

DIALOGUE FOR PEACE

Somali Programme



Roots for Good Governance

**Establishing the Legal Foundations
for Local Government in Puntland**



Garowe, Puntland

Phone: (+252 5) 84 4480

Thuraya: +88 216 4333 8170

Galkayo

Phone: (+252 5) 85 4200

Thuraya: +88 216 43341184

pdrc@interpeace.org

www.pdrc.somalia.org

Acknowledgements

Editor: Ralph Johnstone, The WordWorks

Design and Layout: Cege Mwangi, Arcadia Associates

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Front cover photo: Garowe district council members vote for their mayor in June 2005: the election was overseen by the Islan Issa and took place at the PDRC conference hall

Back cover photo: Puntland President Adde Musa (second from left) and Vice President, Hassan Daahir (far left) enjoy a light moment with other senior dignitaries during the launch of the Puntland Reform programme in April 2006 at the PDRC conference hall in Garowe. In the background are PDRC research coordinator Ali Farah and Puntland journalists

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The Dialogue for Peace

How WSP International and its three partners are working to consolidate peace and support better governance across the Somali region

Rebuilding a country after conflict is about far more than repairing damaged buildings and re-establishing public institutions. Fundamentally, it is about restoring the people's trust and confidence in governance systems and the rule of law, rebuilding relationships at all levels, and providing the population with greater hope for the future. These processes are all critical to the consolidation of peace and security in fragile post-conflict situations. When they are neglected, the threat of conflict re-emerging is very real.

In this sense, state-building and peace-building are potentially contradictory processes – the former requiring the consolidation of governmental authority, the latter involving its moderation through compromise and consensus. The challenge for both national and international peacemakers is to situate reconciliation firmly within the context of state-building, while employing state-building as a platform for the development of mutual trust and lasting reconciliation. In Somali region, it goes without saying that neither of these processes can be possible without the broad and inclusive engagement of the Somali people.

WSP International – recently renamed the International Peacebuilding Alliance (Interpeace) – launched its Somali Programme in the northeastern part of Somali region known as Puntland in 1996. It subsequently expanded its programme to Somaliland in 1999, and to south-central Somalia in 2000. Working with highly respected local peace-building institutions established with the programme's support – the Puntland Development Research Centre (PDRC) in Garowe, the Academy for Peace and Development (APD) in Hargeysa, and the Center for Research and Dialogue (CRD) in Mogadishu – WSP has employed a highly successful 'Participatory Action Research' methodology to advance and support interlinked processes of peace-building and state formation. WSP's experience in the Somali region over the past decade indicates that the understanding and trust developed through the PAR methodology can help to resolve conflicts directly, while at the same time building consensual approaches to address the social, economic and political issues necessary for a durable peace.

As well as groundbreaking research throughout the Somali region, the Dialogue for Peace programme has provided unique opportunities for the three partners to engage with each other in collaborative studies and shared projects. In 2004, the CRD and PDRC teams agreed to combine their efforts in a jointly-managed peace-building programme. While managing its component of the Dialogue independently, the APD has continued to collaborate with the other two institutions on key technical and methodological issues. Over the past two years, the three partners have met regularly with WSP's Somali programme team to plan and coordinate their respective activities, as well as with a 'Dialogue Support Group' comprising the programme's donors at the European Commission, DfID, USAID, Switzerland, Sweden, Norway, Finland, Italy and Denmark.

The Dialogue's consultative process has involved extensive consultations with all sectors of society, from national-level political and business leaders to local elders and community leaders, youth and women's groups, NGOs and civil society organisations. Its Participatory Action Research has provided for an inclusive, consensus-oriented dialogue led by local actors and facilitated by Somali research teams based at each of the partner institutions. The discussions have been documented in written and video form, and every effort has been made to engage the local media and disseminate the findings as broadly and objectively as possible.

Initial consultations by each partner institution were based upon detailed ‘actor and conflict mapping,’ which enabled the programme to identify local and regional priorities for dialogue, as well as respected leaders to guide and promote the dialogue process. At the Project Group meetings held in November 2004 by PDRC and CRD in Nairobi and by APD in Hargeysa, several areas of focus, or ‘entry points,’ were agreed upon for research and discussion in each area. For APD, the focal areas were: democratisation; decentralisation of governance; and resource-based conflict. The PDRC’s areas of focus were: democratisation; public fund management; consolidation of the Mudug Peace Agreement; and reconciliation. The CRD’s focal areas were: security and stabilisation; the roles of the business sector and civil society in peace-building; and reconciliation.

At the outset of the main ‘consultative phase,’ Working Groups of primary stakeholders were established to guide the work on each focus area and to develop plans of action. The groups’ activities included: information gathering and analysis; the identification of key local, regional and national actors whose views or engagement would be required; consultations through interviews, workshops, informal and formal meetings at local, inter-regional or national levels; and the engagement of resource persons to provide particular expertise on complex issues. Extensive consultations over a period of a year or more were essential to ensure sustained public interest and to raise key issues to the level of political decision-makers. Each of the partners also organised regular forums for public discussion of topical issues of concern, as well as engaging in informal liaison as a means of conflict prevention.

This report forms part of a final series of publications designed to formally ‘package’ the findings of these consultations – both as a record for those involved, and as a formal presentation of findings and recommendations to the national and regional authorities and their supporters. Together with a short documentary film on each of the focal areas, it is also hoped that these publications will provide a practical platform for the sharing of lessons learned during each of these groundbreaking consultations.

In response to requests from different stakeholders, including members of the different governance structures, the Dialogue for Peace also set out to take its ‘research-for-action’ beyond the stage of recommendations to include more material contributions to peace- and state-building. One example was the reduction of tensions in Sool after a high-profile exchange of prisoners between Somaliland and Puntland, following extensive behind-the-scenes mediation supported by the APD and PDRC. To ensure that such practical hands-on support will continue into the next phase of the Dialogue, WSP has also initiated a comprehensive programme of managerial training, technical capacity building, and fundraising support at each of its partner institutions. And of course, it is continuing to provide practical opportunities for the three institutions to meet together and with other like-minded organisations in order to support other initiatives to foster long-term peace for the Somali people.

Roots For Good Governance

Establishing the Legal Foundations for
Local Government in Puntland

1. Introduction

In mid-2001, a constitutional crisis in Puntland resulted in a prolonged political stalemate and sporadic outbreaks of armed conflict, which required long and intensive behind-the-scenes discussions and power-sharing arrangements before peace was fully restored in June 2003. Despite its amicable resolution, the crisis brought into stark focus the significance of the state's constitution as a vital social contract between the administration and the people – and of the need to revise and revitalise the current constitution to make it a more practical and effective contract.

Following agreement by the WSP National Project Group, comprising 140 eminent personalities from across Somalia, in November 2004 that 'democratisation' is a key issue for engagement in Puntland, the Puntland Development Research Centre (PDRC) began to lay the ground for a comprehensive study of the subject through discussions with key members of the administration and other influential figures. One of the primary factors enabling such engagement was the perception that the PDRC's interests lay in maintaining a neutral political space in which it could engage with all actors in the interest of building and consolidating peace. The use of the WSP's time-tested 'participatory action research' enabled the PDRC to bring together key administration officials, judicial experts, civil stakeholders and interest groups in an effort to locate and build upon common ground.

