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VARIATIONS ON THE THEME  
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## Multiple Loyalty: Complex Identities in the Horn of Africa

'A sheep in its enclosure, well fed and fat,  
is amazed to find that the frail gazelle prefers a life in dangerous liberty  
– A sheep cannot understand, answers the gazelle,  
my heart is not the heart of a sheep.'  
Somali wisdom

### 1. Preliminary remark

The Swedish diplomat Torsten Örn, in an article on the lingering influences of empires, comments that in trying to understand the history of a country, and thereby its present, it is important to know which empire(s) it has belonged to, because

whenever it took place, it will leave traces long after the last soldiers and tax collectors of the empire have left. The fact that England, but neither Scotland nor Scandinavia, was part of the Roman empire, is still noticeable; the border between the East and the West Roman empires is likewise still obvious, as is the one between the Habsburg and the Ottoman empires in the Balkans. That Bosnia is positioned right at the point of intersection of all four is not a coincidence. (Örn 1996, my translation.)

Following this line of thinking, it is not at all strange that we see such upheavals in the Horn of Africa. Before the arrival of the empire builders from Europe in the second half of the 19<sup>th</sup> century, the Ottoman empire maintained a presence in the ports of the Northern coast, while the sultan of Zanzibar did the same in the South. Neither managed to impose their direct rule, but each represented different spheres of power which certainly had some influence on the Somalis, e.g. in terms of trade contacts. Then the Somalis, as we know, attracted the interest of four colonizing empires, the Italian, the French, the Ethiopian, and the British at two different points. All of them, in addition to their direct claims on Somali territory, also traded parts of the claimed territories between themselves, over the heads of the Somali population.

Who colonized which part is evident in small details, such as the form of the bread eaten, the games played when idling away a few empty hours in the afternoon – who but the French could have left such combined traces as the *baguette* bread and the *boule* game, now characteristic of Djibouti? But while this example is anecdotal, it is also a symbol for deeper lying influences.

### 2. On the notion of loyalty

By chance, Djibouti came to be my initial point of contact with Somali culture, by choice, it has become my focal point as a researcher. In 1996, I had the opportunity to carry out research there on the very subject of this article, multiple loyalty at the intersection of the partly overlapping entities of the Republic of Djibouti and the Issa branch of the Somali people.<sup>1</sup>

I intentionally use the word 'loyalty' in the singular, to stress my belief that the feeling of loyalty itself is one, unique. I take loyalty to be the feeling of belonging which makes us do things out of duty and a sense of common responsibility, without payment but expecting

solidarity in return. As we all can define ourselves as members of more than one human group simultaneously, according to such criteria as gender, generation, faith, language, culture, family, clan, profession or citizenship – the list is endless, some aspects changeable at will, others not – it implies that all of us have several simultaneous feelings of loyalty going in various directions at once, sometimes concurring, sometimes competing.

In preparing my research, I had first defined three historical layers I thought to be competing on approximately the same level for the loyalty of the people:

1. the precolonial society, up to around 1900;
2. the independent state, direct heir to the French colony which lasted until 1977;
3. the new parties formed after Djibouti in 1992 adopted a (limited) multiparty system.

In fact, I quickly realized that the political parties only constituted one aspect of the preceding level. As every party has to have members from all parts of the country (Loi N° 1/AN/92/2e L, Article 4) and cannot in any way be identified with a race or an ethnicity (Article 3), they are all operating wholly within the sphere of the postcolonial state. This insistence on not representing any *ethnie* is in itself an interesting admission of their existence, the very denial of access to state politics an acknowledgement of their potential strength.

And so, the real poles of opposition are still the pre- and the postcolonial entities. Both can be making comparable claims on people regarding legitimacy and therefore loyalty.

### 3. Before colonialism

The Tadjoura Bay marks the point where the Afar and the Somali peoples meet. To the north and west live the Afars, their territory going from the escarpment of the Ethiopian highlands to the Red Sea coast, up to the Dahlak Islands near Massawa. To the south of the Afars, the Somalis cover the whole of the Horn of Africa down to the Tana River in present-day Kenya.

