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THE TREE OF WISDOM: TRADITION AND MODERNITY

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1. Background¹

In this paper I consider an aspect of traditional culture of Somali pastoralists, in order to highlight that even in pastoral culture which is considered the most studied, there are several very important aspects that are still unknown to many Somalis. These issues take on a significance far from irrelevant to the situation that Somalia is now experiencing.

In the pastoral community, the people, following an ancient 'tradition, meet under the shade of a tree, preferably an acacia, for various reasons. Indeed, the relevant tree has the function of: (a) assembly (*gole*), where people discuss the political and social problems related to the clan or inter-clan relationships; (b) court, where arbitration takes place between contenders; (c) art school, where the vast oral literature is transmitted and propagated; and finally (d) place of entertainment, where people can chat and play *jar* (a game similar to checkers).

2. Arbitration

The subject on which I would like to dwell is arbitration (*xeerka geedka*), which literally means "the customary law of the tree", or better, "the law of the tree".

According to this customary law, to carry out an arbitration between two contenders, a number of specific participants need to be present under the tree, namely:

- *Guurti*, the Council of wise men dealing with social and

political problems of the clan, which in this case coordinates arbitration.

- *Xeerbeegti*, the experts on the customary law of theirs and their neighbours' clan. Even though they are illiterate, they know by heart all the details of the customary law inherited from their ancestors; they are the ones who judge the contenders and give the verdict.

- *Buuni/Fiqi*, the expert of Islamic law, who expresses opinions on issues of marriage, divorce, inheritance and so on.

- *Guddoonshe*, the clan leader (the 'chairman');² his role is only to formally validate the judgments made by jurors, (*xeerbeegti*); the community is therefore obliged to follow that decision, unless a contender states an immediate appeal.³

- *Gardoon*, the plaintiff.

- *Garqabeen*, the defendant.

- *Qareen*, the defender; early in the process the plaintiff or the defendant may delegate his case to one of the people present. Note that there is no reward either for defenders or for others.

- *Markhaati*, the witness; to avoid false evidence the defendant has the right to challenge the witness, who is dismissed by the jurors if there occurs one of the following relationships between the witness and the plaintiff:

-- *naas-haye*, that is to say, the nephew (sister's son) of the plaintiff;

-- *lul-haye*, that is the brother in law (i.e., the sister's husband) of the plaintiff;

-- *leg-haye*, namely one that is maintained by the plaintiff;

-- *sokeeye*, that is to say, a close relative of the plaintiff; and finally

-- *deris*, namely a neighbour of the plaintiff.

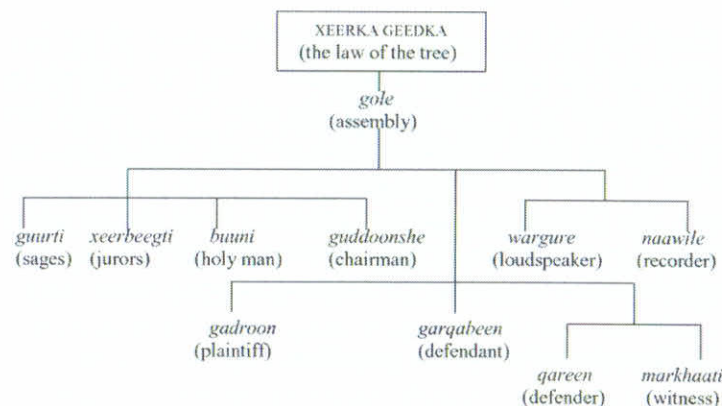
- *Wargure*, who is the person whose role is to repeat aloud the words of each so that everyone can hear. The contender, or anyone who takes the floor has the obligation not to raise his voice too much and to stay calm even if he is very angry. The *wargure* intervenes in order to make the public listen. The person who takes the floor, begins by nominating a preferred *wargure* who also has the task of delivering expressions of approval and stress, indicating that listeners are following the

speech of the speaker. Expressions like *haa...*, *haye...*, *waa tahay...*, 'stimulate', as the sages say, "the speaker's oratory skills as the breasts of a nurse are increasingly filled with milk by a sucking infant". Moreover, during the repetition made by *wargure* the speaker finds the time to reflect and coordinate his speech properly.