Despite its wide-ranging acceptance, there remained understandable suspicion in some quarters about interference in the Puntland political framework and the PDRC's potential role in the process. In order to overcome these reservations, research was carried out to identify gaps in the Puntland constitution, discrepancies between the constitution and the Transitional Federal Government charter, and shortcomings in draft local government laws. The presentation of the findings to a parliamentary session attended by 60 MPs in March 2005 served to confirm that further work was required on both the constitution and local council laws – and that the PDRC could be entrusted to support it.

A Committee for Constitutional Review was duly formed with the PDRC's support, comprising two MPs, the Minister of Women's Affairs, the State Attorney, the Vice President of the Supreme Court, and two prominent local lawyers. In June 2005, the Centre further facilitated the engagement of a renowned Swiss constitutional expert, Julian Hottinger, who had previously advised on preparations of the Puntland Charter, to assist the committee and the Parliament in reviewing the provisional constitution document. Following various meetings of parliamentarians and legal experts, and the recommendation of specific amendments to several key statutes, the constitution and the formation of local councils have both been the subject of vigorous public and media debates – reflecting a growing popular desire across Puntland for the construction of these vital staging-posts on the road to democratisation.

The Historical Context

While relative chaos has reigned through much of south-central Somalia for the past 15 years, the north-eastern regions collectively known as Puntland have remained comparatively stable and secure. One reason for this has been the lack of economic resources in this sparsely populated, semi-arid region compared

with the rich potential of the south. At the same time, Traditional Titled Elders have played a key role in maintaining order and stability when formal political structures collapsed.

In August 1998, the strong will of Puntland's people to begin creating a modern, democratic system of governance led to the creation of a single administrative body, the Puntland State of Somalia, envisaged as part of a future federal state of Somalia. At a broadly representative community conference in Garowe, an interim charter was promulgated with basic provisions for the creation of the legislative, judicial and executive arms of a state government. A transitional administration, comprising a President and Vice President, a nine-member cabinet, and a 66-member House of Representatives, was duly sworn in on August 1st 1998 for an initial three-year term – after which elections for local councils and a state parliament would be held. However, by the end of its first term, the new administration was already facing allegations of mismanagement and nepotism – leading to widespread public protests, and several incidents of armed conflict.

Several major challenges face Puntland's emerging democracy. The House of Representatives has no expertise in constitutional matters, while the state's provisional constitution is widely seen as having several flaws and has yet to be harmonised with the Transitional Federal Charter that emerged with the formation of the Transitional Federal Government (TFG) in 2004. Three systems of law – traditional, Sharia and secular – continue to operate in parallel. Power still passes through clan lineage ties rather than an elective democratic process. Citizens lack basic knowledge of their constitutional rights and obligations. There is a clear and continuing need for the consolidation of peace, reconstruction and development.

The formation of the Puntland Administration in 1998 was a direct product of the civil war, which had led to a revival of clan-based authorities in the face of the enduring inability to resolve the crisis and develop a viable political system. Clan leaders and politicians have an intense personal stake in preserving the powers they derive from the traditional clan system, making the transition to participatory, elective democracy more complex and problematic. Fostering democracy in Puntland must be a continual, gradual and systematic process of change towards the decentralisation of political power. The trick will be to further this goal without destabilising the state's fragile political relationships and realities.

The main ingredient for a successful democratic transition in Puntland, however, is already firmly in place: unshakeable public will. Despite recurring disputes that have at times led to armed conflict, the public has remained focused and resolute in its demand for more inclusive and localised political and administrative systems. This demand – nearly a decade after the Puntland Regional Administration was established – still presses for fulfilment.

At dozens of meetings and workshops convened by the PDRC throughout the region in recent years, people from virtually all sectors of Puntland society have repeated the same urgent message: government power must be decentralised to local levels, allowing space for citizens to become actively and constructively involved in their own governance, and instilling a sense of community ownership and cooperation in Puntland's social and economic development. The ultimate goal of the WSP/PDRC Dialogue for Peace programme is to help consolidate lasting peace and build a strong system of democracy founded upon the key principles of good governance and active public participation.

Two main areas of law require urgent strengthening for democracy to take deeper root in the region: the Puntland Provisional Constitution, and laws governing the formation of local councils. These have become the focus of the PDRC's work in fostering democracy and good governance in Puntland under the Dialogue for Peace programme.

2. Methodology

From the outset, the PDRC and its partners have worked to make the dialogue on democratisation as broad-based and inclusive as possible, encouraging diverse groups to reach consensus and take practical steps toward reconciliation and peace-building. The Centre involved participants through three main sources: focus groups, consisting of members from various categories of civil society, political leaders and administrative officials; key informants chosen for their professional knowledge or personal influence; and working groups, charged with guiding and monitoring the project's activities and presenting its outputs and recommendations to the relevant authorities. The latter comprised representatives from all the major stakeholder groups, including the House of Representatives, local authorities, legal and law enforcement institutions, traditional and religious leaders, members of the business community, and women's and youth groups.

During the first phase of the Dialogue for Peace in 2004, the PDRC conducted a comprehensive 'conflict and actor mapping' exercise to establish a baseline picture of the region's needs and priorities, holding intensive, broad-based consultations in Puntland's four main urban centres: Bosaso, Gardo, Garowe and Galkayo. The first phase concluded with a successful National Project Group meeting, held jointly with the Mogadishu-based Center for Research and Dialogue, in Nairobi in November 2004, at which representatives from Puntland and south-central Somalia together identified and prioritised the most pressing issues and challenges facing Somalia's ongoing reconciliation process.

Among a multitude of priorities, it was perhaps unsurprising that 'democratisation' garnered the greatest number of votes. The participants agreed that, in both regions, traditional clan-based power-sharing had failed to dispense basic social services or foster significant economic development. In the few years since the Puntland Regional Administration was established in 1998, there had been a tendency for leaders to extend their own terms of office, in effect justifying the perpetuation of poor governance and fuelling, in



The Democratisation Working Group, assisted by PDRC researcher Osman Hersi (far right), guided the action research on democratisation. The group is outside the PDRC conference hall in Garowe

2001, an armed conflict between two opposing factions that bred widespread insecurity and brought the regional economy to a grinding halt. The recommendation from the first phase of the Dialogue was for a thorough review of current administrative structures with a view to devolving power to local communities, instilling a sense of public ownership and partnership in delivering basic services and promoting economic development.

Puntland's progress toward democracy has been hampered throughout by weaknesses in the provisional constitution, the basis for all political, administrative and social affairs of the state. The constitution had been hastily prepared in 2000 by a government-nominated commission that reportedly had little legal expertise, and was endorsed the following year by the House of Representatives without ever being subjected to public scrutiny or discussion.

At a Project Group Meeting held in Garowe from February 28th to March 1st 2005, the focus on democratisation within the Dialogue for Peace was narrowed down to a thorough review of the provisional constitution and the laws governing the formation of local councils. As both processes required the full participation of the same stakeholder groups, it was decided to appoint a single working group to address both processes, comprising 15 members from the administration, civil society organisations and community groups, to guide the research and review processes of both issues.