Of these two, the Afar precolonial society was organized politically into sultanates with a formal hierarchy. Crosscutting the vertical structure was the horizontally organized *fi'ma*, which can be described as a social club, including members irrespective of clan and status.<sup>2</sup>

As for the Somalis, they have time and again been described, sometimes with disdain or despair, sometimes with admiration, as a stateless society (see for example Mazrui 1986:69-71), and their social organization into clans – something not at all unique to them – has been stressed far too many times. It seems to me, however, that it is Andrzejewski who, with his deep knowledge of Somali society, makes the most astute assessment:

In the precolonial period, most Somalis lived in what might be described as a commonwealth composed of miniature pastoral and city *states* of varying degrees of sovereignty, some linked by alliance and some divided by feuds, but all sharing the same language, culture and religion (1985:341, emphasis added)

Whatever the word used to describe the socio-political organization of a people, their ability to render justice themselves is a measure, maybe the measure, of their independence. Colin Renfrew offers a definition which I quote (1987:215):

The political organization or polity may be defined as a self-governing group of people. When we are speaking of a polity we are not necessarily thinking of a sedentary group: a hunter-gatherer band may be regarded as a polity as much as a city state or an empire, so long as it functions as a unit and does not fall within the jurisdiction of a larger group for administrative or legal purposes.

So, let me for the time being use the word 'polity', before the arrival of the colonists, the southern shore of the Tadjoura Bay belonged to the Issa Somalis, a polity whose territory

stretched from this point far west and southwest into what is today Ethiopia and some way south into Somalia/Somaliland, including the port of Zeila'.

Thanks to research into the political organization of the Issa by Ali Moussa Iye, knowledge about the Issa *xeer* is available for those who read French (Iye n.d.)<sup>3</sup>. The Somali word *xeer* translates as 'law, constitution' and Iye maintains justly that it amounts to a true social contract. This is a field of Somali studies which has received relatively little attention from researchers. Marcel Djama makes a comment on power which is relevant here as well.

Despite a strong tradition of research devoted to political facts, the intricacies of power have not been explored very well in Somali studies.

This apparent paradox stems initially from an empirical situation. The traditional Somali societies of Somalia did not flaunt power, on the contrary much was done to conceal it from the outside observer (1996:1).

### 3.1. On the concept of leadership

The traditional Issa concept of leadership centers around the notion of purity: a person to be elected or selected for leadership must be ritually pure, adhere to strict dietary rules and certainly not consume khat or any other drug, and his moral behaviour must be without fault. No blame must be attached to him and he must not be in need, in order not to be open to manipulation, blackmailing and extortion or be tempted by material riches.

This was valid for the *ugaas*, 'king', as well as the members of the supreme council, called *gande*, and those occupying other official functions within the polity, including those serving on a *guddi* to pronounce on legal matters. Their loyalty was to all the Issa people who depended on them for their coherence, safety, welfare and sense of being treated with fairness.

The presence of leaders or chiefs, variously called *suldaan*, *boqor*, *ugaas* or *garaad*, among the Somalis has not been contested by the Europeans, but their actual status and powers have been questioned. They have not been seen to be powerful enough for the European concept of a leader. But this is to misrepresent their function in the Somali context. They are more comparable to a constitutional monarch than to an omnipotent autocrat. Although occupying the highest office, they are not outside the law. Let me here refer to Juha Tolonen, who in discussing the modern state comments that a dualist view of state and justice cannot have any basis: the state is the same as order of justice. Sovereign power cannot in any way stand outside the positive judiciary, and all power in an organized society is ruled by law (1989:124-125), he says, and adds (p. 125; my translation):

The function of the sovereign is, namely, to keep the citizens associated by their own free will. Such a sense of community is the necessary basis for order.

This reads like a description of the Issa *ugaas*, who does not rule by force, but exercises moral power within the rule of law. His office is complemented by a council, called *gande*, which the *ugaas* can call but not impose his will on. If he oversteps his mandate, he can be deposed.

### 3.2. A constitution and a set of laws

These days, reference is made to *Xeer Ciise*, but my sources say it was originally called *daryeel*, 'safeguard'. The basic principles, as presented by Iye (n.d. 155-161) in what could be called the constitution, can be summarized as follows:

1. Equality of all before the law.
2. Inviolability of the law.
3. Recognition of the human origin of the law.
4. Recognition of the Issa society as one ruled by law: no vengeance nor rancour is allowed, the *xeer* takes care to repair any grievances.

5. Recognition of the primacy of the community over the individual, who is only a member of the community.
6. The *xeer* provides a model and the principles of behaviour and rules social relations.
7. The Issas own in common the following: territory, hospitality, king.
8. Hospitality is offered foreigners, but no one is subjected to subordination, the Issas do not take vassals.

In addition to the constitution, the *xeer* comprises a complete set of laws. Regarding crimes and offences, the *xeer* recognizes different areas: *xeerka dhiigga*, concerning physical attacks, *xeerka dhaqaaqil* concerning material damage, and *xeerka dheerta* concerning dignity or moral attacks (Iye n.d. 164, 165-190).

We have no space here to go into details, suffice it then to mention the following: explicit procedures are codified for how to handle legal cases. The first hearing where witnesses are called is held in public; men, women and children can all attend. Then the deliberations of the members of the court, the *guddi*, are held in private, their decision again declared in public. It is possible to rely on a representative to put forward one's case, and possible to appeal.

