



Collana del Dipartimento di Giurisprudenza
dell'Università di Milano-Bicocca

Political and legal aspects of Italian colonialism in Somalia

edited by

Elena Carpanelli and Tullio Scovazzi



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INTRODUCTION BY THE EDITORS

This volume is the ideal continuation of a previous research that one of the editors published several years ago¹. While that volume related to Eritrea, the present one is devoted to Somalia, chronologically the second Italian colony.

In this case, as more researchers have been involved, the scope of the political and legal analysis is broader. The participation of three Somali scholars is particularly welcomed, as it allows to understand the events in a perspective different from what could result only from a eurocentric approach².

It is true that, as remarked in the foreword, not all the relevant aspects of Italian colonialism in Somalia have been covered. However, this volume should be seen as a step on the way towards more interest for studies on an important subject of the history of the two countries involved.

The editors are much indebted to a number of people who have contributed to the completion of the research project. They wish to thank, in particular, H. E. Abdulqawi Ahmed Yusuf, the President of the International Court of Justice, who encouraged the development of the research project since its inception and found the time to write a substantive foreword to the volume. Sincere thanks are given also to Mr. Christopher Callan, who reviewed the English correctness of texts written by authors whose mother tongue is another, and to Mr. Abdulahi Abdi, who checked the transliteration of the Somali names of persons and localities according to a uniform criterion. A special thank is given to the contributors who, besides engaging themselves in this project, were kind enough to understand the unexpected delays in the editorial work. The editors finally wish to acknowledge the generous support by the “Dipartimento di Giurisprudenza” of the University of Milano-Bicocca that included the volume in its collection of books and financed the publication of this research.

Milan, 4 September 2019

Tullio Scovazzi – Elena Carpanelli

¹ SCOVAZZI, *Assab, Massaua, Uccialli, Adua – Gli strumenti giuridici del primo colonialismo italiano*, Torino, 1996 (1st ed.), 1998 (2nd ed.).

² Even though, in the last decades, some distinguished Italian historians have not followed the parochial and apologetic approach that was common in the past.

TWO POEMS OF MOHAMMED ABDULLAH HASSAN¹

*This, my song, I will send to Egypt,
I'll send it in a ship, a ship which will tear through the rolling waves,
and will plunge through the tangled maze of sea life.
Let it voyage from here to Aden...
And when it reaches the port and fastens anchor to unload,
let it place my greetings on the right hand of the Muslim faithful,
let it take my affection to him who is not a servile servant to the heathen-whites.*

*Oh, hear me, hear me, fellow Somalis
or refusing to hear, say comfortingly to yourselves: "Let the madman rave".
Here, my will to the prudent man, let the fool ignore it:
there never was a gain in treating with the whites;
you soften up to the unbelieving white man and he is bound to deceive you,
one day you will to regret the money he is pouring over you.
First, he'll disarm you, he'll turn you into womenfolk,
next, he'll commit you to his prison wards,
then, he'll say to you under duress: "Trade in the land for a little mammon".
Last, he'll place a heavy load, like a pack donkey's, on your wretched backs;
since in my flight I've gone beyond the plains of Iimey and the hills of Harar,
what good will your gloating do you, your gloating over my predicament?
Behold, tomorrow he'll descend over you with his colonizing tools.*

¹ Reproduced (English translation) in SAMATAR, *Oral Poetry and Somali Nationalism*, Cambridge, 1982, p. 169 and 180.

ABBREVIATIONS

AFIS	Amministrazione fiduciaria italiana della Somalia
AOI	Africa Orientale Italiana
ASCM	Archivio Storico di Casale Monferrato
ASMAI	Archivio Storico del Ministero dell'Africa Italiana
AUSSME	Archivio dell'Ufficio Storico dello Stato Maggiore dell'Esercito
BMA	British Military Administration
HAEU	Historical Archives of the European Union
HDM	Hizbiya Digil-Mirifle
IBEAC	Imperial British East African Company
ICJ	International Court of Justice
ILC	International Law Commission
IMIs	Italian Military Internees
ISIAO	Istituto Italiano per l'Africa e l'Oriente
GA	General Assembly
MAE	Ministero degli Affari Esteri
NATO	North Atlantic Treaty Organization
NFD	Northern Frontier District
PCIJ	Permanent Court of International Justice
RA	Reserved Area
RD	Royal Decree
SAIS	Società Agricola Italo-Somala
SYC	Somali Youth Club
SYL	Somali Youth League
UK	United Kingdom
UN	United Nations
USA	United States of America
USSR	Union of Soviet Socialist Republics

FOREWORD – ITALIAN COLONIZATION

*Abdulqawi Ahmed Yusuf**

I am very pleased to be able to write the foreword for this book for several reasons. First, I have been encouraging the editors, Prof. Tullio Scovazzi and Dott.ssa Elena Carpanelli since the conception of the plan of this work to have it completed. Secondly, there is a dearth of literature on the Italian colonization of Somalia. Moreover, most of the works that exist were written from the viewpoint of those who participated in the colonial enterprise or were sympathetic to it, except, at least to my knowledge, a few including those by Angelo Del Boca¹ and Robert Hess². Thirdly, it was my hope that this work would give a chance to some Somali authors to write about the colonization of their country and provide a Somali perspective. This hope has not fully materialized. Nonetheless, the contributions of two of them have finally made it as distinct chapters in the book.

The Italian colonization of Somalia was not any different from that of other European powers in Africa, except that it was much harsher and more cruel than most others during the rule of the fascist regime of Benito Mussolini which lasted for more than twenty years. Those were perhaps the most oppressive and despotic years that the Somali people had ever known in their history. War, repression and forced labour were imposed on them by a brutal dictatorship which had no regard whatsoever for the most elementary considerations of humanity.

One of the first acts of the Fascist Governor of Italian Somaliland in the 1920's, Count De Vecchi di Val Cismon, was to rescind the protectorate agreements with the two Sultanates of North-Eastern Somalia (Majeerteen) and Central Somalia (Hoby) and to declare them to be under the direct sovereignty of

* President of the International Court of Justice.

¹ See DEL BOCA, *Gli italiani in Africa Orientale, Parte 2, La conquista dell'impero*, Bari, 1979, and *Italiani, brava gente? Un mito duro a morire*, Vicenza, 2005.

² See HESS, *Italian Colonialism in Somalia*, Chicago, 1966.

Italy. According to De Vecchi, a distinction had to be made between protectorates under international law, which applied to European protectorates like Lichtenstein and other principalities, and colonial protectorates, which applied to treaties concluded with African sovereigns. This was a doctrine which he borrowed from some European international lawyers who supported the colonial enterprise of European powers with legal concepts such as *terra nullius* and colonial protectorates, which were connected to the racist notion that non-European sovereigns, particularly African rulers, were barbaric and did not exercise sovereignty over their territories. Thus, for De Vecchi and the apologists of the colonial enterprise, the protection agreements were a legal tool to acquire title to those territories, rather than treaties concluded in good faith under international law.

For the Sultans of North-Eastern and Central Somalia, on the other hand, the protection agreements did not involve the cession of their territorial sovereignty to Italy. They appeared to be of the view that the only limitation to their power that they had accepted was to deal with other European powers through the Italian government and not to enter into treaties with such other powers except with the knowledge of Italy. This was also confirmed by their dealings with Italian authorities from 1889 until the arrival of the Fascist Governor in Somalia, who now insisted on taking over their territories, if necessary by force.

Consequently, both Sultans objected to the usurpation of their sovereignty which had hitherto been respected by the Italian government under the protectorate agreements. The Italian government had indeed representatives in both Sultanates called “Commissioners”, who were accredited to the Sultans. According to Renzo Meregazzi, these Commissioners “non erano i funzionari dello Stato dominante, ma, diciamo con un eufemismo, i rappresentanti diplomatici del Regno d’Italia presso i Sultanati, come si legge nei documenti Ufficiali”³.

To demonstrate the sovereignty of the Sultanates over their territories, and its recognition under the protection agreements by the Italian government before the rescission of the latter by the Fascist government of Mussolini, Meregazzi also refers to a treaty concluded on 23 November 1918 between the Italian government and the Sultan of Hobyo “su basi di perfetta uguaglianza”⁴. According to the same author, who laments the status accorded by the Italian government to the protection treaties and to the Sultanates prior to the Fascist regime, this treaty “segnava il ‘confine’ tra il Benadir Italiano ed il Sultanato di Obbia e – tra

³ MEREGAZZI, *SIEK-SIEK in Somalia*, Firenze, 1928, p. 148. In English, [these Commissioners] “were not the officials of the dominant State, but, we may say with euphemism, the diplomatic representatives of the Kingdom of Italy to the Sultanates, as can be read in the official documents” (my own translation).

⁴ *Ibidem*, p. 150.

altri punti di incredibile lettura – stabiliva che in caso di sconfinamento di armati, l'autorità del luogo avrebbe dovuto procedere al sequestro delle armi, che sarebbero poi state rese all'autorità da cui gli armati dipendessero. Poteva perciò avvenire che un ufficiale Italiano, facendo una passeggiata nel territorio 'protetto', fosse disarmato dagli ascari del Sultano"⁵.

As a matter of fact, both Sultans exercised full sovereignty over their respective territories prior to the protectorate agreements of 1889 with Italy, and continued to do so without any interference from the Italians until 1925 when De Vecchi, as the new Governor of the Fascist government, proposed to Mussolini that the treaties should be rescinded and the territories of the two Sultanates merged with the southern part of Somalia which was already under Italian colonial rule. Thus, on 10 July 1925, a Royal Decree issued by the Italian government authorized "a new reorganization of the Italian possessions in northern Somalia in order to guarantee in a better way the order and security and to exercise more effectively the authority of the State". The reference to the Sultanates as "Italian possessions" sounded the death knell of the protectorate agreements.

The campaign to occupy and subjugate the populations of the two Sultanates started in September 1925, first in the Sultanate of Hobyo, and afterwards in that of Majeerteen.

Hobyo was quickly occupied and the Sultan's troops disarmed in two days. Sultan Ali Yusuf (the son of Sultan Kenadid, who had originally concluded the protectorate agreement with Italy in 1889) and all the members of his family were arrested, and taken by force to Mogadishu. Although the Sultan, and his immediate advisers, were quickly overwhelmed by the invasion of the Italian troops and the positioning of a warship off the coast of Hobyo, resistance was gradually organized in Galkayo and Elbuur by some of his lieutenants, including Omar Samantar, Hersi Guusha and Mohamud Mohamed (Goda-Godo). The rebels were able to take over the Italian army fortress in Elbuur, and to defeat an expeditionary force sent to punish them. However, the rebellion did not last very long; and the leaders and their men decided after a few months to cross the border into Ethiopia from where they continued to mount sporadic attacks against the Italians for a while.

The resistance to the Italian take-over of the North-Eastern Sultanate of Majeerteen lasted much longer. The Sultan, Boqor Osman, and his son, Hersi Boqor, were able to withdraw to the hinterland after a consistent and long-lasting bombardment by Italian warships of all their coastal towns including the seat of the Sultanate, at the time, in Bargal which was totally laid to waste. The warships were deployed at the same time all around the "horn", both to the South and to the West of Cape Guardafui, to establish a naval blockade cutting off all

⁵*Ibidem.*

supplies to the Sultanate. The resistance lasted for about two years. However, even after the defeat of the forces loyal to Boqor Osman by the Italian forces; his son, Hersi Boqor, continued the struggle from Ethiopia for a number of years. The occupation of Majeerteen by the Fascist government, and the surrender of Boqor Osman himself towards the end of 1927, marked the extension of Italian colonial administration to the entire territory of what came to be known as Italian Somaliland.

The colonization of the Southern part of the country came much earlier and in a more gradual manner. The Sultan of Zanzibar, who claimed to be the ruler of the southern coastal cities and towns of Somalia, including Kismayo, Barawa, Merca, Mogadishu and Warsheikh, was approached on several occasions by the Italians toward the end of the nineteenth century to hand over to them the administration of those territories. The Sultan did not exercise effective authority on those territories nor did he have any troops or other coercive apparatus anywhere in Somalia. He entertained, however, close historical and commercial relations with the autonomous city-States on the southern coast of Somalia and had some influence over their rulers.

The Sultan of Zanzibar himself had concluded in 1890 a protectorate agreement with Great Britain, which meant that the latter would have to give its consent to any territorial concessions made by the Sultan to Italy.

Thus, the transfer of the administration of the Somali territories claimed to be ruled by the Sultan of Zanzibar had to be effected in two steps. First, the Sultan accepted to grant all the powers and authority to which he was entitled in those territories to the Imperial British East African Company (IBEAC). He also notified the IBEAC that he had no objection on any arrangements regarding those territories between Great Britain and Italy. In a second phase, an arrangement was made between IBEAC and the Italian authorities on the basis of which all the above-mentioned Somali territories, except the area around Kismayo known as "Oltregiuba" or "areas beyond the Juba river", would be recognized by Great Britain as being part of Italy's sphere of influence in East Africa. This arrangement was formalized by a protocol concluded between Great Britain and Italy in March 1891. The "Oltregiuba" area was finally transferred to Italy by Great Britain in 1924, thus completing the Italian domination of Southern Somalia only about a year before Count De Vecchi started his campaign of conquest and occupation of the Central and North-Eastern regions of Somalia.

Since the Sultan of Zanzibar did not have sovereignty over those territories, he could not legally transfer to others what he himself did not possess. Thus, the entire arrangement was stage-managed to satisfy other European imperial powers and the regulations they agreed upon at the Berlin Conference of 1884, but had nothing to do with international law or with the rights of the Somali people over their territory.

The process of the gradual acquisition of the southern part of the Somali ter-

ritory by Italy through arrangements negotiated with the Sultan of Zanzibar and Great Britain is analysed in Part I of the book. It remains, however, for Somali researchers and historians to investigate the reaction of the local population to the exchange among third parties of their territories and the subsequent occupation, for the first time in history, of those territories by a colonial power. There was of course much resistance to the colonization by the Italians, but very little has been written about the resistance of the people of Merca when the Italian troops disembarked at their port, or that of the Sultanate of Galadi in the Afgoye area, or the struggle of the people of Bulo-burde and Beletweyn against the colonial presence in their territories. Hopefully, this work will encourage such further research and writings particularly by Somalis.

Much better known, and more widely written about, was the nation-wide resistance led by Sayyid Mohammed Abdullah Hassan against both British and Italian colonialism in Somalia. This is the most well-known resistance movement to the colonization of Somalia mainly because it lasted much longer than all the others (almost twenty years), and was better equipped and better organized than the others. Much has therefore been written about the movement both by Somalis and non-Somalis as well as about the person of Sayyid Mohammed himself as a leader and strategist, as a poet and as a religious figure. Nonetheless, it is to be welcomed that a chapter of this work, written by a Somali historian, is dedicated to Sayyid Mohammed Abdullah Hassan and his movement.

Taken in its entirety, this work constitutes a significant contribution to the literature on Italian colonialism in Somalia. In particular, its merit lies in shedding more light on the political and legal aspects of the process of colonization and its aftermath. It explains how Italian colonizers sneaked into the southern part of Somalia through dubious arrangements concluded with the Sultan of Zanzibar and Great Britain, and the manner in which the fascist regime later occupied by force the Sultanates in the Central and Northern part of the country, while imposing forced labour on the population in the south. Moreover, it analyses certain important issues on which hardly anything had been hitherto written, such as slavery and forced labour and the interaction among customary law, Islamic law and colonial law under the Italian administration.

However, the book would have, undoubtedly, gained much more in value and substance had it extended its coverage to the independence movement, which had arisen from the various resistance movements mentioned above, and in particular to the important role played by the Somali Youth League (SYL), the first political party in the country, in securing the country's independence.

The SYL was a unique political party in many respects. It was founded by thirteen young Somalis who were mostly in their early twenties, first as a club and later as a political party. Secondly, it was one of the first socialist parties in Africa, and its Statute was very much influenced by the socialist movements in Europe and the struggle against fascist regimes. Thirdly, it was a Pan-Somali politi-

cal party which advocated the reunification of all Somali-inhabited territories in the Horn of Africa.

Equally useful would have been an analysis of the role played by Italy as the administering power of the United Nations Trusteeship territory of Somalia from 1950 to 1960. The AFIS (*Amministrazione Fiduciaria Italiana della Somalia*) was not initially accepted by the Somalis who had suffered under the colonial administration of the fascist regime of Mussolini. It was, in particular, opposed by the Somali Youth League and other pro-independence political parties. However, it gradually gained a large measure of confidence once it demonstrated, through its efforts at state-building and its cooperation with the pro-independence parties, particularly the SYL, that it was committed to the respect of the terms of the United Nations Trusteeship administration which stipulated, *inter alia*, that the territory was to achieve its independence in 1960.

It is of course understandable that it is not always possible, especially in a collective work, to cover all the facets of the subject-matter as initially planned. Certain choices had certainly to be made by the editors, who must have tried their best to cover as much ground as possible given the limitations of a collective work. Their efforts, as well as the high quality of the work that they have finally succeeded to put together, deserve to be commended and welcomed by all those who are interested in the history of Somalia and in its troubled past relations with Italy. It is a work that will certainly inspire further research on various aspects of Italian colonialism in Somalia, the Somali resistance movement, and the road to independence in which Italy was again involved as a trusteeship administration. It is also bound to be of great interest to all those who are seeking to obtain a better understanding of Somalia's past, as well as Italy's belated and often clumsy efforts to acquire colonies on the African continent.

PART I
ORIGINS,
RESCISSION OF AGREEMENTS
AND RESISTANCE

CHAPTER 1
THE ORIGINS
OF ITALIAN COLONIZATION IN SOMALIA

*Tullio Scovazzi**

SUMMARY: 1. The Main Aspects of Italian Colonialism. – 2. An Ambitious Design Conceived in 1885. – 3. Dreaming of Kismayo. – 4. The Italian Protectorates on Hobyo, the Majeerteen and Other Territories. – 5. The Administration of Benadir by the Filonardi Company (1893-1896). – 6. The Bottego's Expedition. – 7. The Administration of Benadir by the State (1896-1899). – 8. The Administration of Benadir by the Benadir Company (1900-1905). – 8.a. The Convention. – 8.b. Justice and Security. – 8.c. Slavery and So-Called Serfdom. – 8.d. The End of the Administration. – 9. Mohammed Abdullah Hassan (the Mullah). – 10. Persisting Problems.

1. *The Main Aspects of Italian Colonialism*

The key to understanding Italian colonialism¹ is the late arrival of Italy among the colonialist powers, at a time when other European powers had already acquired vast overseas possessions. The process of political unification of the country was achieved only on 17 March 1861, when the Kingdom of Italy was proclaimed as the result of a number of territorial annexations by the previous State of Sardinia. Other annexations followed in the subsequent years to complete the picture of a political entity more or less corresponding to the geographic and cultural notion of Italy: the region Veneto in 1866, Rome and the sur-

* Professor of international law, University of Milano-Bicocca, Milan, Italy.

¹ Among the many essays on Italian colonialism, particularly useful, also because of its non-apologetic character, is the work by DEL BOCA, *Gli italiani in Africa Orientale, Parte 1, Dall'unità alla marcia su Roma*, Bari, 1985 (published for the first time in 1976). For the parliamentary discussions see DIREZIONE CENTRALE DEGLI AFFARI COLONIALI DEL MINISTERO DEGLI AFFARI ESTERI (a cura di), *L'Africa italiana al Parlamento nazionale – 1882-1905*, Roma, 1907; DELLA VALLE, *Le origini della Somalia italiana al parlamento – Dal trattato di Zanzibar alla Società commerciale del Benadir (1885-1900)*, in *Gli Annali dell'Africa Italiana*, 1938, p. 331; DELLA VALLE, *Le origini della Somalia italiana al parlamento – La Società commerciale del Benadir (1900-1905)*, *ibidem*, 1939, p. 299.

rounding territory in 1870, the cities of Trento and Trieste and the surrounding territories in 1918.

In the second half of the 19th century the African continent was almost completely appropriated by Great Britain, France, Portugal and Spain. Other European countries, such as Belgium, Germany and Italy, tried to establish their influence and sovereignty over the territories that were left.

Besides being a newcomer in the colonial rush, Italy had its own domestic problems. Due to poverty, unemployment and illiteracy, many Italians were forced to emigrate abroad, especially to North and South America, to find places to earn their living and grant a decent future to their children. The economic situation did not allow the State to devote much in the way of financial support to colonial enterprises. Those who were against a colonial policy insisted, not unreasonably, that, before doing it elsewhere, the Italian government should try to “civilize” the poorest areas of its own country.

To face the situation where the reality did not correspond with its own ambition of acting like a great power, Italy developed an apparently rational, but in fact dubious, colonial policy. The objectives were envisaged as territories outside Europe that were not yet under the occupation or the protectorate of another European power or where sovereignty was formally exercised by a State that seemed sufficiently weak so as not to put up too strong an opposition. Egypt, which at that time was a vice-kingdom within the Turkish Empire, as well as Zanzibar and Ethiopia were identified as areas where the Italian colonial expansion could take place². Another component of the policy was to look for a major power, soon identified in Great Britain, which could support and direct Italian colonial ambitions. This was done by Great Britain through the logic of balancing and restraining the colonial expansion of other major powers, such as France (mostly) or Germany (to a lesser degree)³.

The lack of colonial experience, the insufficient economic means and the political dependency from a greater power can provide an explanation to many of the hesitations, ambiguities and secrets – but cheating could also be added to the list – that are found in the first period of Italian colonialism.

However, there is something more to the picture that is peculiar to the Italian colonial experience. In fact, the colonial policy could be seen as a betrayal of the principle of nationality that constituted the very foundation of the new Italian State. When, on 22 January 1851, the well-known scholar Pasquale Stanislao

²On the first orientations of the Italian colonial policy see BRUNIALTI, *L'Italia e la questione coloniale*, Milano, 1885.

³“Caratteristico a questo riguardo è il perenne rivolgersi, di quei primi gabinetti nazionali, al Governo britannico, prima di intraprendere qualsiasi passo, per conoscerne l'opinione, se non addirittura per averne il consenso!” (ROSSETTI, *Una mancata missione al Congo di Antonio Cecchi*, in *Gli Annali dell'Africa Italiana*, 1941, p. 502).

Mancini (1817-1888) at the University of Turin, at that time the capital of the Kingdom of Sardinia, made a public lecture on nationality as the foundation of international law⁴, it was easy to grasp the political message that he was delivering. Italy, which had for a long time been a nation in the social and cultural sense, but was still being ruled by foreign countries and dynasties⁵, had the right under international law to resume the fight for its political independence and unification, notwithstanding the failure of the first attempt in this direction made in the war of 1848. Notably, Mancini pointed out in his speech that, if Italy ever succeeded in becoming a State, it was bound to be consistent and respect the independence of other nations:

“In altri termini, spogliando la proposizione della formola ideale, poiché nello stato di fatto coesistono sulla terra molteplici Nazioni, il principio di nazionalità non può significare che la eguale inviolabilità e protezione di tutte; e quindi il medesimo principio siccome violato sarebbe se la nostra Nazione soffrisse dalle altre ingiuria ed ostacolo al suo libero svolgimento, non lo sarebbe meno qualora essa invadesse per contrario il dominio delle altre ed alla loro legittima libertà recasse offesa. In ambo i casi la eguaglianza sarebbe rotta, la indipendenza nazionale patirebbe detrimento, sconvolto sarebbe l'imperio del diritto”⁶.

After the unification of the country, Mancini was considered to be one of the ideal fathers of the new State. He was elected to Italian parliament, where he served as a member from the first session until his death. He was appointed minister of Foreign Affairs exercising this function from 29 May 1881 to 29 June 1885.

What could hardly be expected is that the same Mancini became one of the main promoters of the Italian colonialist policy that started along the coast of the Red Sea. The first Italian colony was established by Law 5 July 1882, No. 857⁷, adopted when Mancini was Minister of Foreign Affairs. It was a small territory of about 632 km² and 60 km of coastal extension around the locality of Assab on the western shore of the Red Sea that formally belonged to Egypt. Starting in 1869, portions of the territory of Assab were bought from some local chiefs by an Italian national, Giuseppe Sapeto, acting under secret funding and instructions from the Italian government. Only in 1882, having reached an agreement in this regard with Great Britain⁸, did Italy officially disclose its will

⁴ MANCINI, *Diritto internazionale – Prelezioni*, Napoli, 1873, p. 1. The speech is also reproduced in JAYME (a cura di), *Della nazionalità come fondamento del diritto delle genti di Pasquale Stanislao Mancini*, Torino, 1994.

⁵ At that time the territory of Italy, considered as a geographical entity, belonged to seven different States.

⁶ MANCINI, *Diritto*, cit., p. 57.

⁷ *Gazzetta Ufficiale del Regno d'Italia* of 10 July 1882, No. 160.

⁸ Exchange of notes of 23-28 February 1882 between Great Britain and Italy (text in CAMERA DEI DEPUTATI, *Documenti diplomatici presentati alla Camera dal Ministro degli Affari Esteri (Mancini) nella tornata del 12 giugno 1882, Assab*, Roma, 1882, p. 167).

to create a colony overseas. How the local chiefs of Assab could sell something that was under the sovereignty of Egypt and how Great Britain and Italy could agree on the establishment of an Italian colony on the territory of Egypt remain two mysteries that cannot be explained in legal terms, but can only be addressed in the light of the relevant political circumstances.

In 1885, following an invitation from by Great Britain, Italy decided to send a military expedition to occupy the city of Massawa, which also formally belonged to Egypt and was located on the Red Sea coast north of Assab. This allowed Italy to extend its colonial possession to a longer stretch of the Red Sea coastline, measuring about 240 n.m., which was officially called Eritrea (Royal Decree 1st January 1890, No. 6592).

It is interesting to see how minister Mancini responded to an obvious question put to him by the minority of members of the parliament who were opposed to the Italian colonialist policy⁹. For example, on 26 June 1882 Cesare Parenzo asked him how consistent it was to carry out a colonialist policy by a State that was the result of the application of the principle of nationality:

“Io in verità non riesco a intendere come si concili il progetto che ci sta dinanzi con le dottrine sempre sostenute, coi principi che sono il fondamento del nostro diritto nazionale. (...) Io non avrei mai voluto che la bandiera nazionale sventolasse sopra un territorio straniero senza la volontà delle popolazioni che vi abitano”¹⁰.

