that has led Somalia to become a failed state. Civic-minded responsible citizenry could create the basis for good governance and the restoration of Somalia's nation-state status.

The discussions went back to 1960, when Somalia gained its full independence, the first civilian governments that ruled Somalia were from 1960 to 1969; when they were toppled by the army, because of maladministration and corrupt practices that engulfed the country in all spheres of life. The international donor community named Somalia as the graveyard of foreign aid because of the level of corruption that bedevilled the country because of the ruling elite. After a promising beginning, the military junta went down the same corrupt path as the previous democratically elected administrations. In January 1991, a federation of clan-based opposition militias overthrew the military regime, but could not agree on a power-sharing formula and plunged the country into another devastating civil war. Warlordism became the norm, until about 6 months ago when the Union of Islamic Courts (UIC) defeated the Mogadishu warlords and installed themselves in power. Early hopes for a new power-sharing formula have quickly faded, as UIC radicalism quickly evaporated the public support they rode to power on.

From this context, the participants responded to the question of what is Good Governance.

Group one

- The ruling parties should be Allah-fearing elements in society
- Get rid off clanism and corruption
- That decision-making process should be a bottom-up approach and not vice versa
- Justice
- Freedom of expression and of press - but constructive
- The ruling parties should see the peoples' interests as first priority instead of his/her personal interest
- Nationalism

Group two

- Justice
- Free from clanism
- People's interests should be first
- Consensus and comprise
- Tolerance

Group three

- The ruling parties should be justice-driven
- Free from selfishness
- No nepotism - no clanism and no xenophobia
- Social development
- The Holy Koran should be the basis of governance

Group four

- Academics and knowledgeable and wise people should take the lead role
- Unity
- No clanism
- Income generating projects - such as agricultural development and human development as well
- Health for all from village up to city level

Group five

- Unity
- Self-confidence
- No clanism
- Justice for all
- Separation between personal interests from general interests

Group six

- Knowledge
- Justice
- Economic development
- Free from all social evils
- Unity

The facilitator gave the participants some handouts for the basis for good governance.

Day 2

Tuesday, 5 December 2006

Today's focus was **Federalism**

Participants discussed how they perceived a federal system of government, expressing differing views. Some welcomed the structure, while others believe that it's incompatible to the Somali context, contending that the very fabric of a pastoral society could not allow federalism; not to mention the fact that the people are in constant movement to look for green pasture and water for their livestock and for themselves regardless of frontiers and other restrictions.

One participant said that the system was introduced against the will of the Somali people. It was imposed by outside foreign powers, who were availing themselves of the current anarchy in the country. It was a product of a chaotic situation. Federalism is for a multi-ethnic society, which is different from the Somali context, which the participant argued that Somalis belonged to one extended family - which has strict marriage ties of first cousins. Another participant said the federal system doesn't heal the wounds, but it was introduced solely as a transition to overcome the civil war syndrome. Another participant contended that it was against Islamic tenets. Somalia is a homogenous society, unlike Nigeria or Ethiopia, which holds different ethnic groupings, different religions, and different physical features, and so on and so forth. Another participant proposed the introduction of a civic education programme to upgrade the people's awareness of nationalism.

After this exercise, the facilitator informed the participants of 4 different decentralized political structures namely: Federation, confederation, decentralized unitary state and consociational systems.

He added that the Transitional Federal Government (TFG) had a mandate to draft a federal constitution that Somalia was now using as a political system. Once completed the drafting work it would be forwarded to the people to vote upon as part of a constitution, through a referendum process - casting the YES or NO vote. This would be the people's verdict.

The participants divided into groups writing down how they saw federalism - its ups and downs:

Group One

Advantages

- Federalism facilitates people's intermingling and interaction
- All federated units have the opportunity to get what they want in their respective state without traveling all the way to the capital as before receiving services - e.g. passport, education, etc

Disadvantages:

- It restricts one ability to invest in other areas outside one's own border
- Some areas have no infrastructure to cope with their needs

Group two

Disadvantages:

- Has no advantages
- It is not for pastoralists
- It is against our religion
- It further disintegrates Somalia

Group three

Advantages:

- It heals the wounds of civil war

Disadvantages:

- It may ignite another cycle of violence

Group four

Advantages:

- Interaction among the peoples in the different federal units
- People have the possibility to get what they need in their respective states
- Very tight security

Group five

Advantages

- Each state has the freedom to manage its own affairs

After the exercise, the facilitator informed the participants on a definition of Federalism:

A federation is an association of states which agree to form a union under a federal government, while retaining full control over their own internal affairs.

The session ended as planned.