The working group's first call of duty was to review the Puntland Provisional Constitution and to assist in the facilitation of a formal Constitutional Review Committee. Recommended changes to the constitutional document would then be forwarded to the House of Representatives for official approval, after which it would be subject to public scrutiny through the media and a series of public workshops.

A similar process was envisaged to strengthen the body of law governing the establishment of local councils. The PDRC aimed to facilitate the review of draft local government laws, and to lobby the House of Representatives for their approval. As with the constitutional review process, copies of approved laws would be disseminated to the media and the public to move the electoral process forwards. The PDRC also proposed to convene two additional workshops for the House of Representatives on governance and conflict resolution.

Throughout the Dialogue for Peace, the use of film has also become a key tool for recording and sharing findings between different groups, as well as fostering constructive public dialogue. To this end, the PDRC's Audio-Visual Unit has filmed all DfP workshops, training and public events and produced short documentaries for participants on critical governance issues, such as the availability of small arms, insecurity, and the challenges of transitional justice (see Box). In a largely oral culture such as Somalia's, with high rates of illiteracy, film can have an extraordinary impact, stimulating curiosity, deepening understanding of complex topics, and catalysing discussion. For people without access to written materials, seeing themselves on film discussing issues affecting their lives has proved to be a wonderful, confidence-inspiring opportunity – and one that has enriched the dialogue process immeasurably.

Overcoming Fresh Hurdles

After the first phase of the Dialogue was launched, a series of events in late 2004 nearly compromised the integrity of Puntland's political administration – and threatened the implementation of the PDRC's planned activities. In October 2004, fighting erupted in Sool region, territory disputed between Puntland and Somaliland, coinciding with the election of Puntland's president, Abdullahi Yousuf Ahmed, to the post of President of the TFG. Further complicating the situation, the Puntland administration's term of office was set to expire in December 2004. A power vacuum suddenly appeared, spurring a struggle between several prominent politicians, including the Vice President, Mohamed Abdi Hashi, and the leader of the former opposition, General Mohamoud Mussa Hersi 'Adde'.

Extending the Short Arm of the Law

by Mukhtar Hersi, PRDC Audio-Visual Coordinator

When PDRC researchers interviewed the chief of a displaced community outside Garowe in mid-2004, he described in graphic detail the desperation of the women in his community, who could not leave their homes due to the risk of being assaulted at gunpoint. Without protection from the police, the community could not take the law into their own hands, for fear of reprisals from the bandits and their relatives. “We live in perpetual apprehension,” said the chief, who gave his name only as Mohamed.

The interview was one of several captured in a powerful documentary produced by the PDRC’s Audio-Visual Unit, entitled *Traditional Governance in Transit*. When the film was shown at a PDRC-organised workshop in Garowe, the situation was brought – in the most dramatic fashion – to the attention of the President, MPs and the city’s Chief of Police. And it had an immediate impact, with the President ordering Garowe’s police authorities to address the problem “right away!”

When the AVU team returned to the same community two weeks later, the change was striking. In a second interview with Mohamed, they learned that police units now patrolled the community every night, searching any suspicious individual they came across. “Sometimes they even check on us during bowel movements,” said the chief. “But it is no big deal. It is far safer to have a policeman interfere with you than a gunman!”

Mohamed concluded that, in his community, for the first time in years, “the midnight terror has disappeared.”

This is just one example of the manner in which the PDRC’s film unit has helped to bring examples of insecurity and poor governance to the attention of the public, as a way of encouraging local authorities to take action. In this case, not only did the film prompt immediate action for the community at risk, it also had several other ‘knock-on’ effects: encouraging the administration to work more closely with human rights groups and the media;

empowering the PDRC to invite more representatives of displaced and minority groups to its public forums; and prompting private lawyers trained by the Centre to extend subsidised services to minority groups. Perhaps most importantly, it awakened the administration to the discrimination that has long prevented Puntland’s law enforcement agencies from extending their services to displaced and minority groups.

The PDRC’s AVU team is currently working on several other short documentaries, combining its extensive footage of DfP workshops and events with the true-life experiences of ordinary Puntlanders. In addition to a popular film recording the breakdown of law and order in 2002-03, the Centre has produced two films on the progress of Puntland’s democratisation process in 2005 and 2006, a film on the principles of good governance, and another on the Puntland media. It is also producing films in support of several other elements of the Dialogue for Peace, including public resource management, reconciliation, human rights, and gender issues. To date, more than 3,000 people have watched these films at 20 different events – providing a unique and provocative platform for informed debate of every aspect of Puntland’s challenging path to democratisation. Three documentaries are also being produced with English narration for external audiences.



Amina Said (in the background) from the PDRC audio-visual unit films a working session

incident. An atmosphere of great relief prevailed in the area when the new president included both former opposition members and supporters of the previous administration in his cabinet. Puntland’s politicians and people had once more demonstrated a serious measure of political maturity and, as a result, the PDRC was able to return to systematic implementation of its research focus on democratisation, once plans had been adjusted to accommodate the new political realities.

Initiating the Dialogue

Although the majority of sitting MPs retained their seats, the new parliament still required intensive education at all levels on issues of democratisation. In January 2005, PDRC researchers conducted an intensive sensitisation programme for key public institutions, including the House of Representatives and various government ministries and agencies. The Centre also employed the services of a constitutional expert to highlight deficiencies and inconsistencies in the provisional constitution and to draw up a comparative analysis of specific articles that conflicted with the newly-established Transitional Federal Charter, which was presented to a plenary session of parliament. This was followed, in late February, by a consultative workshop for MPs and ministers, which sought to gain their endorsement of the process and to begin addressing these constitutional gaps in greater detail.

“The main purpose of the workshop is to have mutual consultations on vital issues pertinent to our common interests and the establishment of good governance... it is the right time to reshape Puntland’s political landscape to pave the way for a good, democratic system of governance.”

– Abdurahman A. Osman ‘Shuke’
Director, PDRC

The workshop began with the screening of several PDRC films, including a documentary on the threat of small arms in Mudug and Galkayo, and a portrayal of recent political events in Puntland, from the



Young and old generations of the titled elders of Puntland: a conference of over 60 traditional titled elders at the PDRC conference hall in November 2004 helped to ensure a smooth political transition at a critical moment in Puntland’s history

last conference of titled elders to the presidential elections and the resulting easing of political tensions. During the deliberations that followed, the provisional constitution proved wide open to ambiguous interpretation and critical comment from all quarters. Specifically, critics noted that the document had restricted the development of political parties in Puntland, failed to articulate women’s rights, and left little option for amendment.