In his response¹¹, Mancini engaged himself in assuming that the principle of international law under which territories can be acquired only according to the will of the local population did not apply to the territories inhabited by almost wild and semi-barbarous tribes and colonized by civilized nations:

“Se questo, signori, deve affermarsi delle cessioni di territori, sui quali esistono popolazioni civilizzate con Governi regolarmente costituiti; che cosa poi potrà dirsi di quei territori, che sono abitati da tribù quasi selvagge e semi-barbare, senza leggi e forme di politico reggimento, e che obbediscono a capi nei quali si concentra il pienissimo esercizio di una sovranità indipendente? Chi potrà spingere il puritanesimo sino a credere che il trasferimento di tali territori all’ombra della sovranità di una na-

⁹ In the first months of his mandate Mancini made a distinction between territorial and commercial colonies and stated that Italy would never establish the former: “Per noi, quando un Colombo ed un Vespucci, scopritori d’immensi continenti, non hanno conquistato alla patria loro, all’Italia, una regione qualsiasi su cui potesse esercitare la sua sovranità, la nostra vocazione non è, e non può essere, quella di andar conquistando lontane terre, fondando altrove colonie di questo genere [= colonie territoriali], e sfidando le gelosie di altri popoli sospettosi e potenti” (speech of 7 December 1881, in *Discorsi parlamentari di Pasquale Stanislao Mancini raccolti e pubblicati per deliberazione della Camera dei Deputati*, Vol. VI, Roma, 1897, p. 576). Soon thereafter he changed his mind.

¹⁰ In DEL BOCA, *Gli italiani in Africa Orientale*, cit., p. 122.

¹¹ On Mancini’s position see ROMANO, *L’ideologia del colonialismo italiano*, in *Fonti e problemi della politica coloniale italiana*, Roma, 1996, p. 22; SCOVAZZI, *Assab, Massaua, Ucciali, Adua – Gli strumenti giuridici del primo colonialismo italiano*, 2nd ed., Torino, 1998, p. 84.

zione civilizzata, e che si adoperi ad esercitare anche al di fuori una missione di pacifico incivilimento, non abbiasi a considerare, anche al cospetto dei più puri e rigorosi principii di diritto internazionale, pienamente legittimo?”¹².

In other parliamentary speeches Mancini stated that Italy could not refrain from participating in the “generous rush” of “civilization” and the “high mission of education” that were the common endeavour of great European powers:

“E come potremmo noi chiudere gli occhi a questa gara generosa, che ormai si manifesta fra tutte le grandi nazioni d’Europa, per associarsi in una specie d’impresa comune e solidale di mondiale incivilimento, in un’alta missione educatrice di tanta parte del genere umano che abita il vasto continente africano?

Come potreste tollerare (...) che l’Italia sola continuasse ad assistere, con pigra indifferenza, a questa specie di crociata pacifica, contemplandola da lontano, e ricusandosi di pagare il suo contributo alle pugne della civiltà contro l’ignoranza e la barbarie? Se non si scuotesse la nostra inerzia, allora sì che ne scapiterebbe il credito dell’Italia, e noi non sederemmo degnamente nel consesso delle grandi nazioni civili”¹³.

In this regard, Mancini envisaged two different kinds of colonialism: the colonialism of conquest, command and subjection, as the Spanish and the Portuguese did in America, and the colonialism of protection and guardianship, which was exercised by civilized nations for the benefit of non-civilized peoples. Of course, in Mancini’s view, Italian colonialism belonged to the second kind¹⁴.

Colonies were seen by Mancini as the preferable destination for the growing flow of Italian emigrants that were instead moving to foreign countries:

“Or bene, se l’emigrazione esiste, se questo fatto non si può impedire, dappoiché sacra è la libertà dell’uomo, e, prima fra tutte le libertà, quella di vivere dove meglio piace a ciascuno; ebbene, o signori, sarà più vantaggioso che questa emigrazione si disperda sulla faccia del globo; che vada a caso in lontane regioni, dove l’aspetta il disinganno, e talora la morte; che non vi sieno paesi, le condizioni dei quali sieno già ben conosciute, dove il suo lavoro possa essere con certa e propizia utilità esercitato, e dove sventoli la bandiera nazionale, che tuteli e protegga le industrie degli emigranti italiani, anziché essi siano costretti a mendicare sicurezza e protezione da Governi stranieri?”¹⁵.

¹² *Discorsi parlamentari di Pasquale Stanislao Mancini*, cit., Vol. VII, p. 153.

¹³ Speech of 27 January 1885 (*ibidem*, Vol. VIII, p. 168). As remarked by BRUNIALTI, *L’Italia*, cit., p. 342, “abbiamo voluto l’Italia degli Italiani, e sarebbe giusto lasciar l’Africa agli Africani. Ma tranne su pochi littorali deserti o quasi inaccessibili, chi getti gli occhi sulle carte, vedrà l’Africa tutta colorata dei colori europei: turca, britannica, francese, portoghese, spagnuola, tedesca; per poco non sono chiusi tutti gli accessi all’interno del continente dove pure è tanta parte del nostro avvenire. Perché trascurare le occasioni di avere anche noi uno spiraglio, d’impadronirci d’una via per l’interno?”.

¹⁴ Speech of 30 June 1887 (*Discorsi parlamentari di Pasquale Stanislao Mancini*, cit., Vol. VIII, p. 168).

¹⁵ *Ibidem*, Vol. VIII, p. 167.

Colonial campaigns were also seen by Mancini as a training opportunity for the Italian army who would otherwise have remained idle in their barracks:

“Non voglio neanche esaminare se non sia da calcolare tra i vantaggi di questa nostra spedizione un risveglio di energia, un maggiore eccitamento allo spirito di militare ardimento del nostro esercito, il quale, devoto al Re e alla patria, fedele alle abitudini rigide della disciplina, soffriva da lunghi anni, mal rassegnato ad una completa inazione, nella ingrata pigrizia della caserma. È bene che si muova, che vada fuori del paese, che faccia conoscenza con altri popoli, che si eserciti e si abitui a quel genere di vita al quale, da un giorno all’altro, potrebbe essere chiamato utilmente pel servizio del paese”¹⁶.

Nobody knows how many people believed or wanted to believe in the concepts that Mancini expressed with plenty of erudition and rhetoric. But the fact that the same man who had pled for Italian unification was later pleading for the Italian colonial expansion was a strong reason in itself. Due to his capacity to shuffle ideas within a cloud of confusion and prolixity, Mancini was able to conceal an evident contradiction and to persuade many Italians that the colonial rush was a sort of logical continuation of the political and military struggle for the unification of country.

However, irrespective of what Mancini and several others said, the fact remains that a policy of colonialism was the denial of the very origin of the Italian State and that in this kind of endeavour Italy could hardly compete with other European countries which had better political vision, stronger military capacity and greater financial means.

The sequence of military defeats that Italy suffered in its first attempts at aggression in Ethiopia – at Dogali (1887), Amba Alagi (1895) and Macallè (1896) – evidenced in itself how the rhetoric bequeathed by Mancini could not replace political, military and economic strength. The historical disaster of the battle of Adwa (1896), during the period when Francesco Crispi (1818-1901) was the Italian president of the Council of ministers, where for the first time in history and for three decades, an African country was able to block the policy of aggression of a European country, showed how a tragic mistake it was for Italy to assume that Ethiopia, led by emperor Menelik, was a weak participant in the game.

The main aspects of Italian colonialism, in particular the contradictory ideological basis, the disproportion between ambition and means, as well as the negative military events against Ethiopia, had significant repercussions on Italian public opinion and also influenced what happened in Somalia.

¹⁶ Speech of 6 May 1885 (*ibidem*, Vol. VIII, p. 363).

2. An Ambitious Design Conceived in 1885

In the last years of the 19th century Italy also sought to expand itself into the territory that was to be known as the country of the Somalis or Somalia¹⁷. At that time, the State ruled by the Sultan of Zanzibar included the islands of Zanzibar and Pemba and nominally extended along the coast of the Indian Ocean from the southern limit of the Sultanate of Hobyo down to the mouth of the river Rovuma, without any clear determination of its inland boundaries. However, the Sultan was not able to display his authority over the main localities along the Somali coast, namely Warsheikh, Mogadishu, Merca, Barawa and Kismayo, in a sufficiently effective way. He sent a few officials there – a *qadi* or *vali* (civil governor), an *agbida* (military commander) and a *qadi* (judge) – who exercised their powers with a broad margin of discretion. Among the Somali coastal localities, Kismayo, immediately south of the river Jubba's mouth, was the only harbour that was open to ships all year round and could also be used for trading with the localities on the shores of the river. North of the Jubba and up to Cape Guardafui, for an extension of about 1,100 km the coastline was fringed by reefs, low-tide elevations and rocks which prevented ships from reaching the shore and compelled them to anchor at roadsteads. Moreover, in the monsoon season, that is from the beginning of May to the middle of September, no ships could approach the shore and no communications could take place to and from the Somali coast north of the Jubba (the so-called “closed coast”).

On 2 December 1884, Cristoforo Negri, one of the main promoters of Italian colonialism and one of the Italian delegates to the Berlin Conference on Congo (1884), wrote to Mancini, suggesting to send an expedition to the mouth of the river Jubba to assess whether it was navigable and whether a colony could be established there:

“La spedizione al Giuba è importante che si faccia e si riconosca se quale fiume sia navigabile, senza ostacoli di cateratte. Ove ciò fosse, una colonia alla sua foce avrebbe ben convenevole sede.

È però evidente che non dovrebbe porsi precisamente alla foce, ma in quella posizione più prossima ad essa, dove le condizioni marittime consigliassero e le circostanze igieniche fossero buone e tollerabili”¹⁸.

Mancini gave him a generic reply:

“Ho letto con particolare interessamento ciò che ella mi scrive del Giuba (...) È

¹⁷ “Accarezzata dalle onde fosforescenti dell’Oceano Indiano, si protende ardita verso levante, quella parte del continente africano conosciuta sinora col nome di ‘paese dei Somali’, e da me denominata ‘Somalia’” (ROBECCHI BRICCHETTI, *Somalia e Benadir (Prima traversata della Somalia)*, Milano, 1899, p. 4).

¹⁸ ROSSETTI, *Una mancata missione*, cit., p. 504.

argomento sul quale si è già fermata l'attenzione del Governo, e non tralascierà di essere più maturamente esaminato”¹⁹.

Shortly after, Mancini, wrote to the Italian sea captain and explorer Antonio Cecchi (1849-1896), asking him to travel to the region of the river Jubba and, if necessary, to Zanzibar to find out whether there would be any obstacles for Italy in taking possession of some of the areas around the Jubba or to establish a protectorate there. If no obstacles were found, Cecchi was authorized to act accordingly:

“Il capitano Cecchi a bordo del legno ove si sarà trasferito procederà verso le foci del Giuba, esplorerà la costa vicina, si recherà, occorrendo, a Zanzibar, ed acquistato il convincimento che non ostino ad una eventuale occupazione da parte dell'Italia impedimenti d'indole politica sia per le condizioni o le disposizioni dei capi indigeni di quei luoghi, sia nei rapporti che esistono tra quei capi indigeni e il Sultano di Zanzibar, intraprenderà una apposita e minuta esplorazione della regione interna a Zanzibar da cui il Giuba defluisce, con l'intendimento di addivenire nella regione stessa e sulla costa, tosto che l'utilità gliene appaja manifesta, ad una presa di possesso o quanto meno allo stabilimento del protettorato italiano sopra quelle contrade e sopra i capi che vi hanno abitualmente dominio”²⁰.

The mission entrusted to Cecchi was not publicly disclosed. In a speech made on 27 January 1885 before the Chamber of Deputies Mancini made a generic reference to a possible exploration towards “other African regions”²¹.

The results of Cecchi's mission were far below expectations. He went to Zanzibar on board the Italian Navy ship *Barbarigo*, where he met the Sultan, Sayyid Barghash. Cecchi soon realized that the Sultan was already under the influence of the representatives of other European powers. In fact, the very “independence” of Zanzibar was the subject of a “recognition” outlined in a declaration signed on 10 March 1862 by France and Great Britain²². Some years later, Germany became very interested in acquiring vast portions of the Sultan's possessions. It was the last of the Sultan's desires to grant concessions to another

¹⁹ *Ibidem*, p. 504.

²⁰ Memorial annexed to a letter sent on 14 January 1885 by Mancini to Cecchi (text in MINISTERO DEGLI AFFARI ESTERI, *L'Italia in Africa, Serie Storica*, Vol. II, *Oceano Indiano*, tomo II, *Documenti relativi a Zanzibar e al Benadir (1884-1891)*, a cura di GIGLIO, Roma, 1967, p. 10). See also FILESI, *I rapporti tra l'Italia e il Sultanato di Zanzibar*, in *Africa – Rivista Trimestrale di Studi e Documentazione dell'Istituto Italiano per l'Africa e l'Oriente*, 1959, p. 135.

²¹ “Aggiungerò anzi un'altra indiscrezione, se volete; ed è che stiamo benanche meditando un'altra esplorazione, che ci pare non priva d'importanza, nella direzione di altra regione dell'Africa, verso terre inoccupate e fertili che, secondo le prime informazioni ricevute, potrebbero diventare campo fecondo all'attività, anche agricola, degli italiani” (*Discorsi parlamentari di Pasquale Stanislao Mancini*, cit., Vol. VIII, p. 187).

²² MINISTERO DEGLI AFFARI ESTERI, *Trattati, convenzioni, accordi, protocolli ed altri documenti relativi all'Africa*, Vol. I, Roma, 1906, p. 22.

and almost unknown European power – the only Italian national living in Zanzibar at that time being the sea captain and tradesman Vincenzo Filonardi (1853-1916)²³.

Cecchi and Matteo Fecarotta, the commander of the *Barbarigo*, attributed the Sultan's request to negotiate in a written form to the influence of jealous representatives of other European powers. They reported to Mancini in a letter on 9 May 1885 that they had found the Sultan suspicious that Italy was attempting to grasp his possessions:

“Da questa risposta del Sultano ci fu facile comprendere che nell'animo suo si era operato un primo leggero cambiamento a nostro riguardo; il che poteva forse provenire dalle informazioni con le quali qualche nostro geloso amico, traendo partito dalla improvvisa presenza del bastimento italiano, aveva creduto bene di porlo sull'avviso, facendogli sospettare qualche colpo di mano da parte nostra sopra i suoi domini. E di fatto la cosa andò così”²⁴.

However, the Sultan would have been able to reach this conclusion himself just by looking at the *Barbarigo*, which had sailed into the port of Zanzibar firing twenty-one cannon shots to show her power²⁵.

It soon became clear that the Sultan was ready to negotiate nothing more than a commercial agreement with Italy. In the view of the two Italian emissaries, this disappointing outcome was the result of the pressures of the British consul who had advised the Sultan to refrain from making any territorial concession to Italy, as this would have given Germany a justification to annex other territories for itself:

“(...) l'astuto e vigile rappresentante inglese, influentissimo presso di lui, lo aveva scongiurato dal cederci, come sembrava avesse in animo di fare, alcuni importanti punti della costa Somali, assicurandolo che ciò avrebbe fornito alla Germania un pretesto onde annettersi altri territori”²⁶.

In any case, it was abundantly clear to Cecchi and Fecarotta that no territorial concessions could be obtained:

“L'ottenere dal Sultano cessione di territori, anche contro denaro, al punto in cui sono oggi le cose, è assolutamente impossibile”²⁷.

²³ On Filonardi see FINAZZO, *L'Italia nel Benadir – L'azione di Vincenzo Filonardi 1884-1896*, Roma, 1966.

²⁴ Text of the letter in ZAGHI, P.S. Mancini, *L'Africa e il problema del Mediterraneo*, Roma, 1955, p. 194. “È mia abitudine – rispose il Sultano – di trattare ogni affare per iscritto; poiché nessuno di noi è certo di vivere insino a sera. Scrivetemi i vostri desideri ed io vi risponderò” (*ibidem*).

²⁵ DEL BOCA, *Gli italiani in Africa Orientale*, cit., p. 236.

²⁶ Letter quoted *supra*, fn. 24.

²⁷ *Ibidem*.

The treaty of commerce between Italy and Zanzibar that was signed at Zanzibar on 28 May 1885²⁸ provided for the freedom of trade for the subjects of either party within the territory of the other and for the application of the clause of the most favoured nation:

“Ai sudditi di S. A. il Sultano di Zanzibar sarà concessa piena libertà di entrare, risiedere, commerciare e viaggiare colle loro mercanzie, sia in Italia, che nelle Colonie italiane del Mar Rosso; la stessa libertà sarà pure accordata ai sudditi di S. M. il Re d’Italia negli Stati di S. A. il Sultano di Zanzibar.

I sudditi di ciascuno di questi due paesi avranno reciprocamente diritto, trovandosi nell’altro, a tutti i privilegi e vantaggi che, in ispecie rispetto al commercio, sono o potranno essere accordati ai sudditi della nazione più favorita” (Art. I).

The treaty also provided for the establishment of consular relations between the parties.

The purpose of exploring the Jubba, which was the other part of Cecchi’s mission and should have been kept confidential, was soon disclosed by one of the members of the Italian expedition. Given the situation, the Italian government recommended that Cecchi acted with extreme prudence and avoided any political complications with foreign powers. As Mancini wrote in a telegram to Cecchi of 30 March 1885,

“la missione deve essenzialmente limitarsi per ora ad accertare condizione politica regione e possibilità che Giuba serva come via commerciale verso interno. Raccomando circa primo punto somma prudenza”²⁹.

As a result of the monsoons, Cecchi was not able to complete the reconnaissance work in the area of the mouth of the Jubba that he had started on 29 July 1885. What he saw was however sufficient for him to emphasize in the report to the Ministry of Foreign Affairs the rich commercial prospects of the region³⁰. In the meantime, Mancini in a speech on 6 May 1885 gave the Chamber of Deputies a concise outline of Cecchi’s voyage to Zanzibar and the Jubba and the desire to conclude a treaty of commerce with Zanzibar:

“Ebbene, signori, non ho difficoltà di annunciarvi che in questo momento in cui ho l’onore di parlarvi, il benemerito nostro viaggiatore capitano Cecchi, con un altro legno da guerra italiano, esegue appunto codesta spedizione, e trovasi a Zanzibar av-

²⁸ MINISTERO DEGLI AFFARI ESTERI, *Trattati*, cit., p. 131. The treaty was approved in Italy by Law 10 December 1886. An additional article was agreed by the parties on 10 October 1885 (*ibidem*, p. 141).

²⁹ ZAGHI, *P.S. Mancini*, cit., p. 132.

³⁰ Cecchi made to the ministry of Foreign Affairs “un rapporto ottimista, che insiste sulle ‘ricche risorse commerciali del Paese’, e che ha il grave difetto – come tanti altri documenti della nostra letteratura coloniale – di provocare interessi e speranze fuori luogo” (DEL BOCA, *Gli italiani in Africa Orientale*, cit., p. 236).

viato ai paesi presso la foce del Giuba. Egli ed il capitano della nostra nave sono stati ricevuti con dimostrazioni di amicizia dal sultano di Zanzibar.

Aggiungerò che noi, anche a richiesta della Germania, li autorizzammo a promuovere presso quel sultano la conclusione di convenzioni commerciali, sulla base dei principi di libertà proclamati dalla conferenza di Berlino”³¹.

It was a matter of fact that neither Mancini, nor his successors, Agostino Depretis (from 29 June 1885 and from 4 April 1887) and Carlo di Robilant (from 6 October 1885), were willing to challenge Great Britain and Germany in the rush for the appropriation of territories from Zanzibar.

The strategy that Cecchi conceived as regards Somalia was very ambitious, at least if one looks at the map of the Horn of Africa. In a letter to Mancini of 8 February 1885, Cecchi had already envisaged the expansion of Italy through the vast territories located between the Red Sea – the Italian troops had occupied Massawa in Eritrea on 5 February 1885 – and the mouth of the Jubba on the Indian Ocean. The objective was to create a vast colony which included the territories that belonged to Ethiopia and were located between Eritrea and Somalia, where the Italians could emigrate and carry out their activities:

“L’opera poi sarebbe compiuta qualora colla mia futura missione si riuscisse a stabilirci alle foci del Giuba, ed aprire, segnando il suo corso, una via tra la costa e le ricche regioni soggette all’impero di Kaffa, donde esso prende le sue origini. In tal modo si sarebbe acquistata all’Italia tutta quella parte d’Africa Orientale posta tra Massaua e la foce del Giuba, dove il nostro paese avrebbe largo campo allo sviluppo dei suoi commerci, allo smaltimento delle sue industrie, alla propagazione della sua civiltà. E forse con questo avremo anche trovato il rimedio ad una piaga che tutti i nostri economisti lamentano, cioè all’emigrazione. Poiché quelle migliaia di italiani, che oggidì lasciano la patria per cercare pane in terra straniera, potrebbero portare in quei nostri possedimenti, oltre alla loro attività ed al loro lavoro, l’incremento principale per lo sviluppo di queste colonie”³².

In a letter of 9 May 1885, Cecchi repeated the same visionary design:

“E se dall’aurora è permesso indovinare il meriggio, ora che l’Italia nostra si è stabilita a Massaua, potrà un giorno, che io credo non lontano, estendere i suoi possessi verso sud. E come quella segna oggi i confini settentrionali sulle sue colonie nel Mar Rosso, così il Giuba ne marcherebbe l’estremo limite meridionale nell’Oceano Indiano”³³.

³¹ *Discorsi parlamentari di Pasquale Stanislao Mancini*, cit., Vol. VIII, p. 356. See also the speech of 16 June 1885 (*ibidem*, Vol. VIII, p. 407).

³² ZAGHI, P.S. *Mancini*, cit., p. 181.

³³ *Ibidem*, p. 200. The design was clear also in the eyes of the explorer Robecchi Bricchetti: “Venne così il Benadir, il quale fu acquisito all’Italia nel tempo di infausta memoria, in cui la smania della conquista ed il miraggio di un futuro impero etiopico-eritreo, con sbocchi sopra l’Oceano Indiano, aveva a molti tolto il senno” (ROBECCHI BRICCHETTI, *Dal Benadir – Lettere illustrate alla Società Antischivista d’Italia*, Milano, 1904, p. 47).

Such an ambitious project, which did not correspond with the political, military and economic dimension of Italy, remained on paper for several decades and was essentially not supported by Mancini³⁴. He soon realized that Italian attempts to control vast areas of East Africa were premature.

Nevertheless, the mere fact of adding Somalia to Eritrea, as the subsequent step in a policy of colonial expansion, was sufficient to create the basis for a latent conflict with Ethiopia. This country was progressively approached by an intrusive neighbor with the consequent risk, sooner or later, of it becoming a victim of Italian military aggression. In fact, this is what happened twice. After the first attempt, which was put to an end by the already mentioned battle of Adwa (first Italo-Ethiopian War, 1895-1896)³⁵, it took almost forty years for Italy to recover and reach the objective that was finally achieved after the second Italo-Ethiopian War (1935-1936). But the empire of Italian East Africa (*Africa Orientale Italiana*), which included Eritrea, Somalia and Ethiopia, lasted only until 1941 when the British troops reconquered Addis Ababa, re-established emperor Haile Sellasie in power and removed the Italians from East Africa.

3. *Dreaming of Kismayo*

In 1886, the dimensions of the territory belonging to Zanzibar became clearer. On 9 June 1886 in Zanzibar, the delegates of France, Germany and Great Britain signed a joint declaration on what the “sovereign rights” of the Sultan of Zanzibar were:

“Les délégués des trois Puissances constatent par le présent qu’ils sont unanimes à reconnaître les droits souverains de sa Hautesse le Sultan de Zanzibar sur les points désignés ci-après: (...)”³⁶.

The list of territories of the Sultan included four cities on the Somali coast:

“Kismayu, Brava, Merka et Magadisho: le territoire relevant du Sultan n’excède pas celui même circonscrit par les murs de ces villes” (Art. 8).

The declaration was followed by an exchange of notes concluded by Germany and Great Britain on 29 October and 1st November 1886³⁷ whereby the two powers delimited “their respective sphere of influence on this portion of the East African Continent” (Art. 3). The mouth of the river Uмба was the starting point of the demarcation between what later became the German colony of Tan-

³⁴ ZAGHI, *P.S. Mancini*, cit., p. 119.

³⁵ *Supra*, para. 1.

³⁶ MINISTERO DEGLI AFFARI ESTERI, *Trattati*, cit., Vol. I, p. 156.

³⁷ *Ibidem*, p. 161.

ganika and the British colony of Kenya. Besides the islands of Zanzibar, Pemba, Lamu and Mafia, the two powers recognized

“as belonging to the Sultan the stations of Kismayu, Brawa, Meurka and Magadisho, with radii landwards of 10 sea miles and of Warsheik with a radius of 5 sea miles” (Art. 1).

Such a determination of the Sultan’s territory was also agreed by France through two exchange of notes of 27 November and 8 December 1886, one concluded with Great Britain³⁸ and the other with Germany³⁹.

Italy was not a party to a game that was played by other players, irrespective of all the Italian ambitions. However, on 20 October 1886, Filonardi, who had been appointed Italian consul at Zanzibar, informed the Italian Minister of Foreign Affairs, di Robilant, that the Sultan of Zanzibar was ready to allow Italy to take possession of the Somali coast in order to prevent Germany from doing the same:

“Il Sultano di Zanzibar, che odia e teme i tedeschi, credo che non solo vedrebbe con piacere l’Italia prendere possesso della regione dei Somali, ma appoggerebbe ciò con tutta l’anima. Le presenti circostanze darebbero in questo momento all’Italia un insperato e potente aiuto per conquistare il paese somalo con minori sacrifici”⁴⁰.

Four days later, Filonardi informed the minister by telegram that the Sultan had sent his personal physician, a Russian national called Gregory, to the Italian consulate to communicate orally the proposal to cede to Italy the port of Kismayo and the region of the river Jubba, according to the conditions previously proposed by Cecchi. Filonardi asked the minister for urgent instructions on what to do, fearing that the Sultan could change his mind⁴¹. Filonardi made a summary record of his meeting with Gregory that was signed by both of them:

“Oggi ventitrè ottobre 1886 innanzi a me Filonardi Cav. Vincenzo R^o Console Italiano in Zanzibar comparve alle otto ore pomeridiane l’onorevole Sig. Comm. J. Gregory, Medico particolare di S. V. il Sultano di Zanzibar e riferì quanto segue:

S.A. Sayd Bargash ben Sayed mi fece oggi chiamare presso di Lui e dopo avermi fatto giurare sul Vangelo che avrei adempiuto, colla massima esattezza e discrezione, gli ordini che stava per impartirmi disse mi:

“Vi porterete immediatamente dal R^o Console Italiano e ditegli da mia parte che, desiderando di stringere viepiù la mia amicizia con S. M. il Re d’Italia, offro spontaneamente di cedere all’Italia la rada di Kisimaio e la regione del Giuba alle condizioni stesse proposte dal Capitano Antonio Cecchi”.

Il sottoscritto dichiara esatto quanto è espresso nel presente verbale”⁴².

³⁸ *Ibidem*, p. 164.

³⁹ *Ibidem*, p. 166.

⁴⁰ In FINAZZO, *L’Italia nel Benadir*, cit., p. 150.

⁴¹ Telegram of 24 October 1866 (text in MINISTERO DEGLI AFFARI ESTERI, *L’Italia in Africa, Documenti relativi a Zanzibar e al Benadir*, cit., p. 59).

