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The Kiss of Death: A Sowellian Analysis of International Recognition And The Somaliland Paradigm

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The Kiss of Death: A Sowellian Analysis of International Recognition And The Somaliland Paradigm

By: Donato J. Latrofa

Many academics tend to judge processes by their hoped-for results, or by how noble the pre-action intentions are, as opposed to how the results actually play out. The concept of “statehood” and “recognition” governs debate about the future of Africa, and in particular, what should be done with Somalia/Somaliland. The question lately has been whether or not newly-formed/seceded nations should be “recognized” (as if recognition by the rest of the organized world equates to legitimacy or functionality). Many scholars believe that Somaliland should be “recognized” because it has shown itself to be a bastion of calm in the Horn of Africa. However, these scholars overlook that such a decision may not be costless to Somalilanders and their government. It is this very narrow and myopic form of “statehood,” and all the Western interventionism that it has historically prompted, that has led to the never-ending problems plaguing Africa and, in particular, Somalia. The “traditional” form of recognition creates an incentive-structure that rewards short-term oriented exploitation by the elites closest to the former colonial authorities and other power-brokers. This incentive-structure essentially distorts, and in some cases, divorces the mutuality of interests between the governed and governors in developing nations. This form of recognition for former African colonies is a “Kiss of Death” because the culturally-reflective institutions that evolved alongside the concept of recognition in

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1 J.D. candidate, 2010, Loyola University Chicago School of Law.
2 THOMAS SOWELL, KNOWLEDGE AND DECISIONS (1980).
4 Id.
5 I rely upon the criticism of the modern Africa state developed by Dr. Makau Wa Mutua in his excellent article Why Redraw the Map of Africa? 16 MICH. INT’L L. 1113, 1114-15 (“The juridical statehood attained with the decolonization of the colonial state has in the last four decades proven inadequate. It is becoming increasingly apparent that these concepts and principles may have trapped Africa in a detrimental time capsule; they now seem to be straightjackets with timebombs ready to explode. The imposition of the nation-state through colonization balkanized Africa into ahistorical units and forcibly yanked it into the Age of Europe, permanently disfiguring it.”)
the West, and that helped to curb or eliminate the potential for divorced interests in the West, are never given a chance to grow in the former colonies. Somaliland, by virtue of never having received such recognition, has begun developing the type of institutions necessary to resist the divorce of interests that has plagued its neighbors.

To be clear, the argument against recognizing Somaliland is not out of any sort of desire to uphold any sort of status quo or to push for a concept of Greater Somalia or Pan-Somalism.\(^6\) Counterintuitively, the argument against recognizing Somaliland highlights the unintended benefits the lack of recognition has given the Somaliland people.

The first part of this article gives a background on the modern political and cultural history of Somalia. In particular, the first part highlights the rise and fall of the Barre Regime, as well as how and why the nation of Somaliland broke away from the failed Somali State. The second section relies heavily on the behavioral, cultural and institutional insights from Dr. Thomas Sowell’s acclaimed treatise *Knowledge and Decisions*. In the third section, I explain how Dr. Sowell’s analytical framework is particularly apt at explaining the problems facing “recognized” Somalia and why those same problems have yet to challenge the “unrecognized” Somaliland. I label this the Somaliland Paradigm. The final section concludes with a brief argument for applying the non-interventionist Somaliland Paradigm to the problems facing 21st century Africa.

**I: The History of Somalia and Somaliland**

A) The Brief History of the Epic Failure of Western Meddling in Somalia:

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Somalia was one of the many African nations artificially constructed by the European carving of Africa at the Berlin Conference of 1884. The map drawn by that conference is largely the map that currently divides Africa into its modern states. These lines were not drawn with the natives in mind at all; rather, the lines were drawn for the expedience of the ruling colonial powers and their local African partners. When the European powers decided to decolonize Africa in the 1960s, each European country empowered its colony as a separate sovereign within the boundaries that had been drawn in the 1880s. Moreover, when the Europeans finally left, the African elites who had worked closely with the colonialists assumed the vacated governing roles previously held by the colonial administrators and attempted to rule the bastardized nations just like their colonial masters before them. Many of these nations quickly dissolved into bloodbaths and oppressive autocracies, as the latent ethnic tensions boiled over. Meanwhile, the West automatically recognized many of the nations as legitimate upon decolonization, regardless of the bloodshed or oppression.