Following the PDRC’s presentation of a comparison of the de facto Puntland constitution and the TFG

Charter (see table), it also became apparent that there were a number of incompatibilities between the two documents, for example with regard to interpretations of jurisdictional authority. One of the more controversial elements relates to the rights to mineral resources, which are claimed by both the Puntland

administration and the TFG. The participants suggested that the comparative analysis of the two documents be studied by a nominated 'Constitutional Review Committee', and differences be resolved through a formal dialogue with the TFG. The House of Representatives also requested the PDRC to conduct further research towards the development of a constitution consistent with the TFG Charter. It was also agreed that a review committee should have legal and technical experts, both local and external, to guide the harmonisation of customary, Sharia and secular systems of law. The participants concurred that a valid constitutional review process would require the participation of all concerned stakeholders and final approval by popular referendum. At the end of the workshop, the officials resolved to provide support to the TFG as long as it does not counter Puntland's own interests, and recommended that the state be represented in various 'national commissions' to further safeguard those interests.

Buoyed by the success of the workshop, and following the Project Group meeting in Garowe which also took place in late February, a representative working group was selected to guide the research and review of the provisional constitution and the laws governing the formation of local councils. The participants included representatives from the administration, civil society organisations, and women's groups from each of the different regions of the state. Their first meeting was held on March 21st-22nd 2005 at the PDRC Conference Hall in Garowe to familiarise members with the issues involved, produce an action plan for their research, and guide the selection of potential participants. After long and constructive discussions, the members agreed on several key principles to guide the research process:

- Puntland's political system should be based on the full representation and participation of its citizens. The provisional constitution and local council laws should be reviewed by the public and ratified by the House of Representatives without further delay.
- A concerted civic education campaign should be mounted – involving radio, newspapers, leaflets, audio-visual materials, and widely circulated copies of the constitution – to promote public understanding of the importance of democratisation, political processes, and the role of government. Writers and artists should also be engaged to compose songs and poems on these themes.
- The constitution should confirm the civil and political rights of citizens, including the right to the ownership of private property and access to free markets. The executive and legislative organs must guarantee a functioning constitution. A Constitutional Court should also be formed to resolve constitutional conflicts and disputes, although final decisions will rest with the legislative organs.
- Puntland must make the transition from traditional clan-based power-sharing to a democratic system of governance through the adoption of free elections. Local council elections will be essential, as they encourage the decentralisation of power to districts and rural communities.
- Local leaders should be elected based upon their past records and good character, strong campaign pledges, and reputations for financial probity.

Comparing the de facto Puntland Constitution and the TFG Charter

Structure of Puntland Constitution	Structure of TFG Charter	Comparisons/Divergences
<p>Puntland Constitution elaborates the state structure as autonomous, possessing full authority over land, air and sea, as well as authority over boundaries and the obligations of former Somali governments. Puntland is an integral part of Somalia and has the obligation to restore and maintain national unity on a federal basis. It will hand over some of the authorities inherited from former governments to an expected Federal Government.</p>	<p>TFG Charter establishes a national sovereign state with all power and authority of former Somali governments (art.1, 1.1 & 2). The territorial sovereignty extends to land, islands, territorial sea, the subsoil, the air space and continental shelf.</p>	<p>Puntland State is an existing reality, legally and morally. It possesses all the requirements of a modern state. It is a legal entity. Constitutional disputes shall be solved in a bilateral agreement between Puntland State and the TFG.</p>
<p>Puntland Constitution does not clarify a power-sharing policy with the TFG and the shares that Puntland wants as compensation in lieu of authority/powers it plans to hand over to a Transitional Federal Government.</p>	<p>Federal Government. Before the formation of the permanent federal constitution, within a period of two and half years (art. 11), the government performs basically as a sovereign state that exercises all administrative powers of the state under one federal government.</p>	<p>Transitional State (TFG) has the right to exercise its Charter before adoption of a permanent federal constitution. There is potential for conflict.</p>
<p>Art. 8 – Language The Somali language is the official language of the State of Puntland.</p>	<p>Art. 7 – Languages a. The official languages of the Somali Republic shall be Somali and Arabic. b. The second languages shall be English and Italian.</p>	<p>Art. 7 & 8 of Puntland <i>de facto</i> constitution and TFG charter need adjustment.</p>
<p>Art. 9 – Emblem, Flag and Anthem of Puntland State are those of former Somali governments with no changes.</p>	<p>Art. 6 & 9 – Emblem, Flag and Anthem of the Federal Government are those of the former Somali governments.</p>	<p>Puntland state can have a <i>flag, an emblem and an anthem</i> of its own in the provisions of TFG Charter Schedule II (12).</p>
<p>Art. 10 stipulates the institutions that Puntland will hand over to a Federal Government like: immigration, defence, foreign relations, postage and stamps, monetary currency and measurement units.</p>	<p>Federal Charter in Art. 71(a) represents a base for the official constitution of the Federal Government of Somalia and defines government administration authority in Schedule I of the central federal government and Schedule II legitimises the creation of states.</p>	<p>The administrative and tax collection powers given by the TFG Charter to emerging states, which will possibly be incorporated in the future federal constitution, are lower than the levels of administrative and tax collection powers which Puntland state gives to municipalities. Compare Art. 85 of Puntland <i>de facto</i> constitution, Art. 9 of Municipality Law (Annex B) and TFG Charter – Schedule II.</p>
<p>Art. 11 accords Puntland State the authority of independently conducting Foreign Relations and Cooperation.</p>	<p>Art. 69 on International & Bilateral Relations – According to the Charter, the TFG upholds full responsibility for international relations.</p>	<p>Art. 11 of the Puntland Constitution is in conflict with Art. 69 of the TFG Charter, and adjustment is necessary. As issues provided by the TFG Charter have a magnitude throughout Somalia, it is wise for Puntland State to benefit from the amendment of Art.15 of its <i>de facto</i> constitution and adjust with the TFG Charter.</p>
<p>Art. 15 – National Census. Puntland population censuses shall be conducted once every ten years. A special law shall be promulgated before the census starts. (Public referendum on the constitution is still a constraint to its promulgation).</p>	<p>Art. 11 – While the new constitution is being drafted, a national census shall be undertaken simultaneously.</p>	<p>Since the Federal Charter applies to Somalia in general, Puntland must take advantage of this and review Art. 15 to make the Puntland Constitution consistent with the TFG Charter.</p>

3. Activities

3.1 Reviewing the Constitution

In consultation with the administration, the PDRC hosted a two-day meeting on May 21st-22nd 2005 for a select panel of parliamentarians, members of the executive and legal advisors, to establish a timeframe and methodology for the constitutional review. The Speaker of the House, Hon. Osman Dalmar, who chaired the meeting, gave voice to the hopes of all those present when he said: “This review shall produce a permanent constitution.” PDRC researchers made several presentations outlining key omissions and discrepancies that called for urgent amendment in the provisional constitution, as well as their potential political and judicial ramifications. Among the most pressing concerns raised during the meeting were:

- Several articles of the constitution have been amended and approved, but have not yet been printed or properly incorporated into the constitution document;
- Articles of the constitution referring to the relationship between the regional state and federal governments should be postponed until the endorsement of the Federal Constitution (due to be prepared and approved by referendum before the end of the TFG’s transitional period in 2009). Puntland should participate in the preparation of the Federal Constitution to protect its political and economic interests and rights;
- External assistance and technical know-how will be required for the review process;
- Contradictory articles of the constitution should be harmonised, in particular those that raise contradictions or conflicts between Sharia, secular and customary legal systems;
- National constitutions all over the world have borrowed much from Islamic Sharia law. Former Minister of Constitutional Affairs Dr. Mohamed Sheikh Gabyow and foreign experts who contributed to the writing of the first Somali Constitution in 1958 fully recognised and integrated aspects of Sharia jurisprudence into that document as inalienable cultural, ethical and spiritual necessities for the Somali people;
- The constitution is a legal document that must engender public trust, as the primary social contract between the government and the people. Civic education and awareness-raising will be vital to ensure that the public is aware of the constitution’s content;
- The administration should always print and distribute amended and approved articles of the provisional constitution.