In sum, until the arrival of the colonizers, the Issa *xeer* constituted a complete, independent legal system not included within any other jurisdiction.

After a century of foreign pressures, however, the formal structure is not intact anymore; at present, the Issas no longer have a *gande* nor an *ugaas*. The last *gande* dissolved itself during the 1940s, when Ethiopian authorities posed a grave threat of taking over or directly destroying it. Efforts to reconstitute it have proved unsuccessful. The last king, *ugaas* Hassan Hersi, lived to an old age but died in the middle of the 1990s. So far, no new one has been announced.

Some say that we are witnessing the end of the Issa polity, but that the principles and the laws of the *xeer* itself will be respected and upheld as long as there are people living in the traditional way in the countryside. Even this is not self-evident. It must certainly be easier to follow the principle of purity in a society without too easy access to consumer goods. According to one commentator, he himself would not in earlier times have been accepted as a *guddi* member, as he is a consumer of khat like so many others today; but, he adds, the principles are no longer generally adhered to, not even by those who now, in the absence of an *ugaas*, are still upholding the center of Issa polity.

## 5. The changes introduced by France

### 5.1. France coming and France going

After the opening of the Suez Canal, the French did not wish to let the British presence go unchallenged in the area on the route to India and further on. They established themselves at Obock in 1862, on the northern side of Tadjoura Bay, on a piece of land which, according to the French treaty, they bought from the Afars. In 1884, this foothold was extended through a treaty of friendship and protection signed with the Sultan of Tadjourah, and in 1885 another treaty was signed with the Sultan of Gobad. Also in 1885, a treaty was signed with a number of Issa Somali chiefs on the southern side of the bay. (GRS n.d., Fitzgibbon 1982, 1985)

In 1896, this Obock colony was united with the *Côtes des Somalis* Protectorate and changed status at the same time. The town of Djibouti, founded in 1888, became the capital of the colony, the name of which became *Côte française des Somalis et dépendances* (Grapinet 1985<sup>4</sup>), quickly shortened to CFS, in English generally called French Somaliland. Thus the presence of the Afar population was obscured.

In 1966, General de Gaulle, the great liberator of Europe and Africa, visited the colony amid strong demands for independence. Thousands of people assembled in the city center to

listen to his public speech, but security forces became afraid that the meeting would get out of hand. De Gaulle therefore ordered the rally to be dispersed, which was done violently, leaving several dead and many more wounded. In 1967, France offered the colony not independence but a change of status and a change of name. In the name, the word 'Somali', too closely identified with demands for independence, was eliminated while the word 'Afar' appears for the first time: *Territoire français des Afars et Issas*, TFAI for short.

Pan-Somalism did not seem very attractive to the Afars who, already cut off by colonial frontiers just as the Somalis, did not wish to become a tiny minority within a vast Somali state and France played on this ethnic difference. Independence was finally granted in 1977.

## 5.2. War, feuding and raids - an interpretation

One justification sometimes given for colonization has been the need to make the natives stop their endless wars. The Afars and the Issas have been described as atavistic enemies. Yet, as one Djiboutian commented to me: 'enmity is not unavoidable, if Djibouti is independent now, it is because we, Afars and Issas, have been able to come together'.

Issa territory is well defined, with a core area and fringes. Within this territory, activities are characterized by an ideal of peace. Outwards, independence is fiercely maintained, but a particular branch of the *xeer*, called *dhible*, is dedicated to the interaction with neighbouring peoples, arrived at in agreement with them, notably with the Afars.

Human life in the Horn of Africa is adapted to its ecological environment, with the nomads' daily activities centered on maintaining a balance between the size of the herds and the grazing and water capacities of the land, between the feeding of the animals and the energy expenditure needed to access pastures and water. In times of prosperity, the fringe areas are open to neighbouring peoples for grazing. Competition for the access to resources is however intense, and raiding has been frequent. This has been seen as feuding and warring between enemies. But already in 1976, Colin Turnbull, speaking of Maasai/Kikuyu competition for the same land, proposed the following interpretation:

Raiding became a major feature of life, for through such raids each side was able to express its latent hostility and so reinforce its own values and sense of superiority without involving the whole tribe in total warfare. Far from being an act of war, the raid acted as a mechanism for the maintenance of peace (p. 81).

David Turton (1993) elaborates on this in an article on the Mursi of southwest Ethiopia. He presents an understanding of war (corresponding to the 'raid' of Turnbull) as male ritual and as a ritual to maintain independence, rather than directly aimed at expansion. And he shows how this mutual ritual is distorted by the use of new automatic weapons (p. 176).