Somalia was just one of the numerous African nations that received its independence in the early 1960s. Before colonization, the region now called Somalia was home to numerous

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8 Mutua, supra note 5, at 1114-15.
9 Id.
10 Id.
11 See also Ibrahim A Gambari, *The Role of Foreign Intervention in African Reconstruction, in COLLAPSED STATES: THE DISTINTEGRATION AND RESTORATION OF LEGITIMATE AUTHORITY* 221, 222 (I. William Zartman, ed., 1995) (“One of the problems faced by states with colonially inherited boundaries, is that ‘the dogma of the preservation of colonially inherited boundaries’ became a license that governments used to oppress minorities and hide their incompetencies.”)
13 Ruth E. Gordon, *Some Legal Problems With Trusteeship*, 28 CORNELL INT’L L. J. 301, 308-309 (1995); see also Christopher Clapham & John A. Wiseman, *Conclusion: Assessing the Prospects for the Consolidation of Democracy in Africa, in DEMOCRACY AND POLITICAL CHANGE IN SUB-SAHARAN AFRICA* 220, 221 (John A. Wiseman, ed., 1995) (“Far from generating national unity, unaccountable and authoritarian regimes have led at best to public alienation from the political process, and at worst, in a significant number of African states, to a level of brutality and repression which must be regarded as inexcusable by the most basic standard of humanity”)
semi-autonomous subregions ruled by blood-based clans and sub-clans that were nominally “Somali,” but were each unique. Before colonization, each of the sub-regions relied upon a council of elders to mediate inter and intra-clan disputes. In conducting such resolutions, the elders relied on a customary, oral tradition of law called xeer.

During colonization, two Western powers occupied Somalia: Britain held the northern coast, while Italy held the southern and eastern portion of Somalia. The British combined the clans under its rule within the protectorate of “British Somaliland,” while Italy merged the clans under its rule into “Italian Somaliland” or “Somalia.” Following the granting of independence, the British Northern portion joined with the Italian Southern region to form Somalia.

Somalia followed the bloody, brutal path taken by many of its neighbors during decolonization. Upon decolonization, the state’s resources were absorbed by the military and bureaucratic apparatus, while the Somali clans fought amongst each other politically for a piece of the national spoils. It was in this climate that the strongman Siyad Barre and his clan took control of Somalia by coup in 1969. Barre imposed what he called “Scientific Socialism” but

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15 Id. at 95; see also Abdalla Omar Mansur, Contrary to a Nation: The Cancer of the Somali State, in The Invention of Somalia 107 (Ali Jimale Ahmed, ed., 1995) (“The somali people are internally broken up into clans and traditionally lack the concept of state as a hierarchical power”).
16 Gordon, supra note 14, at 95.
17 Kirsti Samuels, Constitution-Building During the War on Terror: The Challenge of Somalia, 40 N.Y.U. J. Int’l L. & Pol’y 597, 602 (2008); see also Maxamed D. Afx, The Mirror of Culture: Somali Dissolution Seen Through Oral Expression, in The Somali Challenge: From Catastrophe to Renewal? 233, 235 (Ahmed I. Samatar, ed., 1994) (“The bulk of Somali oral culture provides ample evidence that a strong belief in law and reason and an unmistakable sense of respect for social institutions have been the prominent traits of Somalis”)
19 Id.
20 Mansur, supra note 15, at 113.
21 Id. at 113.
22 Id. at 114.
was, in fact, nothing more than a label for consolidating power in his clan.\textsuperscript{23} During this time, Barre consolidated his power and executed his rivals.\textsuperscript{24} Barre then went to war with Ethiopia in 1977 in an attempt to annex a neighboring region of ethnic Somalis.\textsuperscript{25} Following his defeat, Barre turned his weapons on his own people.\textsuperscript{26}

