

Stig Jarle Hansen

# **Independent Service Authority and Compact for Service Delivery in Fragile States and Post-Conflict Settings**

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# Preface

Service delivery in fragile states alleviates the suffering of some of the weakest groups in the world. The idea behind this report is to explore how such service delivery can be made safer, and utilized for peace and institution building, this through a combination of Independent Service Authority and Compact for Service Delivery. The working paper was commissioned by The Norwegian Agency for Development Cooperation (NORAD). The report is not representing Norad's viewpoints or positions on the topic; it is the responsibility of the author and NIBR.

The working paper is based on archival research as well as interviews with relevant actors in the Somali setting. The Norwegian Institute for Urban and Regional Research (NIBR) would like to express gratitude to those who spent their time sharing insights and information with senior researcher Stig Jarle Hansen. NIBR have been met with hospitality by everyone contacted throughout the research process.

Oslo, November 2008

Marit Haug

Research Director

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# 1 Background

Basic service provision is a vital part in many efforts to minimize human suffering.<sup>1</sup> However, conflict, state corruption, patronage and ethnic and tribal based favours can at times make the delivery of services problematic. This made researcher Paul Collier suggest the employment of an *Independent Service Authority (ISA)*;

In the most difficult environments it is unrealistic to imagine that traditional government social services are going to work effectively within a reasonable time horizon. It is therefore appropriate to support other channels, notably churches, NGOs, decentralization to local governments, and private enterprises. Rather than do this in an ad hoc fashion, it is better to think of it as a long term institution and build proper mechanisms for disbursement and evaluation of alternative channels. I term such an institution an Independent Service Authority (ISA). It can be part of government, analogous to an independent central bank, and its spending can be included in the government budget, but it would not be part of the civil service and its role would be to contract for service delivery rather than to provide it directly. Donors would fund the ISA. A key difference with the related concept of social funds is that recurrent spending would be included.<sup>2</sup>

The idea of the ISA was to shield service delivery from the patrimony and corruption that is common within many third world state-structures.

ISA is a mechanism originally intended to work in weak states. Since armed conflicts and weak states often run together, an ISA would often need to be structured in a way that enables it to operate successfully in a conflict environment. One idea to approach this problem is to create a *Compact for service delivery*, an agreement between all the parties to allow the ISA and service delivery to proceed. The parties to the conflict sign a treaty in which they promise to respect the service delivery institutions, and if capacity exist, even to protect them. The combination of these two elements can be called an ***ISA/ Compact for service delivery model***. This report will present a draft model; then proceed to discuss which parameters that could negatively influence the model, presenting lessons learned from cases with similarities to the *ISA/Compact for service delivery model*, mainly, but not exclusively, drawing upon examples from Somalia (1991-2007). Chapter 7 of the working paper

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<sup>1</sup> I would like to thank Berit Aasen, Bjarne Garden, Hamida Mwangi and Hassan Kahire for their very helpful comments on drafts of this NIBR Working Paper.

<sup>2</sup> Paul Collier; "[Comments on Norwegian Development Strategy](http://www.regjeringen.no/nb/dep/ud/kampanjer/refleks/innspill/engasjement.html?id=491450)" *Globale utfordringer for norsk engasjementspolitikk*, <http://www.regjeringen.no/nb/dep/ud/kampanjer/refleks/innspill/engasjement.html?id=491450>. See also Collier's presentation of the ISA model in his book *The Bottom Billion. Why the Poorest Countries are Failing and What Can Be Done About It*. OUP, 2007.

explores areas in Somalia where the concept can be tested, as well as the relevant parameters influencing implementation in the area.

This paper has been commissioned by the Global Health and AIDS Department of Norad, as part of its ongoing analytical work to improve service delivery in fragile states and post-conflict settings.

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## 2 Service Delivery in Conflicts; Some Old Models

Service delivery can be provided by a variety of structures during a conflict. There are many examples of factions involved in the conflict that provide such services.<sup>3</sup> However, services provided by a party in a conflict can be misused for political purposes. Service provision by parties in a conflict often also “stop at the frontline”, being restricted to the areas controlled by the armed faction providing the services, in this sense it excludes groups from receiving services. Such service delivery would have little influence on peace and reconciliation beyond creating loyalty towards the parties who provide services.

It is not given that the parties in a conflict are interested in basic service provision. In the pre-2005 Somali setting few factions even bothered to attempt to provide basic services. The factions were at that stage run by warlords, often concerned by their own aggrandizement and survival rather than service provision, and concentrating their often limited financial resources on their own security and business activities. In the conflicts in Sierra Leone, Liberia and the Ivory Coast, a similar pattern was observed. Major service providers thus had to be outside of the factions, based on either international or local NGOs, or the private sector.

The private sector is an active provider of services. The private sector facilities are at times supported by the international community, but the receivers of services often still have to pay.<sup>4</sup> The service providing facilities are concentrated in urban areas, focus on profit, and lack standardization. Again taking Somalia as an example, in the case of health care and teaching facilities, private companies often tend to be staffed by under-qualified technicians, keeping costs down and profits up.<sup>5</sup> Access to services is also highly determined by proximity to services (urban populations) and ability to pay, and services exclude parts of the population.

An alternative to a profit based private sector model is a model based on international NGOs. The standard models for NGO based service delivery have been the international organization-local NGO partner model, in which the services are provided by a local NGO in partnership with an international NGO (in Somalia the Yme-NORSOM projects in central Somalia would be an example of a such arrangement) or in which the services are provided by an international NGO more

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<sup>3</sup> In Somalia, the Sharia Courts (2006) for example successfully handled educational and security related service delivery, this without receiving much donor funding. Stig Jarle Hansen, Atle Mesoy & Tunçay Karadas, *On the Borders of Islam*, (London: Hurst, 2009), 200

<sup>4</sup> The Somali health care sector for example receives most of its medicines from UNICEF; Unicef/WHO, “Accelerated Young Child Survival”, *Unicef/WHO*

<sup>5</sup> Unicef / WHO, “Accelerated Young Child Survival”, *Unicef/WHO*

directly. In Somalia some of the activities of the Norwegian Refugee Council (NRC) in Mogadishu would be an example. Importantly, NRC always strives to have a person at the service delivery site, but some NRC activities like sanitation are implemented through local partners (local NGOs) because of security considerations.<sup>6</sup> While NGOs in Somalia have been relatively successful, partly because of their ability to draw upon local knowledge - the NRC for example has several strong local leaders from the Somali-Norwegian Diaspora, chosen on their merits as well as their ethnic background - there are potential problems with these NGO-based models.

