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WHEN IS A STATE A STATE? THE CASE FOR RECOGNITION OF SOMALILAND

ALISON K. EGGERS*

Abstract: It has been well over a decade since the world attempted to save Somalia from the dustbin of “failed states.” During that decade, one region of Somalia has pulled away from its post-colonial union with Somalia, established its own government, kept the peace, and managed to flourish in a kind of stability that is only a faint memory to most Somalis outside the region. Somaliland, once a British colony, argues it should be recognized as an independent state. This Note explores the legal conception of statehood, from the Montevideo Convention to the more recent emphasis on self-determination, and then turns to the case of Somaliland, arguing that Somaliland should be recognized as a state by the international community.

INTRODUCTION

There have been few state-specific success stories emanating from the Horn of Africa since the early 1990s. Somalia itself, once the focus of world-wide attention and aid, has lapsed into what many scholars call a “failed state.”¹ Special attention is frequently drawn to the deligitimization of the state, uneven development, and lack of public services, including the lack of an effective security apparatus.² One region of what the world recognizes as Somalia, a northwestern province called Somaliland, seems to be resisting the “failed state” fate of Somalia as a whole.³ After providing a brief overview on Somaliland’s claim to statehood, this note will discuss the international conception of statehood. The most frequently cited definition of a state, taken from the Monte-

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¹ Anonymous, *The Failed State Index*, FOREIGN POLICY, July 1, 2005, available at http://www.foreignpolicy.com/story/cms.php?story_id=3098. Somalia comes out near the top of the list, number five, with special attention drawn to deligitimization of the state, uneven development, public services, security apparatus, and demographic pressures.

² See generally *id.*

³ See, e.g., Somalilandgov.com, available at <http://www.somalilandgov.com> (last visited Nov. 17, 2006); see also Somaliland.Org, available at <http://www.somaliland.org> (last visited Nov. 17, 2006) (archiving news and opinion pieces describing the development of Somaliland, particularly its civil society).

video Convention, serves as a starting point.⁴ After discussing the legal conception of statehood, the Note turns to the case of Somaliland and analyzes what prerequisites for statehood Somaliland meets or fails to achieve.⁵ The Note argues that Somaliland, which has operated as a self-sustaining state since it declared independence in 1991, should be recognized as such by the international community.⁶ The analysis leads to several conclusions, notably that the alarm with which the nation-state system views breakaway states is both unnecessary and counter-productive to the peaceful conduct of world affairs.

I. BACKGROUND AND HISTORY

The Republic of Somaliland is located on the eastern Horn of Africa and occupies the same land colonized by the British prior to 1960.⁷ Upon independence, in June 1960, Somaliland became the first Somali country recognized by the U.N.⁸ A week later, in early July 1960, Somaliland joined with Somalia Italiana to form one state with the seat of government in Mogadishu.⁹ Somalia had no history as a stable state prior to its colonial rule, but Somaliland did, thanks in part to a significant trade axis centered in its territory.¹⁰ Shortly after undertaking the union of the two states, Somalilanders voted against the union in a unification referendum.¹¹ In May 1991, following decades of attacks led by the Said Barre regime and during extensive famine (which brought

⁴ The Montevideo Convention on Rights and Duties of States art. 1, Dec. 26, 1933, 165 L.N.T.S. 19 (1933) [hereinafter Montevideo Convention]. In recent years, scholars have criticized the definition, arguing it is both under- and over-inclusive and lacks analytical room for developments over the past few decades, such as rising concerns regarding self-determination. See Thomas D. Grant, *Defining Statehood: The Montevideo Convention and Its Discontents*, 37 COLUM. J. TRANSNAT'L L. 403, 435, 437, 449 (1999).

⁵ See generally Montevideo Convention, *supra* note 4.

⁶ See Martin Doornbos, *Somalia: Alternative Scenarios for Political Reconstruction*, 101 AFR. AFF. 93, 95 (2002).

⁷ Günther Schlee, *Redrawing the Map of the Horn: The Politics of Difference*, 73 AFR. 343, 348 (2003); see Doornbos, *supra* note 6, at 95.

⁸ The Republic of Somaliland, *Somaliland: An African Success Story*, <http://www.somalilandgov.com/G8Somaliland.pdf> (last visited Nov. 17, 2006) [hereinafter African Success Story].

⁹ See *id.*; Somalilandgov.com, Country Profile, *supra* note 3 (contains basic country profile, including history of relationship with Somalia).