Barre focused his oppression on the northern section of Somalia in the hopes of benefitting southern Somalia, and in particular, his ruling clan.\textsuperscript{27} What had been unattainable under the precolonial era (i.e. total domination by one clan due to the checks and balances of the clan dispute resolution system) became nightmarishly real after decolonization. By decolonizing Africa in the manner it did, the West left behind the machinery of the modern State without any legitimate restrictive framework.\textsuperscript{28} Not only did the West (including the USSR) leave the proverbial gun cabinet unlocked, they also (literally) provided the bullets and encouragement.\textsuperscript{29} Barre and his ruling clan were rewarded for their repression from 1980 to 1989 with increasing foreign aid, with which they lined their pockets and armed themselves.\textsuperscript{30} Academics generally agree that the financial, military, and food aid did nothing more than prop up Barre’s cruel and

\textsuperscript{23} See Gordon, supra note 6, at 574-75 n. 272.
\textsuperscript{24} Hussein M. Adam, Somalia: A Terrible Beauty Being Born?, in COLLAPSED STATES, supra note 11, at 69, 70-71.
\textsuperscript{25} Gordon, supra note 6, at 574.
\textsuperscript{26} Mansur, supra note 15, at 114.
\textsuperscript{27} Gordon supra note 14, at 95; See also, Adam, supra note 24, at 74.
\textsuperscript{28} Mansur, supra note 15, at 115 (“Our cultural traditions are not compatible with the constructs of a modern state.”)
\textsuperscript{29} See also, Francis Mading Deng, State Collapse: The Humanitarian Challenge to the United Nations, in COLLAPSED STATES, supra note 11, at 207, 209 (“Democracy and free markets cannot be imposed.”)
\textsuperscript{30} Laurence Juma, Africa, Its Conflicts And Its Traditions: Debating A Suitable Role For Tradition In African Peace Initiatives, 13 MICH. ST. J. INT’L L. 417, 434 (2005) (“Recent studies point to a combination of factors as responsible for Africa’s endemic conflicts. These include the colonial legacy, the super power rivalry of the last century, the resurgence of religion and the concomitant identity issues, the political and economic corruption of African leaders, poverty, and the proliferation of weapons.”).
unjust regime.\textsuperscript{31} It was only when the U.S. began limiting and later eliminated funding that Barre’s regime began to flounder.\textsuperscript{32} Barre’s terror ended in January 1991; however, the demise of Somalia had only just begun.\textsuperscript{33}

**B) The Birth of Somaliland**

After Barre’s death, the elders of the Isaaq clan, under the name of the “Somali National Movement (SNM),” declared the territory that had been British Somaliland to be independent from Somalia.\textsuperscript{34} While the rest of Somalia devolved into inter-clan warfare,\textsuperscript{35} the SNM elders called a conference where a Guurti, or national council of elders, met in an attempt to bridge the clan divisions created by the Barre Era and preclude the sparking of a civil war like that which was happening to their Southern brethren.\textsuperscript{36} According to Professor Gordon:

> Peaceful dialogue was mandated, in lieu of force, as a means to settle disputes; increased responsibility was laid upon those committing acts of violence; and legal contracts, which presently define political and socioeconomic relations between clans in northern Somalia, were promulgated. Elders, garads, and sultans played a vital role in preventing the political process from disintegrating, and proved to be sources of guidance to their constituents. In addition they served as important counsel to both political leaders and SNM commanders.\textsuperscript{37}

A result of these peaceful conferences was the creation of a Somaliland constitution, by Somalilanders, without any sort of foreign interference. The Somaliland Constitution provides for four branches of government: An executive, an independent judiciary, a parliament, and the

\textsuperscript{31} Adam, \textit{supra} note 24, at 75. The Barre Regime was only one of the many African tyrannies which had the support of the West and USSR pulled in the late 1980s and early 1990s. \textit{See also} Juma, \textit{supra} note 29, at 433-34 (citing the international support and aid given to the tyrant Mobutu Sese Seko in Zaire/Congo)

\textsuperscript{32} \textit{Id.} (In 1989 the U.S. Congress began criticizing Barre. The rest of the world aid organizations followed suit.)

\textsuperscript{33} \textit{Id.}

\textsuperscript{34} Gordon, \textit{supra} note 14, at 95.