Now, I would like to introduce a distinction between rival and enemy. When the fine line between these is crossed, the raid is no longer a ritual for maintaining balance in a relationship of competition between rivals, but becomes indeed a war between enemies, intent on either changing or destroying each other, with terrible consequences for both.

When the French arrived in the area, they were not the rivals of the local inhabitants, only of the other colonizers. In contrast, in their dealings with the indigenous population, they were really enemies. Various measures were undertaken against the locals, aimed at changing their identity. These can be symbolized by the phrase taught in schools all over Africa, starting with *Nos ancêtres les gaulois*, 'Our ancestors the Gauls', but included such harsh acts as cutting off the capital with barbed wire and armed guards to severely restrict the locals' access to the city, and incarcerating people in concentration camps after the 1966-67 uprisings in demand of independence. Most importantly, they introduced a new legal system over which they wielded power.

## 5.3. Colonial power – colonial justice

Justice in the French held area was officially organized for the first time in 1887, according to French legislation and under the authority of the commandment of the colony. A dualist system was first introduced in 1894, with a French court for Europeans and 'assimilated' and a native court of customary law for the natives of the land. In 1900, a unitary system of justice was introduced, with the idea that everyone would be treated the same way. Universal man, I add, must of course be French, and so his legal system accordingly. But, explains Pierre Grapinet (1985), a question of doctrine complicated the good intentions: Western society, in pursuit of equality, is based on the notion of 'indirect'; responsibility for people in respect of diverse social benefits and retirement from working life as well as justice is not directly in the hands of the people but always administered by the state. Here, on the contrary, responsibility is direct, justice is direct between the parties involved, says Grapinet, and so a new dualist system was introduced in 1904. This is the basis of the system still in place today.

Indigenous justice was reorganized and further developed in 1927, and again in 1938. This time, the texts mentioned in particular how to deal with cases where the customs of the two parties differ and obligatory conciliation was introduced. Grave crimes such as murder fell within its competence, and the courts had power to pronounce sentences from simple fines up to much harsher ones, even capital punishment. In 1946, however, these courts lost much of their powers as important sections of law were transferred to the French courts.

The French system also went through several changes and modification in order to update it according to the developing needs of the colony.

## 5.4. Implications

This multiple structure is very interesting. On the surface, adopting a dualist system purportedly including customary law seems to express concern for the indigenous population, and recognition of their autonomy according to the initial treaties – procedure should always follow the custom, for example. But underneath that, one cannot but suspect that it is in fact an attempt to appropriate direct control over the local population, and at the same time conferring some sort of legitimacy on the French claim to rule. All decisions pronounced by the indigenous justice had to be reported to and checked by the French authorities.

In taking over the supreme responsibility for the justice system, the French had in fact unilaterally declared null and void the pre-existing polities. In view of how quickly the treaties concluded with the local chiefs or sultans were superseded by new agreements over the heads of the said leaders, and in breach of the same agreements, one can only wonder how seriously they were ever intended to be taken. It seems that the Europeans offered to treat the local leaders as sovereigns and representatives of states only the time needed to acquire some hold over a desired territory without having to fight for it. The fighting came only later, when the betrayal became obvious. Indeed, the versions that are recorded in memory on the Somali side in Djibouti do not always coincide with the written versions. It is telling that in later treaties, care was taken by the British and the French to include a paragraph stating which version (theirs, of course) to be the binding one in case of disagreement.

One sticking point in particular is how Somali chiefs could be 'giving their country to France' since the Issa land was not in their private possession but the common property of all Issas, as seen above. That the phrase continued '... that she may protect it against all foreigners' – and the same promise had been included in every treaty with the Afar sultans – was quickly and conveniently forgotten by the French. Already in 1888, they concluded an agreement with the British on a common border halfway between the towns of Djibouti and Zayla' (GRS n.d. 174-177). Then, in 1897, they reached agreement with Ethiopia whereby they abandoned to Ethiopia areas they had pledged to protect. They also acknowledged that

Lake Assal always had been the 'hereditary property of the Ethiopian Empire' (*src*) and so Ethiopia would continue to be able to extract salt from it (GRS n.d.:199).

Whatever the overt respect expressed for customary law in the French colony, such as the promise made to the sultan of Tadjoura not to change the laws of his land, clearly the local Somalis and Afars from that time no longer were wholly in charge of their own jurisdiction within the territory of the colony.

## 6. The legal system(s) in present-day Djibouti

In order to avoid a legal vacuum at the time of independence, a special decree ensured that the legislation in place in the colony would so far continue to be valid (Grapinet 1985).