Sultan Barakat and Margarete Chard describes how international NGOs tended to ignore the existing culture and existing institutions, and create local partners by approaching well-known members of the elite.<sup>7</sup> In their examples the local partner tends to be streamlined according to western standards (often a western NGO), which often leads to a culture of deciding *for* rather than *with* its intended beneficiaries, hurting both accountability and transparency. As claimed by William Newbrander in the paper "Providing Health Services in Fragile States", a service provided by a local NGO could also be problematic because of sustainability issues, as well as of control issues (they could be a part of the local political context).<sup>8</sup> In fact, in a war-like situation control with local operations might decline. Many of the organisations operating in Somalia for example lack adequate control mechanisms, as the security situation makes the international organisations unable to employ their standard control routines.<sup>9</sup> Another problem is cyclical funding gaps, in which the donor withdraws from a specific service delivery program, ending the supply.<sup>10</sup>

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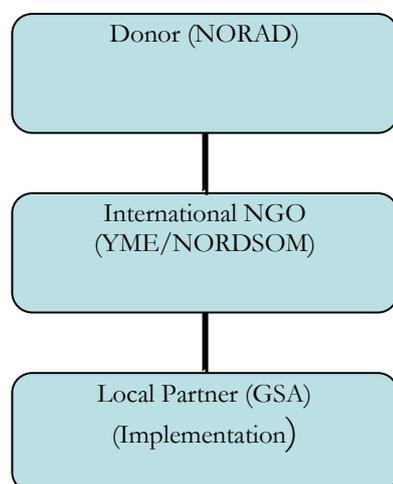
<sup>6</sup> Interview with Jens Mjaugdal, Norwegian Refugee Council, 7 June 2008.

<sup>7</sup> Barakat, S and M Chard, "Recovering the capacities of war-torn societies, *Third World Quarterly*, Vol 23, No 5, (2003); The notion that local NGOs are "invented" by international partners or are established in order to harness profits, is discussed in Chabal, P & Daloz, J-P (1999) *Africa Works: Disorder as a Political Instrument* (Oxford: The International African Institute with James Currey/Bloomngton, IN: Indiana University Press).

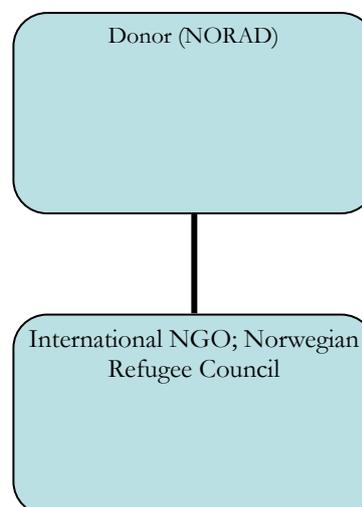
<sup>8</sup>William Newbrander "Providing Health Services in Fragile States", Prepared for the DAC Fragile States Group Service Delivery Workstream Sub-Team for Health Services May 2006, 40

<sup>9</sup> Interview with Jens Mjaugdal, Norwegian Refugee Council, 7 June 2008.

**The Traditional Model:  
YME/NORDSOM  
delivery in Central  
Somalia**



**The Traditional (Direct)  
Service Model: The Refugee  
Council in Mogadishu  
(Some activities)**



Some organisations can solve these problems by drawing upon old, long term and well tried partnerships. In Somalia, Red Cross for example uses the old Somali Red Crescent organisation as local partners. The partnership has been operating since 1982, and the Somali Red Crescent was one of the few organisations that survived the outbreak of the civil war relatively intact<sup>11</sup> However, few international NGOs have this advantage. A mechanism that could choose between NGOs that had good solutions to these problems, and with the experience to suggest solutions to basic service providers could be highly beneficial.

This working paper will discuss three key variables to create successful service delivery in a conflict situation: control, standardisation and access. Both private sector actors, NGOs and even government services might have the ability to successfully deliver services, but an institution to screen and identify actors that have the necessary capacities is needed. The type of institution described by Collier, the ISA, could be such institution, if correctly designed.

In civil war, service deliverers need to ensure that they are respected by the parties; this can be ensured by agreements with the parties to the conflict, but such agreements are not a formal part of the traditional models; the parties in the conflict will in general not be involved in the management of service provision. Contacts with political parties are often handled in an ad hoc way, in which international NGOs contact the parties after major security incidents. At times such contacts will go through personal networks, this in order to keep up an appearance of neutrality.

<sup>10</sup>Monica M. Burns "Identification of Capacity Building Interventions for Local Health Authorities in Somalia" NICARE 2004

<sup>11</sup> Interview, Bodil Ravn, (Seksjonsleder Red Cross Africa/Middle east), 1 July 2008

There are coordinating mechanisms between several service providers. In Somalia some examples are: the Office for the Coordination of Humanitarian Affairs (OCHA) or Somali Support Secretariat (SSS). But there is no integrated authority that covers several service areas and coordination, and standardization has been a rampant problem.<sup>12</sup> The coordination issue also highlights another problem: the NGO- and private sector-based solutions may be hard to integrate in a future state building project, international NGOs having a culture and interests at odds with a local state structure and being interested in maintaining their own autonomy. Private sector actors being profit motivated.

The Compact for Service Delivery package is in one sense a way to use basic components that already are relatively well known, and are present: the civil society, the private sector, international and national NGOs in a way that strengthens coordination, can create standardization, can create building blocks for a future state structure, will function in an area with a weak state, and could have peace dividends.

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<sup>12</sup> Interview, Bodil Ravn, Head of Section (Seksjonsleder Red Cross Africa/Middle east), 1 July 2008

### 3 The Model

There are three major components of the Compact for Service Delivery packages, the *Compact for Service Delivery Agreement* (CSDA) it-self and the *Independent Service Authority* (ISA), and the *Local Level Service Providers* (LLSP). The Compact for Service Agreement is in many ways the umbrella of the model, it is intended to protect service delivery from war and conflict related problems. In theory, the intention behind a compact for service delivery is to remove hostility directed against service delivery institutions and, if possible, even to get the parties to protect the institutions and the ISA arrangement. The parties in a conflict is supposed to be brought together and agree to create the ISA, to respect its integrity, to refrain from disturbing the activities of the ISA and from trying to misuse the institution, or affiliated service delivery institutions, for their own strategic purposes. The parties are said to be motivated to sign such an agreement, partly because it will give them propaganda advantages (and following, that a rejection to sign would give the party in question negative publicity), partly because foreign funds will be transferred to cover the services production, partly because of other resources that can be offered to the parties (linkage). Resources are offered to the parties after a treaty has been signed; in this way these resources function as a reward for the parties, an incentive to sign the treaty. The relationship between these three motivational factors might vary according to both local and international differences. A hidden thought behind the compact agreement is that the agreement would bring the parties together in a dialogue that might enable them to tie contacts that can be used for political negotiations. In this sense the compact model separates itself from previous models: it is supposed to have a peace and reconciliation function and thus follows the new recommendations from the DAC/OECD working group on Fragile States.<sup>13</sup>

Box 1; The Compact; a foundation for **the Compact for service delivery package.**

Foundation for Service delivery in a war zone = **Compact agreement:**

- 1) Agreement between the parties to respect the ISA as well as service providing institutions and avoid plundering or harassing them
- 2) Agreement designating the members of the ISA (or an arrangement on neutral appointment procedures)

<sup>13</sup>OECD (DAC/Fragile states group) "Workstream on service delivery" Room document 9 ( Prepared for the 7<sup>th</sup> meeting of the Fragile States Group in the World Bank Headquarters, Paris 17-18 OCTOBER, 2006), 6