⁴² *Ibidem*, p. 60.

Only on 8 November 1886 did di Robilant send a response to Filonardi and it was in essence a negative one, to avoid friction with Germany⁴³. In any case, many doubts remain on whether there was any real intention of the Sultan to offer Kismayo and the Jubba region to Italy. Could a third person, without any formal delegation of powers, give away territories in the name of the Sultan? And what were the conditions previously proposed by Cecchi, considering that in 1885 Cecchi was only able to negotiate a treaty of commerce⁴⁴? Not surprisingly, on 7 November 1886, the Sultan wrote to Filonardi, pointing out that any assumption on the cession of Kismayo was only a misunderstanding:

“Noi siamo molto sorpresi che ci venga riferito aver noi proposto di cedere completamente al suo [= di S. M. il Re d'Italia] Governo la città di Kisimaio ed i dintorni: se il Governo italiano ha compreso così, Noi affermiamo che la nostra intenzione non fu mai di abbassare la nostra bandiera perché non potremmo permettere ciò nei nostri territori.

Preghiamo perciò la S. V. a voler far conoscere al suo Governo che noi non avemmo mai intenzione di cedere completamente questo paese, ma di unirli col Governo italiano per svilupparlo commercialmente come già ci era stato proposto da uno dei Rappresentanti d'Italia”⁴⁵.

After the death of Sayyid Barghash (27 March 1888), Filonardi resumed the push for Kismayo with his brother and successor, Sayyid Khalifa. As early as 12 May 1888, Filonardi had reminded him about the (alleged) offer of the previous sultan. While the new sultan was unaware of such a matter, Filonardi asked him to ratify what his predecessor had (allegedly) established:

“Fui ricevuto sabato 12 e nella forma della più grande cortesia io sottoposi al Sultano come il suo defunto Fratello per cementare la sua amicizia col potente Re d'Italia aveva spontaneamente offerto di unirsi cogli Italiani per sviluppare il commercio sul fiume Giuba ed a Kisimayo e lo pregai affinché volesse da sua parte dar nuova

⁴³ “Ringrazio, desidero Sultano di Zanzibar mantenga amichevoli disposizioni con l'Italia assicurando nostra costante benevolenza. Però importa soprattutto evitare ogni occasione di attrito con la Germania” (in FINAZZO, *L'Italia nel Benadir*, cit., p. 154).

⁴⁴ *Supra*, para. 2.

⁴⁵ MINISTERO DEGLI AFFARI ESTERI, *L'Italia in Africa, Documenti relativi a Zanzibar e al Benadir*, cit., p. 66. The way in which Italy tried later to explain the statements of the Sultan can only be seen as a sign of the Italian bad faith: “Il est vrai que cette offre fut, peut après, on ne sait trop si désavouée ou rétractée, et que le Sultan chercha à faire envisager ce qui s'était passé entre son mandataire et le représentant du Roi d'Italie comme le résultat d'un malentendu. De la part d'un souverain oriental, miné déjà et affaibli par la maladie qui devait l'emporter, soumis aux influences les plus diverses, il n'y a rien, dans ce désaveu ou dans cette rétractation, qui soit fait pour surprendre. Mais si la volonté du Sultan défunt était à ce point oscillante, il appartenait au Gouvernement du Roi d'en fixer l'expression, au moment et au point où les intérêts de l'Italie l'exigeaient. Ce c'est qui a été fait, non seulement par le procès-verbal dont il a été parlé, mais aussi par une note que le consul de S. M. adressait au Sultan le 11 novembre 1886” (*mémoire* of 10 September 1888 prepared by the Italian Ministry of Foreign Affairs, *ibidem*, p. 135).

prova all'Italia delle sue amichevoli intenzioni ratificando quanto suo fratello aveva stabilito.

Il Sultano mi rispose che ignorava completamente quanto io veniva di esporre, ma che avrebbe subito fatto le dovute ricerche onde definire al più presto la mia domanda: mi pregò inoltre di fargli leggere i relativi documenti che io possedeva ed io annuii a tale sue richiesta”⁴⁶.

Then something happened that worsened the relationship between Italy and Zanzibar and made the subsequent course of events rather hectic. On 15 May 1888 Filonardi wrote to the Sultan asking to be received so he could deliver him a letter by Humbert, the King of Italy. The reply of the Sultan, sent two days later, was that Filonardi would be received when it was convenient for the Sultan:

“Abbiamo ricevuta la vostra lettera del 15 maggio e comprendemmo che desiderate vederci per presentarci una lettera di S. M. il Re d'Italia.

Noi siamo soddisfatti di ciò e quando non avremo altri affari a nostro comodo vi manderemo ad avvertire quando potremo ricevervi”⁴⁷.

Filonardi waited until 28 May. Then he wrote to the Sultan to inform him that his behaviour had offended the high dignity of the King of Italy and that adequate reparation was due:

“Ho il doloroso obbligo di far rispettosamente osservare all'A. V. che ha lesa l'alta dignità del mio Augusto Sovrano per la poca correttezza nella compilazione della lettera direttami dall'A. V. il 6 Ramadan 1305, avvalorata dal prolungato diniego di voler ricevere una Missiva che S. M. il Re d'Italia erasi degnata far pervenire all'A. V. per mio mezzo.

Sarò perciò costretto a sospendere le cordiali relazioni che finora hanno esistito fra il Regio Governo Italiano e l'A. V. se entro ventiquattro ore non avrò ottenuta adeguata riparazione”⁴⁸.

The Sultan immediately sent an apology, justifying his behaviour as due to much work and the religious fast of Ramadan⁴⁹. But this was not enough for Filonardi. He asked Crispi, who was at that time President of the Council of Ministers and Minister of Foreign Affairs, for authorization to claim the cession of Kismayo, as an adequate reparation for the offence:

⁴⁶ *Ibidem*, p. 76.

⁴⁷ *Ibidem*, p. 81.

⁴⁸ *Ibidem*, p. 82.

⁴⁹ By 28 May the Sultan had already apologized through a representative sent to the Italian consulate. The following day the Sultan sent a letter to Filonardi: “La vostra lettera del 28 maggio mi pervenne e la compresi. Io sono dolentissimo di non aver ritornata la risposta a proposito della lettera di S. M. il Re d'Italia. Ora io desidero essere accertato che voi non mi portiate rancore per l'accaduto perché ho molto lavoro ed essendo ramadani digiuno. È mio desiderio di ristabilire fra noi amichevoli rapporti e voi potete venire da me quando volete” (*ibidem*, p. 83).

“Domanderei invece una lettera scusa diretta Sua Maestà, nella quale per provare suo buono intendimento ceda Italia Kissimayo, condizioni accettate dall’Inghilterra per Mombasa”⁵⁰.

Although admitting his limited understanding of this rather confusing situation, Crispi supported the course of action proposed by Filonardi:

“Telegrammi 28 poco intellegibili. Comunque giudicando esservi stata offesa, richiegga energicamente soddisfazione adeguata. Colga occasione per ottenere soluzione questione Kissimayo con cessione incondizionata, oppure protettorato. Non comprendo cessione alle condizioni accettate Inghilterra per Mombaza, poiché suppongono esistenza società assuntrice oneri, né consta che nostra società esista. Nave partirà tosto per avvalorare sue pratiche. Indicherò nome giorno partenza. Non risparmi telegrafo”⁵¹.

However, while the Sultan was ready to apologize, he was not willing to deprive his State of Kismayo. He delayed any answer on this important question until the end of the Ramadan⁵². As the requested reparation had not yet been given, on 6 June 1888 Filonardi broke off relations between Italy and Zanzibar:

“Avendo l’A. V. rifiutate le riparazioni dimandate per gli insulti fatti a S. M. il Re d’Italia, Mio Augusto Sovrano, mi veggio obbligato a rompere le relazioni con l’A. V. e di abbassare la bandiera”⁵³.

At this point, the Sultan was sufficiently clear in replying that his apologies were enough and there was no reason to discuss Kismayo:

“Vostra lettera mi pervenne; ebbi grandissimo dolore nel veder abbassare la vostra bandiera.

Nella lettera mi dite che non siete ancora soddisfatto e delle mie parole e della lettera scrittavi e dei miei uomini che vi mandai.

Io vi affermai che il fatto avvenne per dimenticanza, ora io desidero che voi siate soddisfatto, ma voi non lo siete, perché altri ottennero e voi no.

Avanti volevate Kisimayo con contratto e ora lo volete senza condizioni: queste parole riguardano sempre Kisimayo e ciò non è costume”⁵⁴.

It was evident that the impulsive initiative by the Italian consul at Zanzibar went far beyond what Italy was in a condition to achieve. Germany took the position that, after all the territories that Zanzibar had given to Germany and Great

⁵⁰ Telegram of 28 May 1888 by Filonardi to Crispi (*ibidem*, p. 82).

⁵¹ Telegram of 30 May 1888 by Crispi to Filonardi (*ibidem*, p. 78).

⁵² “Voi veniste questa mattina da noi e parlammo lungamente: io desidero che non mi portiate rancore per il ritardo nel ricevere la lettera. Riguardo a ciò che mi diceste a proposito di Kisimayo è un affare grave; ora è Ramadani ed io digiuno, perciò vogliate attendere sedici giorni fino alla fine del Ramadani” (letter of 2 June 1888 by the Sultan to Filonardi; *ibidem*, p. 86).

⁵³ *Ibidem*, p. 103.

⁵⁴ Letter of 6 June 1888 by the Sultan to Filonardi (*ibidem*, p. 106).

Britain in 1886, there was no reason to weaken further the authority of the Sultan by granting other territories to another State⁵⁵. While more flexible on Kismayo, Great Britain was not prepared to allow any manifestation of force against Zanzibar⁵⁶. Both States tried to convince Italy that it was not appropriate to go beyond a request for an apology by the Sultan, especially considering that there could have been misunderstandings in the translation from Italian into Arab and viceversa of the correspondence between Filonardi and the Sultan and that everything had happened during the period of Ramadan, where all official activities are suspended in Muslim countries. But Filonardi, who had his personal view about the powers of Italy, went as far as suggesting to Crispi that they should retaliate by sending a military expedition to confiscate the customs duties collected by the Sultan from the sale of carnations produced on the island of Pemba:

“A Chisimayo vi sono circa cento soldati del Sultano ed altrettanti ve ne sono all’imboccatura del Giuba: ora come è poco probabile che tutti cedano le armi senza opporre una qualche resistenza, si correrebbe il rischio, coll’impiegare la forza, di alienarci col primo atto tutti i Somali. (...)”

L’isola di Pemba da sé sola dà in media al Sultano di Zanzibar per diritti doganali un’annua somma di un milione e trecentomila lire italiane. Due piccoli bastimenti da Guerra e qualche impiegato civile sarebbero sufficienti a prevenire qualunque contrabando.

Il principale cespite doganale di Pemba è la produzione dei garofani che pagano il 30 per cento sopra un valore annuo medio di Lit. 3.500.000 ossia Lit. 1.050.000 di tasse.

Il raccolto dei garofani comincia alla seconda metà di agosto ed i produttori non possono certo tenerseli nelle campagne, perché hanno necessità di venderli.

Perciò io credo che, se il R. Governo si trovasse nella necessità di forzare il Sultano alla cessione di Chisimayo, sarebbe facile ottenerla col confiscargli le entrate doganali dell’Isola di Pemba fino a completa soluzione della vertenza”⁵⁷.

In the meantime, doubts were raised about the position of Filonardi, who was both consul and tradesman at the same time and could have personal interests in extending his business activities to Kismayo. Crispi decided to send to Zanzibar Cecchi, who was then the Italian consul in Aden, giving him the man-

⁵⁵ “D’ailleurs, depuis les arrangements intervenus entre l’Allemagne et l’Angleterre avec le Zanzibar, ces deux puissances sont moralement engagées non seulement à s’abstenir de tout acte impliquant une diminution ultérieure de sa souveraineté territoriale, mais de l’aider au maintien du *statu quo*” (letter of 8 June 1888 of the Italian ambassador in Berlin, Launay, to Crispi; *ibidem*, p. 91).

⁵⁶ This was clearly expressed by the British consul at Zanzibar, Smith, to Filonardi: “Il 9 giugno il colonnello Smith mi chiese un abboccamento per comunicazioni che dovea farmi da parte del suo governo; andai io stesso al consolato inglese ed il colonnello dopo avermi detto che il governo inglese non avrebbe permesso che l’Italia impiegasse la violenza contro il sultano, mi consigliò paternamente a telegrafare al regio governo esortandolo ad accettare le scuse già fatte dal sultano” (letter of 1st July 1888 by Filonardi to Crispi; *ibidem*, p. 103).

⁵⁷ Letter of 2 July 1888 by Filonardi to Crispi (*ibidem*, p. 107).

date to negotiate a settlement to the dispute with the Sultan. Not surprisingly, Cecchi was instructed, *inter alia*, to ask the Sultan to cede Kismayo to an Italian company, based on the model of the companies established in Great Britain and Germany to rule the territories previously ceded by Zanzibar and represented by Filonardi:

“Circa la questione di Kisimaio, ella domanderà (...) il riconoscimento degli impegni presi dal precedente sultano, per ben due volte, cioè verso la S. V. nel 1885, e verso il cav. Filonardi nell’anno susseguente. Ella farà valere che l’Italia la quale potrebbe esigere completa rivendicazione di quell territorio, si limita a domandarne la concessione a favore di una società italiana appositamente costituitasi su basi identiche a quelle della società inglese di Mombasa e della società germanica dal fiume Umba al capo Delgado. L’accordo dovrebbe naturalmente essere firmato dal cav. Filonardi, quale rappresentante della società suddetta”⁵⁸.

However, the negotiations between the Sultan and Cecchi, which were very closely followed by the British consul in Zanzibar, Smith, proceeded without tangible results as to the question of Kismayo. The Italian *chargé d’affaires* in London, Catalani, reported to Crispi that the British Prime Minister, Lord Salisbury, had complained about the threat made by Cecchi of using force against the Sultan, which would be “seriously deplored” in British public opinion:

“Lord Salisbury mi disse che aveva ricevuto dal Console della Regina in Zanzibar un telegramma in cui si accusava il capitano Cecchi di aver adoperato un linguaggio violento e di aver minacciato che il governo del Re ricorrerebbe, al bisogno, alla forza. L’opinione pubblica inglese, mi fece notare Sua Signoria, deplorerebbe seriamente un’azione violenta dell’Italia contro il Sultano”⁵⁹.

What Lord Salisbury suggested to Italy was to avail itself of William Mackinnon as an intermediary, who could achieve the result of obtaining Kismayo and other territories from the Sultan and then to grant them to Italy. Mackinnon was the leader of the Imperial British East Africa Company (IBEAC) that had just been chartered to administer the territories granted by the Sultan to Great Britain:

“Avendo insistito per ottenere schiarimenti ulteriori, Lord Salisbury mi dichiarò che si proponeva di servirsi di un intermediario assai autorevole press il Sultano, cioè a dire del Signor Makinnon, il quale potrebbe ottenere la cession di Kisimayo e fare la retrocessione, di tutto o di parte di quel territorio, ad una Società italiana. Gli era quindi mestieri di mettersi in comunicazione col suddetto signore”⁶⁰.

Crispi was experienced enough to get the substance of the message transmitted by Lord Salisbury in diplomatic terms and to realize that it was not through

⁵⁸ Letter of instruction of 27 June 1888 by Crispi to Cecchi (*ibidem*, p. 100).

⁵⁹ Letter of 29 July 1888 by Catalani to Crispi (*ibidem*, p. 109).

⁶⁰ *Ibidem*, p. 110.

the arrogant approach of Filonardi and Cecchi that the question of Kismayo could be solved. He charged Catalani with discussing the question in London with Mackinnon. The first problem to address was the position of the Sultan. While ready to present any kind of apologies to Italy⁶¹, the Sultan could not agree on any further reduction of territories that would greatly undermine his authority:

“Circa Kisimajo io non posso fare contratto con alcuno perché mio fratello Bargasch ha fatto contratto per molti paesi e questi contratti diminuirono molto la mia influenza (sovranità).

Ora io desidero che voi non mi parliate di questa questione”⁶².

At the end of September 1888, Crispi ordered Cecchi to depart from Zanzibar with his two ships, to sail to Natal and to wait there for further instructions. This was done following a request by Mackinnon, who was sending an IBEAC representative to Zanzibar to negotiate with the Sultan in regards to the cession of some territories, including Kismayo to IBEAC, and did not appreciate the presence of Cecchi in the place of the negotiations. Only on 7 November 1888 did Crispi authorize Cecchi's return to Zanzibar⁶³. On 1st January 1889, Smith asked Cecchi, who was leaving for Rome, to take with him a letter by the Sultan to the King of Italy, but Cecchi refused to do so. Ironically, as Catalani later reported⁶⁴, the letter rejected by Cecchi expressed the “spontaneous” decision by the Sultan to grant Kismayo to Italy through the mediation of IBEAC.

The Sultan was offended by the fact that Cecchi had behaved in more or less the same way that the Italians had previously reproached him for so aggressively⁶⁵. However, on 15 January 1889, the Sultan wrote a letter to the King of Italy

⁶¹The apologies were the following: “(...) io confesso il mancamento avvenuto involontariamente, e non avendo avuto i fatti propizii; sono stato dolente di questo avvenimento, ed ora porgo alla Tua Maestà l'espressione del mio grande dolore per ciò che è avvenuto, senza proposito, manifestandolo alla Tua alta Maestà con espressione verace e con chiare scuse, e chieggo con ogni affetto e amicizia il beneplacito ed il perdono dell'alta Tua Maestà. In questo breve spazio di tempo sono state interrotte le relazioni di amicizia e prossimità fra l'Italia e il Zanzibar; ma veracemente il passato è passato e non ritorna più, ma nell'avvenire l'amicizia fra le due parti sarà completa e crescerà di forza, come e più di prima” (letter of 13 August 1888 by the Sultan to the King of Italy; *ibidem*, p. 145).

⁶²Letter of 2 August 1888 by the Sultan to Cecchi (*ibidem*, p. 127).

⁶³Telegram of 7 November 1888 by Crispi to Cecchi (*ibidem*, p. 138).

⁶⁴Letter of 22 January 1889 by Catalani to Crispi (*ibidem*, p. 168).

⁶⁵“Salisbury mi dice che il Sultano di Zanzibar ha interpretato il rifiuto di Cecchi di accettare la sua lettera per il Re come un immeritato e grave insulto che l'ha ferito nella sua vanità personale. Sua Altezza ha supposto che Cecchi non avrebbe osato commettere quell'atto di disprezzo senza un ordine del R. Governo e, malgrado tutte le insistenze del Console inglese, non vuole più consentire alla concessione del territorio all'Italia. Salisbury si esprime in modo severo contro il Cecchi, la cui missione dal principio alla fine fu, egli disse, una serie di errori, non avendo fatto altro che ferire la suscettibilità di tutti coloro con cui entrò in relazione” (telegram of 9 January 1889 by Catalani to Crispi; *ibidem*, p. 171).

where he declared his agreement to grant Kismayo to Italy through the mediation of IBEAC, provided that this would be done after the serious disorders that were taking place there had been brought to an end. He added that the inhabitants of Kismayo were enemies of Europeans and ready to fight against them:

“Il nostro defunto fratello Bargash innanzi di morire diede promessa riguardo a Kissimayo al nostro amico Signor Mackinnon della Compagnia Britannica dell’Africa orientale. Noi confermammo questa promessa sotto condizioni da approvarsi da noi, dal Console Generale inglese e dalla detta Compagnia.

Se ora la M. V. desidera che la Compagnia italiana si concerti col nostro amico Sig. Mackinnon allo scopo di assumere Kissimayo da noi, noi approveremo ciò e ne informeremo il nostro amico Sig. Mackinnon; ma la nostra intenzione non è di far nulla a tale proposito in questo momento finché i presenti disordini siano cessati. Questi disordini sono molto gravi e noi non possiamo dire quando finiranno. Noi possiamo solo confidare in Dio.

In ogni modo ci preme d’informare la M.V. che la popolazione di Kissimayo e delle sue vicinanze è selvaggia e nemica di tutti gli europei, sempre pronta a battersi e vive nei deserti”⁶⁶.

Interestingly, it appears from the letter of 15 January 1889 that both the Sultan and his predecessor had already promised Kismayo not to Italy, but to Mackinnon. Kismayo was an issue that in fact was at stake between Italy and IBEAC (and Great Britain backing the latter). Both of them had ambitions on the city, while neither of them was much interested in other coastal localities north of it, such as Barawa, Merca, Mogadishu and Warsheikh.

On 3 August 1889, an agreement was concluded in London between IBEAC and Italy⁶⁷. The agreement provided that when the Sultan of Zanzibar was to hand over to IBEAC the cities of Kismayo, Barawa, Merca, Mogadishu and Warsheikh, IBEAC, “with the consent and approval of the Sultan”, would transfer Barawa, Merca, Mogadishu and Warsheikh to Italy. As regards Kismayo, it would be jointly held and administered by the two parties. A provision of the agreement (Art. 4) delimited the spheres of influence of Italy and IBEAC in a vast inland area around the Jubba river which also included territories claimed by Ethiopia⁶⁸.

⁶⁶ Letter of 15 January 1889 by the Sultan to the King of Italy (*ibidem*, p. 147).

⁶⁷ Text in HERTSLET, *The Map of Africa by Treaty*, Vol. III, London, 1894, p. 1088. The agreement was written in English and Italian, “with the understanding that the English text shall be binding”. For the Italian text, see MINISTERO DEGLI AFFARI ESTERI, *L’Italia in Africa, Documenti relativi a Zanzibar e al Benadir*, cit., p. 210.

⁶⁸ “The Italian government bind themselves to limit the Italian sphere of influence and operations on the East African continent by refraining from exercising any political or other influences, accepting Protectorates, making acquisitions of lands, or interfering with the extension of British influence on the territories or over the tribes lying to the west or south of a line drawn from the north bank of the mouth of the Juba River, and intended to keep always on the north and east sides

However, the agreement between Italy and IBEAC did not bring an end to the problems. By a concession of 4 March 1890, Sayyid Ali, the new Sultan of Zanzibar⁶⁹, granted IBEAC “all the powers and authority” to which he was entitled on the mainland lying between Kipini and Mruti and the islands embraced in such territory⁷⁰. On 6 March 1890, the Sultan informed IBEAC that he had no objection to any arrangement that IBEAC might make with Italy for the administration of the Benadir ports named in the concession (namely, Kismayo, Barawa, Merca, Mogadishu, Warsheikh and Mruti)⁷¹.

At this point, IBEAC changed its mind and proposed to Italy a modification of the 1889 agreement, in order to exclude Kismayo from the ports to be handed over to Italy⁷². This proposal was hardly acceptable to Italy because of the loss of Kismayo⁷³. But also the 1889 agreement presented a serious problem. As already remarked, Art. 4 of this agreement included in the IBEAC sphere of influence some territories claimed by Ethiopia, a State that Italy assumed was subject to the Italian protectorate status as a consequence of Art. XVII of the treaty concluded on 2 May 1889 at Ucciali by Ethiopia and Italy⁷⁴:

“Quando fu firmato il contratto del 3 agosto 1889 non avevamo in Etiopia la posizione definita e riconosciuta dal Governo inglese che abbiamo adesso. Ci sarebbe impossibile adesso abbandonare alla Compagnia il Caffa e gli stati galla del sud conquistati da Menelik senza perdere ogni prestigio in Europa, ogni autorità presso Menelik”⁷⁵.

The difficult negotiations between IBEAC and Italy on the Somali ports ended when Great Britain established its protectorate over Zanzibar through a bilateral treaty signed on 14 June 1890:

of the River Juba to the point where the 8th degree of north latitude intersects the 40th degree of east longitude, and a line drawn direct from the above-named point and running over the parallel intersecting the 35th degree of east longitude of the meridian of Greenwich”. A corresponding provision delimited the IBEAC sphere of influence.

⁶⁹ Sayyid Khalifa died on 13 February 1890.

⁷⁰ Concession of 4 March 1890 (*ibidem*, p. 222).

⁷¹ Letter of 6 March 1890 by the Sultan to IBEAC (*ibidem*, p. 223).

⁷² *Ibidem*, p. 230.

⁷³ “Sir W. Mackinnon dovrebbe ricordare che il R. Governo aveva diritti ben anteriori nel Kismajo ed in cambio della metà ceduta alla Compagnia ha ricevuto da questa territori di dubbio valore e che neanche le appartenevano quando la loro cessione fu concordata” (letter of 28 May 1890 by Crispi to Catalani; *ibidem*, p. 234).

⁷⁴ That the Ucciali treaty established a protectorate was a pure invention of Italy, as nowhere in this treaty does the word “protectorate” make an appearance. On the many questions raised by this treaty see SCOVAZZI, *Assab, Massaua, Ucciali, Adua*, cit., p. 119.

⁷⁵ Letter of 1st August 1890 by Pisani-Dossi, head of cabinet of the Minister of Foreign Affairs, to Catalani (MINISTERO DEGLI AFFARI ESTERI, *L'Italia in Africa, Documenti relativi a Zanzibar e al Benadir*, cit., p. 257).

“His Highness Seyyid Ali-bin-Saïd accepts freely and unreservedly, for himself, his subjects, and his dominions, the Protectorate of Great Britain, to commence from any date which may hereafter be fixed by Her Majesty’s Government” (Art. I).

“His Highness Seyyid Ali-bin-Saïd further understands and agrees that all his relations, of whatever sort, with foreign Powers, shall be conducted under the sole advice and through the channel of Her Majesty’s Government” (Art. II).

“Colonel C. B. Euan-Smith, Her Majesty’s Agent and Consul General aforesaid, hereby guarantees, on behalf of Her Majesty’s Government, the maintenance of His Highness the Sultan of Zanzibars’s Throne to himself, Seyyid Ali, and also to his successors” (Art. IV)⁷⁶.

The protectorate status put Great Britain in a position to negotiate directly with Italy the delimitation of their respective spheres of influence in East Africa. The protocol concluded by the two countries in Rome on 24 March 1891⁷⁷ referred in this regard to the thalweg of the river Jubba as the line of delimitation in the area closer to the coast:

“1. La ligne de démarcation, dans l’Afrique orientale, entre les spheres d’influence respectivement réservées à l’Italie et à la Grande Bretagne suivra, à partir de la mer, le thalweg du fleuve Juba jusqu’au 6° de latitude nord, Kismayu avec son territoire à la droite du fleuve restant ainsi à l’Angleterre. La ligne suivra ensuite le parallèle 6° nord jusqu’au méridien 35° est Greenwich qu’elle remontera jusqu’au Nile bleu.

2. Si les explorations ultérieures venaient, plus tard, en indiquer l’opportunité, le tracé suivant le 6° lat. nord et le 35° long. Est Greenwich pourra, dans des détails, être amendé d’un commun accord d’après les conditions hydrographiques et orographiques de la contrée.