### 6.1. The official version

At present, the officially recognized legal system of in Djibouti is a so called 'dualist system' composed of three parts:

1. the modern law, also called 'the written law' or 'the French law';
- 2 a. the customary law;
- 2.b. the sharia law.

Of these, the 'sharia law' is concerned with personal status such as marriage, divorce, custody of under age children in case of divorce or death of the parents, and alimony (*pension alimentaire*, between spouses and between children/close relatives). It was reorganized in 1980, with particular attention paid to securing justice for and protection of women, in cases of divorce or widowhood. 'Customary law' is concerned with commerce, buildings and plots of land, and is nowadays nearly completely defunct. 'Modern law' takes care of everything else.

The new constitution, introduced in 1992 after a referendum, repeats in Article 92 that all legislation not directly contrary to this constitution stays as it is unless specifically modified (*Constitution*, Journal Officiel, 15 sept. 1992).

On paper, this legal system looks quite impressive. But there are problems, of course, in particular a very direct one: as was pointed out to me, the structure is more abstract than real, because the whole legal apparatus is in fact manned by a very small number of persons: there simply aren't enough professionally trained people to provide legal services to all of Djibouti's population. But there are other options, as we'll see.

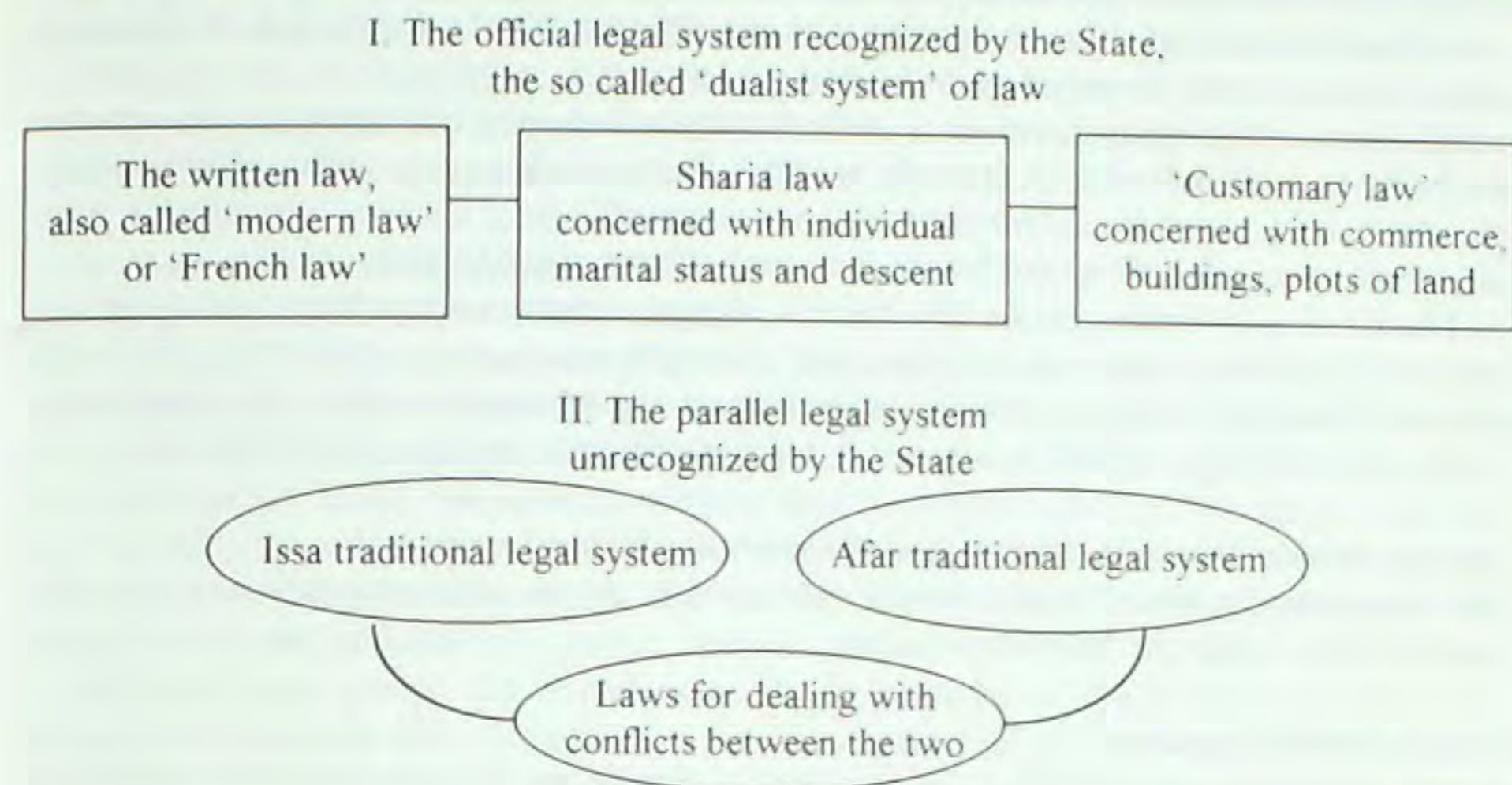
### 6.2. A multiple system

Grapinet only once, briefly in the beginning of his book, alludes to the fact that the courts that are said to be customary only are so nominally. Further, as no one receives any professional education in view of serving at these courts and they hardly ever are used anymore, they are, in his opinion, anachronistic and should be dismantled. Then he comments on what he sees as a problem still existing, at the time of his writing: the fact that *authentically customary judiciary instances* (emphasis mine) continue to function, even inside the capital. He thinks they should already have disappeared (Book one:11).

The official side chooses to ignore the tenacity of precolonial legal institutions, but in fact, they are still very much alive, and not merely because they provide the services needed. Jürgen Habermas (1994:115-116) points out that we have a need not only to be equal before the law but also to feel to be the originators of the laws that bind us; thus the traditional laws enjoy a legitimacy that those inherited from the French can not directly compete with.

To summarize the legal situation in Djibouti, we see something very complex: the dualist system in itself comprising three parts, and the whole structure twice doubled by the unrecognized systems of traditional law. This is expressed in the diagram in the figure below.

Figure 1. The legal system in Djibouti.



## 7. Discussion

### 7.1. The fabrication of customary law

The traditional legal systems of both the Issa and the Afar populations of the French colony should have been the basis of the so called 'customary courts', but in practice the French version was never the same as the original ones and through time and reorganization became further and further removed from them. One example, already evident from what has been said above, will draw enough attention to the discrepancies, when the competences of the customary courts were enlarged, capital punishment was introduced. Capital punishment was not practiced among the Issa – except in very rare, extreme cases where the security of the whole polity was at stake – nor is it, apparently, part of any other version of the Somali *xeer*.<sup>3</sup>