¹⁰ Ismail I. Ahmed & Reginald Herbold Green, *The Heritage of War and State Collapse in Somalia and Somaliland: Local-Level Effects, External Interventions and Reconstruction*, 20 THIRD WORLD Q. 113, 113 (1999).

¹¹ See *id.* at 116; see also Farhiya Ali Ahmed, *Somaliland Elusive Independence*, NEW AFRICAN, Jan. 1, 2006, at 34.

U.N. efforts and U.S. forces to Somalia),¹² Somaliland withdrew from its union with Somalia and moved its state capitol back to Hargeisa.¹³

A series of grassroots reconciliation conferences have been held by Somaliland's elders since 1992 to resolve outstanding community conflicts across the territory.¹⁴ Somaliland's population of 3.5 million, scattered across an estimated area of 137,600 square kilometers, is represented by men (and, as "clan ambassadors," women) chosen by virtue of personal attributes such as fairness and wisdom, not merely age.¹⁵ Over the past decade and a half Somaliland has repatriated refugees, rebuilt war-torn infrastructure, and demobilized rival militias.¹⁶ Despite the marked decline in inter-clan tension, the re-establishment of trust between communities, and its overall success in pursuing stability and security for its population, Somaliland's pleas for recognition have fallen on deaf ears.¹⁷

Ethiopia has gone the furthest of all states in its unofficial recognition of Somaliland by entering into bilateral agreements for cooperation in various arenas.¹⁸ Yemen has also engaged in increasingly warm relations with Somaliland, largely for inter-regional political reasons.¹⁹ Despite formal ministerial-level meetings between Somaliland and its former colonial ruler, the United Kingdom has resisted calls to recog-

¹² The U.S. intervention and on-going U.N. involvement in Somalia raise a variety of complicated issues of international law, foreign affairs, and humanitarian considerations which are not addressed in this Note. For an analysis of forcible intervention, see generally T. Modibo Ocran, *The Doctrine of Humanitarian Intervention in Light of Robust Peacekeeping*, 25 B.C. INT'L & COMP. L. REV. 1 (2002).

¹³ See Ahmed & Green, *supra* note 10, at 113, 119–21; see Somaliland.Org, *supra* note 3. Life was brutal for Somalilanders under the Barre regime. See generally Alex McBride, *Welcome to Somaliland*, NEW AFRICAN, Aug. 1, 2006, available at 2006 WLNR 1446713.

¹⁴ See Ahmed & Green, *supra* note 10, at 123.

¹⁵ See *id.*; Somaliland.Org, Map of Somaliland, *supra* note 3, available at <http://www.somaliland.org/somaliland.asp> (last visited Dec. 3, 2006).

¹⁶ See Stefan Simanowitz, *Democracy Comes of Age in Somaliland*, 287 CONTEMP. REV. 335, 336 (2005). Simanowitz also notes that Somaliland "now boasts modern airports, hospitals, ports, power plants and universities. There is a free press and the central bank manages an official currency with relatively stable exchange rates. An unarmed police force and independent judiciary maintain order." *Id.*

¹⁷ See Doornbos, *supra* note 6, at 106; Ahmed & Green, *supra* note 10, at 124. Dan Simpson, former U.S. ambassador and special envoy to Somalia, agreed, at the time, that Somaliland was a part of Somalia and should not be recognized as an independent state. He has since changed his mind, especially now that disputes over borders and control of the government have long been resolved. See Dan Simpson, *The Ghost of Somalia: Somaliland Should Be Allowed to Depart a Chaotic Country in Transition*, PITTSBURGH POST-GAZETTE, July 12, 2006, at B7.

¹⁸ See Doornbos, *supra* note 6, at 105.