3. Il y aura dans la station de Kismayu et son territoire égalité de traitement entre sujets et protégés des deux pays, soit pour leurs personnes, soit à l’égard de leurs biens, soit enfin en ce qui concerne l’exercice de toute sorte de commerce et industrie”.

Kismayo, which had been the main Italian objective, was thus included within the British sphere of influence, although the Italian subjects were entitled to be treated there in the same way as the British subjects⁷⁸. It was only by the treaty between Great Britain (also on behalf of Zanzibar) and Italy signed in London on 15 July 1924, regulating certain questions concerning the boundaries of their respective territories in East Africa⁷⁹, that all sovereign rights and

⁷⁶ MINISTERO DEGLI AFFARI ESTERI, *Trattati*, cit., Vol. I, p. 259.

⁷⁷ *Ibidem*, p. 340.

⁷⁸ On 26 May 1898 a provisional agreement was concluded in Zanzibar between the consuls general of Great Britain and Italy on the transit of goods from and to Benadir on the territory of Kismayo (*ibidem*, p. 592).

⁷⁹ SOCIÉTÉ DES NATIONS, *Recueil des traités et des engagements internationaux enregistrés par le Secrétariat de la Société des Nations*, XXXV, p. 379. The treaty was concluded in application of Art. 13 of the pact of London of 26 April 1915 between France, Great Britain, Italy and Russia,

title over a vast territory beyond the river Jubba (*Oltregiuba*, in Italian), including Kismayo, were transferred by Great Britain to Italy.

The protocol of 1891 was complemented by another protocol, signed in Rome on 5 May 1894, which delimited the spheres of influence of the two countries in the region of Northern Somalia facing the Gulf of Aden⁸⁰, where in 1888 Great Britain had established its protectorate (Somaliland).

4. The Italian Protectorates on Hobyo, the Majeerteen and Other Territories

While its efforts to extend its sovereignty over Kismayo were in vain, Italy concluded two agreements establishing its protectorate over two sultanates in northern Somalia that the European powers did not consider as belonging to the Sultan of Zanzibar.

On 17 December 1888, Filonardi informed the minister of Foreign Affairs, Francesco Crispi, that Yusuf Ali, the Sultan of Hobyo, had asked him to be granted the protection of Italy. Through this request the Sultan of Hobyo sought to react to the claim by the Sultan of Zanzibar that the latter could collect taxes from a village that was disputed by the two sultans⁸¹. Filonardi asked for instructions on what to do.

The Italian government asked the embassy in London to inquire about the British views on the matter. The answer was that Italy was welcome to occupy the Somali coast between the eastern limit of the British protectorate of Somaliland (49° lat East)⁸² and the northern limit of the territory of the Sultan of Zanzibar⁸³.

according to which France and Great Britain agreed in principle that Italy may claim some equitable compensation if, after the war, they increased their colonial territories in Africa at the expense of Germany.

⁸⁰ MINISTERO DEGLI AFFARI ESTERI, *Trattati*, cit., Vol. I, p. 432.

⁸¹ As written in Filonardi's letter, "in questi ultimi tempi il Governatore di Mogadoxo ha inviato dieci soldati nel piccolo villaggio di Mruti (posto a nord di Warsceick e sotto la dipendenza del Sultano di Obbia) per incassare le tasse sulle esportazioni di merci: ciò, a quanto mi si riferisce, avrebbe spinto Jusuf Ali a dimandare la protezione di una potenza Europea e la scelta cadde sull'Italia dietro consiglio di alcuni influenti Capi Somali di Kisimayo" (MINISTERO DEGLI AFFARI ESTERI, *L'Italia in Africa, Serie Storica*, Vol. II, *Oceano Indiano*, tomo III, *Documenti relativi alla Somalia Settentrionale (1884-1891)*, a cura di GIGLIO, Roma, 1968, p. 9).

⁸² In July 1887 the establishment of the British protectorate of Somaliland was notified to the European powers under Art. 34 of the General Act of the Conference of Berlin: "La Puissance qui dorénavant prendra possession d'un territoire sur les côtes du continent africain situé en dehors de ses possessions actuelles, ou qui, n'en ayant pas eu jusque là, viendrait à en acquérir, et de même, la Puissance qui y assumera un protectorat, accompagnera l'acte respectif d'une notification adressée aux autres Puissances signataires du présent Acte, afin de les mettre à même de faire valoir, s'il y a lieu, leurs réclimations" (MINISTERO DEGLI AFFARI ESTERI, *Trattati*, cit., Vol. I, p. 104).

⁸³ Letter of 12 January 1889 by the Italian *chargé d'affaires* in London to Crispi (MINISTERO DEGLI AFFARI ESTERI, *L'Italia in Africa, Documenti relativi alla Somalia Settentrionale*, cit., p. 12).

On 8 February 1889, Filonardi, signed at Hobyo a protectorate treaty with the Sultan of Hobyo⁸⁴. The treaty was quite simple and provided that the Italian flag was to be flown in Hobyo and that the Sultan could not conclude treaties with other governments without the consent of the Italian government. In exchange the Sultan received an annual allowance of 1,200 Maria Theresa thalers⁸⁵:

“Noi abbiamo messo il nostro paese di Obbia e tutte le nostre possessioni, da El Marek a Ras Auad, sotto la protezione e governo di S. M. il magnanimo Re d’Italia, Umberto I: ciò noi facemmo per mezzo del nostro amico Filonardi, regio console d’Italia a Zanzibar.

Noi dichiariamo che la bandiera d’Italia resterà inalberata nel nostro paese ed in tutti i nostri possedimenti, che i nostri sudditi e possedimenti sono sotto la protezione e governo dell’Italia.

Dichiariamo inoltre che noi non faremo contratti o trattati con qualsiasi Governo o persona senza il pieno consenso del governo d’Italia. (...)”.

“Noi [= Console Vincenzo Filonardi] promettiamo al Sultano Jusuf Ali Jusuf, Sultano d’Obbia, un’annualità di talleri mille duecento, come compenso del trattato oggi da esso stipulato e firmato a favore del regio Governo italiano”.

On 16 March 1889, answering to a question in the Chamber of Deputies, Crispi, at that time President of the Council of Ministers and Minister of Foreign Affairs, explained the decision to acquire the protectorate as to further the desire to participate in the partition of Africa and expressed the intention to entrust private companies with the task of operating there⁸⁶, without spending money and without involving Italian troops:

“Quanto agl’intendimenti del Governo, osservava che delle varie parti del mondo, di non occupate non vi erano che alcune regioni dell’Africa; di tutto il resto della terra, in nessuna parte l’Italia aveva impresso il segno del suo impero. Ed anche nell’Africa bisognava far presto, affinché altri non ci precedessero.

Quindi non si aveva avuta alcuna esitazione ad accettare il protettorato d’Obbia che non costava né un centesimo, né un soldato. Il Governo intendeva, nei luoghi concessi di avviare società commerciali nostre, e si sperava di poter fare una di quelle convenzioni come avevan saputo fare gl’inglesi ed i tedeschi, che avrebbero messa l’Italia in condizione di non dover mandare laggiù i nostri soldati”⁸⁷.

As is apparent from the instructions issued by Crispi on 17 January 1889, the desire was to add to the first protectorate a second one, that is to say the Sulta-

See GIGLIO, *Origine dei protettorati di Obbia e della Migiurtinia*, in *Studi di storia medioevale e moderna in onore di Ettore Rota*, Bari, 1954.

⁸⁴ MINISTERO DEGLI AFFARI ESTERI, *Trattati*, cit., Vol. I, p. 214.

⁸⁵ The Maria Theresa thaler is an Austrian silver coin that was used commonly in the Levant and Arab countries.

⁸⁶ In fact, this was done not in the case of Hobyo, but in the case of Benadir (see *infra*, para. 5).

⁸⁷ DIREZIONE CENTRALE DEGLI AFFARI COLONIALI DEL MINISTERO DEGLI AFFARI ESTERI, *L’Africa*, cit., p. 168.

nate of the Majeerteen, located north of Hobyo, in order to enlarge the Italian presence to the whole extension of Somalia free from British influence. There were no obvious economic prospects – instead, the territories were described as desolate, arid and inhabited by bellicose populations –, but for the hope that the internal areas would be more productive:

“Quantunque sembri che la costa dei Somali non presenti in questo tratto quei requisiti di relativa bontà per poterle preconizzare come futuri stabilimenti coloniali, e sebbene le tribù bellicose che ne formano la popolazione siano turbolente, crudeli e sanguinarie, il R^o Governo ha creduto di portare su di esse la sua attenzione, nella persuasione che alla desolante aridità della costa si succeda, intorno alla alta valle dei fiumi, una zona più ricca ed ubertosa che potrebbe un giorno essere chiamata a versare i suoi prodotti verso la costa Somala dell’Oceano indiano. A tal fine si deve tentare di intavolare negoziati col Sultano dei Migertini e possibilmente di concludere seco lui un trattato che valga a mettere sotto la sfera della nostra influenza tutta la costa dei Somali da Warsciek fino al limite estremo dove comincia la sfera d’influenza inglese”⁸⁸.

The negotiations with Osman Mahamud, the Sultan of the Majeerteen, were not easy, despite the co-operation of Yusuf Ali on the Italian side. Osman Mahamud soon made clear that he did not need any protection:

“Seguendo il consiglio del Sultano di Obia fu subito spiegato lo scopo della nostra visita.

Il Sultano dei Migertini rispose che era la prima volta che vedeva Italiani e navi Italiane e che sarebbe stato desideroso di stringere amicizia con l’Italia, ma che non poteva accettare né la nostra bandiera, né il protettorato, avendo tutti i suoi antenati, ed Egli stesso, rifiutate sempre simili proposte più volte avanzate da altre nazioni.

Aggiunse in seguito che il suo popolo era forte e che non aveva bisogno di aiuti perché nel caso che fosse attaccato alle coste si ritirerebbe nell’interno.

Non scoraggiati da tali risposte e coadiuvati dal Sultano di Obia si continuarono le trattative per cattivarci la fiducia del Sultano dei Migertini”⁸⁹.

Finally, a second protectorate treaty was concluded at Bandar Alula on 7 April 1889 by Filonardi on behalf of Italy, on the one side, and Osman Mahamud, Sultan of the Majeerteen, and Yusuf Ali, Sultan of Hobyo, on the other⁹⁰. Yusuf Ali was involved in the treaty because some areas covered by the second protectorate, namely Garade and Nugaal, were the subject of a dispute between the two sultans. According to the agreement,

⁸⁸ MINISTERO DEGLI AFFARI ESTERI, *L’Italia in Africa, Documenti relativi alla Somalia Settentrionale*, cit., p. 20.

⁸⁹ Letter of 26 March 1889 by the commander of the Italian ship *Rapido*, Amoretti, to the Minister of the Navy, in MINISTERO DEGLI AFFARI ESTERI, *L’Italia in Africa, Documenti relativi alla Somalia Settentrionale*, cit., p. 79.

⁹⁰ *Ibidem*, p. 216.

“Noi abbiamo messo il nostro paese e tutto ciò che possediamo da Ras Auad a Ras-el-Kyle (Uadi-Nogal per ultimo limite) sotto la protezione e governo di S. M. il magnanimo Re d'Italia, Umberto I; ciò noi facemmo per mezzo dei Rappresentanti di S. M. il Re d'Italia: (...).

Noi abbiamo accettata la bandiera italiana per inalberarla nei paesi sopra menzionati.

Dichiariamo che noi non faremo trattati o contratti con altri Governi o persone.

Dichiariamo inoltre che impediremo con tutte le nostre forze che un atto non giusto colpisca i sudditi italiani e loro amici in tutti i nostri possedimenti”.

In this case the annual allowance paid by Italy to the Sultan of the Majeerteen was 1,800 thalers. But, to avoid differences in treatment, Italy voluntarily paid a supplementary annual amount of 600 thalers to the Sultan of Hobyo.

It appears that, after having established the two protectorates, Italy did not take much care of what happened there. The ports along the Indian Ocean could not be used by ships and the prospects of trade were negligible⁹¹. The relations, especially with the Majeerteen, were not always friendly⁹². For instance, in December 1903, an Italian officer, Lt. Grabau went aboard the military ship *Galileo* to the coastal village of Durbo, located in the Majeerteen, and asked the local chief to hoist the Italian flag. As the latter requested a written order to do so by the Sultan of the Majeerteen, Grabau gave him a two-hour ultimatum and, having got no result, ordered the bombing of the village. When Grabau stood on the deck to direct the fire, he was killed by a bullet shot by a Somali from the shore⁹³. The first reprisals against the village were carried out by a British ship. However, the British also suffered casualties, as an officer was injured and some of his men died⁹⁴.

The European powers with interests in the territories in Africa (Belgium, Denmark, France, Germany, Great Britain, Netherlands, Portugal, Russia, Spain, Sweden and Turkey) were duly notified of the establishment of the two protec-

⁹¹ DEL BOCA, *Gli italiani in Africa Orientale*, cit., p. 416.

⁹² See also *infra*, para. 9.

⁹³ As reported on 8 December 1903 to the Chamber of Deputies by the Under-Secretary of Foreign Affairs, Fusinato, “il tenente Grabau volendo sbarcare a Durbo, giunto in faccia al villaggio aveva invitato il capo ad issare la bandiera italiana, com’era suo dovere. Il capo rifiutò. Il tenente insistette, lasciando due ore di tempo, per obbedire all’ordine. Trascorse le due ore il tenente aveva tirato contro il villaggio e gli era stato risposto con una scarica di fucileria, ed una palla aveva purtroppo colpito mortalmente il valoroso comandante” (DIREZIONE CENTRALE DEGLI AFFARI COLONIALI DEL MINISTERO DEGLI AFFARI ESTERI, *L’Africa*, cit., p. 720).

⁹⁴ As pointed out on 12 December 1903 by a member of the Chamber, Santini, “quasi all’indomani dell’evento di Durbo, il comandante Gaunt dell’incrociatore britannico *Mowkab*, avendo appreso dell’uccisione del tenente Grabau, si era recato a Durbo ed intimato al capo della tribù pronta soddisfazione e l’immediata consegna delle armi. Negatagli l’una e l’altra, aveva attaccato il villaggio rimanendo nello scontro gravemente ferito e perdendo preziose esistenze dei suoi marinai” (*ibidem*, p. 722).

torates on 16 May and 1st November 1889 to on the basis of Art. 34 of the general act of the Conference of Berlin of 26 February 1885⁹⁵.

Moreover, on 19 November 1889 Italy also notified the European powers of the establishment of a protectorate over the territories (without name) that were located between the four ports recognized in 1886 as falling under the territory of Zanzibar⁹⁶:

“Governo italiano notifica di avere in data 15 novembre assunto il protettorato di quei tratti della costa orientale d’Africa dal limite nord del territorio Kisimaio al 2° 30’ di lat. Nord, che sono intermedi tra le stazioni riconosciute nel 1886 come appartenenti al Sultano di Zanzibar. Il limite nord del nuovo protettorato italiano coincide così coll’estremità sud del Sultanato di Obbia (...)”⁹⁷.

This move created, at least on paper, a long coastal stretch of Italian protectorates, from the mouth of the Jubba to the Gulf of Aden, interrupted by the small enclaves of the four stations of Barawa, Merca, Mogadishu and Warsheikh that were under the sovereignty of Zanzibar.

The Italian policy of progressive expansion within Somalia was evident and was put in place through the establishment of other protectorates mostly with the chiefs of tribes of territories which, being located inland or north of Warsheikh, did not fall under what the European powers considered to be the territory of the Sultan of Zanzibar. This task was entrusted to Filonardi, who was also involved through his personal interest as a businessman, or to Italian explorers who were making expeditions to Somalia.

On 7 March 1891, Filonardi signed a protectorate declaration with nine chiefs of Atalah (immediately called “Itala” by him), a locality on the coast north of Warsheikh⁹⁸. This was sufficient for the minister of Foreign Affairs, Benedetto Brin, to make on 30 June, 4 and 5 July 1892 an exchange of notes with Filonardi, on behalf of the company he had established, called “Compagnia italiana per la Somalia V. Filonardi & C.”⁹⁹. The company, which undertook the “administration” of Itala in exchange for an annual allowance of 50,000 liras, was entrusted with the exercise of different forms of public authority, such as the establishment of military forces, as well as the prevention of the traffic of slaves and of weapons, and the accomplishment of acts of public interest:

“Apprendo con piacere l’intenzione di cotesta spettabile Ditta di assumere l’amministrazione di quella stazione [= Itala], allo scopo di agevolare e favorire nella medesima lo sviluppo del commercio e delle industrie, per quanto sarà possibile, nel-

⁹⁵ See *supra*, fn. 82.

⁹⁶ *Supra*, para. 3.

⁹⁷ MINISTERO DEGLI AFFARI ESTERI, *Trattati*, cit., Vol. II, *Appendice*, Roma, 1906, p. 957.

⁹⁸ MINISTERO DEGLI AFFARI ESTERI, *Trattati*, cit., Vol. I, p. 336.

⁹⁹ Hereinafter: Filonardi Company.

l'interesse della madre patria; e non ho difficoltà di concederle la chiesta sovvenzione annua di lire 50.000 la quale dovrebbe cessare *de jure* ove mancasse il correlativo stanziamento in bilancio; e sarebbe, ad ogni modo, revocabile col semplice preavviso d'un anno qualora non fosse dimostrata la pratica utilità dello stabilimento.

La Ditta rappresentata dalla S. V. deve, conformemente alle sue proposte, mantenere ad Itala l'effettivo attuale degli ascari e marinai, composto d'un aghida, un sergente, due caporali, un contabile, sessantatrè uomini armati, un pilota e sei marinai; deve impedire nella stazione di commercio il commercio degli schiavi, delle armi da fuoco e delle munizioni da guerra, ed assoggettare al controllo del regio Governo tutti gli atti di pubblico interesse, restando bene inteso che tutti i coloni aventi cittadinanza italiana debbono ritenersi, sotto ogni rapporto civile e penale, soggetti allo statuto personale della madre patria. (...)”¹⁰⁰.

The exchange of note for Itala was the first official act relating to the Italian administration over a territory in Somalia.

On 24 March 1891, three sultans signed a declaration – and the civil governor (*qadi*) of Mogadishu accepted it – through which they agreed that their tribes, countries and subjects would become a protectorate of Italy¹⁰¹. How this could be done in relation to a territory which was under the sovereignty of the Sultan of Zanzibar is a detail that cannot be clearly explained in legal terms. On 14 March 1891, the explorers Enrico Baudi di Vesme and Giuseppe Candeo signed a protectorate declaration with Abdi Helmi and other chiefs of the tribe of Dhulbahante at Milmil¹⁰². On 20 March 1891, the same explorers signed a similar declaration with the chiefs of the tribe Reer Ugaas Kooshin at Hen¹⁰³. On 9 June 1893, the Sultan of Luuq, Ali Hassan Nur, and the Italian explorer Eugenio Ruspoli concluded a treaty of “protection and friendship” at Dolon¹⁰⁴.

However, it was not always possible to conclude agreements. On 24 April 1890, a party of the Italian Navy, who had disembarked from the ship *Volta* to start talks with the local chiefs, was attacked in the vicinity of Warsheikh.

¹⁰⁰ In these terms the note of Brin of 4 July 1892 (*ibidem*, p. 377).

¹⁰¹ *Ibidem*, p. 339.

¹⁰² *Ibidem*, p. 337.

¹⁰³ *Ibidem*, p. 338.

¹⁰⁴ *Ibidem*, p. 403. A few days before, on 7 June 1893, Asla Ali, another Sultan of Luuq, wrote a letter to Ruspoli expressing serious concerns: “Ti facciamo sapere che gli abitanti di Marah son venuti da me a lamentarsi dei danni che loro avete fatti e delle molte ostilità da parte di voi altri, mentre essi non vogliono ostilità e guerra, ma vogliono trattare amichevolmente; non potendo essi, noi vogliamo fare la pace fra voi e gli abitanti di Marah, se tu vuoi trattare. Ed anche noi, o signore, non conoscendo la tua condizione e che cosa vuoi, non siamo tranquilli; se vuoi commerciare o fermarti nel paese, mandami una lettera, che io ti aiuterò e ti darò i paesi e villaggi che vorrai. Non mostrare ostilità dopo che avrai avuto la mia lettera, perché io farò pace tra te e la gente, e ti aiuterò in ogni cosa che vorrai, ancorché grave. (...) O signore, quando venisti nel paese fu senza mandar lettera sul come e quando sei venuto a Lugh e senza farmi sapere la tua condizione” (*ibidem*, p. 400).

Commander Carlo Zavagli and the ship's engineer Stefano Bertorello were killed. In retaliation, the ship hit Warsheikh with 56 cannon shots. As reported by the commander of the *Volta*, Amari:

“Dal racconto dell'accaduto considerando che l'aggressione commessa contro persone inermi che amichevolmente venivano da parte di Nazione amica a offrire doni, era ingiustificabile, e solamente potea attribuirsi a ribellione contro il Sultano dello Zanzibar, ed allo spirito di malvagia brutalità, per affermare la loro indipendenza, così per salvaguardare l'onore della bandiera Italiana offesa, affermare la potenza della Nazione e punir l'eccidio, ritenni essere necessario agire energicamente e subito come ammonimento, poiché se non avessi nulla operato, non solamente gli indigeni di Warsheikh, ma quelli di tutta la costa, quando avessero saputo il fatto non avrebbero tenuto che in una considerazione relativa la Potenza della nazione Italiana. Per queste considerazioni, decisi avvicinarli alla città e villaggio e lanciare sopra essi il maggior numero possibile di proietti”¹⁰⁵.

5. The Administration of Benadir by the Filonardi Company (1893-1896)

On 12 August 1892, the Italian's clear desire to establish its administration on more territories in Somalia was achieved through a “concession” signed by Gerald Portal, the British diplomatic agent and consul-general, on behalf of the new Sultan of Zanzibar, Sayyid Hamad, on the one side, and by Pietro Cottoni, the Italian acting consul, on the other¹⁰⁶. According to what can be considered as a treaty of lease, Italy was granted the right to administer in the name of the Sultan four cities, namely Barawa, Merca, Mogadishu and Warsheikh, with a small radius of land around them:

“The Government of His Highness the Sultan of Zanzibar makes over to the Government of His Majesty the King of Italy all the powers which they possess over

¹⁰⁵ Letter of 20 April 1890 by Amari to the Minister of the Navy, Brin, in *MINISTERO DEGLI AFFARI ESTERI, L'Italia in Africa, Documenti relativi alla Somalia Settentrionale*, cit., p. 134. On 13 May 1890, answering to a question in the Chamber of Deputies, Crispi attributed the event to the victim's imprudence: “(...) dalle notizie avute aveva ragione di credere che la disgrazia fosse avvenuta per non sufficienti precauzioni del valoroso ufficiale rimasto ucciso. Gli ufficiali della nostra marina, nell'Oceano Indiano facevano studi idrografici e studiavano le coste. Quell'ufficiale aveva voluto scendere senza la dovuta prudenza. Gli abitanti del villaggio nel quale il triste fatto era avvenuto erano stati abbastanza puniti, giacché erano state gettate sul villaggio 60 granate ed il villaggio stesso bruciato” (*DIREZIONE CENTRALE DEGLI AFFARI COLONIALI DEL MINISTERO DEGLI AFFARI ESTERI, L'Africa*, cit., p. 222).

¹⁰⁶ HERTSLET, *The Map of Africa*, cit., p. 1094 (English text), and *MINISTERO DEGLI AFFARI ESTERI, Trattati*, cit., Vol. I, p. 379 (French text). The concession was written in three texts, Arab, English and French: “Should differences arise as to the interpretation of the stipulations (...), the French or English texts alone shall be considered decisive”. The “convention of concession” was approved in Italy by Law 11 August 1896, No. 373.

the town and ports of the Benadir Coast, namely, Brawa, Merka, Magadisho, each with a radius landwards of 10 sea miles, and Warsheikh, with a radius landwards of 5 sea miles, and the islands in their vicinity, to be administered politically and judicially in the name of the Government of His Highness the Sultan of Zanzibar and under his flag; (...)" (Art. I).

The four cities were commonly called Benadir, meaning "the ports" in Somali language¹⁰⁷.

The concession was made for a duration of 25 years from the day on which it would be approved by the government of Great Britain. It could be renewed for another 25-year term by a simple declaration to this effect on the part of the Italian government (Art. VII). Italy was granted the right to levy taxes and customs duties, but was under the obligation to pay the rent of 160,000 rupees, corresponding to 268,800 liras, to the Sultan every year:

"The Government of His Highness the Sultan of Zanzibar furthermore authorizes the Government of His Majesty the King of Italy, or their Representatives to levy any taxes, tributes, dues, and tolls, import and export duties, and to take any measure which they may consider necessary to meet the expenses of the Local Government, for the maintenance of public forces, for the administration of justice, the construction of roads, harbours, and other public works, defensive or otherwise, and for the liquidation of debts and payment of interest upon capital expended" (Art. II).

"The Government of His Highness the Sultan of Zanzibar grants to the Government of His Majesty the King of Italy, or their Representatives the right, the 'régie', or lease, of the Customs of the above mentioned ports for the period of 25 years or 50 years, as aforesaid, on the following conditions, namely:

The Government of His Majesty the King of Italy undertakes to pay to the Government of His Highness the Sultan of Zanzibar a sum of 40,000 rupees, as a premium, on the Italian Administration taking over possessions of the ports, town, and territories which form the object of the present Concession, and thereafter the sum of 40,000 rupees at the end of each quarter of the European year" (Art. VIII)¹⁰⁸.

Within the rented territories, Italy was entitled to appoint "the Governors, all the Judicial officers, and the officials of all ranks" (Art. II). Italy also had the right to entrust the administration of Benadir to an Italian company – its name was not specified in the concession – that would exercise all the rights granted to Italy by the concession (Art. II)¹⁰⁹.

¹⁰⁷ "Benadir è il plurale di *bender*, che in lingua somala suona: porto o approdo e anche villaggio intorno ad un approdo" (ROBECCHI BRICCHETTI, *Somalia*, cit., p. 67). The word was broadly used to indicate the coastal strip between the mouth of the Jubba and Mercagh.

¹⁰⁸ The rent was reduced to 120 rupees a year by an additional Protocol signed at Zanzibar on 1st September 1896 by Great Britain, on behalf of Zanzibar, and Italy (MINISTERO DEGLI AFFARI ESTERI, *Trattati*, cit., Vol. I, p. 507).

¹⁰⁹ "The companies were a curious mixture of public and private elements. (...) The Italian chartered companies, like those elsewhere in Africa, were agencies with paragonmental functions;

Pending the entry into force of the concession, a supplementary agreement signed by the same parties on 15 May 1893¹¹⁰ granted Italy the right to provisionally administer Benadir for the term of three years starting from 16 July 1893.