Somali customary law is often presented as based on retaliation, 'an eye for an eye', with endless feuding. This is in stark contradiction with everything I have learned to think of as *xeer*, as is also made explicit in point 4 of the Issa constitution above.

### 7.2. Punishment versus reparation

European legal thinking, from the ancient Greeks until today, has been concerned with punishment of the guilty party, most often by inflicting various forms of physical suffering on the body of the culprit, including death sentences. Any reparation is abstract, fines are paid to the state, according to the principle of 'indirectness' mentioned above, not to the immediate victim. In France – relevant here as France is the former colonizer of Djibouti – victims of crime have been a notoriously neglected category. Moral vindication for the victim has been deemed enough, as expressed in the payment of 'one symbolic franc' in repair.

Somali legal thinking, on the other hand, is first concerned with repairing the damage and the imbalance inflicted on society, and reparations, *mag*, are paid directly to the victim and members of the victim's extended family. As a further example from the Issa *xeer*, if someone has been physically hurt, in addition to the payment of *mag*, the guilty party must receive the wounded person and care for him/her until (s)he is well, a procedure called *buullo*. The intention is that in this way, not only physical repair should be achieved but also rancour and hatred be overcome and conciliation achieved.

If murder has been committed, the imbalance inflicted on society is the loss of one of its members. Punishing the murderer by killing him, too, would not restore balance, and neither would his imprisonment. What does is the payment of *boqol*, 'hundred', which in the literature often is referred to as 'blood price', or by its Arab term, *diya*, in the form of a given number of camels (the number of one hundred is symbolic rather than real) collected and redistributed according to well defined principles. It is rather like a life insurance. Although the whole collectivity is involved, the culprit himself does not get off lightly: his good reputation is gone and he can no longer fulfil all the formal duties and obligations of an adult person.

I know of no document on the Afar traditional legal system comparable to the one on Issa law, but bits of information gleaned here and there give no reason to think that it, although different in several respects, is any less impressive nor any less operative than that of the Issas.

To my knowledge, capital punishment is not part of current legal practice in Djibouti.

### 7.3. Intersection between the pre- and the postcolonial legal systems

The several legal systems present do not only coexist: people may move between them. To illustrate this, I relate the following incidents.

#### Case 1: Double payment

A man, driving his car along the road, picked up a hitchhiker. He then happened to have an accident in which the hitchhiker was wounded. The man acted according to Issa law, which in such a case prescribes *buullo*, and took him home for care. When the hitchhiker had recovered, he went back to his home. Then he was told that according to the new laws, he is entitled to compensation from the driver's insurance company. But the driver had failed to take out insurance and thus he had to pay out of his own pocket the equivalent amount. In this case, the two legal systems ignored each other, and the guilty party had to pay twice.