¹⁹ See *id.*

nize Somaliland's independence.²⁰ Both the United States and the United Kingdom regard the issue of recognition as a matter for the African Union, to which Somaliland applied for membership in December 2005.²¹

II. STATEHOOD AND THE INVIOLABILITY OF BORDERS

The Montevideo Convention lists four basic elements required for statehood: (1) a permanent population; (2) a defined territory; (3) government; and (4) capacity to enter into relations with other states.²² This definition is so oft-repeated that it is duplicated, nearly verbatim, in dozens of cases, treaties, and tomes.²³ The Convention also states that although the "political existence of the state is independent of recognition by the other states," such recognition may be explicit or tacit.²⁴

The United States has been fairly consistent in its application of the Montevideo standard.²⁵ In *Kadic v. Karadzic*, the Second Circuit was presented with the question of whether a self-proclaimed Bosnian-Serb republic within Bosnia-Herzegovina, referred to as Sprska, was a state whose leadership could be held to account for various atrocities committed by the proclaimed leaders.²⁶ The court summarized its conclusion that Srpska met the definition of a state by noting that it "is alleged to control defined territory, control populations within its power, and to have entered into agreements with other governments. It has a president, a legislature, and its own currency. These circumstances readily appear to satisfy the criteria for a state in all respects of international law."²⁷ Sprska, by virtue of its state-like characteristics, was indeed a *de facto* state entitled to the rights and encumbered by the responsibilities of a state within the international system.²⁸ This decision was

²⁰ Press Release, Republic of Somaliland, Ministry of Foreign Affairs (May 20, 2005), available at <http://www.somalilandgov.com/Edna1.htm> [hereinafter Press Release]; see Doornbos, *supra* note 6, at 106.

²¹ David White, *Somaliland Seeks US help in Battle for Recognition*, FIN. TIMES UK, Aug. 24, 2006, at 8.

²² Montevideo Convention, *supra* note 4, art. 1.

²³ See, e.g., RESTATEMENT (THIRD) OF FOREIGN RELATIONS LAW OF THE UNITED STATES § 201 (1987).

²⁴ Montevideo Convention, *supra* note 4, arts. 3, 7; see also RESTATEMENT (THIRD) OF FOREIGN RELATIONS LAW OF THE UNITED STATES § 202 cmt. b (1987)

²⁵ See, e.g., *Klinghoffer v. S.N.C. Achille Lauro*, 937 F.2d 44, 47 (2d Cir. 1991); *Nat'l Petrochemical Co. v. M/T Stolt Sheaf*, 860 F.2d 551, 553 (2d Cir. 1988).

²⁶ *Kadic v. Karadzic*, 70 F.3d 232, 236-37 (2d Cir. 1995).

²⁷ See *id.* at 245.

²⁸ See *id.*

hardly a stretch for the Circuit court, as the Supreme Court has long recognized that “any government, however violent and wrongful in its origin, must be considered a *de facto* government if it was in the full and actual exercise of sovereignty over a territory and people large enough for a nation”²⁹

Although some definitions of statehood require the capacity to engage in formal relations with other states, they rarely require recognition by other states.³⁰ The *Restatement (Third) of Foreign Relations Law* succinctly points out that “[a]n entity that satisfies the requirements of [the] § 201 [definition of a state] is a state whether or not its statehood is formally recognized by other states.”³¹

International law appears to emphasize the importance of the territorial integrity of states. Generally, the preference is to rely on internal domestic laws of existing states to adjudicate the succession and establishment of new states.³²

Many states and international bodies view the disposition of national territory as a question for the sovereign state to decide: “Positive International Law does not recognize the right of national groups, as such, to separate themselves from the State of which they form a part by the simple expression of a wish, any more than it recognizes the right of other States to claim such a separation.”³³ Individual states have echoed this belief, noting that “international law does not specifically grant component parts of sovereign states the legal right to secede unilaterally from their ‘parent’ state.”³⁴

The dogged reliance on the inviolability of borders and inherent worth of territorial integrity, however, has its fair share of detractors.³⁵ One such scholar, Thomas M. Franck, argues it is incorrect to assert that international law has always favored the territorial integrity of states, pointing out that the “entire history of the dismantling of the

²⁹ See *Ford v. Surget*, 97 U.S. 594, 620 (1878).

³⁰ See *e.g.* RESTATEMENT (THIRD) OF FOREIGN RELATIONS LAW OF THE UNITED STATES § 202 cmt. b (1987).

³¹ See *id.*

³² See U.N. Charter art. 2, para. 4 (considered the touchstone of the U.N., art. 2, para. 4 states that “all members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State”); *Report on the International Committee of Jurists on the Legal Aspects of the Aaland Islands Question*, LEAGUE OF NATIONS O.J., Special Supp. No. 3 (1920), reprinted in INTERNATIONAL LAW: CASES AND COMMENTARY 439 (Mark W. Janis & John E. Noyes eds., 2001) [hereinafter *Aaland Islands Report*].

³³ See *Aaland Islands Report*, *supra* note 32, at 439.