- *Naawile* is a person who is closely monitoring and records in his memory all that is said in the Assembly. He reminds the *wargure* of words or phrases that may have been omitted, since the *wargure* is not allowed to modify, add or remove a word from what the speaker says. People ask the *naawile* for clarifications when a dispute arises over what was said by someone. In short, he acts as a recorder.

A graphical representation of this structure is given in Figure 1 below:

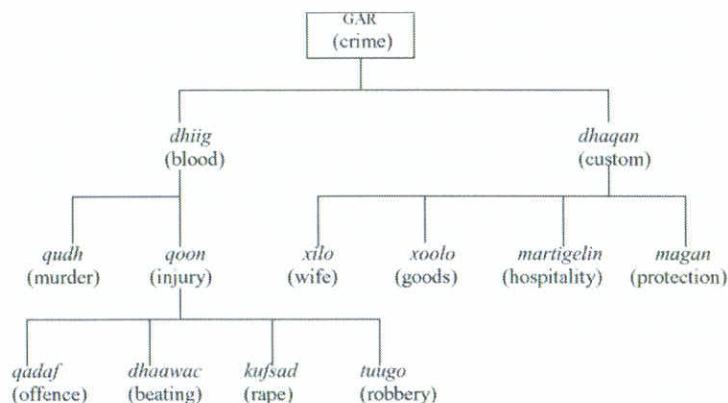
Figure 1: The Law of the Tree



Once all the members needed for the meeting are present, the Council of Sages (*guurti*) starts the process by asking the plain-

tiff what the case for which the requested is. The cases of crime may be one of the following:

Figure 2: Crime classification



Once they have identified the type of case they let the two contenders talk and listen to witnesses. After the contenders have repeated twice each of their speeches and everyone has declared they have finished and has nothing more to say, the debate is ended and nobody can take action or add anything more. The Council of Sages then appoint a committee of jurors (*xeerbeegti*, see Figure 1) who leave the Assembly for a while and then return to give the verdict based on customary law.

3. The prize of guilt: the penalties

Any damage caused to people for any reason has a reparation price established by customary law. Let us examine some of these:

- *Qudh*. For murder you pay 100 camels. Faced with such a serious crime, members of the clan of the person who com-

mitted the crime, must necessarily contribute to the blood payment, and this is an element of cohesion within the clan.

- *Qadaf*: Offence is considered an insult, slap, kick or beating with a shoe that has been taken off (which is the worst of all); all of these are no less serious than physical injury. For each of them there is adequate compensation. For example *muraado* is an insult that is addressed to a high-ranking person such as a clan leader, a holy man or a relative, or his wife. The punishment is to offer a big banquet slaughtering with one's own hands the dearest camel of the family, the one that produces most milk. The victim of the offence is required to hold the animal and express forgiveness when the animal is going to be slaughtered.

- *Kufsad*. For rape the penalty is about 10 camels. The compensation must be paid, with no help, only by the rapist who is considered a despicable person, and then forced to abandon the community.

- *Tuugo*. Theft is also considered a shameful act. The thief pays without help for a value ranging from three to seven times the value of what he stole. It should be stressed that this crime, as well as *kufsad* above, is rare because of the severe punishment that it entails. According to the wise men of the Academy, it seems to occur at most once every 10 years. There is a saying in Somali that goes: *gows tuug iyo gus mac-siyo midna xeer uma lihin*, that is to say, "theft and rape (or adultery) are not part of our tradition".

- *Martigelin*. This concerns hospitality: anybody who neglects his guests is punished. It is traditional for travellers not to bring food supplies for their journey, even if it is long. *Martiqadis* is the name given to a person who does not behave according to the rules of hospitality. He is punished in some way and his misconduct is talked about in public and divulged also by means of poetry.

4. The camel

As is clear from the penalties discussed in section 3, the camel is the most used object to repair damage, or to provide

compensation. Cattle or goats would never do for a serious crime like murder. The reason why the camel has such an important role is determined by its fundamental usefulness for the pastoral life of the Somalis. As a matter of fact:

- in relation to other animals, the camel gives more milk and more meat and these are the basic staple of the nomadic shepherd;
- it tolerates better than other animals the extreme climatic conditions prevalent in Somalia;
- it is the best means of transportation for the nomads;
- it is the object most in demand by the groom from the bride's family at weddings;
- it is the usual form of payment in cases of murder;
- anyone who has more camels enjoys greater prestige and respect in their communities.