After lengthy debate on those aspects of the constitution deemed to be contentious, inadequate or inconsistent, the panel drew up a list of suggested amendments and revisions for further study by a special Committee for Constitutional Review. The panel’s initial recommendations are outlined in the following box.

Proposed Amendments to the Puntland Provisional Constitution

Article No. 1 (Supremacy of Law): The majority of participants agreed that no changes shall be made to this article.

Article No. 8 (Languages): After long discussion, the majority of participants approved Somali and Arabic as Puntland's official languages, while other languages will be classified as second languages without distinction.

Article No. 9 (Symbols): The majority of participants decided that Puntland will establish its own regional state emblem, flag and anthem. This does not contradict or contravene the sovereignty of the central organs of the Republic of Somalia over all the territories of Somalia. The committee shall forward a proposal to the Transitional Federal Government.

Article No. 11 (Foreign Relations): This article shall remain unchanged, with the understanding that it should be negotiated with the Transitional Federal Government.

Article No. 15 (National Census): A National Census and Referendum are necessary for final approval of the constitution. The government shall know that a constitution without public approval may lack legitimacy; the committee should thus determine the most suitable options for conducting the census and referendum.

Article No. 16 (Electoral Commission): The formation of an impartial and independent Electoral Commission is a prerequisite for any democratic election.

Article No. 28 (Right of Association): A Technical Committee shall study the right of association.

Article No. 33 (Political Asylum and Extradition): This article shall remain unchanged, with the understanding that it should be negotiated with the Transitional Federal Government.

Article No. 43 (Office Tenure): The House of Representatives shall not extend the term of their own office. Any extension endorsed shall not apply to the incumbent House.

Articles No. 44 & 88 (Election Conditions for Legislative and Local Council Members): The age of eligibility for election shall be reduced to 25 years as stated in the 1960 constitution, replacing the 30-year limit in the current constitution.

Articles No. 44 & 88 (Election Conditions for House of Representatives Members): Candidate citizens who are State employees shall submit a resignation letter six months before the election. Details for acceptance shall be specified by an internal regulation.

Articles No. 44 & 88 (Election Conditions): The participants agreed that candidates for Parliament and President must be Muslim.

Article No. 47(8) (International Treaties): This article shall remain unchanged, with the understanding that it should be negotiated with the Transitional Federal Government.

Article No. 47(4) (Constitutional Court): A controversy developed over the relationship between the Constitutional Court and the Judiciary. It was decided that the assistance of local and foreign legal experts committee would be vital for resolving this question; the sub-committee shall seek that assistance.

Article No. 54(4) (Ratification of International Treaties): The majority decision ruled that this article should remain as it is, with the understanding that it should be negotiated with the Transitional Federal Government.

Article No. 54(16) (Tenure of the Presidential Office): The President's four-year term of office shall not be extended. In case of an extension, this shall not apply to the President in office at that time.

Article No. 54(20) (President's Absence outside the State): The majority of participants thought the Vice President should undertake the responsibility of running State affairs during the President's absence. The article shall therefore remain unchanged.

Article No. 65 (High Council of Justice and its Responsibilities): Council members shall be proposed by the President and approved by the House of Representatives. A Presidential Decree shall then nominate the committee. The 1960 Somali Constitution provides for the creation of the High Council of Justice with only administrative powers, while the same council in the Puntland Constitution holds judicial power, creating a confusion of responsibilities with the Executive.

Article No. 98 (Amendments to the Constitution): Participants recognised, as a political and moral imperative, that the House of Representatives shall not in any case amend or change an article or articles in the constitution relating to political or other benefits for the incumbent House. In case such a change is necessary, it shall not apply to the incumbent House.

The Committee for Constitutional Review

Following the two-day meeting at the PDRC Conference Hall, the panel appointed a special committee of seven judicial and legal experts to conduct an independent, in-depth review of the entire provisional constitution document. The seven members of the committee were: Mr. Mohamed Hassan, Vice President of the Supreme Court; Mr. Mohamed Musa, the State Attorney and government legal advisor; Mrs. Asha Gelle Diriye, the Minister for Women and Family Affairs; Mr. Abdirashid M. Hersi, MP and chairman of the Law Sub-Committee; Mr. Sadik Abshir Garad, MP and vice chairman of the Law Sub-Committee; and two prominent private lawyers, Mr. Hussein A. Oman and Mr. Yusuf Jibril Arris.

The committee was charged with reviewing each article in the constitution, identifying legal contradictions and conflicts with the Provisional Federal Constitution, and recommending required amendments and additions to Parliament. The new and revised articles were to be redrafted and submitted to the working group and the House's Constitution and Federal Standing Committee within a period of 60 days. The committee was also requested to prepare drafts of the main bylaws stipulated by the constitution for the administration of local government, together with a proposal outlining options for conducting a census and a constitutional referendum, within the same timeframe.

The process of fostering democracy in Puntland had now begun in earnest. The PDRC had conducted intensive consultations and integrated the views of the administration, ordinary citizens, civil society groups, informed intellectuals, traditional leaders, community elders, political personalities and women's groups – representing virtually all strata of society. The objective of this long process was a legitimate and credible constitution drafted to international standards.

The Committee for Constitutional Review started its two-month review on May 24th, with the PDRC providing office space, stationery and secretarial support. Within a month, the committee had completed a

review of 70% of the constitution. It was aided in its evaluations by an experienced constitutional expert, Julian Hottinger, who was seconded by the Swiss Embassy in Nairobi through WSP International. Mr. Hottinger had previously visited Puntland in 1998 and 1999 to assist in formulating and later reviewing the Puntland Charter. In order to strengthen the committee's capacity for formulating a more comprehensive



Former PDRC research coordinator Abdulkadir Sheikh and Constitutional expert Julian Hottinger at work with the members of Puntland constitutional review committee

and practical constitutional document, Mr. Hottinger hosted a two-day meeting on June 14th-15th, during which he presented constitutional models from countries as diverse as South Africa, Malaysia, Switzerland and France, outlining various techniques for writing constitutions and building structures of government. The committee members also requested specific advice on two key issues of concern: sharing resources and sharing power between the State of Puntland and the Transitional Federal Government.

Models for Constitutional Change

While presenting the committee's members with 26 models of different federal constitutions used around the world, Mr. Hottinger impressed upon them the need for Puntland's constitution to be firmly rooted in the region's unique history and socio-cultural values. He outlined the differences between extreme bottom-to-top federal systems, in which states have constitutional rights to collect and manage revenues within their jurisdiction and to provide financial assistance to the central government. He provided the example of Switzerland, which is composed of 26 independent and separate cantons or states, where the central government retains decision-making power in only seven portfolios: foreign affairs, national defence, the monetary system, infrastructure (telecommunications and roads), public health and welfare, the economy, and public security.