\textsuperscript{35} Adam, \textit{supra} note 24, at 79

\textsuperscript{36} Gordon, \textit{supra} note 6, at 576.

\textsuperscript{37} \textit{Id.}
Guurti. This hybridization meshed the traditional Western Enlightenment ideals of divided government with the unique cultural demands of Somalis and Somali clans. Moreover, the Somaliland central government has recently further federalized the control of the territories and has instituted regional and district level governance that is better able to address the unique needs of the clans within the region or district. As a result, Somaliland is a stable, growing nation. Its capital, Hargeisa, ranks as one of the safest and most progressive African capitals in the world:

[As of 2007] Business [is] thriving and the population had greatly expanded in Hargeisa…New commercial opportunities had developed, attracting young people from the interior…Some indication of these new levels of urban progress was provided by functioning traffic lights on the streets of Hargeisa, as well as traffic police. Another indicator was the opening of popular wedding bureaus as well as supermarkets and other modern amenities. There were two universities of similar standard to the old Italian university institute in Mogadishu [the capital of Somalia], and schools were increasing in number and in quality, with by 2007, a UK-sponsored GCE examination board. Health care was slowly improving, spurred on by the impressive Edna Adan maternity hospital, built substantially with the former foreign minister’s own funds and with even some direct manual labour by her (as well as, of course, her professional medical expertise.)

Despite these great strides, Somaliland has yet to be recognized by any of the dominant Western or international powers.

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38 Id. at 576-79. The Council of Elders, or Guurti, are vested with the authority to “convene conferences, representing all of the communities of Somaliland, and to decide on political measures to resolve outstanding problems.”
39 Ioan Lewis, UNDERSTANDING SOMALIA AND SOMALILAND 94 (2008) (“The most original feature [of Somaliland’s political development] was an imaginative innovation in the form of a bicameral legislature with a non-elected upper house of traditional elders [i.e. Guurti] and a lower house of ‘representatives.’ This arrangement reflected Somali political realities in a way and to an extent that had not previously been tried in the brief political history of Somalia with its Eurocentric political models and focus on so-called ‘intellectuals.’”)
40 Gordon, supra note 6, at 579.
41 Sare, supra note 18.
42 Lewis, supra note 39, at 98-9.
43 Sare, supra note 18; see also Paul Reynolds, Somaliland’s ‘path to recognition,’ BBC Online, Apr. 4, 2008, available at http://news.bbc.co.uk/go/pr/fr/-/hi/world/africa/7365002.stm; and Lewis, supra note 39, at 99.
II: An Explanation of Dr. Thomas Sowell’s Analytical Framework Found in Knowledge & Decisions.

In his seminal Knowledge & Decisions, Dr. Sowell analyzes the constraints and inputs inherent in all decision-making. In particular, Dr. Sowell comments on the importance of understanding subsequent and precedent incentives and incentive-structures created by actors on a legal, economic, governmental and/or social basis. The fundamental axiom of Dr. Sowell’s analysis is that critics and actors must get away from characterizing and judging the value of an action by the hoped-for results rather than the actual mechanics preceding and resulting from the action. To Dr. Sowell, decision-making individuals utilize institutions, and institutional constraints, (be they legal, economic, governmental, or social/cultural) to economize on the necessary input in pre-action contemplation, the enactment of the decision itself, and how the feedback is digested. In the “organized” international law sphere, this means that critics and policy-makers must understand that “organized institutional relationships carry contrived rewards and penalties as compensations for following or not following the terms of the relationship and the desires of the people involved in it.”

It is important to realize that much can be learned not only from Sowell’s analysis of institutional actions, but also from how individuals act and react. Governmental institutions, in particular, do not exist in a vacuum; they are made up of a multitude of differing individuals,