Day 3

Wednesday, 6 December 2006

The theme of discussion: **Democracy**

As was the tradition, participants began with prayers discussing how they see democracy.

Participants were split into groups coming up with the following:

Group 1

- People's power
- Freedom of movement and freedom to engage in business wherever s/he desires within the country's borders
- Equal distribution of resources
- The right to vote

Group 2

- Democracy is freedom of religion
- Islam believes in democracy

Group 3

- Democracy accepts acts of obscenity
- Western democracy accepts same-sex marriage
- Western democracy is aimed at destroying Islamic religion
- The West shows democracy with a human face
- True democracy is the Holy religion of Islam

Group 4

- Democracy is people power if implemented correctly according to our Islamic faith
- Before we thought something bad, for example that accepts same-sex marriage, which is against our religion; but after the explanation we come to know that it doesn't harm either the people nor its culture

Group 5

- We didn't know the meaning of democracy, but when the facilitator explained we the following conclusions:
 - a) One person one vote
 - b) Democracy is people's power
 - c) Freedom of expression
 - d) Democracy is compatible with Islamic teachings

Facilitators talked about the origins of democracy. It derived from 2 ancient Greek words - demos (the people) and kratos (strength).

According to definitions of democracy on the web:

- The political orientation of those who favour government by the people or by their elected representatives
- A political system in which the supreme power lies in a body of citizens who can elect people to represent them

- Majority rule: the doctrine that the numerical majority of an organized group can make decisions binding on the whole group
- The term democracy indicates a form of government where all the state's decisions are exercised directly or indirectly by a majority of its citizenry through a fair elective process. When these factors are met a government can be classified as such

There are 4 main types of democracy:

1. Direct democracy
2. Representative democracy
3. Liberal democracy
4. Economic and social democracy

The best democracy is now exercised by the Swiss people.

As for same-sex marriage, it was explained that it is a controversial issue that people around the world have expressed differing views. It's a personal issue in which some cultures accept to talk it openly while others see it as taboo. Democracy is largely above cultural issues like same-sex marriage, but each democracy is also definitely influenced by individual cultures.

Day 4

Thursday, 7 December 2006

Topic of discussion: **Conflict resolution**

The participants were divided to discuss the issue of conflict resolution and conflict transformation.

What were the issues that caused conflict in the Somali context:

Group 1

- water wells
- grazing areas
- tribal conflict tribes
- unresolved conflict
- hereditary

Group 2

- Shared resources
- Tribal boundaries
- Hegemony
- Down-looking attitude

Group 3

- Misunderstandings
- Neighbourhood disputes
- Pastoralists that compete for water

Group 4

- Family e.g. husband and wife
- Siblings
- Neighbours
- Companies looking for personal interest and wealth
- Greediness

Group 5

- Social injustice
- Misunderstandings
- Unattended conflict

In a brainstorming session, facilitators asked participants how to resolve conflict, taking as the example Somalia's present political crisis:

- Foreign intervention should be out of the peace process
- Somali reconciliation commission - a wise men's committee
- Intellectuals forum
- No preconditions for the peace talks
- Islamic teachings
- Comprise
- Both sides should cooperate for the sake of the people
- Foreign military should be out of Somalia
- Both the Union of Islamic Courts and the TFG should think of the Somali people's general interests and not for their individual interests
- Good will
- Should help the people
- Forget the past and focus on a new beginning
- Patriotic people should be involved in the peace process

In another exercise, participants asked how they respond to conflict. They expressed different attitudes.

From personal experience some participants said they tried to separate 2 warring militias, 2 or more persons, while others admitted they refrained from interfering in conflicts. The first group contended that it was the moral duty to mediate between warring sides and face any eventual risk that may arise such as bodily harm and material lose or damage; while the second group closed their doors to avoid risks and wasting time in case of injuries sustained by one side to look for emergency treatment, or being kept interrogated by security agencies as a witness.

The facilitators gave the participants a conflict assessment guide - starting with a summary description, conflict history, conflict context, conflict parties, issues, dynamics, and alternative routes to solutions of the problem, conflict regulation potential and using the where's conflict mapping guide.

They informed the participants that in mid last century, scholars and other diplomatic personalities began studying how to approach conflict resolution and management in a more logical and dispassionate way.

Participants received copies of SAACID's conflict resolution pamphlet.