³⁴ Reference Re Succession of Quebec, 37 I.L.M. 1340, 1368 (Can. 1998).

³⁵ See generally Doornbos, *supra* note 6; Ahmed & Green, *supra* note 10.

German, Austro-Hungarian, Ottoman and Russian empires after 1918 reveals a bias of international preference toward a right of nationalities to assert their preference in determining [their final arrangements of statehood].³⁶ In light of the great period of decolonization, whose territorial break-ups and reconfigurations worldwide assisted one billion people in seceding from the remaining empires, Franck finds it “absurd” to maintain international law has always favored the territorial integrity of states.³⁷

Franck feels that even a careful reading of the Declaration on Friendly Relations reveals that it contains no absolute bias toward territorial integrity, but restates well-known rules, namely, “(1) that states shall not dismember other states (i.e. use force unlawfully) under the pretext of aiding self-determination; and (2) the international law and its system is neutral as to secessionist movements (i.e., does not ‘authorize or encourage’ those) that seek the break-up of established sovereign states.”³⁸ Franck’s argument, perfectly applicable to the case of Somaliland, boils down to the stark reality that while international law neither prohibits nor encourages secession outside the particular colonial experience, it will recognize secession when it is successful.³⁹

And so while international law does not recognize a *right* of secession outside such a context, this alone does not mean that international law prohibits secession.⁴⁰ What international law clearly does prohibit is the encroachment of other states onto the territory of their neighbors, a violation of the generally accepted principles requiring states to respect the integrity of other states.⁴¹ This principle, however, does not apply *within* the state:

Thus, unless a secession is controlled from outside or is carried out by elements that either come from outside or seek to establish a state based on denial of the right of self-determination of the majority or a part of the population, the fact

³⁶ See Thomas M. Franck, *Opinion Directed at Question 2 of the Reference*, in SELF-DETERMINATION IN INTERNATIONAL LAW: QUEBEC AND LESSONS LEARNED 75, 82 (Anne Bayefsky ed., 2000) (Franck points to the examples of Poland (pursuit of national independence), Schleswig and Saar (the choice to join an adjoining cohort state) and Yugoslavia, Czechoslovakia and Silesia (the choice to remain part of a multi-ethnic state)).

³⁷ See *id.*

³⁸ *Id.* at 84.

³⁹ See *id.*

⁴⁰ George Abi-Saab, *The Effectivity Required of an Entity That Declares Its Independence in Order for It to Be Considered a State in International Law*, in SELF-DETERMINATION IN INTERNATIONAL LAW, *supra* note 36, at 69, 72.

⁴¹ See *id.* at 72–73.

that the process of creation of the new state can be characterized as secession does not affect or in any way influence its legal existence from the standpoint of international law, once the primary fact—*i.e.*, its effectivity as a state—has materialized.⁴²

For a newly-formed state, which meets the basic elements of statehood (population, territory, government, and the capacity for relations) in an international system that does not forbid secession, continued reliance on the inviolability of state borders also breeds a certain amount of tension with the right of peoples to self-determination, now considered a basic principle of international law.⁴³ The bind in which states like Somaliland find themselves is neatly summarized by the dueling notions of self-determination and territorial integrity found in one section of the U.N. General Assembly's Declaration on the Occasion of the Fiftieth Anniversary of the United Nations.⁴⁴ The section provides that member states will "[c]ontinue to reaffirm the right of self-determination of all peoples" but that recognition of the "inalienable right of self determination . . . shall not be construed as authorizing or encouraging any action that would dismember or impair . . . the territorial integrity or political unity of sovereign and independent States"⁴⁵

III. THE INDEPENDENT NATION-STATE OF SOMALILAND

As international law expects that the right to self-determination be exercised within the framework of existing sovereign states, Somaliland finds itself at an impasse, because it lacks an effective parent state from which to apply for secession.⁴⁶ With no coherent "parent" state with which to negotiate its independence, international law and the nation-state system leave Somaliland with little alternative but to declare its independence and begin to act as an independent state, which it has done.⁴⁷ The territory of Somaliland easily meets the criteria set forth by the Montevideo Convention.⁴⁸ Somaliland has a permanent population

⁴² *Id.* at 73.