44 Sowell, supra note 2, at 147 (“Incentive structures are important in explaining political behavior, not only in a static sense but in following dynamic changes of political patterns. Incentives operate not only by guiding the actions of given people, but by changing the mix of people drawn to particular activities.”)
45 Id. at ix, 110 (“What must be considered are the incentives and constraints facing the actual decision makers”.)
46 Id. at 21, 100 (“Culture is one way of economizing on deliberate decision making and on the explicit marshalling of data and principles which it entails.”)
47 Id. at 22.
48 Id. at 114 (“Governmental decision-making units must be analyzed like other social or economic units which choose courses of action designed to maximize their own well-being, under the particular incentives and constraints of their respective situations.”); see also id. at 146 (The simple fact that governments are run by human beings with the normal human desire for personal well-being and individual or institutional aggrandizement must be insisted upon only because of a long intellectual tradition of implicitly treating government as a special exception to such incentives and constraints.)
each of whom have their own desires they want to fulfill.\footnote{Id. at 15. (“Rationally there is little reason to expect a different outcome from a normal sample of people facing the same structure of incentives.”)} This insight results in the need for concerned international policy-makers to embrace what has been colloquially labeled the “all of the above approach.”\footnote{Id. at 29 (“The more adaptability exists for a given kind of decision, the less risky it is to make plans for the future, and therefore the more likely it is that more people will make more plans in such areas.”)} The reliance on the monolithic concept of “recognition” and “statehood” of the Developing World as defined and practiced by the Developed World has demonstrated its flaws and should be discarded.\footnote{Id. at 81 (“Lofty intellectual standards, rigidly adhered to, may mean rejection of evidence and methods of analysis which would give us valuable clues to complex social phenomena—leaving us instead to make policy decisions in ignorance or by guess or emotion.”)}

Understanding the concept of incentive, by its nature, demands a temporal understanding.\footnote{Id. at 93, 95-97 (Time is perhaps the ultimate constraint”).} In many cases, the understanding of the time horizon facing the governmental decision-maker(s) will give a clue as to how he or they will behave given a certain set of facts.\footnote{Id. at 95.} As Dr. Sowell notes:

Differences in time horizons among social groups change the effectiveness of social policies involving either benefits or penalties, especially when one social group, with a given time horizon predominates among the policy makers and another social group, with a different time horizon, predominates among those to whom the policy applies.\footnote{Id. at 131. (short time horizons, etc.)}

The understanding of time horizons becomes even more important when analyzing how a decision-maker, constrained by certain cultural or otherwise social incentives, will act.

Take, for example, a decision maker who must operate at two distinct, but consecutive time periods. In order to understand the incentives facing a decision maker at time period “one,” one must also attempt to anticipate the subsequent incentives created by that decision, and the incentive structure the decision maker will then face at time period “two”. According to Dr.
Sowell, feedback as to the effectiveness of the decision made in time period one is the most important factor of how the decision maker should act at time period “two:”

It is in large part a question of how effectively knowledge is transmitted—not simply how well-informed the initial decision was, but how effectively feedback controls subsequent modifications, regardless of whether or not the decision makers want to change. Effective social knowledge is knowledge of social impact that forces decision makers to adjust accordingly…Insofar as institutions are insulated from this forcibly effective knowledge, it is purely optional on the part of the decision makers to what extent even to acquire information about social consequences, much less act upon it.55

III: Why Recognition Is the Last Thing Somaliland Needs

Before colonization, Somalis had a concept of decentralized “Nation-ness” centered on the clan-structure56; colonization, and in particular decolonization under dictators such as Barre, attempted to exorcise that “Nation-ness” by imposing a bastardized version of the Modern Western State without the benefit of the centuries of socio-political distillation that framed the development of the Modern Western State.57 The harmful imposition of culturally anathematic governance was bolstered by the West through its definition of “recognition” and all the “benefits” recognition brought and continues to bring.58

It is with this current distorted incentive-structure in mind that Dr. Sowell’s framework connects to the issues of Somalia, Somaliland, and international recognition. As Dr. Sowell