The bill for the “concession” was only approved by the chambers in July 1896¹¹¹. The majority of the members of the parliamentary commission in charge of the approval of treaties proposed the adoption of the bill also because doing otherwise would have been a sign of instability and incapacity¹¹². However, a minority expressed some doubts, especially as regards the difficulty of using the ports, the absence of opportunities for the development of trade and industries and the responsibilities that the occupation of Benadir entailed¹¹³.

As already foreseen in the concession, Italy was not prepared to directly engage itself in the administration of Benadir, mostly because of the relevant financial implications¹¹⁴. On 11 May 1893, when the president of the Italian Council of ministers was Giovanni Giolitti, an exchange of notes took place between the Italian Minister of Foreign Affairs, Benedetto Brin, and Filonardi, on behalf of the Filonardi Company¹¹⁵. The company engaged itself for a provisional period

they were semiofficial overseas extensions of the metropolitan government” (HESS, *Italian Colonialism in Somalia*, Chicago, 1966, p. 179).

¹¹⁰Text in HERTSLET, *The Map of Africa*, cit., p. 1100 (English text), and MINISTERO DEGLI AFFARI ESTERI, *Trattati*, cit., Vol. I, p. 394 (French text).

¹¹¹By 201 votes in favour and 53 against in the Chamber of Deputies and by 68 votes in favour, 6 against and 1 abstention in the Senate (DIREZIONE CENTRALE DEGLI AFFARI COLONIALI DEL MINISTERO DEGLI AFFARI ESTERI, *L’Africa*, cit., p. 516 and p. 517).

¹¹²“(…) il rinunciare ad una Convenzione che completava i nostri territori africani dalla parte dell’Oceano Indiano sarebbe stato un mostrare al mondo che noi eravamo instabili nei nostri propositi e disadatti a qualunque impresa” (*ibidem*, p. 514).

¹¹³*Ibidem*, p. 514.

¹¹⁴“Vari erano stati i fattori che avevano concorso ad indirizzare verso questa soluzione. In primo luogo, vi era la consapevolezza che l’adottare il modello della ‘colonia commerciale’ nel Benadir avrebbe facilitato l’approvazione dell’operato del governo da parte del Parlamento, poiché avrebbe ottenuto il plauso anche di coloro che, pur critici della politica coloniale adottata in Eritrea, erano, però, favorevoli alla penetrazione commerciale in Africa, e ciò avrebbe indebolito l’opposizione. In secondo luogo, lo Stato non avrebbe potuto accollarsi le spese necessarie per occupare militarmente e colonizzare i nuovi possedimenti. In terzo luogo, vi era il forte stimolo ad emulare l’opera di colonizzazione compiuta proprio nell’Africa orientale dalle compagnie commerciali estere: la già citata ‘Imperial British East Africa Company’ e la ‘Deutsche Ostafrikanische Gesellschaft’” (PODESTÀ, *Sviluppo industriale e colonialismo – Gli investimenti italiani in Africa Orientale: 1869-1897*, Milano, 1996, p. 274).

¹¹⁵MINISTERO DEGLI AFFARI ESTERI, *Trattati*, cit., Vol. I, p. 391. In a letter of 24 February 1893 to the Minister of Foreign Affairs, Cecchi expressed a favourable opinion on the acquisition of the ports of Benadir and on the draft agreement with the Filonardi Company. For Cecchi, one of the reasons for pursuing this policy was to prevent other States from taking a position close to Ethiopia: “Sono molteplici, e involgenti gravi interessi, i rapporti che dobbiamo mantenere coll’Etiopia”.

of three years to replace the government in relation to the rights and obligations established under the concession:

“(...) lo scrivente [= Filonardi], in nome della Società da esso rappresentata, offre di subentrare al regio Governo negli effetti derivanti dall’atto summenzionato [= la concessione], e segnatamente di pagare per esso il canone di rupie 160.000 annue dovute al Sultano, alle condizioni seguenti:

La Società riscuoterebbe i dazi doganali negli scali del Benadir e prenderebbe impegno di mantenervi a suo carico l’effettivo attuale dei soldati e dei funzionari preposti al governo delle stazioni stesse, e di favorire lo sviluppo del traffico e delle industrie, per quanto sarà possibile, nell’interesse della madre patria”.

For its services, the company was granted an annual subvention of 300,000 liras by the government.

The exchange of notes included provisions on the application of Italian law to Italian nationals, the application of consular law (that is the so-called capitulatory regime) to the nationals of “civilized countries” and the application of “indigenous justice”, as ruled by traditional judges, to the local inhabitants:

“Gli atti d’amministrazione di pubblico interesse saranno soggetti al controllo del regio Governo, restando inteso che tutti i coloni aventi cittadinanza italiana dovranno ritenersi soggetti, sotto ogni rapporto civile e penale, allo statuto personale determinato dalle leggi della madre patria.

La giustizia indigena nei quattro scali zanzibaresi continuerà a essere amministrata in nome del Sultano dai Cadi. Pei nazionali e pei sudditi di nazioni civili si provvederà, negli scali zanzibaresi, a termini di diritto consolare; e nei territori interposti, compresi nella nostra sfera d’influenza, ma non soggetti al Sultano di Zanzibar, si provvederà direttamente per cura del Governo italiano”.

By a proclamation of 22 July 1893, the Sultan communicated to his subjects the granting of the provision administration of Benadir to Italy and, in its place, the Filonardi Company¹¹⁶.

Following the national policy of progressive expansion, during the period of the administration of Somalia by his company, which ended on 15 July 1896, Filonardi concluded several “treaties of protection” with the chiefs of Somali tribes. In a note dated 19 May 1896, he listed eleven such treaties¹¹⁷.

In fact, the prospects for the economic exploitation of the territory of Somalia were not as promising as some optimistic reports had depicted. The country was inhabited by about 600,000 people, most of whom were engaged in the breeding of livestock. Others cultivated plots of land along the rivers or deve-

pia in seguito alla posizione che abbiamo acquistata, e conviene che il Governo vigili e impedisca con tutti i suoi mezzi che altri ci prevenga per altra via” (MINISTERO DELLA GUERRA, *Somalia*, Vol. I, *Dalle origini al 1914*, Roma, 1938, p. 249).

¹¹⁶ MINISTERO DEGLI AFFARI ESTERI, *Trattati*, cit., Vol. I, p. 408 (Italian translation).

¹¹⁷ *Ibidem*, p. 450.

loped small trades. In 1895, the exports from the four ports of Benadir amounted to 24,805 quintals of sorghum, 1,720 quintals of rubber, 1,288 quintals of butter, 2,288 oxen, donkeys or camels, 4,472 elephant tusks and 88,575 goat skins¹¹⁸. The poverty of the territory was aggravated by the fact that ports were closed to ships at certain periods of the year.

On 14 March 1895, the Filonardi Company issued regulations for the government and administration of the territory subject to the “Italian protectorate” (in fact, this word did not precisely reflect the legal condition of all the relevant territories) between the mouth of the Jubba and Itala¹¹⁹. The first articles show which economic activities, namely agriculture, mineral extraction and forestry, the company hoped to develop:

“Tutte le terre incolte che non abbiano un proprietario accertato appartengono al R. Governo Italiano” (Art. 1).

“È riservato al R. Governo Italiano il privilegio esclusivo di lavorare, affittare o cedere le miniere o depositi di qualunque sorta di metallici minerali, olii minerali e pietre preziose” (Art. 2).

“Il taglio dei legnami nelle foreste verrà regolato da speciali norme e l’amministratore e gerente della Compagnia potrà rifiutare permessi o accordarli fissando un importo relativo alla entità del permesso rilasciato” (Art. 3).

Another important provision related to slaves. The “trade of slaves” was prohibited. This could be understood in the sense that slavery itself was allowed, provided that the slaves were not sold and bought. The provision added that “domestic serfdom” – in fact a hypocritical euphemism to conceal the very concept of “slavery”¹²⁰ – was to be progressively abolished:

“La tratta degli schiavi è proibita, e speciali norme verranno decretate dall’amministratore o gerente per la graduale abolizione della servitù domestica” (Art. 4).

Justice for the local people was administered by the *qadis* according to the *shariab*. If European nationals were involved, Italian law was applicable:

“Per l’amministrazione della giustizia verranno nominati dei *cadi* in Gumbo, Torre ed Itala; soltanto le sentenze scritte da codesti *cadi* nominati dall’amministratore e gerente e munite del bollo ufficiale della Compagnia saranno riconosciute valide e messe in esecuzione.

Da queste sentenze potrà farsi appello in prima istanza al Governatore della città più vicina e finalmente all’amministratore o gerente.

A richiesta dei postulanti, verrà rilasciata dai *cadi* copia delle sentenze emesse contro il pagamento dell’uno per cento dell’ammontare della cosa giudicata.

La legge verrà applicata secondo le norme della *Sceria*.

¹¹⁸ DEL BOCA, *Gli italiani in Africa Orientale*, cit., p. 432.

¹¹⁹ ROSSETTI, *Manuale di legislazione della Somalia italiana*, Vol. II, Roma, 1912, p. 21.

¹²⁰ See *infra*, para. 8.c.

Nei casi in cui debbano essere giudicati degli europei, l'amministratore o gerente, od in sua assenza il delegato della Compagnia, fisserà il giorno di udienza per comporre le questioni ed emettere le sentenze, secondo le leggi in vigore nel Regno d'Italia, seguendo le norme dei tribunali consolari" (Art. 6).

The other provisions of the regulations dealt respectively with acts of notaries, arms and ammunitions, customs and goods in transit.

The administration by the Filonardi Company did not last long. The main problem was the lack of adequate financial capacity to meet the broad responsibilities entrusted to the company. Such a heavy burden had been too easily undertaken by the company and too superficially granted to it by the Italian government¹²¹. The lack of financial means prevented the Filonardi Company from engaging itself in the challenging task of keeping order and security in the administered territories. Serious problems of security had already arisen by 9 October 1893, when commander Maurizio Talmone, who had just disembarked in Merca, was stabbed and killed by a Somali¹²². Filonardi personally participated in the retaliation: the *qadi* of Merca was replaced, the city was bombed by the Italian ship *Staffetta* with 135 grenades and the population obliged to hand over all firearms.

In a letter of 4 April 1894 to the Minister of Foreign Affairs¹²³, Filonardi complained about what he considered to be three disappointing decisions: the denial of the supply of hundreds of muskets; the withdrawal of the Navy ship patrolling Somali waters and the refusal to advance half the annual subvention granted to the Filonardi Company which was requested so as to take urgent measures to avoid bloody conflict with the Somalis¹²⁴. Filonardi clearly expressed the view that the relationship that his company had with the State was different from the many contracts of procurement that the State usually concluded with private

¹²¹ In their report (see *infra*, para. 8.a), Chiesi and Travelli made the following remarks on the lack of means of the Filonardi Company: "Ma, fuori discussione le qualità di idoneità personale dell'uomo che si era messo alla testa della difficilissima impresa, questa aveva nella esiguità dei capitali disponibili dalla Società Filonardi il germe preparatore del suo mancato successo. E qui comincia, a nostro avviso, la grande responsabilità del Governo italiano, il quale consentì che ad una impresa cotanto difficile e rischiosa, ad iniziare la quale occorrevano ingenti capitali (non certo minori a quelli coi quali nelle vicine colonie inglesi e tedesche compagnie coloniali-commerciali si accingevano a consimili imprese), si accingessero uomini volonterosissimi e capaci fin che si vuole, ma disarmati di tutti i mezzi adeguati: principalissimo, se non essenziale, fra i quali è il sufficiente capitale" (CHIESI-TRAVELLI, *Le questioni del Benadir – Atti e relazione dei commissari della Società*, Milano, 1904, p. 133).

¹²² See DEL BOCA, *Gli italiani in Africa Orientale*, cit., p. 568.

¹²³ CHIESI-TRAVELLI, *Le questioni del Benadir*, cit., p. 184.

¹²⁴ In 1894 Filonardi, without any previous authorization, issued a bill of exchange on the Italian government, as drawee, for the amount of 150,000 liras, in favour of the Bank of London, as payee. The Italian government did not accept the bill of exchange (see FINAZZO, *L'Italia nel Benadir*, cit., p. 263).

entities. As the responsibility to administer a territory on behalf of a sovereign State had been entrusted to a private company, the latter needed and deserved adequate support from the government:

“Mi permetto di fare osservare all’E. V. che la posizione della Compagnia rispetto al Governo non è quella di un fornitore o di un impresario di lavori a *forfait*. Una Compagnia che deve governare un territorio vasto con mire politiche a beneficio della patria non può vivere senza il consenso del Governo.

La semplicità colla quale fu redatto il contratto per un tempo uno scopo così vasto e complesso prova ad esuberanza che la Compagnia assumeva gli impegni come cooperatrice del Governo e non altrimenti.

Se così non fosse, leggendo il contratto per tre anni stipulato tra il Governo e la Compagnia, si verrebbe alla conclusione poco lusinghiera che le Autorità hanno abusato della debolezza di mente di un povero pazzo.

La Compagnia che il Governo ha voluto onorare di tanta fiducia da lasciarla amministratrice di un territorio italiano con i più ampi poteri, ha fatto tutti i possibili sacrifici per mantenere con fermezza e decoro gl’impegni assunti”¹²⁵.

According to Filonardi, the lack of adequate support by the government discredited the company in the eyes of the Somalis:

“Da sua parte il Governo col suo triplice rifiuto lascia la Compagnia senza mezzi di difesa e contribuisce direttamente a distruggere il suo credito, la sua forza morale e il suo ascendente verso gli indigeni. Mi veggo quindi con dolore costretto a protestare a nome della Compagnia contro il Governo, ritenendolo fin da ora responsabile dei danni e delle perdite che potranno derivare dai rifiuti sopra menzionati”.

The result was that the government informed Filonardi that his relationship with the State for both Benadir and Itala¹²⁶ would not be renewed and offered him a post as manager in the new administration (letter by consul Cecchi of 25 November 1894)¹²⁷. Filonardi refused the offer and the contract was terminated on 15 July 1896, when the Italian government took charge of the administration of Benadir¹²⁸. Cecchi was appointed extraordinary commissioner for Benadir. However, as he could not reach Somalia because of the monsoon season, Filonardi agreed to provisionally act as royal commissioner. On 20 September 1896, Cecchi was able to disembark in Mogadishu and start the exercise of his functions.

¹²⁵ CHIESI-TRAVELLI, *Le questioni del Benadir*, cit., p. 185.

¹²⁶ *Supra*, para. 4.

¹²⁷ CHIESI-TRAVELLI, *Le questioni del Benadir*, cit., p. 186.

¹²⁸ See the letter of 11 May 1896 by Cecchi to Filonardi (*ibidem*, p. 187).

6. *The Bottego's Expedition*

Capt. Vittorio Bottego (1860-1897), an officer in the Italian army, is known as one of the most distinguished explorers of East Africa. After the first expeditions in Eritrea, along the coast from Massawa to Assab and in the Danakil region, he went to Somalia, where in 1892 and 1893 he explored the course of the Jubba¹²⁹. His second Somali expedition, sponsored by the Italian Geographic Society (*Società Geografica Italiana*)¹³⁰, began on 12 October 1895. Bottego, moving from Barawa, entered southern Ethiopia, discovered a lake that he called Margherita in honour of the queen of Italy (today Abaya Lake) and followed the course of the Omo river until lake Rudolf (today Lake Turkana)¹³¹. On the way back, on 17 March 1897 he was killed at Daga Roba, together with several members of his expedition, in a fight against the men of an Ethiopian chief¹³².

It is not intended here to elaborate on the objectives of Bottego's last expedition, which is unclear in certain aspects and has been described as being half-way between science and guerrilla¹³³. It cannot be denied that the expedition had scientific and cultural aspects, as shown by the important data collected and the many specimens sent to Italy¹³⁴. However, the expedition was led by three Italian officers and composed of about 250 askaris subject to a military regime. They largely used firearms, not only to kill animals for food supply, but also to raid properties and fight against the local populations:

“Intanto gl'indigeni non ci danno tregua: innanzi, in coda, ai lati, vediamo facce minacciose trasparire dalle siepi; e per liberarcene non c'è di meglio che trattarli come selvaggina, a fucilate¹³⁵. (...) Più innanzi udiamo d'ambo i lati un ansante bisbigliare di gente nascosta presso il sentiero. Ci fermiamo, senza distinguere nulla; ma, riuniti gli ascari, facciamo fuoco in quella direzione. Alla scarica succedono grida, gemi-

¹²⁹ BOTTEGO, *Il Giuba esplorato*, Roma, 1895. On the explorer see BONATI, *Vittorio Bottego – Un ambizioso eroe in Africa*, Parma, 1997.

¹³⁰ The Italian Geographic Society concluded on 3 May 1895 a convention with the Italian Ministry of Foreign Affairs relating to the Bottego expedition. The text is reproduced in ROSSETTI, *Manuale*, cit., Vol. II, p. 25 (however, there are some provisions cancelled with *omissis* in this text).

¹³¹ VANNUPELLI-CITERNI, *L'Omo – Viaggio d'esplorazione nell'Africa orientale*, Milano, 1899.

¹³² See the report on the events by Lt. Citerni in MINISTERO DELLA GUERRA, *Somalia*, cit., p. 276. On 5 February 1897 the scientist Maurizio Sacchi, who had moved away from the Bottego expedition to reach the Somali coast with the mineralogical and zoological specimens collected, was also attacked by Ethiopians and killed nearby Lake Margherita.

¹³³ LABANCA, *Vittorio Bottego – Il Giuba esplorato*, Parma, 1997, p. XXVI.

¹³⁴ At the University of Parma, a museum of natural history dedicated to Vittorio Bottego exhibits many of the specimens collected by the explorer in his expeditions.

¹³⁵ VANNUPELLI-CITERNI, *L'Omo*, cit., p. 64. Lamberto Vannutelli and Carlo Citerni were the two other Italian officers in the Bottego expedition. They survived the fight where Bottego was killed and wrote a book on the expedition.

ti e il fruscio prolungato di centinaia di persone fuggenti tra il fogliame. Le inseguiamo, e ci è dato veder la dirotta di quella gente, che, atterrita, abbandona morti, feriti e armi. Sui nostri non sono giunte che poche frecce”¹³⁶.

The Ethiopian authorities were not informed of an expedition that was largely taking place within the southern part of their territory. Moreover, the Bottego expedition started in the same period (October 1895) that the Italian troops began the war against Ethiopia in the northern part of the country, crossing the border between it and Eritrea.

While the government underlined the private character of the Bottego's expedition¹³⁷, it may be assumed that Italy, when starting military operations in an area of what at that time it claimed to be its Ethiopian protectorate¹³⁸, also decided to engage in the quasi-military Bottego expedition in another area of its assumed protectorate. What in fact happened was that Bottego was left alone in the vast areas of southern Ethiopia and was not aware that on 1st March 1896 Italy had been militarily defeated by the Ethiopians at Adwa. He proceeded in his adventure – which has also been called “a lunar and out of time journey”¹³⁹ – until the time he was killed in the fight at Daga Roba. Menelik, the Ethiopian emperor who defeated the Italians at Adwa, expressed his regret for the fate of the Italian officer, without however missing the opportunity to underline that Bottego's expedition was invading the Ethiopian territory without his knowledge¹⁴⁰.

What are also interesting, as a sign of Italian expansion in Somalia, are the protectorate treaties that, at the beginning of his expedition, Bottego concluded with the Somali tribes located in the territories at the borders between Somalia and Ethiopia. According to the treaty of friendship and protection concluded at Lugh on 21 November 1895 by Bottego, on behalf of Italy, and the Sultan of Lugh, Ali

¹³⁶ *Ibidem*, p. 72. According to DEL BOCA, *Gli italiani in Africa Orientale*, cit., p. 428, the Bottego expedition “è la marcia di un manipolo di violenti, di sanguinari, che intende procedere ad ogni costo, fidando esclusivamente sul deterrente delle armi da fuoco e sul prelievo di ostaggi”.

¹³⁷ Answering on 6 May 1897 to a question at the Chamber of Deputies, the Under-secretary of Foreign Affairs, Bonin, pointed out that the expedition had been organized by the Italian Geographical Society “all'unico e costante scopo di contribuire al progresso degli studi geografici e commerciali” (DIREZIONE CENTRALE DEGLI AFFARI COLONIALI DEL MINISTERO DEGLI AFFARI ESTERI, *L'Africa*, cit., p. 540).

¹³⁸ See *supra*, fn. 74.

¹³⁹ “Un viaggio lunare e fuori del tempo” (DEL BOCA, *Gli italiani in Africa Orientale*, cit., Vol. II, p. 746).

¹⁴⁰ In a letter written on 14 April 1897 to the Italian king, Humbert, Menelik remarked that “con sua grande sorpresa alcuni italiani con molti soldati vollero per forza invadere il territorio etiopico dalla parte del paese Galla verso Bero. I capi scioani si opposero e gli italiani cominciarono il fuoco. Molti morti da ambo le parti. Morto il capitano Bottego e due italiani rimasero prigionieri. Menelik raccomanda a Sua Maestà di impedire simili avventure che possano turbare la pace fatta, e si mostra molto dolente dell'accaduto” (text in BONATI, *Vittorio Bottego*, cit., p. 6).

Hassan Nur¹⁴¹, Italy, *inter alia*, was granted the right to establish a station at Luuq. This city is located on a loop of the Jubba, at about 340 km from the coast, and is considered the doorway from the south to the Ethiopian highlands:

“[Il Sultano] lascia al signor Capitano Bottego libertà d’impiantare in Lugh una stazione italiana che, tra gli altri scopi, avrà quello commerciale e scientifico. Accetta che a capo di questa stiano uno o più italiani, con un presidio armato d’armi da fuoco; e che il capo o i capi della stazione possano innalzare la bandiera italiana, quando essi vogliano, in qualunque punto del territorio sopra nominato. Ed egli stesso, il Sultano di Lugh, dichiara che adotterà per il suo paese la bandiera italiana”.

The “station” became a military fort where Bottego left a contingent of askaris under the command of Capt. Ugo Ferrandi. It could be seen as the establishment of an Italian outpost defending against Ethiopia, considering that at that time the boundary between Ethiopia and Somalia was unclear and that another provision of the treaty bound the Sultan not to allow the transit through his territory of foreigners not authorized by Italy:

“[Il Sultano] s’impegna inoltre a non permettere il passaggio, per la città e per i territori da lui dipendenti, a stranieri non muniti di passaporto rilasciato da autorità italiane, che dichiarino essere essi viaggiatori o commercianti e non agenti politici. Contro chi entrasse per forza nei suoi domini, il Sultano di Lugh dovrà protestare manifestando la sua qualità di suddito italiano”.

On 25 November 1895, Bottego concluded at Lugh another protectorate treaty with the chiefs of the Dagoodi who were not subject to the Sultan of Luuq¹⁴². On 8 December 1895, Bottego was able to persuade the Sultan of Luuq and the chiefs of the Dagoodi to sign a treaty of peace between themselves¹⁴³. Through subsequent unilateral declarations, the chiefs of other tribes of the region stated themselves to be subject to the Sultan of Luuq and, consequently, bound by the treaty of 21 November 1895 between the latter and Italy. This is the case of the Garra-Ganana (declaration of 20 December 1895)¹⁴⁴, the Garra-Marra (declaration of 20 December 1895)¹⁴⁵, the Merehan (declaration of 17 February 1896)¹⁴⁶, the Gani-Liban (declaration of 21 February 1896)¹⁴⁷, the Boon Marehan (declaration of 24 February 1896)¹⁴⁸, the Auonto (declaration of

¹⁴¹ MINISTERO DEGLI AFFARI ESTERI, *Trattati*, cit., Vol. I, p. 488.

¹⁴² *Ibidem*, p. 491.

¹⁴³ *Ibidem*, p. 493.

¹⁴⁴ *Ibidem*, p. 496.

¹⁴⁵ *Ibidem*, p. 497.

¹⁴⁶ *Ibidem*, p. 499.

¹⁴⁷ *Ibidem*, p. 500.

¹⁴⁸ *Ibidem*, p. 501.

29 February 1896)¹⁴⁹ and the Auliyahan (declaration of 3 March 1896)¹⁵⁰.

The aim of establishing and consolidating positions in Somalia with a view to future moves in the direction of Ethiopia is sufficiently evident in Bottego's last expedition.

7. *The Administration of Benadir by the State (1896-1899)*

After the steps that had already been made, it was not politically feasible for Italy to withdraw from Benadir¹⁵¹. In 1895 Cecchi, who had been appointed Italian consul-general at Zanzibar, went back to Italy to promote the establishment of another private company that could replace the Filonardi Company and rely on more solid financial resources. He found in Milan a number of investors, including his nephew, the cotton industrialist Giorgio Mylius, who were willing to engage in the task¹⁵².

A preliminary agreement for the administration of Benadir was concluded between the Italian government and the "promoters" of the new company on 15 April 1896. The latter, called the "Società anonima commerciale italiana del Benadir"¹⁵³, was established on 25 May 1896¹⁵⁴ with the objective of promoting industry and commerce in Benadir and its hinterland, on the basis of a convention that would be concluded for this purpose with the Italian government:

"La Società ha per iscopo di promuovere le industrie e i commerci nel Benadir col rispettivo *hinterland*, dando esecuzione alla relativa convenzione stipulata fra il Regio Governo e la Società.

Ove la detta convenzione non potesse, per ragione qualsiasi, essere eseguita, la Società verrà sciolta" (Art. 2).

The capital of the Benadir Company was 1,000,000 liras (Art. 5). However, only 300,000 liras were to be paid up at the moment of its establishment (Art. 6).

The conclusion of the convention between the government and the Benadir Company, which needed parliamentary approval, was delayed for political rea-

¹⁴⁹ *Ibidem*, p. 502.

¹⁵⁰ *Ibidem*, p. 503.

¹⁵¹ "D'altra parte c'era la Convenzione già stipulata col Sultano di Zanzibar che il Governo italiano non poteva denunziare, senza rinunciare del pari ad ogni idea e speranza di influenze future sul territorio della Somalia del Sud. E senza subire un grave scacco di fronte a tutte le potenze, presso le quali si erano fatte le pompose dichiarazioni di protettorato, abbandonando a sé stessa una regione il cui avvenire coloniale non poteva essere messo in dubbio" (CHIESI-TRAVELLI, *Le questioni del Benadir*, cit., p. 135).

¹⁵² See GRASSI, *Le origini dell'imperialismo italiano: Il "caso somalo" (1896-1915)*, Lecce, 1980.

¹⁵³ Hereinafter: Benadir Company.

¹⁵⁴ Text of the statutes in ROSSETTI, *Manuale*, cit., Vol. II, p. 35.

sons. The already mentioned disastrous defeat of Adwa (1st March 1896) not only stopped the ambitions to subject Ethiopia to Italian control, but also led to much doubts in the Italian parliament and public opinion about pursuing another colonial adventure in Somalia.