It is also important to stress that successful service delivery will have a direct peace promoting effect; service delivery will show the people at the receiving end the benefits of a Compact, the benefits of cooperation between parties. Following the OECD/DAC principles for good aid, such an agreement should strive to be non exclusionary, it is intended to be geographically extensive, possibly covering the whole country. However, it has to be recognized that this principle might have to be adjusted because of resource issues or political circumstances.<sup>14</sup>

*The second component* is the Independent Service Authority (ISA), a concept taken from the book “The Bottom Billion”. The original idea is that in countries where basic public services such as primary education and health clinics are utterly failing, the government, civil society and donors combined could try to build an alternative system for spending public money. The ISA follows ideas discussed by the DAC/OECD Fragile States Group (FSG), launching the idea of a parallel cabinet for the coordination of service delivery in the cases when a local state structure lacks the ability for such activities.<sup>15</sup>

How should the ISA be controlled and monitored? In the original model the key features were intended to be a high degree of scrutiny by civil society (assumed to be independent of the ruling elite), as to how the money was being spent. The exact definition and level of the civil society engagement is not defined, making the model open for a community based approach as well as to the participation of nationwide civil society organisations. Importantly, community based participation in which local communities them-selves designate specific participants, would be harder to coordinate the larger the area of responsibility of the ISA. An additional control mechanism lies in the dependency the ISA will have on foreign funding. The donors would stop the money from flowing through the ISA, and would in theory end the inflow if the latter malfunctioned.<sup>16</sup>

The ISA itself would have members from the government, donors, civil society. It can also be based on a profit model, where commercial actors are in charge of the ISA. The Integrated Service Authority would be the channel through which the flows pass, both from the government and international donors. It will not be the institution that delivers the services itself, but rather be an institution that chooses between the bodies that may deliver these services; a screening and supervisory body that ensures that services are delivered in an efficient way. It would finance both start-up expenses and day to day expenses. It is important to underline that Collier sees the ISA as a tool in weak states, and does not discuss the complications of service delivery in a civil war scenario. In a civil war context there are several “governments”, and there could be four types of “government” participation in an ISA: that the relevant warring factions participate, that both sides nominates

<sup>14</sup> Ibid

<sup>15</sup> OECD (DAC/Fragile states group) “Workstream on Service Delivery” Room document 9 ( Prepared for the 7<sup>TH</sup> meeting of the Fragile States Group in the World Bank Headquarters, Paris 17-18 OCTOBER, 2006),6

<sup>16</sup>The Chadian Colege de Controle et de Surveillance des Ressources Petroliers (CCSRP) is brought forward as an example of a almost functioning ISA structure, in which a common body consisting of civil society organisations, managed to channel income from an oil pipe line away from military expenditure. The CCSR was established after pressure from the oil companies, which threatened to withhold investment. In the end the government closed down the CCSR, but this was partly because the investments from the oil money had been spent, Collier argues that since the many from the ISA institutions would be spent on the daily expenses of service delivery, the government would not face the same incentives for ending the arrangement. Paul Collier *The Bottom Billion, Why the Poorest Countries are Failing and What Can Be Done About It* (Oxford: Oxford university press, 2007)

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supposedly neutral technocrats as members, that only technocrats respected by both sides and nominated by a third party are allowed to participate (no government participation), or that the ISA is profit-based and led by commercial actors. If technocrats are involved, they can be from the diaspora, and/or respected for their previous services, their main merit must be technical competence and a reputation for neutrality. If the private business companies are involved, the companies in question must be known for their neutrality, and the political parties involved in the process might have an option to veto the commercial actor. The ISA will create tenders for the last component of the package is the service deliverer it-self.

Following Collier the *primary service delivery institution* can be of a variety of types; it can be an NGO, a private firm, or it can be a part of the government. The service will be evaluated by the ISA itself, which is supposed to be an efficient screening body. Importantly, there are to be no ideological preferences. Service delivery is seen as a potential building block in a future state. However, as claimed by the High Level forum on Health MDGs;.. “The objective of building effective public sector institutions should not be equated with working towards exclusive public sector service provision”. The service provider could be a private actor. Indeed, commercial service providers have a presence in even remote areas in conflict filled Somalia. However, there has often been a problem of standardization and consumer rights when private actors are involved; this will in theory be dealt with by the ISA.

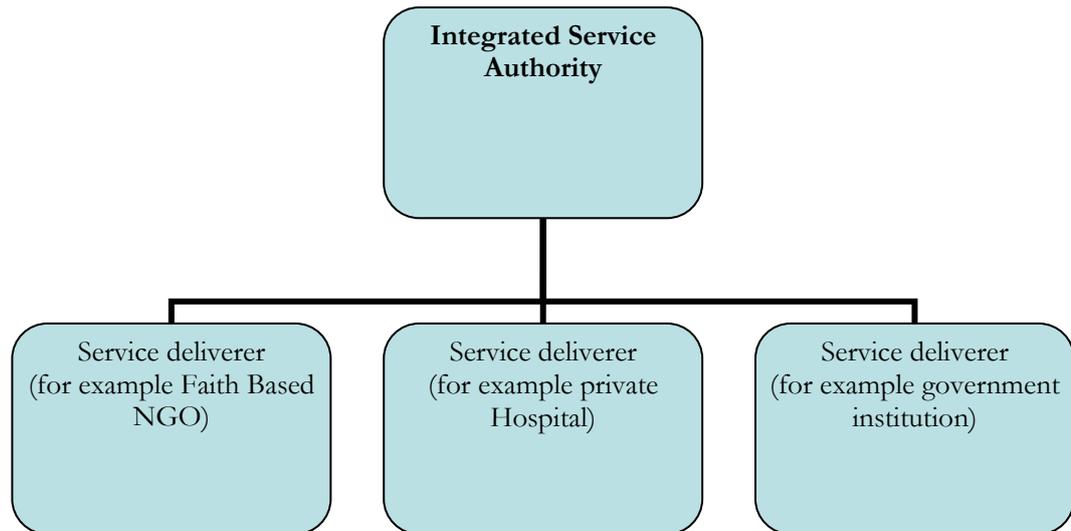
The structure of the Compact Agreement and the ISA might have implications for which types of service providers to be available to choose between. Several service providers, as for example the Red Cross, would be highly concerned with maintaining a neutral status.<sup>17</sup> A compact or an ISA that fail to be all-encompassing; acceptable to all parties in a conflict, will deter such organisations from participating. The neutrality of ICRC can of course also bring advantages, as the conflict parties view it as neutral it might encourage to sign up to a compact, because of ICRC’s neutral image.

If the ISA is based on commercial actors, commercial service providers with ties to political actors should be banned from delivering services.

There are several parameters that are open in the model. Should the ISA cover several types of services? Some types of services are highly specialised, as advanced healthcare, some services have larger political implications than others, as security provision.

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<sup>17</sup> The ICRCs neutrality can both create advantages and disadvantages; a discussion of the merits of neutrality simply goes beyond the aim of this paper, which is to discuss compact packages.