55 Id. at 110.
56 The concept of “Nation-ness” is one that I coined for this paper, and it is not to be mistaken with strict nationality or nationalism. Nation-ness is a bottoms-up, culturally-sensitive and institutional evolutionary perspective which could be equated with individualistic self-determination as opposed to the conventional collective self-determination. Effective interaction with Africa in the Twenty-first century must discard the conventional understanding of “self-determination,” based on Western-defined collectives heretofore relied upon, and instead embrace the concept of Nation-ness.
57 Mutua, supra note 5, at 1115; see also Juma, supra note 29, at 435-436 (“[N]o doubt that colonization changed the African political landscape. It also bequeathed, lopsided though it might be, the basis upon which formal institutions of governance could be established. What it neither provided nor nurtured was the capacity and the wherewithal of African leaders to remodel institutions of African tradition into proper instruments of societal development. Independence was all about the assumption of political power, though this power was modeled in western tradition and skeptical of African traditional norms. It is little wonder that the informal institutions of African traditions and custom were ignored, though not completely replaced. Thus, it has become that most institutions of the modern state are completely removed from the societies that they seek to serve.”)
58 Mutua, supra note 5, at 1115.
articulates, the people who lead revolutions, by definition, always face different constraints and incentives, and therefore, manifest different personalities and desires, from the people who succeed them in administering the new governmental organization. In the case of Somalia, the “revolutionaries” who led the original movement toward independence and “statehood” were replaced by Barre’s corrupt administrative tyranny. The constraints and incentives the original Somali “revolutionaries” faced were geared toward establishing a state that would qualify in the eyes of the West. Once the State of Somalia was established and recognized, a new set of incentives for administration were created. It was to these incentives that Barre’s coup responded, and it was because of this response that Barre succeeded for as long as he did. Once Barre began administering the Somali state through tyranny, it should have created an incentive for him to tyrannize only up to approximately the equilibrium point that the Somali people would tolerate it; however, such a buffer did not arise. Rather, because Barre had access to the various forms of international aid (military, financial, humanitarian), his incentive and response structures changed from having to respond to his people (at least to a minimal degree) to having to respond to the whims and perceptions of the people who gave the international aid. The actual concerns of the exploited Somalis became a secondary concern, and therefore, irrelevant. As demonstrated above, the perceptions of the governments who gave international aid during the Barre regime cared little for the establishment of long-term, “culturally Somali” governmental institutions, because the aid-giving powers’ incentives were to bolster their own (i.e. US or

59 The term “revolution” and revolutionaries used here is in a general sense of significantly changing the status of statehood and international perception, and should not mean to connote any sort of need to rely on violence, violent upheaval, or per se regime change.
60 Sowell, supra note 2, at 147.
61 See Mansur, supra note 15, at 113.
62 Sowell, supra note 2, at 150 (“Feedback which can be safely ignored by decision makers is not socially effective knowledge. Effective feedback does not mean the mere articulation of information, but the implicit transmission of others’ knowledge in the explicit form of effective incentives to the recipients.”)
63 Mainly the US and USSR governments fighting proxy wars.
USSR) power or prestige abroad in the short-term. This apathy toward allowing or promoting the creation of long-term, Somali-reflective government that can (or even wants to) stand on its own, and is responsive to the Somali people, continues to plague the aid efforts to this day.

In contrast, by never receiving recognition and the ensuing “benefits,” the people of Somaliland have been able to build a prosperous, secure, culturally-reflective nation from the ground up.\(^\text{64}\) The development of Somaliland, and its lack of recognition, means that Somaliland does not receive access to formal channels of international aid.\(^\text{65}\) Somaliland stands in stark contrast to its neighboring states, which have received billions of dollars and tons of non-monetary foreign aid.\(^\text{66}\) While the West has pumped billions of dollars into Africa in the name of “aid,” in most places, all it has to show for it is genocide, corruption, and AIDS. In one of the few places not to receive that substantial aid (Somaliland), the society is evolving peacefully and progressively.

To illustrate perhaps why Somaliland has yet to follow Somalia into the vortex of violence, one must briefly return to the illustration of Somalia’s development and apply the Sowellian insights to the incentive structures faced by the government of Somalia. In the first instance, the “revolutionaries” of Somaliland seceded from Somalia, which parallels the creation of the Somali state in the 1960s. The individuals who led the first revolutions in both nations manifested certain characteristics that appealed to their oppressed nation. But this is where the parallel between Somalia and Somaliland ends: Somaliland has never been recognized, while Somalia was recognized immediately. By never receiving recognition, the “administrators” who succeeded the primary “revolutionaries” in Somaliland never had to confront the incentive disconnect that plagued Somalia from the outset. Instead, they were required to turn their

\(^{64}\) Lewis, supra note 39, at 93-100.