The situation worsened because of a tragic event which took place the same year in Somalia. Consul-general Cecchi decided to make a trip to Gheledi in the Somali hinterland, probably to establish relations with the local sultan¹⁵⁵. On 25 November 1896, at Lafoole, about 20 km from Mogadishu, Cecchi's convoy was attacked by a Somali tribe. Cecchi, two Italian Navy commanders, eleven other Italians and eighteen askaris lost their lives in the ambush. The fate of Cecchi, an experienced explorer and one of the main promoters of Italian colonization in Somalia, was a palpable demonstration of how unsafe the country was for Italians, as soon as they moved outside the walls of the few localities where they could stay protected.

Although this was difficult to believe, the government denied that Cecchi was involved in any mission on its behalf. The President of the Council of Ministers, di Rudinì, went as far as declaring in the Chamber of Deputies that he did not know what the expedition was doing in the Somali hinterland and that Cecchi acted in his personal capacity, moved by the desire to make a geographical excursion or a hunting party¹⁵⁶ and without sufficient care for his security. But it is probable that Cecchi was preparing the field for the expansion in the hinterland of the forthcoming activities of the Benadir Company¹⁵⁷.

The persons responsible for the ambush against Cecchi and his men were never clarified with any certainty. Italy retaliated five months later through a punitive expedition under the orders of Commander Giorgio Sorrentino. The Ita-

¹⁵⁵ "Il console Cecchi da parecchio tempo aveva in animo di organizzare una ricognizione fino a Gheledi, posto al di là dell'Uebi Scebeli, e la ragione che ve lo spingeva era quella di stringere amicizia con quel sultano ed intendersi nel caso di un'invasione di amhara che era in quel momento la preoccupazione di quanti si occupavano delle nostre colonie" (MANTEGAZZA, *Il Benadir*, Milano, 1908, p. 33).

¹⁵⁶ As stated on 3 December 1896, "il Governo non intendeva né punto né poco di uscire dai confini nei quali si trovava; intendeva solo di proteggere e difendere i nostri stabilimenti sulla costa. (...) Il capitano Cecchi ed i suoi compagni non avevano da compiere alcuna missione politica; erano caduti per fare un'escursione né imposta né autorizzata dal Governo. Un telegramma, poi giunto dall'Inghilterra, confermava che si trattava o d'una escursione d'indole geografica o scientifica, o di una gita a caccia o di qualcosa di simile" (DIREZIONE CENTRALE DEGLI AFFARI COLONIALI DEL MINISTERO DEGLI AFFARI ESTERI, *L'Africa*, cit., p. 532). See also DEL BOCA, *Gli italiani in Africa Orientale*, cit., p. 743.

¹⁵⁷ "Cecchi aveva il compito di preparare il terreno ad una pronta installazione della Società milanese ed al successivo rapido sviluppo suo, assicurando la tranquillità e il buon governo del paese o almeno delle stazioni del Benadir, dalle quali l'azione diretta del governo coloniale, sino allora ristretta soltanto entro le mura di cinta delle quattro principali città costiere, avrebbe dovuto diffondersi quando fosse possibile ed opportuno" (ROBECCHI BRICCHETTI, *Somalia*, cit., p. 98).

lian troops burned Lafoole and other villages, killed an undetermined number of local people and deported others. As suggested by a member of the Chamber of Deputies, di San Giuliano, the entire tribe to which the killers belonged was to be considered as responsible:

“Il Governo, dunque, se possibile, doveva severamente punire, e non con criteri europei, punendo i singoli individui, ma, il reato essendo stato commesso da un’intera tribù, punendo la tribù intera”¹⁵⁸.

The reprisals gave rise on 14 June 1897 to a discussion in the Chamber, following a parliamentary question posed to the government by Matteo Imbriani-Poerio (1843-1901), one of the deputies who was against the Italian colonial policy. He made the assumption that private colonial companies commit crimes in exploiting for profit the local populations¹⁵⁹ and made the point that this inevitably led to feelings of hostility against the nationals of the exploiting country¹⁶⁰. He then condemned the killing and raping of innocent people who could not defend themselves, as the Italians had done in the Somali villages and four years earlier in Merca¹⁶¹:

“Quando si deve far giustizia, non si deve far ricadere l’ingiustizia su tutti; si debbono ricercare i veri rei, e non debbono esser vittime anche gli innocenti”¹⁶².

“Quindi abbiamo avuto la famosa spedizione, con l’accerchiamento di due villaggi da parte di ascari, l’appoggio dei cannoni delle navi e la spedizione all’interno contro quei disgraziati armati di frecce e di giavellotti, sui quali si piombò addosso a colpi di fucile. Ne furono uccisi, sterminati una certa quantità; sono stati bruciati i villaggi e fu lasciata una certa civile licenza agli ascari”¹⁶³.

¹⁵⁸ Statement of 3 December 1896 (DIREZIONE CENTRALE DEGLI AFFARI COLONIALI DEL MINISTERO DEGLI AFFARI ESTERI, *L’Africa*, cit., p. 532). On the Italian reprisals see also GRASSI, *Le origini*, cit., p. 71.

¹⁵⁹ “Date a commercianti, a gente che non cerca che di fare il proprio utile, senza alcuna finalità morale, date concessioni di simil genere, e giungeranno, nelle Indie, come nel secolo passato, a dar la tortura, per farsi pagare le imposte; e, nel Benadir, se non useranno la tortura ufficiale, useranno ogni mezzo di speciali ed esose torture di altro genere; e si faranno odiare, e renderanno invisibile il nome della Patria” (*Discorsi parlamentari di Matteo Renato Imbriani-Poerio*, Roma, 1923, p. 764). “(...) tutta l’amministrazione della colonia era affidata ad una specie di aguzzini locali ligi al padrone, che loro permetteva di ingrassare a spese di quei disgraziati indigeni, e venne fatta con spietata tirannia e con prepotenza tale, che presto il nome italiano venne in tutto quel paese esercitato” (*ibidem*, p. 767). See also DIREZIONE CENTRALE DEGLI AFFARI COLONIALI DEL MINISTERO DEGLI AFFARI ESTERI, *L’Africa*, cit., p. 574.

¹⁶⁰ “Il Governo, il quale rispose alla Camera che non sapeva quale azione fosse andato a compiere il Cecchi, credette di dover castigare in modo degno ed esemplare quelle povere popolazioni incoscienti, le quali avevano creduto di difendersi da gente ostile che volesse compiere su loro atti di prepotenza” (*Discorsi parlamentari di Matteo Renato Imbriani-Poerio*, cit., p. 765).

¹⁶¹ *Supra*, para. 5.

¹⁶² *Discorsi parlamentari di Matteo Renato Imbriani-Poerio*, cit., p. 768.

¹⁶³ *Ibidem*, p. 765.

“E al sottosegretario di Stato ricorderò ancora che, quattro anni or sono, anche allora per un altro di quegli esempi civili, che la civiltà Europea *deve* dare ai barbari, fu bombardato un altro povero villaggio: Merca.

E col bombardamento si ebbero quelle crudeltà, che le truppe, che si adibiscono a siffatte operazioni, siano pur più civili ancora delle bianche, se volete, adoprano sopra le donne, sui fanciulli, ed altri”¹⁶⁴.

Deeply concerned about what he called instances of European barbarousness¹⁶⁵, Imbriani-Poerio presented a motion against the prosecution of any relationship with the Benadir Company:

“La Camera, decisa a non permettere che, per appoggiare la speculazione di alcuni privilegiati, si penda denaro e si comprometta sangue ed onore italiano, invita il Governo a troncane ogni relazione colla Compagnia Lombarda del Benadir”¹⁶⁶.

The motion was not followed up by the Chamber of Deputies.

After Cecchi's death, Commander Sorrentino was appointed Royal Extraordinary Commissioner and Emilio Dulio (1859-1950), who was also one of the shareholders of the Benadir Company, was appointed Royal Civil Commissioner. Sorrentino's policy was to concentrate most of the efforts on the collection of customs dues in the ports. Security remained a serious ongoing concern. On 9 February 1897, the Italian resident of Merca, Giacomo Trevis, died after having been stabbed by a member of the Biimal Sa'ad tribe.

8. *The Administration of Benadir by the Benadir Company (1900-1905)*

8.a. *The Convention*

It was only on 25 May 1898 that a convention was finally concluded between the Italian government and the Benadir Company¹⁶⁷. Due to some delays in the

¹⁶⁴ *Ibidem*, p. 767.

¹⁶⁵ “Se la barbarie Europea si deve affermare così civilmente, o, se volete meglio, se la civiltà Europea si deve affermare così barbaramente, io rinunzio a questo movimento della civiltà; ma vi richiamo, e vi richiamo pensatamente, sopra i nuovi e terribili pericoli che minacciano il nostro paese, sopra tutte le cose sporche che forse si preparano all'ombra della bandiera italiana e che noi non vogliamo assolutamente che possano essere effettuate” (*ibidem*, p. 769).

¹⁶⁶ *Ibidem*, p. 769. As he explained: “Siamo sul punto, che si sta per concedere di nuovo ad una Società Milanese l'appalto del Benadir. Questa Società dice di aver un milione, mentre pare che abbia collocate soltanto trecento mila lire. Essa entrerà nei nuovi privilegi con un'aggiunta di canone, che il Governo italiano vuol concedere, non so se di cinquanta o cento mila lire, col privilegio ancora di esigere le dogane del Benadir. Si tratta, insomma, di una vera e propria speculazione. Veramente questa Compagnia potrebbe impiegare i suoi capitali, se ne ha, nelle terre italiane, le quali, pure, ne richiederebbero di molti; ma, infine, pare che impiegarli là sia più proficuo e più sicuro” (*ibidem*, p. 766).

¹⁶⁷ Text in MINISTERO DEGLI AFFARI ESTERI, *Trattati*, cit., Vol. I, p. 578.

parliamentary process, the convention was approved by Law 24 December 1899, No. 466, adopted with 151 votes in favour and 73 against in the Chamber and 66 votes in favour and 10 against in the Senate.

During the discussion on the bill, the Minister of Foreign Affairs, Visconti-Venosta, pointed out before the Chamber of Deputies that the government did not want to engage itself in political and military responsibilities. Nor could it allocate in the budget sufficient resources to ensure the development of the colony, a task that could be better pursued by a private company:

“Ma lo Stato aveva poca attitudine ad amministrare una Colonia di indole essenzialmente commerciale: amministrandola, v’impegnava le sue responsabilità politiche e militari; e la gestione dello Stato significava occupazione militare con le sue tendenze e coi suoi pericoli.

Per di più la somma stanziata in bilancio non sarebbe stata sufficiente per svolgere le risorse della Colonia e darle valore; per qualunque opera miglioratrice sarebbe stato necessario chiedere i fondi al Parlamento e discutere ogni particolare.

Enumerando poi i vantaggi della gestione col mezzo d’una Società commerciale, vi erano quelli di consolidare nel bilancio una somma fissa, per lungo periodo di tempo; ed in un paese come il Benadir era necessario l’amministrazione fosse guidata da quello spirito commerciale non proprio del Governo e proprio invece d’una Società d’industriali e commercianti; in secondo luogo, la gestione col mezzo d’una Società toglieva al Governo l’obbligo di provvedere all’ordine ed alla sicurezza della Colonia; la Convenzione escludendo ogni garanzia continuativa da parte del Governo; e l’art. 10 era a tal riguardo abbastanza chiaro, dispensando il Governo, almeno contrattualmente, dall’obbligo di provvedere alla difesa della Colonia contro gli attacchi esterni. Vi sarebbe stato eventualmente un obbligo morale dello Stato, come verso qualunque altro interesse italiano, ma non era un obbligo a cui corrispondesse un diritto”. (...)

“La Convenzione poi non era un ritorno alle avventure africane, ma rappresentava la politica opposta”¹⁶⁸.

Under Art. 1 of the convention, that applied retroactively as from 1st May 1898 and was intended to last until 16 July 1946, the government was bound to grant to the company the administration “of the cities and territories of Benadir with the respective hinterland” and the company was bound to the quite general objective of promoting “the civil and commercial development of the colony” and its economic life, carrying out all the works that it deemed necessary:

“Il Governo si obbliga di immettere la Società anonima commerciale italiana del Benadir (Somalia italiana), con sede in Milano nella gestione delle città e dei territori del Benadir col rispettivo hinterland, sì e come la gestione stessa vi è di fatto dal Governo esercitata; e ciò a rischio della Società e senza garanzia. (...)

Da parte sua, la Società si obbliga di provvedere all’incremento civile e commer-

¹⁶⁸ Statement of 28 November 1899 (DIREZIONE CENTRALE DEGLI AFFARI COLONIALI DEL MINISTERO DEGLI AFFARI ESTERI, *L’Africa*, cit., p. 618).

ziale della Colonia, dando conto particolareggiato di questa sua azione al Governo italiano, che avrà sempre il diritto di vigilare sull'operato della Società. Questa dovrà inoltre promuovere nei modi più opportuni la vita economica dei paesi concessile, eseguendo a tal uopo tutte le opere che crederà necessarie.

Il non essere prestabilito un programma particolareggiato dell'opera della Società, valevole a raggiungere i fini sovra indicati, non menoma l'obbligo suo legale di fare quanto potrà essere riconosciuto doveroso, avuto ad ogni cosa il debito riguardo, e ciò sotto le sanzioni di legge. (...)” (Art. 1).

According to Visconti-Venosta, there was no need to specify in the convention the list of works that the Benadir Company was bound to do, as the latter deserved to be granted a margin of flexibility:

“L'art. 1 era abbastanza esplicito, e d'altronde non sarebbe stato facile lo stabilire il programma delle opere da eseguirsi dalla Società, senza irrigidire la sua azione e toglierle quella libertà di giudizio e di iniziativa sempre necessaria in un'impresa commerciale.

Credeva in una simile impresa fosse meglio affidarsi più che a un capitolato fatto *a priori*, alle leggi stesse del tornaconto”¹⁶⁹.

The territorial scope of the convention was left deliberately ambiguous¹⁷⁰. It was not clear enough whether the expression in Art. 1 “cities and territories of Benadir with the respective hinterland” was limited to the four original ports rented to Italy by the Sultan of Zanzibar under the 1892 concession¹⁷¹ or extended to all the vast territory of southern Somalia that fell under the Italian sphere of influence according to the 1891 Anglo-Italian protocol¹⁷².

The government committed itself to pay to the company the annual amount of 400,000 gold francs from 1st May 1898 to 30 April 1910 and 350,000 gold francs from 1st May 1911 to 16 July 1946 (Art. 2), as well as to transfer to the company the sums necessary to pay the allowances due to the Sultans of Hobyo

¹⁶⁹ *Ibidem*, p. 619. Doubts were raised on the company's capacity to meet the obligation to promote the development of the colony. See the intervention on 28 November 1899 by a member of the Chamber, Frascara: “E che cosa sperare con questo misero capitale per le enormi spese d'impianto, di sicurezza, d'irrigazione, di comunicazione?” (*ibidem*, p. 618).

¹⁷⁰ *Ibidem*, p. 620.

¹⁷¹ *Supra*, para. 5.

¹⁷² *Supra*, para. 3. “L'articolo 1 della Convenzione passata fra il Governo e la Società, nella sua singolare elasticità, (...) si presta alla più sconfinata come alla più modesta delle interpretazioni, per modo che potrebbe dar sempre luogo a dissidio nei contraenti, ove se ne volessero precisare i termini e la portata” (CHIESI-TRAVELLI, *Le questioni del Benadir*, cit., p. 145). “Trattandosi di un contratto in cui è utile determinare esattamente l'estensione del territorio sul quale la costituita Società può esercitare i suoi diritti, era indispensabile non dar luogo a difficoltà d'interpretazione, come sarebbe stato utile che nel regolamento, o nella discussione del contratto che si fece nei due rami del Parlamento, vi fosse anche, in una cartina geografica, indicato più esattamente l'estensione del territorio ceduto alla Società. Fu male che non sia mai stato fatto, come è male che ancora oggi non si faccia” (ROBECCHI BRICCHETTI, *Dal Benadir*, cit., p. 50).

and the Majeerteen (Art. 4). The company could exploit the mines without charge¹⁷³, could occupy all lands that were recognized as belonging to the demesne (Art. 6) and was granted the right to collect for its benefit taxes and customs duties (Art. 7). The company committed itself to a number of different obligations, including some related to the administration of the colony, such as the keeping of at least 600 guards to ensure domestic security and compliance with the international provisions against the trade of slaves, firearms and alcoholic beverages:

“La Società si obbliga:

- a) ad inalberare la bandiera nazionale;
- b) a pagare al Sultano di Zanzibar il canone annuo di rupie 120,000 o quella minor somma che venisse in seguito convenuta;
- c) a pagare le annualità dovute ai Sultani di Obbia e di Alula, come è detto all’art. 4;
- d) a conservare in regolari condizioni di manutenzione i fabbricati tutti, che avrà ricevuto in uso dal Governo;
- e) a mantenere almeno 600 guardie per la sicurezza interna della Colonia;
- f) ad amministrare la giustizia in base alle norme in vigore nelle città e nei territori che le vengono concessi in gestione;
- g) ad applicare gli atti generali di Berlino (26 febbraio 1885) e di Bruxelles (2 luglio 1890) per tutto quanto riguarda la tratta degli schiavi ed il commercio delle armi da fuoco e delle bevande spiritose;
- h) ad assumere il servizio postale in base alle condizioni stabilite dall’Unione Postale” (Art. 9)¹⁷⁴.

According to Art. 10, the Italian government was free to decide what kind of action would be appropriate if Benadir was attacked:

“Il Governo non assume verun obbligo contrattuale di difendere la Colonia da attacchi esterni, ma si riserva piena libertà di azione per quei provvedimenti che crederà di adottare nell’interesse generale”.

The Benadir Company was bound to comply with the Italian legislation and the treaties concluded by Italy:

“La Società dovrà rispettare le leggi dello Stato ed i trattati vigenti e quegli altri

¹⁷³ However, there were no mineral resources in Benadir: “Basta essere appena forniti dei primi rudimenti di cognizioni geologiche, per comprendere che la Somalia del Sud, vasta pianura alluvionale, formata dal deflusso di due grandi fiumi, il Giuba e il Uebi Scebeli, al mare, e passante sopra un antico piano marino madreporico, non può essere base di sfruttamento minerario, ma solo agricolo e commerciale” (CHIESI-TRAVELLI, *Le questioni del Benadir*, cit., p. 147).

¹⁷⁴ As regards sub-para. h, the Ministry of Posts and Telegraphs and the Benadir Company concluded on 12-28 February 1901 a convention regulating the mail services (text in ROSSETTI, *Manuale*, cit., Vol. II, p. 73 *bis*). In particular: “Il Ministero provvederà alla Società i francobolli, le cartoline e le altre carte postali di valore contro solo pagamento della spesa di fabbricazione” (Art. 3, para. 1); “I francobolli saranno delle dimensioni e del disegno fissati dalla Società, però dovranno portare in italiano le diciture ‘Regie Poste Italiane’ e ‘Benadir’ oltre l’indicazione del valore” (Art. 4). The first stamps of Benadir were issued on 12 October 1903. They show an elephant or a lion.

trattati che il Governo credesse opportuno di concludere o promulgare” (Art. 18, para. 1).

The Benadir Company started its activities in Somalia on 1st January 1900 under an Italian tricoloured flag, where the coat of arms of the Savoy dynasty was replaced by a big snake, the symbol of the city of Milan. Dulio was confirmed as governor of the colony and “residents” were appointed in the main localities (Mogadishu, Merca, Barawa and Jumbo).

The personal feelings of Dulio towards the local population are reflected in a passage of a report that on 5 April 1900 he made to the Italian Consul-General in Zanzibar, where he evoked the “atrocious means” used by the United States, Australia and Argentina towards the “indigenous races”:

“gli italiani ammirano frequentemente il meraviglioso sviluppo degli Stati Uniti d’America, dell’Australia, della Repubblica Argentina e di molte altre terre colonizzate dagli europei (...). Nessuno sospetta neppure che senza la completa distruzione dei Pellerossa del Nord America, degli Indi delle Pampas, dei selvaggi dell’Australia, gli splendidi edifici che saranno nei secoli futuri la gloria dell’epoca attuale non sarebbero stati assolutamente possibili. Nessuno dubita a quali mezzi atroci abbiano spesso ricorso i primi coloni per sovrapporsi alle razze indigene”¹⁷⁵.

For the second time the mistake was made to entrust governmental responsibilities to a private entity devoid of adequate financial resources. In 1901 doubts had already been raised on the effective commitment of the company in performing objectives which were different from the straightforward and immediate gain from the collection of customs dues. On 12 June 1901, the Minister of Foreign Affairs, Giulio Prinetti, informed the Chamber of Deputies that the Benadir Company had not yet submitted the annual report that it was bound to make:

“Quanto al Benadir, gli sembrava ormai inutile il discutere se la Convenzione fosse stata buona oppure no; gli sembrava però giustificata l’osservazione di alcuni oratori che la Società concessionaria non avesse fatto nulla per la *mise en valeur* di quel paese che rappresentava certamente delle risorse non spregevoli. (...) Non aveva potuto presentare alla Camera la relazione annuale sulla gestione del Benadir, perché, avendola richiesta alla Società, non gli era stata inviata”¹⁷⁶.

The report was eventually submitted on 12 May 1902. However, it did not include any information on what the company had done¹⁷⁷. Instead, it elabora-

¹⁷⁵ Text in GRASSI, *Le origini*, cit., p. 81.

¹⁷⁶ DIREZIONE CENTRALE DEGLI AFFARI COLONIALI DEL MINISTERO DEGLI AFFARI ESTERI, *L’Africa*, cit., p. 649.

¹⁷⁷ As remarked on 23 May 1902 by a member of the Chamber, Guicciardini, “quanto al Benadir, aveva letto una breve relazione della Società sull’azione sua in questi tempi: ma invece di trovarvi una narrazione del già fatto, vi aveva trovato un’esposizione di quello che s’intendeva di

ted on a wish list of what the company planned to do, which was seen as hardly believable in the light of the very limited financial engagement of the company¹⁷⁸.

Other serious questions, relating to justice, security and slavery, worsened the picture. The government had no better choice than to establish an official inquiry, entrusted to the consul-general in Zanzibar, Giulio Pestalozza, and commander Onorato Di Monale. Two non-governmental inquiries were also established: the first entrusted by the Benadir Company itself to Gustavo Chiesi and Ernesto Travelli¹⁷⁹; the second entrusted by the Italian Anti-Slavery Society (“Società Antischiavista d’Italia”) to the explorer Luigi Robecchi Bricchetti (1855-1926)¹⁸⁰. The results revealed a very serious situation.

8.b. *Justice and Security*

The inquiries cast much doubt on the administration of justice in Somalia. A first point of concern was the practice of imprisoning local people in the jail (*garesa*) of Merca or Mogadishu without any charge or legal proceedings. As reported by Robecchi Bricchetti, there were no records of convicted people:

“Un’altra grave irregolarità è la mancanza di un registro dei prigionieri con le annotazioni delle loro colpe e condanne, le quali tuttora sono imposte verbalmente a capriccio, senza norme legislative, né ordine”¹⁸¹.

Many of the prisoners were later found dead in jail for unclarified reasons. As was asked in the report made by Chiesi and Travelli,

“Ciò fu per calcolata crudeltà? Fu per incuria del personale di custodia? Fu per la condizione stessa deplorabilissima delle prigioni? Non sapremmo davvero precisarlo: ma, a nostro avviso, crediamo tutte e tre queste cause concomitanti al tristissimo fine: che costituisce una colpa di più del governo della Colonia in quel disgraziato periodo. Comunque la responsabilità gravissima dei funzionari preposti al Governo, sia della stazione che della Colonia, è in questo caso innegabile”¹⁸².

Robecchi Bricchetti was able to find explanations – namely, corruption and neglect – for the high rate of mortality in jail:

fare. Finora quella Società non aveva fatto nulla o quasi nulla, pur da cinque anni riscuotendo i suoi contributi e i dazi doganali” (*ibidem*, p. 658).

¹⁷⁸ As remarked on 24 May 1902 by a member of the Chamber, Grippo, “la Società meritava critica doppia, perché se dapprima nulla aveva fatto, aveva poi enunciato un programma tale che non era possibile potesse mantenere quanto aveva promesso” (*ibidem*, p. 663).

¹⁷⁹ The report is quoted *supra*, fn. 121.

¹⁸⁰ The report is quoted *supra*, fn. 33.

¹⁸¹ ROBECCHI BRICCHETTI, *Dal Benadir*, cit., p. 65.

¹⁸² CHIESI-TRAVELLI, *Le questioni del Benadir*, cit., p. 159. A provisional regulation for the prisoners was issued by the governor on 6 March 1904 (text in ROSSETTI, *Manuale*, cit., Vol. I, p. 92).

“Ai prigionieri, chiusi in *garesa*, schiavi e non schiavi, la cassa governatoriale passa giornalmente a ciascheduno una diaria di sole 2 *besa*, delle quali una viene trafugata dal carceriere, e coll'altra il prigioniero compera due piccoli pani di *dura*. Con questo regime di digiuno forzato, il povero carcerato va a poco a poco assottigliandosi, e si direbbe che ci si abitua, se dopo quindici giorni di esperimento non morisse per inedia!”¹⁸³.

As was easy to remark – and was in fact remarked upon by Chiesi and Travelli in their report – such a situation could only lead to hatred and terror in the local population:

“Questo sistema di sopprimere persone, imprigionandole e lasciandole o facendole morire in prigione (...) ha suscitato nell'animo di quelle popolazioni un sentimento di sordo terrore, commisto a desideri di vendetta, che si risolve in quell'invincibile odio per la nostra dominazione, da quanti furono al Benadir constatato”¹⁸⁴.

Public opinion in Italy was one of upset when it was reported that a Somali, who had been found with weapons inside the walls of Merca, died after having been punished with fifty lashes:

“Esiste negli archivi della Colonia una lettera ufficiale del Governatore, che ordina di comminare, quale prima pena immediata e senza interrogatorio, 50 curbisciate a tutti gli indigeni trovati armati dentro le mura della città, legandoli sul cannone nella pubblica piazza”¹⁸⁵.

It was easy to say that local justice, which was administered by the *cadi* according to the *shariab* and was so frequently blamed for being arbitrary and corrupted¹⁸⁶, was more equitable than the Italian justice:

“Molto si è criticato e deplorato – e con ragione – il funzionamento della giustizia, resa dai Cadi, secondo la legge musulmana, come arbitraria, abusive, corrotta. Ma quale concetto debbono farsi i nativi della giustizia nostra, se si imprigiona e si fa morire, nelle prigioni o sotto le sferzate, la gente, senza ombra di procedimento, senza garanzia alcuna di difesa e di equità verso i presunti colpevoli?”¹⁸⁷.