#### Case 2: Complementary justice

A group of young men, childhood friends, had all joined the army. Joking and taunting was part of their daily interaction. One day, however, one of them was thoroughly fed up with the repeated insults which he had to suffer every day, in spite of telling the teaser to stop. He pulled his weapon and shot the other one in the leg. The families immediately intervened and following the principles of *xeer* as applied in an urban context, came to an agreement on monetary compensation to be paid by the guilty party and his family to the injured party and his family. The incident also led to a court case, but as agreement had been reached between the families and compensation paid, the court only considered the aspect of unlawful use of weapon. In this case, the two legal systems complemented each other.

#### Case 3: Double incapacity

A night watchman, in the course of his duties, had a fight with a presumptive burglar. In the fight, the burglar hit the watchman hard in the face and the watchman had three teeth knocked out. The burglar then fled. He was most probably one of the several thousand refugees who live in the capital, many of them camped out in the streets or on empty plots of land. He was not known locally and would be impossible to find. Without a culprit, there was neither a court case nor a case for the *xeer* authorities; the watchman only received first aid by his employer. In this case, neither legal system was of any help.

Two other cases have been briefly mentioned to me. In one, a man was heard urging the Qadi at the sharia court to let go of his case and let the *xeer* take over; in the second, a woman, freshly widowed, met with some hostility from the family of her husband's and had difficulties

maintaining her rights. For her, going to the Qadi represented a better solution. Indeed, the consideration originally accorded women in *xeer* has been particularly eroded in recent times, as one interviewee told me, 'there is the law, and the application. The application is faulty.'

Everyone hopes to find justice. Where one goes to find it depends on who one is and what one's expectations are, where one's loyalty lies and the solidarity one expects in return. In the current setting, several options are available, for better and for worse.

## 8. In place of a conclusion, some reflections

### 8.1. Long-term implications of colonialism

It is not possible to change one part of a whole without in various ways influencing the other parts. Colonialism was an experiment on a massive scale of what happens when part after part of a socio-political structure is changed through outside force. To say now that forty years have gone since 'Africa' became independent (less than twenty-five in the case of Djibouti) and that Africans must take responsibility for what happens in Africa is to wilfully sneak away from the part of responsibility which lies squarely with the former colonial powers, in the heritage of an unequally shared common history.

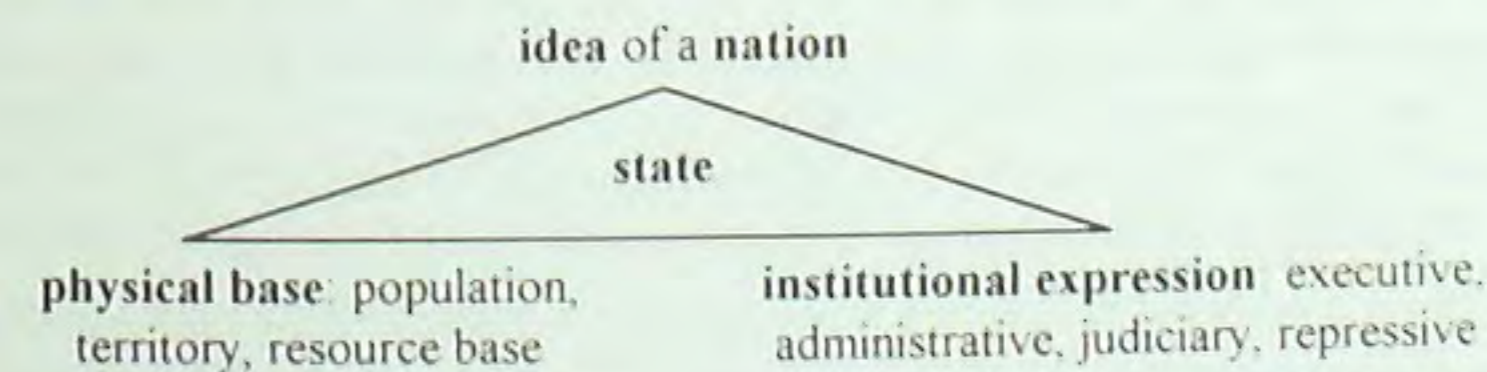
In taking over power, the French were de facto declaring the indigenous population incapable of managing their own affairs. A new intermediary set of 'traditional' leaders was set up, *okals* – a term reportedly borrowed from the Egyptians – who were paid by the French authorities and so accountable to them, rather than to their supposed constituency. In saying this, I am not saying that the *okals*, as individuals, could not be honourable and trustworthy; what I am saying is that the whole structure would have an infantilizing effect on the local inhabitants as they were reduced to a subaltern status.