⁴³ See U.N. Charter art. 1, para. 2; International Covenant on Civil and Political Rights art. 1, Dec. 16, 1966, 999 U.N.T.S. 171; International Covenant on Economic, Social and Cultural Rights art. 1, Dec. 16, 1966, 993 U.N.T.S. 3; see also ANTONIO CASSESE, SELF-DETERMINATION OF PEOPLES: A LEGAL REAPPRAISAL 171-72 (1995).

⁴⁴ G.A. Res. 50/6, ¶ 1, U.N. Doc. A/RES/50/6 (Oct. 24, 1995).

⁴⁵ *Id.*

⁴⁶ See *Aaland Islands Report*, *supra* note 32, at 439.

⁴⁷ See *id.*

⁴⁸ See Montevideo Convention, *supra* note 4.

estimated at 3.5 million which reaffirmed its support for sovereignty in a 2001 Constitutional Referendum.⁴⁹ A decade after its initial declaration of independence another referendum showed ninety-seven percent of the population in favor of independence.⁵⁰ Somaliland also has clearly defined territory dating back to the colonial era when it was known as British Somaliland.⁵¹ The country is bordered by the Red Sea and the Gulf of Aden to the north, Puntaland to the east, Ethiopia to the west, and Djibouti to the northwest.⁵² When leaders of the Puntaland region of Somalia “sold” oil leases in Somaliland waters to foreign investors, the Somaliland government took steps to ensure its sovereign waters would not be claimed by Puntland, thus defending its territorial integrity and sovereign waters.⁵³ Tacitly recognizing these borders, land-locked Ethiopia recently signed a long-term use agreement with Somaliland for use of its Port of Berbera.⁵⁴

Somaliland also has a clearly defined government and governance structure which relies heavily on community-based leadership, including highly effective councils of elders.⁵⁵ Its constitution calls for separation of powers among the branches of government and serves as the basic law of the land.⁵⁶ In December 2002, Somaliland held its first local government elections, followed by a presidential election the following spring.⁵⁷ The presidential election was closer than the one in which George W. Bush beat Al Gore; the courts declared current President Kahin the victor, and the population and the candidates, accepted the decision.⁵⁸ The results of parliamentary elections held in October 2005 were accepted and endorsed by all three major political parties.⁵⁹

At first glance, it appears Somaliland might struggle to meet the fourth criteria, the capacity to enter into relations with other states.⁶⁰

⁴⁹ African Success Story, *supra* note 8; see Somaliland.Org, *supra* note 3.

⁵⁰ Marc Lacey, *The Signs Say Somaliland, But the World Says Somalia*, N.Y. TIMES, June 5, 2006, at A4.

⁵¹ See African Success Story, *supra* note 8; Somaliland.Org, *supra* note 3.

⁵² Fred Oluoch, *Breakaway State Has Achieved Peace, Stability, Democracy*, EAST AFRICAN (Kenya), Feb. 28, 2006, available at 2006 WLNR 3454803.

⁵³ *Dilemma of the Horn: the West Pushes for Somaliland Recognition*, 34 DEF. & FOREIGN AFF. STRATEGIC POL'Y 7 (2006) [hereinafter *Dilemma of the Horn*].

⁵⁴ See African Success Story, *supra* note 8; Somaliland.Org, *supra* note 3.

⁵⁵ See Ahmed & Green, *supra* note 10, at 123.

⁵⁶ Oluoch, *supra* note 52.

⁵⁷ African Success Story, *supra* note 8.

⁵⁸ Lacey, *supra* note 50, at A4.

⁵⁹ Somaliland Official Website, *Somaliland Parliamentary Election Results Announced*, Oct. 15, 2005, <http://www.somalilandgov.com>.

⁶⁰ See Montevideo Convention, *supra* note 4, art. 1.

This impression is incorrect.⁶¹ First, while no other state has established formal diplomatic ties with Somaliland, it is quite clear that Somaliland has the *capacity* to do so.⁶² Somaliland's elected government is in consolidated control of the state; there are no rival parties or factions which challenge its claim to be the international "voice" of Somaliland's people the way clan factionalism has splintered control of Somalia itself.⁶³ Elected and appointed officials inhabit offices such as the Presidency to the Ministries of Foreign Affairs, Interior, and Finance.⁶⁴ Somaliland clearly meets the minimum standard of international law in that it has the capacity to engage in diplomatic relations, a mark of statehood.⁶⁵