Under the Swiss model, however, the central government is not free to deal with foreign policy alone; a full 26-county annual meeting approves or refuses specific policy presentations. Each canton allocates 1.72% of its budget to the central government to run its affairs, but in order to recruit more employees, for example, at least half of the states must first approve the budget increase.

By contrast, the extreme top-to-bottom federal system gives the federal government sole discretion in governing a country, collecting revenue from each state, and redistributing it according to the population, productivity and needs of each. Under this model, the government has absolute power to set budgets and increase expenditure, and states' proposals and suggestions are either accepted or refused by the central authorities. If a state decides to secede from the federal government, the national army cannot stop it, but the government may seek military assistance from another state if all other options fail.

Mr. Hottinger showed how the remaining 24 federal system models fall somewhere between these two extremes, with many of these models created out of the ruins of complicated conflicts. The national army is often prohibited from involving itself in internal politics. The Supreme Court usually meditates in conflicts between states in a cordial advisory role, but cannot reach verdicts. Negotiation and consultation are the general guiding principles; as Mr. Hottinger explained: "You cannot change diversity therefore you must keep the diversity together." This of course is not as easy as it sounds. For example, rich states will nearly always be reluctant to share resources with smaller and poorer states.



The PDRC researchers and cameraman observe the constitutional review committee at work with Julian Hottinger

When the committee requested Mr. Hottinger's advice on the type of constitution suitable for Puntland, the expert remained deliberately non-committal – these were choices for Puntland alone to make. He would advise only that the state either prepare a complete constitution that does not contradict the federal constitution, or prepare an incomplete constitution that omits articles likely to fall under federal jurisdiction. In either case, he said, the constitution should remain more general in rights protection, reinforced by competent bylaws and regulations that provide mechanisms for the implementation of transparent governance and conflict resolution.

On the second day, the expert offered a concise but very helpful identification of discrepancies in Puntland's provisional constitution, categorising them as: articles that raise no comment; articles requiring clauses to be rearranged in sequence; articles recommended for amendment; articles requiring re-ordering to unify separate sections that fall under the same category; and articles recommended for total review. In conclusion, Mr. Hottinger advised the committee to remember that, "the constitution text must be free of negative sentences."

Continuing the Process

In July 2005, the Committee for Constitutional Review submitted its redrafted constitution to the executive and Parliament for action. However, due to some misunderstandings about the initiative, key figures in the administration have since stalled the review exercise and its products. Although the PDRC, the Vice President and key parliamentarians remain committed to the process, it has not been possible to engage the President due to his absence from the country for medical reasons.

Only time will tell how more permanent socio-cultural factors hold back – or make room for – Puntland's constitutional review process. The traditional clan system and customary law has so far proved more powerful than the constitution and its democratic system of governance. However, without multiparty politics, free elections or secret balloting, the public will continue to have little voice or participation in decision-making. The absence of a Constitutional Court means that there is no source of interpretation of law when conflicts arise. Citizens' social, political and economic rights as well as basic freedoms are often

jeopardised because law enforcement institutions lack adequate power and professional capacity. Perhaps most importantly of all, the vast majority of the public in Puntland continue to be unaware of some of their most basic rights.

3.2 Establishing Local Councils

In late 2003 and early 2004, in response to considerable pressure from concerned institutions and citizens, the administration embarked upon a local democratisation process of sorts, setting up some of the basic laws and mechanisms to decentralise political power – although falling short of actually making it happen. A PDRC consultative survey in July 2004 revealed that the concentration of authority in the central Puntland administration and around key urban centres represented a major potential source of conflict, instability and insecurity.

In March 2005, project activities designed to speed the establishment of local councils started to take shape. The PDRC held two meetings on the issue with the President of the new Puntland administration and four meetings with an Electoral Commission made up of nominated government officials. Headed by the Minister of Local Government and Rural Development, the seven-member Commission was mandated to lead the process of establishing local councils in Puntland's 29 districts (the number of districts is disputed, as several new ones had emerged from local clan enclaves and were recognised by the former administration). A total of 587 council members would be selected.

Initially, however, the administration failed to focus on how to actually implement a legitimate election/selection process – apparently intending to rush the process to its own favourable conclusion over a brief three-month period. The PDRC advised the administration instead to prepare for the process through solid groundwork of public awareness-raising, dissemination of the laws governing the establishment of councils, and the provision of adequate logistics and a detailed plan of action. The Centre also encouraged a broadly inclusive process that would reach beyond urban communities in the district capitals to the rural communities that constitute the majority of the population, and advised the administration to extend the timeframe for the process to at least one year.

In response to this advice, the Electoral Commission drew up a revised plan of action. With the PDRC providing technical assistance and handling international advocacy, local councils would be established in two phases. The first would cover the main towns over a four-month period, from April to August 2005; the second would concentrate on rural and remote areas over the remaining eight months. Throughout the process, the Commission would organise for the continuous dissemination of local governmental law documents and conduct public awareness campaigns through daily radio broadcasts.

Soon after the Asian tsunami hit Somalia's shores, in December 2004, the UN Resident Humanitarian Coordinator visited the region to monitor the progress of international humanitarian assistance to the affected communities. He was accompanied by the President, General Adde, who took the opportunity to seek the UN's technical and financial support in the establishment of Puntland's local councils. This initiative was welcomed and the PDRC subsequently assisted in the development and submission of a formal proposal to UNDP.

The Puntland administration engaged the media to publicise the objectives of the process of establishing local councils and to encourage popular participation. The Electoral Commission visited three regions – Mudug, Nugal and Bari – to conduct consultations with local civil society groups, and soon after began the process of establishing local councils in Bosaso District.

In April 2005, with assistance from PDRC personnel, the Commission organised a large open public meeting at Bosaso Municipality Hall to announce the start of the district selection process and explain the Local Councils Law recently approved by the House of Representatives. The Commission notified the meeting that at least two positions in each local council had been reserved for women, in an effort to move towards greater gender balance in Somalia's traditionally male-dominated societies. It also presented a bylaw elaborating legal requirements for the selection of district councillors (although this had not yet been ratified by Parliament). And it announced that, in future, all mayors would be elected by the local councils – rather than being nominated by the administration itself.

The groundbreaking meeting was attended by a huge cross-section of Puntland society, including traditional and religious leaders, the business community, women's groups, the media, and Bosaso District villages. The administration was represented by the Electoral Commission, several Bosaso MPs, the Governor of Bari, the incumbent mayor, and other government officials. The public responded positively to the undertaking, and local radio and television stations (SBC, Daljir, Midnimo, and the Eastern Television Network) covered the event extensively.



Garowe district council members voting for their mayor in June 2005 at the PDRC conference hall observed by the Imam of Issa and MPs from Nugal region

All the participants agreed that previous administrations had failed to apply relevant criteria when selecting mayors and council members – an oversight that had greatly undermined the efficacy of local governments. The administration was duly mandated to draft new selection criteria with assistance from the PDRC.