As regards the conditions of public security in the colony, they were found to be lamentable in an order on criminal justice in the colony issued by the governor himself on 26 December 1903¹⁸⁸:

¹⁸³ ROBECCHI BRICCHETTI, *Dal Benadir*, cit., p. 65.

¹⁸⁴ CHIESI-TRAVELLI, *Le questioni del Benadir*, cit., p. 159.

¹⁸⁵ Statement of 1st September 1903 by Badolo, who replaced governor Dulio during an absence (*ibidem*, p. 203).

¹⁸⁶ “Non diremo che la *Sceriah* non abbia nei precetti principali buon fondamento morale e nel diritto comune. Ma è l'interpretazione e l'applicazione che ad essa si dà, a seconda delle varie scuole o sette mussulmane, a seconda della maggiore o minore coltura e rettitudine dei Cadi, a seconda delle consuetudini locali, che le tolgono ogni serie garanzia di giustizia” (*ibidem*, p. 359).

¹⁸⁷ *Ibidem*, p. 159.

¹⁸⁸ ROSSETTI, *Manuale*, cit., Vol. II, p. 89.

“Considerato:
 Che le condizioni dell’ordine e della sicurezza pubblica della Colonia sono deplorevoli anche nei centri maggiori;
 che è di urgenza assoluta prendere provvedimenti i quali facciano cessare un tale stato di cose;
 Vista la mancanza di qualsiasi norma per la repressione degli attentati contro l’ordine pubblico e contro l’incolumità delle persone e delle robe; (...)”.

In consideration of the state of war existing in North Somalia¹⁸⁹, the order provided for the application of the criminal code and the code of criminal procedure in force for the Italian army in time of war, as well as for the establishment of a war tribunal in Mogadishu¹⁹⁰.

According to another order, issued by the governor on 29 December 1903¹⁹¹, all those who introduced weapons into the cities were considered responsible for attempted murder and committed for trial before the war tribunal. Again, the preamble is indicative of the state of security in the colony:

“Considerato che continua a verificarsi il caso di persone le quali entrano in città senza depositare le armi come è prescritto;
 che ciò denota nei colpevoli l’intenzione di attentare alla vita delle persone, appena se ne presenti l’occasione;
 che con tali atti delittuosi, sono messe in pericolo la tranquillità del paese, ed a repentaglio la pace delle tribù che il Governo dovrebbe chiamare responsabili”.

The risks were so serious that the very few Italians who lived in the cities¹⁹² would only circulate therein if escorted, as can be inferred from a provision in the regulations for the police in Mogadishu, adopted on 25 July 1903¹⁹³:

“Ogni funzionario ha diritto ad un certo numero di guardie di custodia della sua persona e della sua casa; gli altri europei che non fanno parte dell’Amministrazione possono ottenere una scorta alle condizioni che stabilisce il residente” (Art. VII).

Some Italian measures against slavery¹⁹⁴ and, more generally, the lack of any effective administration of the territory by the Benadir Company led to a rioting by the Bimaal tribe against the Italians¹⁹⁵. From April 1904 to January 1905 Mer-

¹⁸⁹ See *infra*, para. 8.d.

¹⁹⁰ However, “i reati commessi da indigeni e passibili di pena inferiore ad un massimo di sei mesi di carcere, continueranno ad essere giudicati dalla *Sceria* di ogni singola stazione” (Art. 3).

¹⁹¹ ROSSETTI, *Manuale*, cit., Vol. II, p. 91.

¹⁹² According to Robecchi Bricchetti, who was there in 1903, “l’Italia è rappresentata da tredici soli italiani che, eccetto una donna e un bambino, sono tutti impiegati amministrativi” (ROBECCHI BRICCHETTI, *Dal Benadir*, cit., p. 123).

¹⁹³ ROSSETTI, *Manuale*, cit., Vol. II, p. 89.

¹⁹⁴ See *infra*, para 8.c.

¹⁹⁵ See DEL BOCA, *Gli italiani in Africa Orientale*, cit., p. 786.

ca was besieged by the Bimaals. The city was supplied from the sea, as far as the monsoons allowed it. The Italian government was able to quell the riot after having reinforced the askari troops who had the advantage of using rifles against arrows and lances¹⁹⁶. When the siege of Merca was over, about 1,200 local inhabitants had died of starvation or scurvy.

8.c. *Slavery and So-Called Serfdom*

Slavery was a traditional practice in Somalia, where slaves were largely used for working in plots. But it came as a surprise in Italy that, in the programme for the colony, presented on 27 March 1902 by governor Dulio to the Benadir Company and by the latter to the Parliament, Dulio took the position that slavery could not immediately be abolished, as this would have led to rioting by almost all Somali tribes. Instead, according to Dulio, the first step in a humanitarian direction should have been to teach to the Somalis how to replace slaves by using oxen:

“Questa questione in apparenza umile, ha invece una importanza grandissima, politica ed umanitaria. Non è possibile pensare all’abolizione della schiavitù domestica, e liberare le decine di migliaia di schiavi che ancora vivono al Benadir, senza avere prima insegnato agli indigeni il modo di sostituire utilmente il lavoro degli schiavi con quello dei buoi. Poiché l’abolizione della schiavitù significherebbe oggi l’abbandono quasi completo delle terre coltivate; in luogo di riuscire per la nuova Colonia un passo innanzi nel cammino della civiltà, un simile provvedimento finirebbe col piombarla in una barbarie molto peggiore dell’attuale.

È superfluo notare che, date le odierne condizioni del lavoro agricolo al Benadir, l’abolizione della schiavitù domestica significherebbe oggi lo scoppio di una rivolta di quasi tutte le tribù Somale che abitano la nostra Colonia; e perciò, solo, il nostro provvedimento diventerebbe inefficace, poiché nessuna tribù vi si acconcerebbe senza prima essere stata sottomessa a viva forza”¹⁹⁷.

On 28 May 1902, the Under-Secretary of Foreign Affairs, Alfredo Baccelli, made before the Chamber a hardly believable and fully hypocritical distinction between “slavery”, which implied the right to sell the slave and allegedly did not exist anymore in Benadir, and “serfdom”, which remained a traditional practice there. He went as far as assuming that the serf, who belonged to the lowest caste

¹⁹⁶ “I Bimal non hanno speciali formazioni di combattimento. Si gettano alla rinfusa sul nemico urlando in massa. Tentano sovente gli accerchiamenti, e la sorpresa, valendosi delle boscaglie che è la loro difesa naturale. Non fanno prigionieri. I feriti sono finiti dalle donne. E quando vi è molto odio, tagliano la testa ai morti” (MANTEGAZZA, *Il Benadir*, cit., p. 167).

¹⁹⁷ CHIESI-TRAVELLI, *Le questioni del Benadir*, cit., p. 156. See also the letter sent on 7 July 1902 by Dulio to the Italian resident in Luuq, Iginio Badolo, where the governor recommended the greatest prudence on the question of slavery and, in substance, suggested the resident not to adopt measures for the release of slaves (*ibidem*, p. 313).

and inherited this condition from his parents, was party to a tacit contract with his master to remain in serfdom for the rest of his life:

“Vera schiavitù era quella che si riscontrava quando avveniva la tratta degli schiavi, quando cioè schiavi si compravano e vendevano; quando uomini erano costretti contro la loro volontà a rimanere sotto la dipendenza di determinate persone. Ma questa schiavitù non era nel Benadir. Anzi fino dal 1893 si erano applicate colà tutte le clausole delle Conferenze di Bruxelles e di Berlino col più inflessibile rigore; né più uno schiavo era stato comprato e venduto; né più uno schiavo era entrato od uscito dal Benadir.

Nel Benadir, come in quasi tutti i paesi barbari, i popoli erano divisi in caste: la miglior parte possedendo diritti sulla terra ed esercitandosi nelle armi e nella caccia; la parte più umile invece dedicandosi ai lavori dei campi. Quindi di padre in figlio, come si trasmetteva la proprietà ai primi, si trasmetteva la condizione di lavoro ai secondi.

Ma non poteva dirsi che questa condizione di dipendenza costituisse una vera schiavitù; anzi si poteva ritenere essa costituisse una specie di contratto di locazione d'opera senza termine, nel quale si riteneva come implicitamente dato il consenso della persona che lavorava; (...)

Mancavano dunque i caratteri essenziali della schiavitù vera e propria. Si trattava di servitù della gleba, certo deplorabile, ma che pel suo carattere non poteva essere paragonata alla schiavitù”¹⁹⁸.

By the end of 1902, articles in newspapers were reporting about instances of the tolerance of slavery by the Italian authorities in Somalia. Under the Filonardi and the provisional State administrations, slaves who escaped were returned by the Italians to their masters or put in jail and forgotten about, in violation of Art. 7 of the General Act of the Brussels Conference of 2 July 1890¹⁹⁹ of which Italy was a party.

The situation worsened during the Benadir Company's administration, when it was discovered that the officials of the company had collected taxes for the registration of sales or other contracts relating to slaves between private masters. This was clear evidence that, despite what was officially said by the Italian government, not only were humans being sold and bought in Benadir, but the Benadir Company took advantage of this commerce. Chiesi and Travelli published in their report the text of a number of contracts, such as the following:

“Somalia Italiana – Colonia del Benadir – Stazione di Mogadiscio
In nome di Dio clemente, misericordioso. Domenica 2 Ragab 1320 (4 ottobre 1902).

¹⁹⁸ DIREZIONE CENTRALE DEGLI AFFARI COLONIALI DEL MINISTERO DEGLI AFFARI ESTERI, *L'Africa*, cit., p. 663.

¹⁹⁹ “Tout esclave fugitif qui, sur le continent, réclamera la protection des puissances signataires, devra l'obtenir et sera reçu dans les camps et stations officiellement établis par elles ou à bord des bâtiments de l'Etat naviguant sur les lacs et rivières. (...)” (MINISTERO DEGLI AFFARI ESTERI, *Trattati*, cit., Vol. I, p. 273).

Gli scekh Mohammed, Abud e Omar, figli dello scekh Amud Abud al Amudi, hanno comprato due individui, Tanaccal e Aiscia ben Tanaccal pel prezzo di talleri M. T. 135 da Ali Mohammed e Khadiga Osman e dal Cadi Mohi Eddin Mau, quale tutore dei minorenni Mohammed Nur e Lio. La somma fu consegnata contro consegna degli individui. Compra vera legale.

(Seguono i nomi dei testi)

Pagati per la registrazione del presente atto talleri 2”²⁰⁰.

As stated by Chiesi and Travelli:

“contratti di compravendita, di cessione, di trapasso, di pegno, di ipoteca sulla merce umana, erano sempre nella consuetudine tollerati nelle stazioni del Benadir, sotto gli occhi del Reggente, come lo erano stati sotto gli occhi del Governatore. Gli schiavi fuggiti dall’interno, raramente non si restituivano ai padroni che venivano a reclamarli.

E quando non erano reclamati, invece di dare loro la carta di affrancamento – come la Convenzione di Bruxelles richiede – provvedendo alla loro liberazione, si mandavano in Garesa, coi ferri, e vi si dimenticavano per mesi, lasciandovi fors’anco morire dimenticati d’inedia”²⁰¹.

In essence it appears that the Italian authorities had since the very beginning reached informal understandings with the Somali tribes according to which the export from Benadir of slaves by sea was prohibited, but slavery in itself was left unaffected, as can be inferred from a statement made on 17 November 1903 by the Sultan of Gheledi:

“Il commercio degli schiavi è proibito sino dall’epoca del Filonardi, il quale promise però di punire quelli che, a noi appartenendo prima della proibizione, ci avrebbero disobbedito o ci sarebbero fuggiti. Quando giunse in Colonia il Governatore Dulio, anch’egli proibì l’esportazione di schiavi e il commercio degli schiavi per mare. Noi accettammo purché ci fosse garantito il possesso degli schiavi che già avevamo. Così fu l’accordo e giurammo di non vendere e comprare, ma in cambio che ci fossero restituiti quelli che fuggivano”²⁰².

The scandal which had already been created in Italy as a result of the tolerance of slavery in Somalia was aggravated by the reports sent by Robecchi Bricchetti. He provided detailed information about slavery, reporting, *inter alia*, that in Mogadishu there were 2,095 slaves out of 6,695 inhabitants and in the countryside the number of slaves was higher and their conditions even worse. Robecchi Bricchetti depicted in a quite realistic way the sad fate of slaves who were treated worse than animals:

“Insomma, per questi Somali, lo schiavo è un animale di lavoro, che deve fare tutto quanto gli si comanda, e che vive ne la completa incertezza del suo stato e della

²⁰⁰ CHIESI-TRAVELLI, *Le questioni del Benadir*, cit., p. 320.

²⁰¹ *Ibidem*, p. 160 (the garesa is the prison).

²⁰² *Ibidem*, p. 354.

sua sorte; lo considerano come un animale, ma il suo trattamento è peggiore di quello che si fa a qualunque bestia”²⁰³.

Particularly painful was the condition of the slaves working in the plantations:

“Nelle campagne gli schiavi, sempre proni a terra, attendono ai più faticosi lavori con un pugno di cenere o di creta sulla nuca, loro imposto dal padrone per accertarsi che non desistano dall’opera. Se uno schiavo leva un istante il capo dal solco che ara, semina o altrimenti lavora, gli cade dalla nuca la creta o la cenere, ed allora si sente tosto le spalle accarezzate dal *curbasc* dell’aguzzino”²⁰⁴.

Those who tried to escape ran the risk of being returned to their masters:

“Il fuggiasco cammina curvo, quasi sempre carponi, poiché le catene che gli furono ribadite alle caviglie dei piedi, e che egli cerca tener sollevate da terra con una funicella che attacca alla cintura, e che forma di striscie strappate alla misera benda che gli cinge l’addome, lo piegano in due, lo forzano a tenere gli occhi chini a terra come una creatura maledetta”²⁰⁵.

“Non poche volte accade ch’egli sia ripreso, e allora torna ai ceppi che qualunque somalo della stessa tribù o di un’altra – il che non importa purché somalo – gli può imporre. Se invece può arrivare, come pur talvolta avviene, al Benadir, alla presenza di un Residente o del Governatore, questi, se il fuggitivo appartiene ad una tribù nemica, lo libera, se invece appartiene ad una tribù alleata, lo ritorna all’antico padrone per non guastare i buoni rapporti con lui, oppure di nascosto, come commettesse una cattiva azione, lo imbarca alla chetichella per qualche punto lontano della costa, e ai reclami del padrone che gli chiede del suo schiavo, risponde non saper nulla o non poter rispondere degli schiavi fuggitivi”²⁰⁶.

Robecchi Bricchetti also pointed out the shame arising from the fact that the contracts for the sale of slaves were duly authenticated and kept in the residence of the governor:

“Ma il colmo della brutalità, del cinismo e della più sfrontata insipienza, risulta dagli atti notarili ufficiali che sono racchiusi e raccolti in cinque oblungi registri in arabo, rilegati all’indiana e custoditi nell’archivio della Residenza governatoriale, dove li ho potuti esaminare e consultare a discrezione, tanto da persuadermi e convincermi che i contratti più turpi di compra-vendita, di baratto, di donazione, di pignoramento, di ipoteche aventi sempre per oggetto un’unica merce, la carne degli schiavi, soggetta in ogni caso a gabella, vi rimangono, per vergogna nostra, monumenti indistruttibili della più odiosa e colposa tolleranza del delittuoso ed abietto commercio di schiavi”²⁰⁷.

²⁰³ ROBECCHI BRICCHETTI, *Dal Benadir*, cit., p. 63.

²⁰⁴ *Ibidem*, p. 91; the *curbasc* is the local whip.

²⁰⁵ *Ibidem*, p. 94.

²⁰⁶ *Ibidem*.

²⁰⁷ *Ibidem*, p. 31.

“È, insomma, un’odissea di dolori che fa fremere, una serqua di vergogne che l’impudenza civile è giunta a classificare in rubriche commerciali, a legalizzare coi debiti bolli, con le formalità di autenticazione di rito, davanti alle quali ogni parola viene meno. Si rimane così indignati che non riesce più possibile pronunciarsi su tali mostruosità: il giudizio lo si lascia, intero, alla storia”²⁰⁸.

According to Robecchi Bricchetti, the lack of any serious will to tackle the question of slavery was evident from the fact that the Italian authorities were ready to pass the blame onto others:

“Dopo questi brevi cenni, parmi superfluo dire come le norme relativa all’Atto della Conferenza di Bruxelles siano finora completamente trascurate per chichessia. I signori Residenti se ne scolpano perché le norme dovevano essere applicate dal Governatore, questi afferma spettare l’esecuzione al nostro Console Generale di Zanzibar, il quale ne incolpa la Società Milanese, che a sua volta la rigetta sul Governo; e con questo comodo sistema di scarica barili, sistema che io voglio anche attribuire a buona fede e ad ignoranza di fatti, s’andò turlupinando il mondo, compiendo atti contrari alle nostre leggi e alla civiltà, in barba a tutti i Decreti e a tutte le Convenzioni internazionali”²⁰⁹.

It was not surprising that Robecchi Bricchetti did not believe at all in any distinction between “domestic servitude” and “slavery”, a distinction that he considered to be only a play on words:

“Ma questo è un semplice giuoco di parole: una frase retorica e nulla più. La verità è che qualsiasi schiavitù è la medesima, e quanto alla bontà dei padroni non va al di là della rassegnazione degli schiavi”²¹⁰.

The situation and the pressure of public opinion forced the governor to issue special measures, namely: on 2 March 1903, an order on the prohibition of the trade of slaves²¹¹; on 12 March 1903, a circular letter to the residents where he asked them to apply a number of decrees against slavery adopted by the Sultan of Zanzibar²¹²; and on 20 April 1903, an order by which special tribunals were

²⁰⁸ *Ibidem*, p. 33.

²⁰⁹ *Ibidem*, p. 35.

²¹⁰ *Ibidem*, p. 63. Nor did such a distinction seem convincing to Chiesi and Travelli, who in their report pointed out that the two expressions had in fact the same meaning: “E come se ciò non bastasse, dopo tutto quello che si è detto e scritto intorno a quest’argomento, alla Camera avemmo la mortificazione di udire ancora una volta l’on. Ministro degli Esteri ripetere questa distinzione tra schiavitù domestica e schiavitù vera, condannata dall’evidenza dei fatti, che non ha più ragione di essere, perché la schiavitù, domestica o non domestica, è sempre schiavitù, più o meno larvata; e finché essa durerà, dureranno, più o meno latenti, tutti gli inconvenienti, gli abusi, gli scandali che commossero ed agitarono l’opinione pubblica del nostro paese” (CHIESI-TRAVELLI, *Le questioni del Benadir*, cit., p. 383).

²¹¹ ROSSETTI, *Manuale*, cit., Vol. II, p. 74.

²¹² *Ibidem*, p. 76.

established to decide all questions relating to slavery²¹³. In a letter on 22 April 1903 sent to the Italian consul-general in Zanzibar²¹⁴, Dulio asked for precise instructions about the question of the release of slaves, in particular whether this should be done with or without the payment of compensation to the masters and, if payment was to be made, whether the State or the Benadir Company should take charge of it. In the same letter Dulio expressed his concerns for the security in the colony in view of the expected reaction by the tribes that had become accustomed to exploiting the labour of slaves since time immemorial. In the answer of 31 October 1903, the consul-general, Luigi Mercatelli, who had in his turn asked for instructions from the Ministry of Foreign Affairs, quite unrealistically assumed that Dulio was in the position to both apply the Brussels General Act and avoid disorder in the colony:

“Ed il Ministero rispondeva a questo Consolato nel giugno scorso di non poter dare altre istruzioni circa l’abolizione della tratta e la graduale sparizione della schiavitù domestica all’infuori di quella generica che si compendia nel chiedere che la Società del Benadir applichi le disposizioni dell’Atto Generale di Bruxelles con quei temperamenti di cautela che le condizioni dei luoghi e la natura delle popolazioni richiedono in modo da non far nascere perturbamenti”²¹⁵.

The consul-general relied on the hypocritical distinction between “slavery” and “domestic serfdom”:

“Se poi dovessi aggiungere un mio personale apprezzamento, direi che la forzata restituzione di schiavi, che si siano emancipati, mi sembra in aperta contraddizione con lo spirito dell’Atto di Bruxelles e col concetto più evoluto della servitù domestica, transitorio istituto che, dovendo essere guida alla liberazione completa, presuppone la tacita acquiescenza del servo alla sua sorte e respinge quella qualunque violenza che possa far degenerare la servitù domestica in schiavitù vera e propria”²¹⁶.

What was clearly stated in the letter of the consul-general was that the government was not willing to take charge of any expenses incurred in relation to the question of slavery:

“E poiché il comm. Dulio accennava anche a questioni di spesa, il Ministero aggiungeva che, in ogni caso, nessuna spesa potrebbe essere messa a carico del Governo per provvedimenti relative alla schiavitù”²¹⁷.

Tommaso Tittoni, the Minister of Foreign Affairs, speaking in December 1903 also relied on the distinction between slavery, which did not exist anymore, and

²¹³ *Ibidem*, p. 82.

²¹⁴ CHIESI-TRAVELLI, *Le questioni del Benadir*, cit., p. 337.

²¹⁵ *Ibidem*, p. 338.

²¹⁶ *Ibidem*.

²¹⁷ *Ibidem*.

domestic serfdom, which was difficult to suppress:

“[Egli] assicurava che (...) la tratta degli schiavi non esisteva più lungo le coste del Benadir, e che non esisteva più la compra-vendita degli schiavi, per la quale era risultato che lo Società percepiva una tassa. Soltanto se v’era una vestigia di schiavitù era per la schiavitù domestica e per gli schiavi che fuggivano dall’interno e venivano ripresi dalle tribù aggirantesi intorno alla costa. Tale schiavitù era difficile di sopprimere, anche per la forza esigua di cui si disponeva in quelle regioni”²¹⁸.

8.d. *The End of the Administration*

It was evident that the existence of so many problems, most of them serious, which also involved questions around internal and external security and were now disclosed to the public opinion, was too heavy a burden for a private entity. There were no real prospects of a fruitful administration of the colony by the Benadir Company. It was for the State, if it wanted to pursue the purpose of establishing an Italian colony in Somalia²¹⁹, to undertake directly the task of the administration of this territory.

In May 1902, the Minister of Foreign Affairs, Prinetti, pointed out that, given its small amount of capital, it was clear enough from the beginning that the Benadir Company would have devoted itself to a straightforward financial speculation, collecting customs revenues without engaging in any other activities:

“(...) gli era sempre sembrato e gli sembrava essere un errore quello di dare ad una Società con un capitale di un milione, di cui solo 300.000 lire versate, una sovvenzione che, pur depurata del canone dovuto al Sultano di Zanzibar, rappresentava sempre 280.000 lire nette, oltre gli introiti doganali già considerevoli e che la Società aveva cresciuto ancora. Posta in simile condizione la Società, era naturalmente condotta a far consistere la sua speculazione più che a sviluppare le risorse della Colonia nel cercare di economizzare sulle spese”²²⁰.

²¹⁸ Statement before the Chamber of 16 December 1903 (DIREZIONE CENTRALE DEGLI AFFARI COLONIALI DEL MINISTERO DEGLI AFFARI ESTERI, *L’Africa*, cit., p. 723).

²¹⁹ Within the government, only the minister of Treasury, Luigi Luzzatti, stated his objection towards the prosecution of the Italian colonial policy: “Il futuro interesse dell’Italia non sarà in Eritrea o nel Benadir, che non diventeranno mai colonie di popolamento, ma sono destinate a rappresentare una perenne delusione economica e di conseguenza una debolezza politica” (in DEL BOCA, *Gli italiani in Africa Orientale*, cit., p. 801).

²²⁰ DIREZIONE CENTRALE DEGLI AFFARI COLONIALI DEL MINISTERO DEGLI AFFARI ESTERI, *L’Africa*, cit., p. 660. As remarked on 2 March 1903 by a member of the Chamber, Chiesi, the Benadir Company “aveva tenuto capitalizzato in Italia il versamento dei tre decimi del capitale, e (...) durante i tre anni del suo esercizio aveva funzionato esclusivamente col denaro della sovvenzione governativa e coi proventi delle dogane che avevano gettato oltre il previsto” (*ibidem*, p. 685). Chiesi gave some examples of works of public interest that the company could have done, but did not do: “la Società troppo poco aveva fatto, mentre avrebbe dovuto fin dal principio affermarsi con qualche opera di vera ed utile civiltà: come, per esempio, provvedere il suo porto maggiore di

In April 1903, the Minister of Foreign Affairs, Costantino Morin, stated before the Chamber that he did not exclude in the future the termination of the convention between the government and the Benadir Company²²¹. Following a request by the government, the Benadir Company decided to replace Dulio with another civil governor as from 23 November 1903. In March 1904, the Minister of Foreign Affairs, Tittoni, expressed his dissatisfaction with the Italian policy in Somalia²²², pointing out that the government was ready to replace the Benadir Company²²³. In May 1904, Tittoni stated there was no question of granting additional financial contributions to the Benadir Company and publicly acknowledged that to entrust it with governmental responsibilities had been a sign of thoughtlessness that should not be repeated, as entrusting such a responsibility to a private company was against social and moral principles:

“(...) lo Stato con leggerezza aveva fatto assumere alla Società impegni gravi senza assicurarsi che questa avesse i mezzi, la capacità e la possibilità di adempierli, e la Società con eguale leggerezza li aveva accettati.

Il voler rabberciare alla meglio la Società, continuando nel sistema di far esercitare ad essa funzioni di Stato, sarebbe stato errore gravissimo.

Notava che l'esercizio di poteri di Stato da parte di una Società privata era cosa contraria ai principii sociali e politici del nostro tempo. (...)

La Società del Benadir per continuare ad esercitare le funzioni di Stato avrebbe chiesto oggi un maggiore contributo; e credeva che dopo quanto era successo, nessuno avrebbe osato proporre al Parlamento e nessuno si sarebbe trovato che approvasse un maggior contributo alla Società.

Occorreva adunque liquidare il passato, occorreva che il Governo assumesse questa funzione di Stato, col previo consenso del Parlamento.

Lo Stato, con una leggerezza imperdonabile, ha fatto assumere alla Società impegni gravi senza assicurarsi che questa avesse i mezzi, la capacità e la possibilità di adempierli; e la Società con uguale leggerezza li ha accettati. Il voler rabberciare alla meglio la Società, continuando nel sistema di far esercitare ad essa funzioni di Stato, sarebbe errore gravissimo: è cosa contraria ai principii sociali e politici del nostro tempo”²²⁴.

un pontile o gettata o diga d'approdo; provvedere al miglioramento igienico ed edilizio dei suoi tre centri principali, congiungendo le residenze dei suoi funzionari con linee telegrafiche o telefoniche; provvedere alla sicurezza pubblica con maggiore energia ed assicurare le vie di comunicazione tra i centri principali, rendendole carreggiabili”.