Ideally the model should be state wide, in order to avoid exclusions. However, one possibility is to start an arrangement in an area in which the probability for success is higher. One reason for doing this could be lack of resources, and the need to concentrate resources available. These “islands” are often clinics that offer dependable service but only for a certain geographic location, or neighbourhood arrangements that create justice systems or provide schooling. As claimed by Patrick Meager; ..”With severe limits on capacity imposed by conflict, providing dependable service to at least a portion of the population may be more valuable than stretching capacity to the point of failure”.<sup>18</sup> If everything goes well, this might only be the case at an early stage of the development of the Compact package, but in a worst case scenario, the functioning of the package might become restricted to specific regions. The risk is that it will lead to a package that will fail to provide services to parts of the local population, at least for a period of time.

The comprehensiveness of the compact itself might also be open to variations. A compact offering *negative* protection means that parties in the conflict abstain from attacking the ISA institutions and declares respect for its members, nothing more. A Compact offering *positive protection* and *integration* is an arrangement in which the parties would act proactively if service delivery is threatened, and have members in the ISA.

***The OECD/DAC principles for engagement in fragile states and situations*** will form a basis for any engagement. These principles are wide and include: Taking context as the starting point, doing no harm, focus on state-building as a central objective, prioritize prevention, recognizing the links between political, security and development objectives, observe the principle of non-discrimination, align with local priorities, agree on practical coordination mechanisms between international actors, and act fast but stay engaged long enough to give success a chance. A principle of major importance is the “do no harm” principle, not to make things worse than

<sup>18</sup> Patrick Meager “Service delivery in fragile states, Framing the Issues”, *IRIS Centre* 2005

before the intervention. The package should ideally be a component in state building, but should also be able to deliver services fast on a non- exclusionary basis.

### Variables that can be altered in a Compact for service delivery package.

|  | Minimum   | Medium  | Maximum   |
|--|---|---|---|
| <b>Geographic scope of Compact</b>                 | Local   | Regional  | National  |
| <b>Degree of protection offered by the parties</b> | Parties abstain from attacking and promise to respect the ISAs activities.  | Parties promises to protect service delivery if it encounters problems                      | Parties provide common protection forces  |
| <b>Who do the civil society consist of</b>         | Traditional leaders; Local representatives selected in popular meetings   | Organisations with a strong local cultural basis, religious organisations, clan structures. | Western style local NGOs, in addition to traditional mechanisms and structures. |
| <b>Reward promised for signing a compact</b>       | Aid for the service delivery it-self (and the p.r associated with supporting it).   | Tie-inns, parties get rewards in other areas.   | Tie-inns, parties get rewards in other areas.                                   |
| <b>Participation in ISA</b>                        | Nomination procedures for neutral <b>technocrats/commercial actors</b> are agreed upon by parties (one option is that they are nominated by a third party; and that actors have a negative veto). | Each party nominates a quota of neutral technocrats/ commercial actors (Independent)        | Members of the parties participate. (integrated). <sup>19</sup>                 |
| <b>Services monitored by ISA</b>                   | One type  | Several Types   | Most types  |

<sup>19</sup>It can be discussed if this type of participation should be classified as a Maximum type solution. From a state building perspective the dividend of neutral technocrats might be higher than the participation of factions, it might have a larger impact. However, the direct participation of factions means that wider organisations are directly involved, a maximal label illustrates that it is a maximal participation of the factions, also making the ISA more complicated as more organisations are involved, and lower level decisions within the ISA might need approval by parties.

## 4 Security variables

While several aspects of the Compact design is new; there have been a multitude of attempts to establish agreements in order to allow NGOs and charities to provide services locally during the Somali civil war. In one sense these types of agreements can be divided into three: (I) a local agreement in which an international NGO has negotiated with local parties in order to maximize the security of their activities, (II) a regional agreement often between an NGO and a regional authority, often enjoying control over its territory, and (III) a more general agreement covering the whole country. Country wide agreements have their weaknesses. To take the Somali case as an example, basic service providers including NGOs, commercial enterprises, faith based charities, did operate under such agreements. As the Norwegian Red Cross and the Norwegian Refugee Council express, most agreements had little impact for service delivery, they were too large and local actors failed to adhere to them<sup>20</sup>. However, the Red Cross underlines two important points regarding national compacts; first, although the effects of similar agreements so far have been small it is not given that they will be small in the future. The Red Cross highlights that many of the service providers need not only security for the service production itself, but also for logistics, the supply lines. A positive effect of a national compact could, and according to the Red Cross, have fewer checkpoints and safer supply lines.

Which variables can influence the efficiency of a compact? The successes of wider compacts were to a certain degree dependent on **the unity of factions**. Armed factions, both in the Somali setting, and in the more general settings will have internal economic and political dynamics. Again using Somalia as an example, the Warlord factions of Somalia (1992-2006), as well as of the Transitional Federal Government (2004-), lacked a well functioning internal revenue distribution system. The same was to a certain extent true of the Afghan warlord factions 1990-1996. The mid-rank leaders of these organisations established independent sources of income using their militia to tax checkpoints, to control local sources of revenue, as ports, airports etc. The lack of income from the organisation itself, combined with independent sources of income, lack of an ideological foundation creating loyalty towards the various factions meant that the mid level leaders were weakly controlled by their own organisations. Central agreements or laws were simply not respected<sup>21</sup>. Adding to the problem was the fact that warlord militias received/receive sporadic payments. In many cases these forces had to resort to plunder in order to survive, they had large incentives to plunder basic service providers.

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<sup>20</sup> Interview, Bodil Ravn, (Seksjonsleder Red Cross Africa/Middle east),1 July 2008; Interview with Jens Mjaugdal, Norwegian Refugee Council, 7 June 2008.

<sup>21</sup> Interview, Muahammed Amiin (Reporter, Shabelle news), 27 August 2007.

In sum, the above described factors lead to two different problems. First, a national or regional compact might be a compact between leaders that fail to control their own forces at a local level. Secondly, a national compact might collapse when the signatories fragment into smaller factions.

Traditional leaders might be important actors in a conflict zone and included in local agreements and consultation arrangements, but they are also representatives for fragile structures. In Somalia several areas are controlled by clan militias, and clan leaders offer a type of authority in areas where no alternatives exist. The Norwegian Peoples Aid had to deal with local elders when opening a hospital in Las Anod in 1991. Larger factions were simply not present in the area (this is still the case for parts of Somalia). However, the elders had split interests and did not fully control their own clans<sup>22</sup>. The power of elders and traditional leaders vary from location to location within states, from tribe to tribe and from country to country<sup>23</sup>.