Despite these breakthroughs, a controversy developed over the legitimacy of the bylaw for the selection of councillors. The bylaw, which had not been endorsed by the House of Representatives, attracted vehement opposition from three Bosaso MPs. Although the Commission did not respond to this opposition, and the case was not further debated, the MPs took the case directly to President Mohamoud Mussa Hersi (Adde), who was in Bosaso at the time. The President decided to suspend the application of the bylaw until it could be addressed by Parliament, and instructed the Electoral Commission to continue with the process.

The meeting adopted a resolution that the Governor and his deputies would invite concerned groups in Bosaso District to send representatives to a follow-up focus group meeting on April 16th at the Governor's office. There the Governor briefed 47 participants representing 22 groups from all sections of society and local villages on the objectives of the meetings. The Electoral Commission, in the name of its chairman, the Minister of Local Government and Rural Development, together with the Minister of Justice, then outlined the details of the selection process and reiterated that the administration was there only to supervise – not to intervene in or influence – the outcome of the process.

The focus group duly established a consensual process for the selection of the 27 members of Bosaso Local Council, and conducted initial deliberations on the allocation of council seats among various urban groups and villages. Each group represented at the meeting returned to their respective constituencies



Working group sessions were held to validate the outcome of research on the Puntland constitutional review, recommendations to address contradictions with the TFG charter, and the district council selection process, at PDRC conference hall in January 2006

to convey the outcome, whereupon the constituencies convened their own meetings and submitted the names of those candidates who would eventually represent them in the council, in accordance with clan-based distribution criteria.

In the event, Bosaso found itself in a unique position when constituting its local council. Since the onset of the civil war, the coastal town had grown into a bustling multi-clan settlement, with large migrant groups from the south settling here to escape the conflict, while people from other regions of Puntland came seeking economic opportunities. These diverse demographics demanded special attention when considering the composition of the local council, in order to ensure that the various groups from within Puntland were represented. The process was a difficult one, encountering several setbacks that in turn created delays for the selection of local authorities in other districts. But despite the many challenges, the first councils of Garowe and Bosaso – Puntland’s administrative and commercial capitals respectively – were established in June 2005.

Soon after these first two councils were selected, a fresh controversy arose over the candidacies of the new mayors, which split the political field into two factions allied behind the two main contestants. The Electoral Commission, with the support of traditional elders and a local population desperate for legitimate councils for these important towns, managed to settle the disagreement. Through the intervention of the President, by increasing the number of seats allocated for major towns, and the PDRC’s behind-the-scenes mediation, the problem was resolved and the establishment of the first four councils was completed.

On June 4th 2005, the nomination of Garowe Local Council members was finalised and a mayor elected. Bosaso followed suit on June 13th, when the new council members elected a mayor. Gardo, Burtinle and Galkayo towns established their councils and elected mayors in the weeks that followed. However, throughout Puntland, the process of selecting local councillors and electing mayors has generated intense political rivalries within sub-clans, and resulted in a more protracted process for the creation of new local councils.

In late January 2006, a two-day working group meeting was held at the PDRC Conference Hall to review the project's progress and to share the experiences of several newly appointed local officials, including three deputy mayors from Garowe, Bosaso and Gardo. As the review of the constitution had been completed and was now awaiting the approval of the Cabinet and House of Representatives, the participants concentrated mainly on the formation of local councils. After appraising the research carried out to date, they identified the following as the major constraints and challenges holding up the councils' creation:

- The absence of a genuinely independent Electoral Commission (as members were drawn from the cabinet), which is required for an impartial selection process;
- Failure to apply the bylaws governing the formation of local councils properly and fairly;
- Failure to follow agreed selection criteria regarding clan-based representation in council membership;
- Lack of awareness-raising campaigns and civic education, leading the public to be guided by clan interests rather than communal needs;
- Discontent among council members regarding the disproportionate salaries paid to mayors, vice mayors, and the executive committees of newly-established councils;
- Lack of technical capacity and key facilities to deliver municipal and social services.



The working group sessions identified obstacles to the establishment of district councils and made a series of recommendations to overcome them

4. Achievements and Impacts

Despite some inevitable delays in the ongoing Dialogue process, it is clear that the Puntland administration has demonstrated a fresh commitment to democratisation, both in laying the ground for the creation of new local authorities and bringing the state's constitution into line with the needs of its citizenry. Acting on the experience gained through the workshops, discussion forums and lobbying facilitated by the PDRC, the administration has taken several substantive steps in laying the foundations for greater democratic development at the local level, including:

- The appointment of a Constitutional Review Committee to study articles of the constitution that do not conform to the Transitional Federal Charter, to review Puntland's political structures, and to start the reform process;
- The enacting of critical laws and bylaws governing the formation of local councils, and the creation of an Electoral Commission to oversee their establishment;
- The establishment of eight town councils (in Garowe, Bosaso, Gardo, Galkayo, Burtinle, Galdogob, Eyl and Bender Bayla) and plans for the formation of the remaining district councils;
- The presidential appointment of an independent committee to review progress and recommend further reforms on security, structures of government institutions, state finances, and the judiciary.

The process has also contributed to an increased awareness among both members of the Puntland administration and the general public on issues relating to democracy. As well as cementing the administration's commitment to systematic democratisation, critical information on the process has been disseminated to the public through project documents, films and media reports, giving ordinary citizens a much greater understanding of – and opportunities to become involved in – local governance. It is also clear that this information has helped to gain the Dialogue for Peace greater recognition as a legitimate partner in Puntland's ongoing democratisation process.

In addition to commitments from individual MPs to enact a law establishing political parties, the Parliament,



Police parade with the Somali flag (right) and Somali police flag at the official opening of the national police academy at Armo, 100 km south of Bosaso, in December 2005. Colonel Gani, an active member of the PDRC Public Revenue Working Group, was appointed as the academy's Chief Commander

the Executive, and the main judicial institutions have all expressed a greater willingness to introduce fundamental democratic changes in order to accelerate power-sharing and consolidate peace in Puntland. In just two short years, the process has seen much stronger and more transparent collaborations between the administration, civil society, the private sector, and their international supporters – with the PDRC playing a critical role as an effective and impartial point of liaison and negotiation.

Positive News

Towards a Responsible and Independent Media in Puntland

Ever since the State of Puntland was established in August 1998, the local media has, to a greater or lesser extent, conducted a war of words with the administration. With newspapers that have often appeared more like clan propaganda literature, and an administration bent on censoring and silencing criticism, both freedom of expression and basic journalistic ethics have continued to score poorly.