Second, in addition to having the capacity to maintain foreign relations, Somaliland routinely engages in "state-like" behavior, such as negotiating agreements with other states.⁶⁶ Somaliland has been received by ministers and governmental representatives in foreign states, including the United Kingdom and the United States.⁶⁷ In June 2006 Somaliland President Dahir Riyale Kahin visited five African states, Kenya, Tanzania, Zambia, Rwanda, and Uganda, pressing his case for independence.⁶⁸ In September 2006, President Kahin met Ethiopian Prime Minister Meles Zenawi on his way back to Somaliland from a working visit in the United Kingdom and Germany.⁶⁹ While maintaining that its diplomatic overtures do not constitute recognition of Somaliland, Ethiopia has recently opened an embassy there.⁷⁰

Equally persuasive, and consistent with Franck's contention that successful secession is clearly permissible under international law, is

⁶¹ See discussion *infra* pp. 218–19.

⁶² See RESTATEMENT (THIRD) OF FOREIGN RELATIONS LAW OF THE UNITED STATES § 201 (1987); Schlee, *supra* note 7, at 348.

⁶³ See Schlee, *supra* note 7, at 348.

⁶⁴ See Press Release, *supra* note 20; Somaliland Official Website, Government, <http://www.somalilandgov.com> (last visited Dec. 3, 2006).

⁶⁵ See RESTATEMENT (THIRD) OF FOREIGN RELATIONS LAW OF THE UNITED STATES § 201 (1987).

⁶⁶ See Doornbos, *supra* note 6, at 105.

⁶⁷ See Press Release, *supra* note 20; Somaliland Official Website, *Somaliland Delegation Meets with State Department Officials in Washington*, July 1, 2005, <http://www.somalilandgov.com>.

⁶⁸ Joe De Capua, *Somaliland President Visits Five African Nations*, U.S. FED. NEWS, June 16, 2006, available at 2006 WLNR 1049835.

⁶⁹ *Ethiopia, Other IGAD Members to Redouble Efforts to Realize Stable Transitional Government in Somalia*, U.S. FED. NEWS, Sept. 8, 2006, available at 2006 WLNR 15610123.

⁷⁰ See Jeninne Lee-St. John, *Six Places with Separatist Anxiety*, TIME, June 5, 2006, at 16; Ashenafi Abedje, *VOA News: Ethiopia Says Its Trade Ties To Somaliland Do Not Signal Recognition*, U.S. FED. NEWS, Feb. 3, 2006, available at 2006 WLNR 11858397.

the fact that Somaliland “is by no means the first African state to have entered into a voluntary union with another state and subsequently withdrawn from that union intact.”⁷¹ Egypt and Syria, Cape Verde and Guinea Bissau, Senegal and Mali, and Senegal and Gambia have all taken similar steps in their histories, with no effect on the status of their independence.⁷²

The duration of Somaliland’s *de facto* independence should also quell the international community’s fears that recognizing Somaliland will spark a round of secessionist movements around the world.⁷³ Recognition of Somaliland fourteen years after it declared its independence, during which time it stabilized its internal political strife and began successfully rebuilding community services and civil society, sets the bar high enough that few states will attempt to follow its path.⁷⁴ The African Union’s fact-finding mission agreed when it declared that Somaliland’s status was “‘unique and self-justified in African political history,’ and that ‘the case should not be linked to the notion of ‘opening a Pandora’s box.’”⁷⁵

Finally, recent events in Somalia make an excellent case for recognition of Somaliland as part of a larger international goal of stability and harmony.⁷⁶ In early August 2006, Somalia’s President Abdullahi Yusuf announced the dismissal of Somalia’s official government.⁷⁷ By mid-August, the Union of Islamic Courts, promising to restore national unity under sharia law, captured Mogadishu.⁷⁸ In response to growing chaos and tension, Ethiopia dispatched troops to Baidoa, temporary seat of the TFG, and Eritrea sent arms to the Islamists.⁷⁹

⁷¹ African Success Story, *supra* note 8; see Franck, *supra* note 36, at 84.

⁷² See African Success Story, *supra* note 8; *Dilemma of the Horn*, *supra* note 53, at 8.

⁷³ See Doornbos, *supra* note 6, at 106. Doornbos writes that despite “all their various differences, the clubs of states, especially the [Organization of African Unity], the [European Union] and the UN, tend to share a members only vision, from which they can see the globe only as divided up into formally independent states that are recognized as members.” *Id.*

⁷⁴ See Ahmed & Green, *supra* note 10, at 125–26 (concluding that Somaliland’s “phoenix-like” emergence was so successful it should provide insights to the international aid community); Lacey, *supra* note 50, at A4.