Owing to its high economic and social value, the camel is central to the life of pastoralists. In fact, there is a well-known proverb that says *geel la'aan waa geeri* ("being without camels means being dead"). So, on the one hand, the camel is an instrument of mediation, but on the other, it is the cause of many inter-clan conflicts, such as raids, and disputes over water wells or pastures. Nevertheless, through the customary law people are able to reconcile the clans in conflict. However, these traditional forms of law fulfil more adequately the need for justice and security within a single clan.

5. The present situation

Nowadays this system of traditional justice still survives in the bush (the natural habitat of the nomadic clans) although it has undergone some changes caused by the urban legal system. However, the majority of Somalis now live in urban areas where, since independence, constitution and laws have been introduced, which are mainly copied from those of industrialized countries.

These changes, nevertheless, have failed to initiate parallel socio-economic development, better suited to the new system institutions.

The preponderance of formal bureaucratic apparatus within development programs, as well as the attempt to enact development according to western models without adequately taking into consideration the area's cultural background has meant that development efforts have been uneven. Not only are results not encouraging, also development efforts have triggered mechanisms of striking social inequality: consider the often ostentatious wealth of the ruling class in comparison with the growing poverty of the increasingly urbanized masses.

All these factors have activated the worst possible behaviour in a camel based culture, namely raiding. The only difference is that now the objects of raids are no longer camels but power, and the consequences are quite evident today in the never-ending, disastrous war. This war has affected mostly the southern part of Somalia, because in that region people have not managed to combine the three institutional frameworks (government, religion and traditional culture) that could stop the perpetuation of conflicts. The main cause of this serious situation is the fact that the country in these long years has been held hostage by successions of warlords struggling for power, each group with new ideologies. It is thus increasingly unlikely that these people will develop a common vision in any of the three institutional frameworks, since: (i) most of them have not understood the nature of the government system and want to mould it in their own way in order to get the power; (ii) the Islamic religion has been interpreted in different and conflicting ways, mostly for political ends; (iii) there has been a move away from the traditional culture of the wise (custom of the tree), and in particular the voice of the clan leader is no longer respected as it was once. On the contrary, the negative side of traditional culture, namely clan-based power, to effect raids or rise to power.

The situation in northern Somalia is less serious because the

best part of traditional culture still survives. For this reason, it has been possible (at beginning of the civil war, 1991) to establish a government in Somaliland, and later in Puntland. This does not mean that traditional culture is more important than the other two institutional frameworks, but it is well observed by most people, so it is the only institution on which there is almost total agreement, and this has made it possible somehow to amalgamate the three institutional frameworks.

Returning to the beginning of our discussion devoted to one aspect of traditional culture, it is interesting to add some linguistic notations and notice how the current administration of Somaliland uses some important terms which are the same words that we have seen adopted in traditional culture. Not only are they the same in form but their connotations are also very similar. For example:

TERMS	ADMINISTRATION	TRADITIONAL CULTURE
gole	assembly	meeting under the tree
guurti	senate (chamber)	council of wise men
guddoomiye	president	chairman of the board
xeerbeegti	supreme court	experts of customary law
qareen	lawyer	defender

In conclusion, one can hope that the healthier aspects of traditional culture can make a fair contribution towards interpreting the present day, and help bring Somalia to a state of 'peace'.

Notes

¹ The data used for this article come mainly from a set of conversations, recorded in the '80s, on issues of traditional culture and activities among the elderly and of the Academy of Arts and Sciences in Mogadishu. Participants in the debate on this particular subject were: Daahir Afqarshe, Ibraahim Fiqi Buraale, Cali Mudiir, Axmed Nuur Yuusuf, Ciise Maxamed Siyaad and

Cabdi Dhegaweyne.

² The chairman has several different titles from clan to clan, such as: *boqor*, *suldaan*, *imaan*, *ugaas*, *garaad*, *malaq*, *islaan*, *beeldaaje* and so on.

³ The Somali clan leader, unlike other African communities, has no power, but simply executes the decisions of the Council. There is a Somali saying that recites: *boqor waa loo taliyaa ee ma taliyo* ("the king does not require anything but advice (from the council)") and another saying also states that *boqor waa guddoonshe*, that is to say, "the king is the one who validates the decision of the counsel". This custom is part and parcel of the democracy of Somali pastoralism, as described in I.M. Lewis' (1999) volume *A Pastoral Democracy*.

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