\(^{65}\) Reynolds, supra note 43; but see, Lewis, supra note 39, at 98 (remittances).

\(^{66}\) See generally Gordon, supra note 6.
attentions toward creating sturdy institutional frameworks demanded by their constituents and the exigencies of the region. I call this the Somaliland Paradigm. The creation of these frameworks, which is what the international community has attempted to impose by way of the UN and other top-down interventionist organizations, was from the ground up in Somaliland (and must always be from the ground up.)

IV: Applying the Somaliland Paradigm To 21st Century Africa And Criticizing The Call For Recognition

Somaliland is an example of how African nations in general must be treated in the Twenty-First Century. The term I coin to refer to this manner of behavior is the “Somaliland Paradigm.” To be frank, the Somaliland Paradigm means that the World should treat African nations, including seceding nations, like adults. The West must resist embracing whomever or whatever currently holds power, and instead encourage the home-grown maturation of long-term beneficial socio-cultural institutions centered on individualism and individual rights. The West should keep its meddling to a minimum, and any sort of humanitarian response should be as narrowly-construed, and direct, as possible.

The Somaliland Paradigm simultaneously fits within and challenges the framework of emergent scholarship on the concept of “earned sovereignty.” The Somaliland Paradigm agrees with the criticism the “earned sovereignty” scholars level at the traditional dichotomous

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67 See Juma, supra note 29, at 492 (“The bottom up approach to conflict resolution emphasizes the need to involve local communities and grass root organizations in peace seeking initiatives. In the mainstream discourse, the approach is presented as a compliment to the ‘top down’ diplomatic approach. Scholars who have worked with non-Western communities acknowledge that the legitimacy of a mediator may derive from a personal and trusting relationship, rather than neutrality. Thus, drawing on local resources and involving the local people becomes the key to designing a peace initiative that is functional.”)

68 Gambari, supra note 11, at 233 (“Africans must truly become the masters of their own destiny, no longer objects of international relations.”)

approach" relied upon in the past. The Somaliland Paradigm shares many of the desired outcomes, and, with a little cultivation, may be able to merge with some aspects of the "earned sovereignty approach." However, unlike the "earned sovereignty" scholars who wish to dispose of the traditional framework and replace it with another consciously top-down initiative led by, established by, and administered by the UN (or some other meddlesome international body), the Somaliland Paradigm seeks to get at the heart of the concept of "self-determination" by focusing not on the "collective self", but by focusing on promoting and developing the "individual self" in the Developing World.

Meanwhile, the scholars arguing for Somaliland’s recognition in light of the framework that currently exists, though they have the best of intentions, never address what I term “time period two.” For example, in her insightful piece *When Is a State A State? The Case For Recognition of Somaliland*, Alison Eggers points to Somaliland’s success at creating initial institutions as reason enough for it to be recognized by the international community. To Eggers, international recognition equates with maturation, and the success of Somaliland vis-à-

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70 Either group of people are a nation (with rights of sovereignty), or a group is not a nation.
71 Id. at 352-54.
73 Williams, supra note 69, at 355-56.
74 Id. at 353 ("Under this [traditional self-determination] approach, all self-identified groups with a coherent identity and connection to a defined territory are entitled to collectively determine their political destiny in a democratic fashion and to be free from systematic persecution.”)
75 For an enlightening analysis of the link between self-determination, land possession, and decolonization, see generally Joshua Castellino, *Territorial Integrity And The “Right” To Self-Determination: An Examination Of The Conceptual Tools*, 33 BROOK. J. INT’L L. 503, 506 (2008) ("[This article analyzes] the dichotomy between the right to self-determination and the issue of land rights. In order to retain its legitimacy, international law must reconceptualize the doctrines of territoriality and self-determination. This Article posits that this can be achieved by reconciling the traditional state-centered approach, which views self-determination as an issue about the legitimacy of the state, with the human rights approach, which views self-determination as a foundational right on which the edifice of human rights can be built.")
76 See supra note 55.
77 Eggers, supra note 3, at 218.
vis the failure of Somalia demands that Somaliland be rewarded. As I’ve demonstrated above, Egger’s traditional analysis, though correct up to “time period one,” fails to anticipate the possibilities and temptations that have confronted other Developing Nations at “time period two.” It is this very failure to try and anticipate what incentives the Somaliland government administrators would face, and what costs those incentives may impose upon the Somaliland people in “time period two” and thereafter that undermines Eggers conclusion.