⁷⁵ Lacey, *supra* note 50, at A4.

⁷⁶ See David Blair, *Somalia Breeds a New Threat to Us All*, DAILY TELEGRAPH (U.K.), Aug. 8, 2006, at 16.

⁷⁷ *Id.*; *World News in Brief: President Sacks Somali Cabinet*, INDEP. (London), Aug. 8, 2006, at 29.

⁷⁸ Simon Scott Plummer, *A Forgotten Democracy in the Horn of Africa*, DAILY TELEGRAPH (U.K.), Aug. 16, 2006, at 15.

⁷⁹ These developments are merely new plays in a long-running border war between Ethiopia and Eritrea. See *id.*

With the help of Ethiopian troops, the TFG succeeded in taking control of the capital of Mogadishu in January 2007, but has been under constant attack from remnants of the Union of Islamic Courts; Somali refugees see little point in returning home and news about the “return of violence, lawlessness and questionable moves by the U.S.- and Ethiopian-backed transitional government in Mogadishu confirms fears” about life in Somalia.⁸⁰ Some observers note it is difficult to say whether Somalia is “slipping back into anarchy or limping toward reformed statehood,” but the signs are not promising.⁸¹

Concern in Somaliland over the threat of terrorism, exacerbated by porous borders, has been heightened by terrorism’s prominent rise in Somalia and nascent beginnings in Somaliland.⁸² While extremists have murdered four foreign aid workers in Somaliland over the past few years, Somaliland’s criminal justice system has taken an active role in ferreting out and punishing terrorists.⁸³ For example, in 2005 four men were sentenced to death for the murder of a British couple in 2003.⁸⁴ As undesirable as the problem is, it also presents an opportunity for Somaliland in terms of its strategic importance to the West.⁸⁵ Somaliland leaders say they are “well placed to lend crucial support to Somalia’s U.N.-backed transitional government and strengthen cooperation against international terrorism.”⁸⁶ The “enduring lesson” of post-Soviet Afghanistan in 1989—“that power vacuums are always a magnet for terrorism”—implies that a stable ally in an otherwise precarious neighborhood might be a welcome development for states the world over.⁸⁷

⁸⁰ *Somalia: Talks on Reconciliation, Peace Support*, REPORTER, Feb. 10, 2007, available at <http://allafrica.com/stories/200702100065.html>; Anna Husarska, Op-Ed., *Somalis Linger on Edge of Despair*, BOSTON GLOBE, Feb. 1, 2007, at A9. See generally Prime Minister Ali Gedi Warns of Extremist Remnants Returning, REPORTER (Addis Ababa), Feb. 4, 2007, available at <http://allafrica.com/stories/200702050547.html>.

⁸¹ *It Isn't Nearly Over*, ECONOMIST, Feb. 10, 2007, at 46.

⁸² See Simanowitz, *supra* note 16, at 338.

⁸³ See *id.*

⁸⁴ See *id.*

⁸⁵ See *id.*

⁸⁶ White, *supra* note 21, at 8. Interestingly, the United States is contemplating re-establishing a diplomatic presence in Somalia for the first time in over a decade. Nicholas Kravev, *U.S. Eyes Re-establishing Relations; State Department Mulls Diplomatic Presence for First Time Since '94*, WASH. TIMES, Feb. 2, 2007, at A13.

⁸⁷ Blair, *supra* note 76.

CONCLUSION

The question of whether Somaliland should be recognized as an independent state is hindered only by the blind adherence by the international community to the nation-state system's inviolability of borders. While the nation-state system has legitimate cause for concern, as it seems nearly every corner of the world has a population agitating for independence, the case of Somaliland poses no threat to international order or peace. Somalia may be making progress toward stability, but it has a great deal of work ahead before it will enjoy the relative security and prosperity of Somaliland. Expecting Somaliland to "wait and see" pins its future on Somalia's ability to re-build and re-stabilize, the very unpredictable characteristics that fueled its quest for independence in the first place. Somaliland has operated as an independent state for fifteen years and as it meets international legal standards for "statehood" is, in fact, a state. What Somaliland lacks is formal recognition of its statehood by other states, a simple act which would enable it to take its place on the world stage and provide a commendable example for other states faced with internal strife and turmoil.