A compact will also be influenced by the *legitimacy of the involved actors*. First, one encounters the Non-State Armed Groups (NSAG) dilemma. There are actors that western countries are reluctant to recognize, and a compact might be seen as a form of recognition. One example is Somaliland. Although the most effective local structure for service provision in Somalia (if one fails to accept its claim for statehood, and accept it as a part of Somalia). Bilateral actors have in the past showed reluctance against engaging in Somaliland<sup>24</sup>. In some instances, a partner that has little power in an area might insist in being made a partner in a Compact; while another actor, with real power, might insist that an agreement will be an infringement on their sovereignty. A much more challenging example is that of the radical faction that, for several international actors, becomes an unacceptable partner in a compact agreement. The Al Shebab organisation in Somalia or Taliban in Afghanistan are examples of such organisations. Al Shebab for example started out as a faction based around first and second generation of Afghanistan veterans, and youth recruited from madrassas and separate sharia courts around Mogadishu. The Al Shebab leaders had a close relationship with at least two Al Qaeda leaders.<sup>25</sup> Internet sites claiming affiliation with Al Shebab (and also publishing Al Shebabs suicide videos as well as statements from the leaders) contain references to global Al Qaeda leaders as well as the ideological writings of Al Qaeda. Moreover, the organisation has attacked civilians (civil servants of the TFG, a church in Ethiopia, and a market), and members have been sentenced for the killing of aid workers (service providers) in a Somaliland court. However, Al Shebab was formerly a part of one of the most efficient local service providers in Somalia, the sharia court alliance. Al Shebab will today also control areas around Kismayo, as well as several smaller cities, and have forces/groups in most of Somalia. Some Norwegian aid organisations, like the Norwegian Refugee Council, have found it necessary to make security related agreements with them<sup>26</sup>. Any Compact agreement covering the areas under their

<sup>22</sup> Interview with Norwegian Peoples Aid, 11 May 2008.

<sup>23</sup> Taking an example from the Somali context; In December 2004, the writer asked two of the most famous traditional leaders in Somalia, Malaq Muktar of the Rahanwhein and Imam Mohamud Imam Omer of the Abgals, about their own efficiency in peace making interventions. Both of them claimed to have intervened to promote peace at several occasions. However, the Malaq of the Rahanwhein claimed that he never had any success, while the Imam claimed that he always succeeded. The variation in answers between the two might reflect the variations in power between traditional leaders in Somalia

<sup>24</sup> David H. Shinn, "Somaliland, the little country that could", *Addis Tribune* 29 November 2002.

<sup>25</sup> The two are Saleh Ali Saleh Nabban and the now late Tariq Al Sudani.

<sup>26</sup> Interview with Jens Mjaugdal, Norwegian Refugee Council, 7 June 2008.

control, as well as the areas in which their military forces can sabotage service delivery, must include the Al Shebab. The group is designated as terrorists by the United States of America. This will potentially limit any funding for any ISA and make it harder to gain global support for a Compact. This is a valid point for Compacts around the world, they will have to exist in a political global system in which international actors as Russia, China and the United States will have local enemies. Some of these will be important partners if an efficient compact is to be created. The war on terror has a large impact. Organisations like Al Shebab, Hamas, Taliban, Moro Islamic Liberation Front (MILF) are all defined as enemies of United States; however all of them have provided services for the local population and all of them could have a humanitarian role.

Some potential compact partners would be more controversial than others, and external actors face a dilemma when discussing around the inclusion: should one attempt to include a very potent spoiler, a move that can alienate the United States, or other potential donors, and provide legitimacy to a specific Islamist agenda? The answer is at least to try, but move by a step-by-step approach in coordination with relevant donor countries, and monitor statements and reactions of Jihadist/Islamist organizations in relation to the agreement. It is nevertheless important that foreign sponsors maintain a Human Rights agenda, and that a Compact doesn't become an excuse for tolerating Human Rights violations from any of the parties.

**The strength of the involved factions/ the ability to control the areas in which services are delivered in** might also be an issue. If services are established in the contested border areas /frontlines between the warring factions, random tension leading to a change in the frontlines might lead to collateral damages and to the loss of service providing facilities. Importantly, factions often have core areas - an area in which a faction has stronger control and more popular support, and thus an area where service delivery will be less vulnerable for fluctuations.

An additional factor influencing compacts is *the status issue*. Many peace agreements in conflict settings with multiple parties have resulted in intensive periods of fighting, as parties that have been left out consider the agreement in question as an insult. One notable Somali example was the Benadir Administration, set up to govern Mogadishu and its environs in August 1998 as a result of talks in Cairo, and was "recognized" by four governments. The joint administration had two co-chairmen (Ali Mahdi and Hussein Aideed), 29 members of a Supreme Council (which incorporates other faction representatives) and a body of governors, including a port manager and an airport manager. Service delivery was included in the plans of the administration, which put up a police force of 1,300 demobilized militia soldiers. Local businessmen, keen to see order returned to the capital, contributed to the costs of running the new police force. The new police force, comprising 2,162 former militia fighters and 900 former policemen, was deployed in December 1998. Mogadishu's second largest hospital, the Medina in the south of the city, was re-opened in November 1998 having been closed since mid-1995. However, warlords as Osman Atto, and Musse Sudi Yallahowe felt that the role they played within the administration was so little that it insulted their status. Simultaneously the administration was under-funded. Militias were not paid; the "insulted" warlords actively sabotaged the agreement, in the end the system collapsed. The lesson from

the story is that potential spoilers have to be dealt with, either controlled militarily, or accommodated.

No compact can be perfect; there will always be security risks. However, some signatories are better at guaranteeing security than other signatories, -- namely signatories with a strong ideological platform, or a bureaucratic structure that redistributes resources within a security apparatus. The paradoxes are that weak forces might be needed to sign a compact because of their potential as spoilers, and that organisations that are controversial might be needed as partners.

## 5 Mechanisms for scrutinizing the ISA

The ISA mechanisms for scrutiny could also be problematic. Depending on the composition of the ISA, the comments coming from scrutinizers can be seen as political, directed against politically appointed parts of the ISA to tarnish them and the organisations that appointed them. The designation of the scrutinizers might also be problematic; ***a key variable is the designation of the Civil Society which is supposed to function as a scrutinizer.*** Indeed, the concept of the civil society itself could be highly problematic in a Somali setting. According to Glasius; “Civil society refers to the set of institutions, organizations and behaviours situated between the state, the business world, and the family”.<sup>27</sup> Following this definition, which by no means is the only one, the state and the business sector is excluded. The “western style” local NGO, is one example of an institution within the civil society. It is often funded by elites, and often with good connections having long partnerships with international organizations. Local western styled NGOs have played a major role in service delivery around the world, as in the YME-NORDSOM projects in central Somalia. However, they have often been used as the last end in the production chain of services, meaning that they have functioned as service providers rather than scrutinizers.<sup>28</sup> Civil society groups and NGOs are also major employers. A western style NGO might be “in business” to get profit. The NGO is to a certain extent dependent on external funding, this will make a scrutiny role harder, the NGO would be a potential service deliverer for the ISA, it will thus have an interest in “being nice” towards the ISA. The problem might be circumvented by choosing NGOs in other sectors (Human Rights, Consumer Rights, Journalist Associations etc) to act as scrutinizers. One might also hire a separate NGO as a specified scrutinizer, providing a contract that prevents competition over the service delivery function, a model used by the International Labour Organization (ILO) and SAACID (*say-eed* - Somali, meaning 'to help') in Mogadishu, handling garbage collection, health (TB vaccinations) and education.<sup>29</sup> In this sense SAACID and ILO separate between a service providing NGO and a scrutinizing NGO. However, the scrutinizing NGO will also, in other contexts, be a service provider. Such a strategy might have success but has inherent limitations. NGOs are often concentrated in the cities, have less presence in rural areas and have been accused of being elitist.<sup>30</sup>