The people and the authorities were no longer codependent on each other and on the preservation of internal coherence in the society for common long-term survival, economically and politically, mutual loyalty no longer an imperative. In case of problems, from now on, there were larger political units who could impose their order, come to the rescue and bail out. This outside dependency is still in place today, evident for example in the presence of a large number of *coopérants* and international donors, the general international pattern favours this.

### 8.2. On the concept of 'state'

From precolonial polity to colony to post-colonial state... Barry Buzan offers a definition of the state composed of three parts, which can be conceptualized as in the following figure.

Figure 2. Conceptualizing the state. A tripartite model, adapted from Buzan (1991)



First we need a population holding certain ideas about themselves collectively, then a territory where to enact the state and a resource base to afford it, and finally the institutions to make it happen, so to speak (1991:65). This gives us useful tools for further exploration.

That the *idea of a nation* is the real driving force is shown by the fact that there is also a symbolical side, as exemplified by governments in exile. By definition, they do not have access to a territory where to enact their state, but they do have one where to project it.

On the other hand, when new states don't grow out of old ones but are superimposed on previously existing entities, the idea comes from somewhere else, as in the colonial era. Colonization was fiercely resisted, but then, through the sheer longevity of the colonial sections carved out, these start to take on a certain legitimacy. This is what Buzan (1991: 73) implies: institutions can replace the idea as a starting point. Thus, Djibouti is now a valid polity, claiming and receiving loyalty in its own right. The young generations growing up there, and all those who believe in the idea of Djibouti, offer it their loyalty as Djiboutians, claiming in return its solidarity. This does not automatically annihilate the other, precolonial aspect of their identity, but this part is not necessarily a political identity anymore but an ethnic, cultural one. There need not be a contradiction between the two, if loyalty is not demanded on the same level. However, if one or the other aspect is totally denied, for example in the event of an ethnically or clan motivated civil war, terrible choices are forced on people.

### 8.3. As for Somalia

In the 1940s and 50s, at the time of the UN investigation of the future of the Somalis and the Bevin plan, the Issas expressed the desire to join all the other Somalis in a common Somali state (Fitzgibbon 1982:92-93). Later, Somalis from Somalia expected the whole of the French colony to join Somalia upon independence. By the time that was granted, in 1977, President Siad Barre had already shown his dictatorial tendencies; also, the Somalis had been totally disregarding the Afars who to them had been presented as just a fringe section of the Somalis.

Some Somalis blame the eventual breakdown of their state on Djibouti's failure to join Somalia. In fact, the deterioration of the idea of Somalia comes from the malpractices of the country's leaders. In time, no doubt, the story of the reign of Siad Barre will join the other stories in Somali folklore and history denouncing all too strong, centralized authority, further reinforcing people's disgust with despots.

To restore trust in the idea of a Somali state, whether in practice one or several, the perversion of one-dimensional clan loyalty must be overcome and presumptive leaders strive to attain some of the traditional purity described above. And as a final word for us all: it is often said that people have the leaders they deserve. Let's go further: as the leaders inevitably act as role models and in their behaviour set an example, they will also have the people they merit.

### Notes

<sup>1</sup> I could undertake this research in Djibouti thanks to a grant from the Nordic Africa Institute, Uppsala, Sweden, later supplemented by one from the SFV foundation, Helsinki, Finland, hereby gratefully acknowledged. One version of this paper, entitled 'Loyautés multiples à Djibouti' was presented at *l'Institut National des Langues et Civilisations Orientales*, Paris, France, on 26 May, 1997, followed by a lively discussion. This is a condensed version of that paper; I'll come back to the important discussion of the role of women in another paper.

<sup>2</sup> I have no deep knowledge of Afar society; this was explained to me briefly by one who does.

<sup>3</sup> Ali Moussa Iye's work is very important, not least because it provides the basis for further research. It has, however, met with opposition, too. No doubt, he is right in analysing some of this as the reaction to seeing in writing what has been oral (see both Iye and Ahmed in this volume); another problem is that it does contain a few mistakes and questionable interpretations; some simply accuse him of tribalism for not talking about all Somalis at once. Information on the Issa and the *xeer* quoted from Iye is indicated as such, otherwise it comes from my own interviews with oral historians and *xeer* experts. Naturally, opinions sometimes differ.

<sup>4</sup> I had access to the document by Pierre Grapinet while in Djibouti and took extensive notes, unfortunately not always noting page numbers. In this article, the information on the official legal system in Djibouti comes from Grapinet, complemented by interviews with a lawyer.

<sup>5</sup> Mohamed Abdillahi Rirash confirmed this point at the time of the Turku congress.

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