Events of the past 12 months, however, have served to catalyse and consolidate a new professionalism among Puntland's media outlets – and a new cooperation between them and the administration. Key to this positive development was a 'Media Forum' hosted by the PDRC at its Garowe headquarters in July 2005, at the instigation of the Vice President, Hassan Daahir Mohamoud 'Afkuda'. The forum brought together some of the state's most senior politicians, civic organisations, media owners, editors and broadcasters. The event took place after the widely criticised imprisonment of the editor of the *Shacab* newspaper, following his strongly worded criticisms of the administration, and aimed to address the prevailing climate of conflict between the media and the administration, and to devise a 'media code' for ensuring stronger media ethics and professional standards. Over 40 representatives of the administration, media and civil society participated in the lively discussions, including the Puntland Minister of Information, Puntland and TFG MPs, owners, producers, broadcasters and editors of media outlets, opinion-makers, and civic representatives. In a series of frank and passionate debates, proposals were made for the creation of a formal media code of conduct, a single 'umbrella' to represent the interests of local journalists' associations, and regular government press conferences and statements on the issues of the day. Both sides also agreed to support the establishment a national journalism institute to promote professional training for Puntland's journalists.

It was widely agreed that the forum succeeded in thawing relations between the administration and the media, with both sides pledging to address their respective weaknesses and to consult and collaborate more closely in future. It is a telling fact that, following many years of ill-disguised antagonism, there have been no major disputes between the media and the administration since the forum was held.

For the Dialogue for Peace, the Media Forum was another important milestone, laying the foundations for stronger links and more regular contact between the PDRC and Puntland's major newspapers, radio stations, and Diaspora journalists. This contact will undoubtedly be critical for disseminating the Dialogue's objectives and achievements, and keeping the public abreast of its progress in the years ahead.



Vice President Hassan Daahir addresses members of the Puntland administration and journalists at the Media Forum at the PDRC's conference hall in Garowe. PDRC director Abdurahman Shuke (on the right) facilitated the forum, which was recorded by PDRC's audio-visual unit (Abdinasir Mohamed and Amina Said, on the left)

5. Lessons Learned

The process of political development in Puntland since the state's creation in August 1998 has been slow and gradual, at one period relapsing into violent conflict. Despite the positive developments of the recent past, the political system remains dominated by traditional, clan-based systems of governance. In the absence of political parties, multi-clan organisations or community-based power structures, political leaders are selected on the basis of clan distribution quotas, with traditional elders proposing the names of MPs, ministers and administrative officials. The revival of *xeer* (customary law) as an alternative to state laws following the collapse of the state was critical in maintaining a semblance of law and order, but has proved difficult to reverse and has not guaranteed the protection of all citizens. While a constitution and related laws are now in place, the administration still lacks many of the means to enforce them.

The current democratisation process under the Dialogue for Peace is designed to help state laws function, empower decision-making structures, and increase public participation in the political system – while reducing the reliance on clan-based power structures. The main lessons that have been learned from this process so far can be summarised as follows:

- Strengthening collaboration and trust-building between the PDRC and relevant dealmakers and stakeholders has enabled the provision of effective and timely technical assistance, while lobbying for change in the political system has proved to be an effective tool to gain the ear of the political leadership;
- Involving a broad range of stakeholders from diverse groups across the territory of Puntland has generated respect for the PDRC's support for the democratisation process – although gaining an even distribution of participants from different regions and balancing competing political and clan considerations continues to present major logistical and social challenges;
- Political leaders are generally more reluctant to accept change than civil society stakeholders. The PDRC's strategy has been to strike a balance between competing and contradictory views by offering a neutral and open environment in which to discuss sensitive issues related to democratic transformation;
- The clan factor remains an omnipresent political challenge facing all institutions that do not conform to customary law and basic clan social structures, and has to be taken into consideration at all times when discussing politics and development in Puntland;
- Deeply ingrained dependency on foreign aid in the under-developed economic environment has been a repetitive and often disruptive feature of forum discussions, with focus groups often expecting more donor support than is actually available;
- Unfounded rumours about the PDRC's agenda have sometimes found their way into government circles, causing political backlashes that have required special diplomacy to defuse.

6. Recommendations

At a meeting to conclude the research phase of the Dialogue in Garowe in January 2006, the democratisation working group unanimously agreed on the need for a series of interlinked actions to carry the democratisation process forwards. The group's main recommendations included the need to:

- Speed up the process of establishing the remaining local district councils;
- Constitute an independent Electoral Commission for the establishment of district councils by replacing members selected by the cabinet;
- Adopt and adhere strictly to established bylaws and procedures regarding the election of local councils;
- Conduct a comprehensive public awareness campaign throughout all districts, including rural areas, on the importance of decentralisation and the proper functions of local councils;
- Encourage the Government to ensure the equitable representation of women and minority sub-clans on the councils;
- Provide comprehensive capacity-building programmes to nascent councils, including training on local government planning, administration, finances, and other key responsibilities;
- Resume the constitutional review process, working closely with the Puntland Cabinet and the House of Representatives;
- Publish and disseminate the reviewed constitution to the public through media and civic education campaigns.

Of course, none of the above activities will have the desired impact without the political commitment, the public security, and the broad-based participation that are so vital for any democratic development. For this reason, the working group also called upon Puntland's leaders to do everything in their power to strengthen the institutional foundations already established for multiparty democracy, and to improve overall law and order in order that the country's nascent local councils can begin to perform their mandates quickly and effectively.



Policemen and women give a demonstration of unarmed combat at the opening of the Armo national police academy, December 2005

Postscript: *The Puntland Reform Programme and Support to the Puntland Parliament*

April 2006

After the conclusion of the PDRC's support for Puntland's democratisation process under the initial phase of the Dialogue for Peace, the administration launched an ambitious homegrown Reform Programme to address various challenges facing the state, including crippling security costs, shortcomings in revenue management and the judiciary system, and the establishment of a civil service. At the administration's request, the PDRC provided practical advice and guidance to assist four reform commissions to develop their work procedures. In addition, the Public Finance Reform Commission is headed by the facilitator of the PDRC's Public Fund Management research project, who is well placed to move the substantive recommendations forwards.



The Puntland Reform Programme was launched in April 2006 at a meeting at the PDRC's conference hall in Garowe in the presence of the President, Vice President, Ministers, the four reform commissions, and an audience of more than 140 decision-makers, intellectuals, traditional and religious leaders, business leaders, and civil society organisations – all of whom were keen to hear senior government officials commit themselves to the reform of Puntland's public administration.



September-November 2006

The Puntland Parliament has benefited from direct support in the latter half of 2006 through the Somali Democratisation Project, which was implemented by WSP/ Interpeace as a "spin-off" from the Dialogue for Peace.

During an exploratory visit to Garowe in mid-2006 for consultations with the Deputy Speaker and several MPs facilitated by the PDRC, the first priorities were identified to be the immediate rehabilitation of the Parliament hall and the offices of the parliamentary sub-committees. This work was completed successfully by mid-November 2006 to the immense satisfaction of all the MPs, who now have — for the first time — suitable functional premises from which to carry out their duties. Further discussions have also been held with the Vice President, the Speaker and MPs on priorities for support under the next phase of the Democratisation Project.

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International Peacebuilding Alliance
Alliance internationale pour la consolidation de la paix
Alianza Internacional para la Consolidación de la Paz

Interpeace Regional Office for Eastern and Central Africa

P.O.Box 28832 00200 - Nairobi Kenya

T: +254(0) 20 375 4166

+254(0) 20 375 4167

F: +254(0) 20 375 4165

E: eca@interpeace.org



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