<sup>27</sup> Marlies Glasius (2007) “Civil Society”, a very brief history” *CCS brief 1*

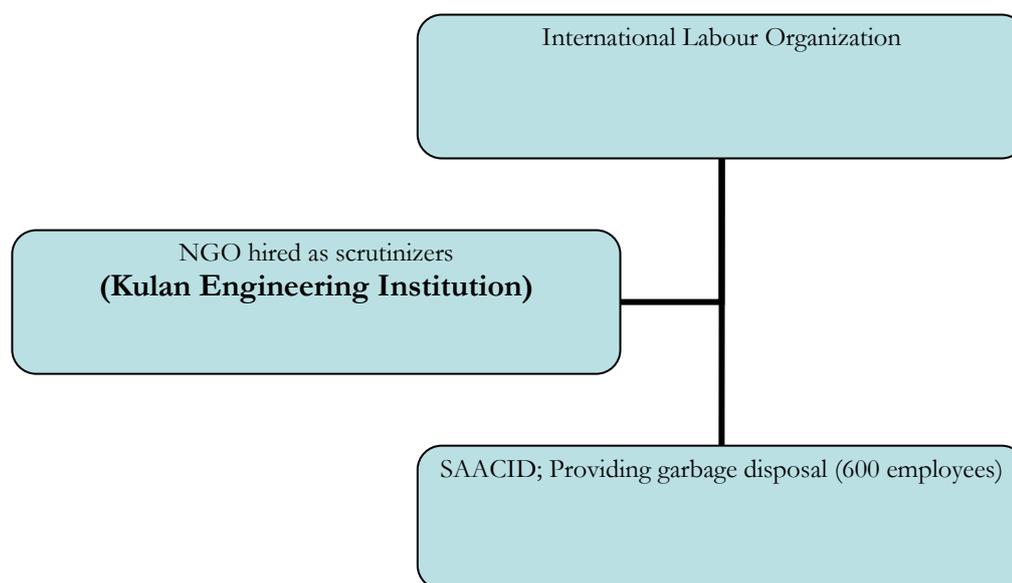
<sup>28</sup> Some of the better-known and more proactive civil society organisations operating in south-central Somalia today include: SOFDA, the Coalition for Grassroots Women’s Organisations (COGWA), the Peace and Humans Rights Network (PHRN), Haweenka Horseedka Nabadda (Women Pioneers for Peace and Life, or HINNA), Civil Society in Action, Save Somali Women and Children (SSWC), Iida, Somali Peaceline, the Ismail Jimale Human Rights Organisation, the Elman Peace and Human Rights Organisation, the Formal Private Education Network for Somalia (FPENS), the Schools Association for Formal Education in Somalia (SAFE), and the Somali Medical Association.

<sup>29</sup> Interview with Tony Burns, Saciid, 2 June 2008; See also Saciid’s homepage, <http://www.saacid.org/>

<sup>30</sup> For a critical view, see Abdirizak Durqun, “The Precarious Nature of the Civil Society”, *Somalia watch* 30 June 2003

**An NGO scrutinizer** might thus fail to act as a proper scrutinizer in rural areas. Somalia for example has many larger NGO networks, but these networks are plagued by the same problems as explored above. Somalis who have lived in Somalia for the last 20 years also express worries about another type of NGO -diaspora based NGOs with little experience in Somalia, in one sense removed from the individuals that need aid in Somalia.<sup>31</sup> The possible elite foundations of Somali NGOs should not scare away attempts to employ NGOs as scrutinizers. However, such foundations suggests that additional scrutinizers must be found.

### **An NGO checks and balance approach to service provision; The ILO/SAACID service provision system in Mogadishu, Somalia**



**Commercial actors** can also act as scrutinizers. An international commercial actor, as a global consultancy firm, will increase the risk that the donors trust the ISA as they face a well known brand name. Such a company will have experience in handling monitoring tasks. However, an international commercial actor might be unfamiliar with the task of handling feedback from locals in remote areas. A local company might perform the same tasks cheaper but might also have network connections with members of the ISA. A possible solution could be a package where an international consultancy firm handles scrutinizing together with other local actors in an early phase, but leaves the scene as the local scrutinizers' gains competence.

**Traditional structures can be employed for the control of the ISA.** To employ the traditional structures for scrutiny can create problems; it can be seen as empowering outdated structures, structures that many educated and urbanized citizens of the country in conflict could see as the cause of the conflict/ blocking development. An employment of traditional structures can also be seen as leading to

<sup>31</sup> Interview with Yahya Ibrahim, Mugadishu University, 2 June 2008

entrenched negative gender patterns.<sup>32</sup> However, traditional structures have functioned as a security provider, and handled redistribution in cases of emergencies; in rural areas of several conflict zones they remain important. It is in general trusted by the local communities. This may be the reason that a majority of the Norwegian NGOs involved in Somalia at some stage have chosen to deal with clan councils in order to improve the safety of the services they provide, especially in a rural setting.<sup>33</sup>

Traditional institutions are not very transparent for outsiders; and are far from stable cooperation partners. There will be rivalry between various traditional leaders, and supposedly “ancient grudges” between sub groups that can create instabilities. In many cases “fake traditional leaders” emerge. However, the social status of the traditional system means that even some of these “fake leaders” can hold respect. NOVIB Somalia have for example actively and successfully attempted to bring in traditional elders as helpers in service delivery, while at the same time adding gender components to the cooperation structures. Traditional leaders might be necessary participants in a compact agreement, as well as important scrutinizers of the ISA.<sup>34</sup> Traditional leaders as scrutinizers should thus not be regarded as neutral, external to political parties. Due to clan balance, it is appropriate to balance the elders of various clans when choosing scrutinizers.

An Additional approach is the so-called **Community management committee approach**, in which a local council responsible for the scrutiny of the ISA is selected (in the case which the ISA functions at a more local level); employing leaders (but not necessary traditional leaders) selected for their general prominence at a local level. Management Committees, consisting of local community leaders, have functioned as key components in the ICRC Health care programs in Northern Somalia, often as a specialized committee, a community health committee was selected.<sup>35</sup> It was noted that the membership of the Odwein CHC were well to do compared to the rest of the community and that their level of ‘wealth’ was one criteria for their selection, as well as commitment to ‘run’ the clinic on a daily basis. In this sense the criteria for participation in a basic service delivery supervisory institution, not to unlike an ISA, was selected because of wealth. The intention was that the person should contribute in the case of donor fatigue, but it reduced the general representativity of the CHC. Evaluators concluded that the CHC had to be brought closer to the traditional clan-system and to religious institutions in order to gain legitimacy.