Day 5

Friday, 8 December 2006 – day off

Saturday, 9 December 2006

The days' theme: **The rule-of-law**

Participants were asked what was needed in Somalia for people to be law-abiding:

Group 1

- Islam is the mother of all laws
- Law enforcement agencies should be established
- Court of justice
- That all is equal before the justice
- Law abiding citizens

Group 2

- Discipline and order
- To obey all laws
- Citizenry should adhere to all norms that they worked out as a law
- Law abiding citizens could be referred when the person is honest

Group 3

- The person who understand his/her rights and respects other rights
- All national should respect all laws in the country
- Law abiding starts from family to nation
- No one could live in a lawlessness society

Group 4

- The Divine Law is the true law
- Human laws only look at the interests for the those who developed
- Those who follow what Allah ordered them to perform
- No one could work out law except Allah

Group 5

- Allah orders are laws
- Other norms who the society practices as law
- All decisions adopted by people are agreed laws
- Law and order

Participants admitted that they have never seen justice at work during the military dictatorial rule. Then things fell apart during the 16 plus years of turmoil. People got relief when the Union of Islamic Courts overthrew the warlords, who plunged Somalia into an endless and vicious cycle of violence.

As with previous workshops, the facilitator talked about the rule-of-law, which's implied the existence of law and other judicial systems within societies and was enshrined in the texts of the law itself.

The rule-of-law could be understood both as a set of practices which allowed the law to perform a mediating role between various stakeholders in society; and as a normative standard invoked by members of society that demonstrate their assent to this principle.

The facilitators said the rule-of-law was fundamental to the stability and smooth functioning of a society, adding that only when the rule-of-law was respected can citizens have confidence in a democratic process over the long term; and invest in the sustainable development of their society. He said: "When the rule-of-law is not respected, arbitrariness and impunity dominate the political scene". The rule-of-law depends heavily on the development of an independent and honest judiciary and the will of any particular government to restrain itself and show respect before the law. The rule-of-law is best seen not as a given state of affairs of any particular society but as an ideal requiring constant instantiation and vigilance.

In a chaotic society like Somalia, every aspect of law, including the constitution, were deliberated violated by the guardians themselves, and thus led to Somalia being described as a "failed state", which was very difficult to restore as "successful and firm state".

A former police officer, who gave a lecture to the participants, talked about the separation of power between the 3 main branches of the government - e.g. the **Executive, the Judiciary and Legislature**. He said the Head of State is the guardian of the constitution as the constitutional court deals with matters relating when differing views were interpreted in the constitution itself.

The police officer explained how the police work in containing crimes committed by dangerous elements in society, and how the force protects its nationals. He said the policemen are walking law, while the attorney is the standing law and the court is dubbed a seated law.

He said all citizens should be aware the country's law and no one could claim that he/she is ignorant to the laws.

He talked about the country's judiciary system and its sub-classification from the Supreme Court down to Appeal Courts, the regional as well as district courts operating throughout the country and its respective jurisdictions. He said former colonial masters neglected Sharia law,

and it's fully implementation in the country. It was only confined to matters relating to inheritance and divorce/marriage chores.

He pinpointed the Somali traditional customary laws, Islamic Sharia law and its link to the rule-of-law were based on the constitution, which was the mother of all the country's laws.

There was no group work as the subject covered was purely academic and more professional that the participants saw it was very sophisticated. However, they appreciated the lectures, because among the younger generation was present on the occasion.

Law-abiding society flourishes, while chaotic contexts suffer from backwardness that squarely touches all aspects of life.

List of participants:

- 1- Haji Mahdi H. Nour
- 2- Mohamed Haji Abukar
- 3- AbduRazak AbdulKadir Sheik
- 4- Ahmed Abukar Banow
- 5- Mohamed Salad Jimale
- 6- Abdullahi Kulane Barre
- 7- Abdullahi Mohamed Carab
- 8- Ali Sheik Haji
- 9- Ali Amin Haji
- 10- Omar Nour Omar
- 11- Mohamoud Moallim Hassan
- 12- Mohamed Abdi Du'ale
- 13- Hamdi Hassan Elmi
- 14- Dahir Ali Ghedi
- 15- Abdullahi Ahmed Abdulle
- 16- Ahmed Haji Omar
- 17- Ali Omar Abati
- 18- Khalif Afrah Bubie
- 19- Mohamed Moallim
- 20- Qamus Ali Elmi
- 21- Mohamed Arone Qeilo
- 22- Bibi Haji Mungani
- 23- Istanbul Haji Mungani
- 24- Ardo Ahmed Siad
- 25- Abdio Isak Nour
- 26- Ayan Abdi Sheik
- 27- Faduma Moallim Ahmed
- 28- Madina Mohamed Hassan
- 29- Osman Mohamed Osman
- 30- Mohamed Abdullahi Mohamed