Moreover, the Somaliland Paradigm may hold the key to laying the ground work for peace in other contentious portions of Africa. By not only allowing, but also encouraging ethnically and culturally-reflective regions and sub-regions to secede, the Somaliland Paradigm not only envisions an Africa where entire populations could be lifted out of poverty, but can virtually guarantee it if given the chance.

**V: Concluding Thoughts**

My contention with both Eggers and those in the “earned sovereignty” schools is not that they are *per se* wrong in their analysis of the issues facing Twenty-First Century Sub-Saharan Africa—it would be unrealistic to think that those with power (from the halls of the UN to the halls in the African capitols) will drop the reins just because logic, history and experience demand they do so. Rather, my contention with them stems from their desire to use what has

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78 Id.
79 See Mutua, *supra* note 5, at 1161-62 (“While alienation of the African state from its citizens is not merely the function of the loss of sovereignty over pre-colonial structures -- it is also a crisis of cultural and philosophical identity -- the two phenomena are linked like Siamese twins. I believe that the crisis in Africa can only be addressed through a dual but simultaneous process of new map-making together with norm re-examination and reformulation, which will reconnect the continent to many of the pre-colonial ideals of community and social organization as well as democratization. It will not suffice to democratize the post-colonial state; as a fundamentally undemocratic entity in concept and reality, it is incapable of genuine democratization. Africa’s political map must first be unscrambled and the post-colonial state disassembled before the continent can move forward. Put differently, the form and physical substance of the colonial state must be completely dismantled; otherwise, its tightening noose will strangle the entire continent. Instead of false decolonization, whose purpose has been to preserve European Africa, new map-making would, as a first step, liberate the peoples of Africa by theoretically returning sovereignty to their pre-colonial political identities and asking them to consensually and voluntarily create new, democratic, larger political entities. For this purpose, a new map of Africa must be drawn.”)
been traditionally labeled “positive law” instead of “negative law” in an attempt to rationally reorganize Africa. To illustrate such a distinction, one need go no further than comparing the words “prescription” from “proscription.” The problems that plagued Twentieth Century Africa, and, in this piece Somalia, in my opinion, stemmed from too much positive prescription by the West. The West, like an annoying older brother, kept telling Africa “do this, do that.” This constant prescribing inevitably led to ever-increasing meddling and interventionism, with consistent negative results. Utilizing the “prescription” decision-making mechanisms that are similar to those that created the problem, while expecting different results, is illogical. The only prescription that should be ordered by the West is a heavy dose of “proscription.”

A fair, critical and dispassionate look at history shows why Africa continues to fail: the problems in Africa are unintentionally drawn by the bureaucrats and politicians in the settled nations of the West, as well as the elites in the decolonizing countries, who conceitedly want to reshape the former colonies like so many pieces of clay or Lego blocks. It should surprise scholars when proponents of modern recognition want to essentially repeat the exact same steps that yielded failure before in the hopes that maybe, just this one time, the result will be different. And yet, as my brief Note demonstrates, scholars continue to want to embrace and “kiss” Somaliland with recognition, despite seeing the venomous results every other time they have done so. The latent conceit that “it’ll be different this time” bodes poorly for all the other ethnic minorities yearning to breathe freely in their ancestral lands.

The Somaliland Paradigm shows that it must be the Somaliland people, and the people in the other oppressed ethnic regions, over long periods of time, that pour and shape the foundation of their nations. The problems in Africa are in the respective foundations (so to speak) of each nation, so it should not surprise scholars when the ill-planned nations collapsed. Such foundation
building cannot be ordered by some know-nothing in Washington, or Chicago, or Brussels or New York City according to what they learned at the Grande Ecole. The overall key to solving the problems in Africa must begin with a de-emphasizing of prescription and a movement toward teaching and utilizing proscription. Utilizing negative international law, as symbolized by the Somaliland Paradigm, is the key to a peaceful Africa going forward.