Importantly, **religious institutions** are amongst the most trusted in many conflict settings.<sup>36</sup> Well reputed religious figures could successfully be included amongst the

<sup>32</sup> See UNIFEM East & Horn of Africa (1998) Somalia Between Peace and War: Somali Women on the Eve of the 21st Century? (Nairobi: UNIFEM), 26; Interview with Abdhuraman Badio 5 April 2003, Denmark

<sup>33</sup> Interviews with 5 Norwegian NGOs active in Somalia. NRC, RC, YME/NORDSOM, NPA, MSF

<sup>34</sup> At the time of writing elders and traditional leaders lead a important clan committee in Kismayo (together with the political committee making up the city’s administrative structure; independent of both TFG and ARS), in Galguduud Ugas Hassan of Ayr holds political power.

<sup>35</sup> The Community Management System is a programming model whereby the community being serviced by a particular clinic represented by a ‘community-owned’ health committee, assumes joint-responsibility together with implementing organization and district and regional health authority for the planning, setting up, and running of health services. The model is also directed at improved clinic staff performance and accountability for quality of services provided through appraisal, training, supervision and reporting. Community and local authority participation in both the management and financing of the clinics ensure this. Financing is based on the concept that a Community Health Fund will generate revenue at local levels. At the same time, international organizations, such UNICEF, WHO and the IFRC support an expanded range of services.

<sup>36</sup> Stig Jarle Hansen, Civil War economies, the hunt for profit and the incentives for peace”, Enemies or Allies working paper 1

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scrutinizers of ISA institutions. Religious leaders have been employed by UNICEF against Polio and have also played an important role in work against HIV in Somalia.<sup>37</sup>

So what conclusions can be drawn from the above discussion? The first point is that the scrutinizers should be selected carefully. Critique coming from the scrutinizers might have political consequences; their critique might target political appointees within the ISA that have been appointed by a faction. This seems to suggest that an ISA should be selected following an approach similar to the selection of the national electoral commission in Somaliland (presumed neutral members are selected by various parties, each party selecting one candidate) rather than an ISA with members from political parties. The latter arrangement would have the potential to create trouble, as parties started to quarrel over how many candidates each party should have the right to appoint, and quarrels within the ISA could easily become politicized. The most viable option seems to have international NGO, clans structures, and local NGOs suggesting technocrats, preferably agreeing on particular candidates; and the parties in the conflict having a veto against these suggestions. Such a solution could be supported by an international consultant firm in the early phases.

Secondly, the findings would suggest that the scrutinizers have to be selected on a wide basis; local communitarian leaders and clan leaders should have influence for projects that concerns them in their local setting. At a higher level, International NGOs, Somali NGOs, respected religious leaders, should have influence, while ensuring that there is information flow from a local level to a higher level, and that local critique is emphasised. A local model will ensure that the clan balance in representation are less problematic to handle for there are simply fewer clan actors at a low level.

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<sup>37</sup>UNICEF, Somali religious leaders join the fight against polio, 18 July 2007, UNICEF Press Centre.

## 6 Will there be a Peace /State-Building Dividend?

A successful Compact for Service delivery package will have a substantial peace and state building dividends. The successful provision of basic services has aided the popularity of organisations as Hamas and Hezbollah. Basic service provision will give popular support. But service provision will have a certain threshold value; if excluding, or too little that it might arouse anger rather than popular support. In this sense, resources must target groups on all sides of the conflicts and expand as soon as conditions allow it.

The success also depends on the friction the appointment of an ISA and the negotiations around a Compact will create. An erroneous approach can create wars rather than peace and the composition of an ISA must follow a step by step approach. The compact must be inclusive, and also include symbolic partners.

The state building dividend will be largest if the ISA is run by neutral technocrats. An ISA can, if covered by a compact, potentially be included directly into a state structure; it is already an accepted entity for the factions. The package then becomes a stepping stone for the future state.

The devil lies in the processes and details of the Compact package. The process leading up to it needs to be a step by step process and has to be completely frozen if there are indications that it might spark conflicts.

## 7 Testing the model in the Somali setting

The Somali context highlights the problems with the Compact model. Firstly, as illustrated by the more general discussion in the previous chapter, there might be regional variations even within a country. Somalia will have zones of peace, conflicts and war. There might be variations in the need for services; there might be variations in the strength of the factions, some factions barely being able to control their own forces. Safety considerations would point to a compact covering a specific geographic area in which parties are in control of their own soldiers. In this sense a compact would be simpler to manage if it was of a local type, a local compact could deal with a specific type of needs, it could be created in an area with parties able to control their own forces.

However, exclusion, of both parties and receivers of services, has to be avoided. The exclusion of parties in a conflict might lead to war. A compact might be nationally encompassing, but focus its service provision in several enclaves that has the positive parameters needed to increase the probability of a successful compact, and simultaneously satisfy the parties in the conflict by providing a fair balance in the local access to services.

Some of the parameters that have to be examined in order to select Somali enclaves in which a compact agreement should be created are:

*The protection that elders / Traditional leaders* can offer, although important, has its limitations. The elders rarely fully control the freelance militias from their own clan. Militias fund themselves through checkpoints, faction leaders, protection rackets, or through plundering. In this sense militias have few incentives to follow the regulations of the traditional leaders; they have little to gain economically from them. However, most traditional leaders have deep respect, and will have influence when addressing specific situations, especially in a rural setting. They are often better at handling problems when they occur than preventing problems from emerging. The elders can, in some cases, mobilise larger forces. In the case of Somalia, arms are common amongst the male members of the society, and the more visible militias are just a small faction of the total amount of armed men. A mobilized sub clan would often be larger than a freelance militia, but members will be eager to return to their daily life. In this sense elders could have the possibility of dealing with troublesome freelance militia, but the mobilisation processes will take time and resources.<sup>38</sup> The fluidity of the Somali lineage systems, as well as external manipulation, has also led to new “traditional leaders” emerging. All these factors leads to a complex situation in which elders have to be included in a local compact, otherwise their clan will be

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<sup>38</sup> In 1998 Puntland mobilized its elders to remove militia checkpoints on the Bosasso- Garowe road. All the checkpoints were removed. However, after 14 days they were back.

insulted. It also leads to a situation in which elders are able to help after an incident has happened, but nevertheless fail to fully control what is happening in “their” territory. The use of the elders and traditional institutions, while making the situation safer for service providers, does in general not give lasting security. The use of elders would be more beneficial the further north you go in Somalia, as northern Somalia had stronger clan institutions. Importantly, local clan elders should be an included party to the compact, but never as the only signatories.

*The protection that factions can offer.* The factions in Somalia have traditionally had a tendency to fracture. Such tendencies will hurt a compact package; partners have to be able to control their own forces. The partners in Somalia with such structures are roughly at present *Somaliland*, *Ethiopia*, the *Al Shebab* and one of the two *Alliance for Re-Liberation of Somalia (ARS) Djibouti group*. The category does not include Puntland, the *Alliance for Re-Liberation of Somalia (ARS) Asmara group*, and not the Transitional Federal Government (TFG). Although Puntland might consolidate in a way that makes the control better, the TFG have a far way to go before this happens. The above variable leads to problems. Safety concerns might lead to the exclusion of some parties from the enclaves that service provision should take place in. However, security considerations will mean that service delivery has to start in safer zones. However, the general compact can include most parties, including the parties that fail to control their own factions.

*The stability of the enclave in which service delivery is attempted.* An area might be stable but weak, opening up for the possibility that some faction will take advantage and attack the enclave. Such an attack might destroy service delivery as well as resources invested in order to provide it. Even though a compact formally exists, service delivery might for example be destroyed by co-lateral damage.

It should be kept in mind that Somalia is a challenging setting for any testing, and that a test under Somali setting could fail to do justice to the model. Keeping this in mind, it is possible to suggest areas in which the testing of such model would be easier. Such suggestions need to be substantiated by field studies and by further interviews with local actors. However, the above variables may give a clue of the areas in which a compact might be feasible. The political situation would suggest that several areas have to be designated simultaneously so that various factions would be pleased to have service delivery in their areas. Thus, a solution could be to have service delivery function in five or six enclaves.

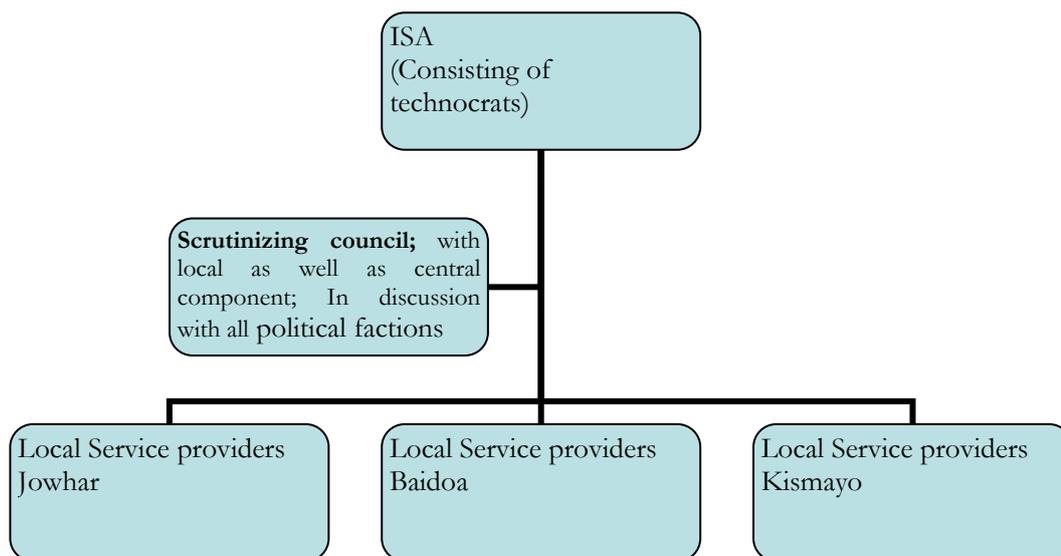
In Baidoa, there is rampant insecurity, but the TFG seems to have a stronger control over its forces than in other locations. Since it is the core area of the TFG, the loyalty of its troops might be relatively strong and although there are guerrilla attacks within the city, the city is not yet threatened by an outright war. The Rahanwhein elders are weak, but the need to appease the TFG to attract them to a compact agreement makes it natural to include the Baidoa.

In Jowhar the Djibouti ARS have by now consolidated their hold and have started service delivery. The city is governed by a city council of seven, however tensions within the city would mean that the old Warlord Mohammed Dheere should be included in a compact on a local level.

A last and more controversial place to get engaged in is Kismayo, a city now controlled by the Shebabs. Despite the radical ideology, the Shebabs have managed to protect service delivery in their core areas, and seem concerned with such provisions. However, an engagement in the core areas of the Shebabs must be coordinated with human rights groups and the United States.

A package of service delivery in these three places (of which Baidoa and Kismayo presents the largest local security challenges) would reach vulnerable groups, simultaneously; it would produce services available to the most important factions in Somalia. TFG, ARS Djibouti and the Shebabs will gain the benefits. In this sense, such a structure, with simultaneous establishment in all the above mentioned areas could bring together the major factions in a compact, at the same time take care of the security aspect. All of the above cities will have a NGO presence and a presence of local commercial actors, ensuring that the ISA can choose between various providers, and various scrutinizers.

An ISA should NOT be based in Nairobi since institutions in Nairobi arouse widespread scepticism in Somalia. There should be a scrutinizer council; consisting of clan leaders from the various cities, International NGOs with experiences in the areas, parties, religious heads, as well as national NGOs from non-service related areas scrutinizing the structure.



This is far from a “waterproof” structure; and local NGOs should be consulted for security advises before any move, but this would give the model its best chances in Somalia. However, since Somalia is a fluid environment, two months of observation of enclave stability is needed before engaging in the suggested places.

## 8 Conclusion

As illustrated by the analysis in this part of the report, a compact-service delivery package can be formed in many ways with a number of questions to be answered: Should it be local, regional or national? Should the compact involve the parties providing forces? Should traditional leaders be involved? What kind of rewards should be involved for the signatories? To which extent should the parties be involved in the nomination procedures? Which services should be delivered?

The analysis in this working paper suggests that a combination of local and national compacts is a good way to move forward in a conflict situation, and that a compact package should be kept simple and locally adapted. More peaceful “enclaves”, or “Islands” which offer predictability (in the sense that the security variables described previously indicates a more stable environment) and opens up for a concentration of resources can be taken advantage off. At the same time a nationwide compact can be designed, including as many combating factions as possible, in order to prevent pride issues obstructing service delivery. Such a strategy will enable a “tailor made” compact package taking into account specific local security variables that also depends on the unity of the factions, the strength of the traditional structures and the control over local areas.

A wide compact will also mean that more isolated parties should be included despite being controversial amongst international donors. This has to be done in a step by step approach taking into consideration human rights issues.

A minimalist type of compact package will be easier to administer, but might give fewer advantages. This report generally (with notable exceptions described below) prescribes a minimalist approach because it is easier to manage and concentrates its resources. However, such a model can be expanded if successful. However, the report recommends many important exceptions to the minimalist approach in order to increase the models probability for success. When it comes to the scrutinizer functions, one should be open and employ both commercial actors, western style local NGOs, in addition to traditional mechanisms and faith based structures (The two latter structures might be the best local expertise).

This report suggest an “enclave”/Islands of peace approach to the compact package, making the compact agreement as broad as possible, at the same time using knowledge on the local situation and the various parameters within a compact package in order to adopt the package to local situations. This is not a minimalist approach, as the compact should be as wide as possible. Also such enclaves should be situated amongst all of the important actors that could protect the service delivery. In this sense the prescribed approach is a combination strategy.

There will always be a discussion regarding the parameters of the compact package, and one size “does not fit all”. The type of local scrutinizers must for example be adjusted to fit with local conditions.

More peaceful “enclaves” can be found in Somalia. However, the Somali situation is floating, and “enclaves” might change hands. One should be aware that Somalia presents an extremely challenging environment to test the model in. If one attempt to test the model in challenging circumstances, then Jowhar, Baidoa, and Kismayo are reasonable suggestions, however success is only a matter of probability and is not certified.