²²¹ Statement of 2 April 1903 (*ibidem*, p. 704).

²²² “Però, non solo non si doveva essere contenti, ma malcontenti delle condizioni della Somalia italiana, regione dove si aveva un protettorato rimasto sempre nominale e dove ci si era limitato a pagare un assegno ai due sultani d'Obbia e dei Migiurtini ed a mandare qualche nave da guerra per visitare la costa” (statement before the Chamber of 14 March 1904; *ibidem*, p. 741).

²²³ *Ibidem*, p. 743.

²²⁴ Statement before the Chamber of 18 May 1904 (*ibidem*, p. 756). “Nondimeno la responsabilità principale del fallimento della ‘colonizzazione indiretta’ era da attribuirsi al governo che era

On 13 January 1905, Italy concluded in London an exchange of notes with Great Britain, which was acting on behalf of the Sultan of Zanzibar²²⁵, for the purchase of all the sovereign and other rights of the Sultan over the towns, ports and territory of the Benadir coast of which the administration had been vested on Italy under the 1892 agreement²²⁶. The price paid by Italy for the “redemption” of Benadir was £ 144,000, corresponding at that time to 3,636,000 liras²²⁷.

A few days after, under an exchange of notes made in London on 13 January 1905²²⁸, Great Britain agreed to lease to Italy for the symbolic annual rent of £1 an area of land in Kismayo for the erection of a bonded warehouse and a pier. Great Britain committed itself to refund the import dues imposed on goods landed at the pier, if the goods were “eventually removed to the Italian sphere” (Art. VII).

On 24 January 1905 the Italian government and the Benadir Company concluded a convention²²⁹ to terminate the 1898 convention by which the administration of the colony had been granted to the company²³⁰:

“La convenzione del 25 maggio 1898 resta di comune accordo risolta” (Art. 1).

A commission of three arbitrators was established to settle the pending financial questions between the government and the company (Art. 2). It was also provided (Art. 3) that the latter, after appropriate amendments to the statutes, should devote itself to activities in the agricultural, commercial and industrial fields in the colony. But this was not realised, as it was not possible to find the capital necessary for the purpose.

The 1905 convention was annexed to Law 2 July 1905, No. 319, called “Measures for Italian South Somalia (Benadir)”, which was approved by the Chamber with 157 votes in favour and 71 against and by the Senate with 73 votes in favour and 15 against.

The evaluation of what the Benadir Company did in Somalia, which can be understood also as referring to the whole first period of Italian colonization of the country (1893-1905), is inevitably severe. The report by Chiesi and Travelli, who had been appointed by the Benadir Company itself, stressed a number of

perfettamente consapevole del fatto che i limitati mezzi a disposizione della compagnia non le consentivano assolutamente di rispettare gli obblighi contratti con la convenzione” (PODESTÀ, *Sviluppo industriale e colonialismo*, cit., p. 322).

²²⁵ MINISTERO DEGLI AFFARI ESTERI, *Trattati*, cit., Vol. I, p. 741.

²²⁶ *Supra*, para. 5.

²²⁷ According to Art. III of the agreement, “the Italian government undertake that if at any time Italy should desire to give up the towns, ports and territory in question, Great Britain shall have the right of preemption”.

²²⁸ MINISTERO DEGLI AFFARI ESTERI, *Trattati*, cit., Vol. I, p. 745.

²²⁹ *Ibidem*, p. 749.

²³⁰ *Supra*, para. 8.a.

faults incumbent upon the company and its officials, as well as the government.

The main mistake of the company was to have too easily undertaken an endeavour without the adequate understanding of the extent of commitments that it entailed and on the basis of an unclear convention with the government:

“Errore fondamentale della Società del Benadir fu quello di essersi accinta all’impresa senza avere la percezione esatta degli impegni morali e materiali che essa andava ad assumersi di fronte al Governo, al Paese, al mondo civile. Essa confidò troppo nelle superficiali relazioni che le venivano o dal Governo, o per altre vie da persone che o per idealità o per diverse ragioni la sospingevano alla impresa. Per questo essa accettò e stipulò col Governo una Convenzione difettosa, aleatoria, prestantesi alle più sofisticate interpretazioni, non intonata alla realtà vera delle cose esistenti in Colonia, ed a quello che era possibile o non possibile farsi colà e di cui nessuno dei contraenti, sia da parte del Governo, sia da parte della Società aveva esatta e pratica cognizione”²³¹.

A second serious mistake, which came as a consequence of the first, was the scarcity of financial resources devoted to such an ambitious aim:

“Così, ne venne l’altro errore, per la Società, di essersi assunta l’impresa con un capitale assolutamente sproporzionato alla sua entità, col quale, anche se immesso subito e totalmente in Colonia, ben poco più di quel pochissimo che fu fatto avrebbe potuto fare, non conseguendo risultati tangibili, per l’incremento e la penetrazione civile e commerciale voluta nella Colonia”²³².

Another fault of the Benadir Company was the lack of controls on its officials in Benadir, who, starting from civil commissioner Dulio, kept their silence on the real situation in the colony, including the question of slavery, and the inadequacy of financial means. Besides making useless expenses, such as the purchase of a ship to be used in the non-navigable Uebi Shabelle river, their main effort was to delay as much as possible the moment when the actual problems would need to be tackled²³³.

The report did not spare the government from criticism, which it faced for having announced an ambitious programme of colonization – at that time calling it “civilization” – without the intention to seriously engage itself in the measures and actions required:

²³¹ CHIESI-TRAVELLI, *Le questioni del Benadir*, cit., p. 381.

²³² *Ibidem*, p. 381. “Il capitale, per una Società che si assumeva il grave capitolato di oneri imposti dalla Convenzione col Governo, per un’impresa così difficile e così lontana, era troppo impari all’impresa. (...) Ma in pratica fu un errore fondamentale per parte della Società il sobbarcarsi ad un’impresa cotanto grave ed onerosa, come quella portata dalla stipulata Convenzione, con sì esiguo capitale; come fu, qualche cosa più che errore nel Governo, lo stringere tale Convenzione con una Società, il cui capitale effettivo, a malgrado di tutto il buon volere umano che si poteva dare all’impresa, non avrebbe mai consentito di svolgere il largo programma d’azione che, o dichiarato nei suoi articoli o sottinteso nella interpretazione, la Convenzione importava” (*ibidem*, p. 144).

²³³ *Ibidem*, p. 378.

“Il Governo italiano ha piantato la sua bandiera sulla costa del Benadir ed ha annunciato al mondo la sua opera di civilizzazione su quel vastissimo pezzo d’Africa. Ma la sua opera si è fermata all’annuncio. Le condizioni del bilancio, che non ci consentono il lusso di una troppo attiva azione coloniale, la diffidenza più che giustificata del paese, dopo i dolori ed i disastri eritrei, per le imprese africane, indussero il Governo a cercare il modo di scaricare le responsabilità che gli venivano dagli assunti protettorati, dalle stipulate convenzioni il più che fosse possibile su altri. Così, affidò il Benadir alla Compagnia Filonardi, sorta con mezzi troppo effimeri per potersi sobbarcare e resistere all’impresa; così, quando quella Compagnia dovette riconsegnargli il Benadir, il Governo, per non avere noie ed in Paese ed in Africa, se non nulla, fece determinatamente il meno possibile, nell’attesa che la Società milanese venisse, colle sue deboli forze, a sollevarlo dalla pesante croce”²³⁴.

In fact, doing nothing was the substantive programme of the government in both North and South Somalia:

“Della Somalia del Nord non si è occupato, dopo dieci anni di dichiarato protettorato, se non in questi due ultimi anni, per far piacere agli inglesi, nelle loro questioni con il Mad Mullah. Della Somalia del Sud e del Benadir non si è occupato se non per scaricare sopra altri tutte le noie e le responsabilità che gli potevano venire dagli impegni internazionali assunti”²³⁵.

Given the situation, it is not a surprise that the report by Chiesi and Travelli also took the position that the activities of the Benadir Company should not be continued:

“Nelle condizioni attuali di disfavore nella opinione pubblica, di ostilità del Governo, di esiguità di mezzi, noi pensiamo che la Società del Benadir non possa continuare nell’impresa senza andare incontro a nuovi insuccessi, senza incorrere in maggiori responsabilità che potrebbero avere conseguenze incalcolabili per la Colonia ed il Paese”²³⁶.

Robecchi Bricchetti insisted on the total lack of activity by the company and the government:

“La Società che non subì mai nessun controllo da parte del governo, ed anzi fu da lui abbandonata a se stessa, pur dicendo di fare, non ha saputo finora eseguire nessun lavoro pubblico e privato, né una casa, né un alloggio, né un magazzino, o un approdo o un ricovero, come non seppe fondarvi una scuola, un asilo, un ospedale, una farmacia, né un istituto qualunque insomma, anche embrionale, per migliorare le condizioni di quelle popolazioni. Così com’essa ha agito finora, venendo meno a tutti i suoi impegni senza serie iniziative e limitandosi a fare il doganiere per aumentare i suoi introiti, essa è da rimproverare”²³⁷.

²³⁴ *Ibidem*, p. 382.

²³⁵ *Ibidem*, p. 383.

²³⁶ *Ibidem*, p. 381.

²³⁷ ROBECCHI BRICCHETTI, *Dal Benadir*, cit., p. 215. “Lo stendardo italiano sta solamente indice della gabella” (*ibidem*, p. 265).

As can be clearly observed, the explorer was one of the few who devoted some attention to the interests of the administered territory and the feelings of its inhabitants²³⁸.

In short, as remarked upon by one historian, the Benadir Company can be recalled as “another parasitical organism and perhaps the worst example of exploitation colonialism”²³⁹. It was an important element within a global picture where the State distinguished itself through a lack of a precise direction, total inexperience in the colonial field, contempt for the culture of the local population and unjustified reprisals²⁴⁰.

9. Mohammed Abdullah Hassan (the Mullah)

A serious threat to the British and Italian presence in Somalia came from Mohammed Abdullah Hassan (1856-1920), called “the Mullah” by the British²⁴¹ or, in the disparaging sense, “the Mad Mullah”²⁴². Between 1899 and 1920, in a vast area straddling Somaliland, the Italian protectorates of Hobyo and the Majeerteen and the Ethiopian region of Ogaden, he conducted, in the name of the Islamic faith, war and guerilla operations with his dervishes against foreign occupants of Somalia. Besides being a fighter, the Mullah proved to be a clever politician and, rather surprisingly, the foremost poet in the Somali language. All this made him a legendary figure in the eyes of the Somalis even today.

The Mullah’s political vision can be understood from some of his letters. In

²³⁸ For example, he reports that he saw in Mogadishu “un giovane somalo beduino Bimal, che s’era ficcato dei pezzetti di stracci nei fori nasali, e così girava per non sentire, siccome lui diceva, il lezzo degli europei” (*ibidem*, p. 24).

²³⁹ DEL BOCA, *Gli italiani in Africa Orientale*, cit., p. 576.

²⁴⁰ “Una politica caratterizzata soprattutto dalla mancanza di un preciso indirizzo, da un’assoluta inesperienza in campo coloniale, da atti contraddittori e dalla scarsa conoscenza delle popolazioni indigene. Se a tutto questo si aggiunge la cattiva amministrazione dei primi anni, le promesse non mantenute, le rappresaglie ingiustificate e il disprezzo per le manifestazioni culturali (modeste, ma non trascurabili) dei nativi, si possono perfettamente capire le rivolte, tutte domate nel sangue, che si succedono dal 1895 al 1928” (DEL BOCA, *Gli italiani in Africa Orientale*, cit., p. 429).

²⁴¹ The term, used by the British and other Europeans, comes from Anglo-Indian and means scholar in Muslim theology. The father of the Mullah belonged to an Ogaden tribe, the mother to the Dhulbahante tribe of Somaliland.

²⁴² “In realtà, né santone, né pazzo, ma uno fra i più ostinati ed abili guerriglieri di tutti i tempi ed il precursore dei moderni nazionalisti somali” (DEL BOCA, *Gli italiani in Africa Orientale*, cit., p. 791). On the Mullah, see JARDINE, *Il Mullah del paese dei Somali*, Italian translation, Roma, 1928; CAROSELLI, *Ferro e fuoco in Somalia*, Roma, 1931; MINISTERO DELLA GUERRA, *Somalia*, cit.; NICOLOSI, *Imperialismo e resistenza in Corno d’Africa – Mohammed Abdullah Hassan e il derviscismo somalo (1899-1920)*, Soveria Mannelli, 2002. As regards the Mullah’s poetry, see SAMATAR, *Oral Poetry and Somali Nationalism*, Cambridge, 1982.

April 1903, he wrote to the commander of British garrison at Buuhoodle, asking them to leave Somalia and go back to their own country, if they wanted peace:

“Io non ho fortezze, non ho case, non ho patria, non ho campi coltivati, non ho argento, né oro che voi possiate prendermi. Musa Farah non ha ricavato alcun utile uccidendo i miei uomini. Il mio paese non ha nulla di buono per Voi. Se esso fosse coltivato o contenesse beni e proprietà, varrebbe per voi la pena di combattere. Ma invece è tutto boscaglia e non può esservi di alcuna utilità.

Se voi desiderate boscaglia e pietre potete trovarne in abbondanza. Il sole è molto cocente. Da me non potete ottenere che solamente guerra; niente altro. Io ho affrontato i vostri uomini in combattimento e li ho uccisi. Noi ne siamo molto soddisfatti. I nostri uomini caduti in battaglia hanno guadagnato il paradiso. Iddio lotta per noi. Noi uccidiamo, voi uccidete. Noi combattiamo per volere di Dio. Questa è la verità. Io chiedo la benedizione del Signore che è con me mentre scrivo la presente. Se voi volete la guerra io ne sono contento e se volete la pace ne sono anche contento. Ma se volete la pace uscite dal mio paese e andate nel vostro. Se volete la guerra rimanete dove siete. Ascoltate le mie parole. (...) Mandatemi una lettera dicendo se volete la pace o la guerra”²⁴³.

In 1908, the Mullah wrote to the Ethiopian emperor, Menelik, in the attempt to mobilize the only African power of his time against European rulers in Africa:

“Sapete che ebbi guerra cogli Inglesi e quel che fu, fu. Causa della guerra furono gli Inglesi che volevano impadronirsi della nostra terra, dei nostri averi e toglierci la religione. Combattemmo circa 9 anni, dopo di che gli Inglesi chiesero la pace. Ora sento che gli Italiani, Francesi e Inglesi sono d'accordo per impadronirsi del vostro Paese. Se ciò fosse non vi sarebbe quiete per il nostro Paese, non vi sarebbe quiete per il vostro. Da tutto questa ne deriva che essi mirano a toglierci il nostro e vostro paese perché siano gente nera e perciò è bene che ci mettiamo d'accordo per difendere il Paese che ci appartiene”²⁴⁴.

By emphasizing that black peoples should unite against foreign oppressors, the Mullah – it is not clear whether purposely or not – recalled the words of the letter that in 1895, before the battle of Adwa, the same Menelik sent to the der-vishes of Sudan to spur them to join in the fight against the Italians who were moving from Eritrea to attack Ethiopia:

“Ora viene contro di noi un nemico molto peggiore di tutti quelli che abbiamo avuto sinora: egli viene per fare schiavi voi e me; io sono nero e voi siete neri: uniamoci dunque per cacciare il comune nemico”²⁴⁵.

Despite this precedent, the Mullah was not able to persuade Menelik and his plans were doomed to be eventually unsuccessful. But he upheld his vision for

²⁴³ Text, in Italian translation, in JARDINE, *Il Mullah*, cit., p. 100.

²⁴⁴ An Italian translation of the letter was joined to a report of 15 May 1908 by the Italian consul in Aden. It is reproduced in NICOLOSI, *Imperialismo e resistenza in Corno d'Africa*, cit., p. 190.

²⁴⁵ In DEL BOCA, *Gli italiani in Africa Orientale*, cit., p. 552.

more than twenty years against the two European powers that surrounded him.

The Mullah's activities were started by the sacking of some Somali tribes loyal to the British. He acquired prestige by evading all the attempts made by British expeditions to capture him. As regards the Italians, the Mullah's initial policy was to interfere in the relationship between Italy and its two protectorates in North Somalia²⁴⁶. He made an informal alliance with the Osman Mahamud, the Sultan of the Majeerteen, who bought in Djibuti a large quantity of weapons and ammunitions that he resold to the Mullah. In exchange, Osman Mahamud intended to use the support of the Mullah against Yusuf Ali, the Sultan of Hobyo, who was also under the Italian protectorate and with whom he had an open dispute on the Nugaal territory.

The unexpected danger of a conflict between the two neighbouring protectorates and, even worse, a general insurrection in Somalia prompted Italy to react. In April 1901, the Italian consul-general in Aden, Pestalozza²⁴⁷, sailed to Hobyo on board the *Volta*, an Italian Navy ship, and embarked the Sultan of Hobyo with his forces. The ship went to the coast of the Majeerteen, where the two villages of Ras Hafun and Bandar Qasim were bombed and a military expedition was made inside the territory. By a convention signed on 10 April 1901²⁴⁸, Italy granted to the Sultan of Hobyo, the provisional administration of the three Majeerteen ports of Bandar Alula, Bandar Filuk and Bandar Qasim. The preamble of the convention shows the punitive character of the Italian expedition:

“In seguito al rifiuto di Osman Mahmud, Sultano dei Migiurtini, di riconoscere la sua dipendenza dal potente Governo italiano e visto che egli ha mancato agli impegni assunti, il regio Governo si è trovato nella necessità di punirlo e di fare danno a lui ed ai villaggi che presero esempio dal Sultano suddetto”.

However, a few months later, the Italian protectorate over the Majeerteen was re-established under a convention signed in Bandar Ollok on 18 August 1901²⁴⁹. In the preamble, the Sultan of the Majeerteen acknowledged the misunderstanding that had occurred between him and the Italian government, as well as his non-compliance with the orders of the latter:

“(...) il predetto Sultano Osman Mahmud, stante il malinteso avvenuto tra lui ed il Governo d'Italia, ha riconosciuto di aver contravvenuto agli ordini dello stesso Governo, ed a richiesta del medesimo, intesa nel senso di chiarire la situazione e di togliere ogni cagione di malinteso, si è addivenuto da ambo le parti alle stipulazioni qui sotto espresse”.

²⁴⁶ *Supra*, para. 4.

²⁴⁷ While Benadir was under the jurisdiction of the Italian consul-general in Zanzibar, the two protectorates were under the jurisdiction of the consul-general in Aden.

²⁴⁸ MINISTERO DEGLI AFFARI ESTERI, *Trattati*, cit., Vol. I, p. 645.

²⁴⁹ *Ibidem*, Vol. I, p. 653.

A provision in the new treaty prevented the Sultan from introducing firearms into his territory:

“A conferma della predetta sua dichiarazione scritta ed in seguito a quanto è ora avvenuto, il Sultano dei Migiurtini, Osman Mahmud, s’impegna formalmente, con giuramento innanzi a Dio, di proibire l’introduzione di armi da fuoco e delle relative munizioni, come palle e cartucce, in tutto il litorale dei Migiurtini, come pure per le vie di terra. Non potrà, quindi, introdursi né per la persona del Sultano, né per altri, neanche un sol fucile od una sola cartuccia, senza averne prima ottenuto il permesso dal regio Governo o da chi lo rappresenta, e ciò per autorizzazione scritta. (...)” (Art. 5).

Given the continuation of the Mullah’s insurrection, on 24 December 1902 Italy concluded an agreement of friendship and alliance with the Sultan of Gheledi, Osman²⁵⁰, who bound himself to support Italy in case of acts of hostility by the dervishes of the Mullah:

“Se il Mohamed Abdullahi scende nel Benadir per muovere Guerra o razzare o rubare od imporre tributi, lo scek Osman promette di non fare mai amicizia con lui: ma anzi di aiutare il Governo di Sua Maestà il Re d’Italia con tutte le sue forze, colla parola e cogli uomini che da lui dipendono, allo scopo di impedire qualunque danno ai sudditi del Governo italiano e di cacciare l’invasore dal paese”.

In exchange, Italy granted to the Sultan a detachment of forty askaris.

On 16 December 1902, Great Britain and Italy concluded an exchange of notes in Rome²⁵¹ according to which British forces could disembark in Hobyo and march northward in the attempt to cut out the Mullah. The British plan was to attack the enemy from the north using British forces, from the west using Ethiopian forces and from the south using Italian forces. However, as Italy was not prepared to enter into a military campaign in Somalia, it limited its contribution to allowing the British to transit through the territory of its protectorate²⁵². The exchange of notes was not appreciated by Yusuf Ali, the Sultan of Hobyo, who probably feared reprisals by the Mullah and was not willing to take a definite position in what appeared to be a sort of holy war between Christians and Muslims. As the Sultan was accused by the British of putting up obstacles to the

²⁵⁰ *Ibidem*, Vol. I, p. 693.

²⁵¹ *Ibidem*, Appendix to Vol. II, p. 1109.

²⁵² As stated some time after by Prinetti, who was Minister of Foreign Affairs at the time of the exchange of notes, Italy was not in a position to take on the burden of a military campaign against the Mullah: “(...) parlando del Mullah e dell’Inghilterra, avendo avuto l’oratore la responsabilità del provvedimento di avere concesso il passaggio per Obbia alla spedizione inglese contro il Mullah, dichiarava che quella concessione era stata inevitabile. Infatti il Mullah si trovava nella condizione che veniva a riposarsi ed a rinnovellare le sue forze nel nostro territorio, e poi faceva razzie sul territorio inglese; cosicché l’Inghilterra avrebbe potuto invitarci a fare noi la polizia del territorio, e quindi avremmo dovuto fare noi quella campagna in cui l’Inghilterra aveva speso, dicevasi, duecento milioni” (statement before the Chamber of 9 June 1905, in DIREZIONE CENTRALE DEGLI AFFARI COLONIALI DEL MINISTERO DEGLI AFFARI ESTERI, *L’Africa*, cit., p. 808).

expedition, he and his son, Ali Yusuf, were invited on board an Italian ship and there arrested by the Italians following a request by the commander of the British troops, Gen. Manning²⁵³. Both the sultan and his son were transferred to Aden. The father was then exiled to Eritrea²⁵⁴, while the son was allowed to go back and was appointed regent of the sultanate. Only in 1905 was Yusuf Ali released and was able to resume his function. As Chiesi, a member of the Chamber, remarked, this whole course of action was a clear breach of the 1889 protectorate treaty²⁵⁵:

“Il deputato Chiesi credeva in tale contingenza fosse stata violata da parte dell’Italia la convenzione passata tra i rappresentanti del Governo italiano ed il sultano di Obbia nel febbraio 1889, convenzione in cui non si faceva alcun cenno del diritto dell’Italia di far passare truppe proprie o di altra nazione sul sultanato di Obbia”²⁵⁶.

Despite the efforts of his enemies, the Mullah was able to keep in check all who chased him, relying on the support of several Somali tribes and the mobility of his men, who used to raid the British Somaliland and take shelter in the Italian protectorates²⁵⁷. In 1904, the Italian government agreed that the British forces could temporarily occupy the coastal village of Illig, located at the border between the protectorates of Hobyo and the Majeerteen, where the Mullah’s dervishes had temporarily settled themselves. On 21 April 1904, the British troops disembarked from three British ships, while the sailors on board the ship *Volturno* of the Italian Navy limited themselves to watching the operations. After an initial clash, most of the dervishes were able to withdraw. The British took mea-

²⁵³ See the report of 30 January 1903 by the Italian consul in Aden, Sola, to the Minister of Foreign Affairs (MINISTERO DELLA GUERRA, *Somalia*, cit., p. 299).

²⁵⁴ On 10 February 1903, the Under-Secretary of Foreign Affairs, Baccelli, explained the facts as follows: “Il sultano di Obbia Jusuf-Ali, nostro protetto, era stato invitato a favorire il passaggio delle truppe inglesi ed a prestare gli aiuti che fossero stati del caso; ma egli non s’era comportato come doveva, profittando della condizione delle cose per chiedere prezzi esagerati sia per cammelli, sia per altri quadrupedi, sia per vettovaglie e cercando d’impedire alle truppe inglesi d’andare innanzi, vietando ai suoi amministrati di consegnare agli inglesi quadrupedi e vettovaglie. (...) Non avendo esso eseguito le istruzioni del console, era stato invitato a salire su una cannoniera e quindi era sbarcato ad Aden” (DIREZIONE CENTRALE DEGLI AFFARI COLONIALI DEL MINISTERO DEGLI AFFARI ESTERI, *L’Africa*, cit., p. 682). On 14 March 1904, a member of the Chamber, De Andreis, pointed out that the Sultan had been “attirato su d’una nave sotto il pretesto di rendere omaggio al comandante, e poi tenuto in arresto” (*ibidem*, p. 741). In a letter of 22 November 1904, Pestalozza acknowledged that Yusuf Ali had been wrongly accused: “È certo che malgrado i naturali suoi difetti, Jusuf Ali fu e si mantenne l’unico Capo Somali nostro amico sottomesso e fedele, ne fu ben malamente compensato” (text in NICOLOSI, *Imperialismo e resistenza in Corno d’Africa*, cit., p. 117).

²⁵⁵ *Supra*, para. 4.

²⁵⁶ DIREZIONE CENTRALE DEGLI AFFARI COLONIALI DEL MINISTERO DEGLI AFFARI ESTERI, *L’Africa*, cit., p. 682.

²⁵⁷ This was acknowledged on 2 December 1902 by the Minister of Foreign Affairs, Prinetti, in an intervention at the Chamber (DIREZIONE CENTRALE DEGLI AFFARI COLONIALI DEL MINISTERO DEGLI AFFARI ESTERI, *L’Africa*, cit., p. 668).

suores of reprisals against the population of Illig, killing many Somali civilians²⁵⁸. The Italians sat and watched the killings by others of the people who were in principle under the protection of Italy.

In a letter of 5 May 1904, the Italian ambassador in London, Alberto Pansa, did not miss the embarrassing situation of a protector State which remained passive while another power carried out armed operations in the protected territory:

“Volendosi mantenere in modo assoluto la decisione stabilita dal Ministro Morin che ‘nessuna forza italiana per nessuno conto mettere piede a terra’ sarebbe forse stato meglio di evitare in quell’operazione la presenza del *Volturno*. Questo mise in evidenza in modo palpabile quell’antinomia fondamentale che, è inutile dissimularlo, vi è stata in tutta la recente campagna; il fatto cioè di operazioni armate di polizia, eseguite da forze straniere in un territorio di altra potenza senza la partecipazione di questa. Una volta ammesso questo principio, certe conseguenze imbarazzanti erano inevitabili”²⁵⁹.

By March 1904 the Mullah had already established contact with the Italians and asked them to negotiate a peace which would also be on behalf of Great Britain. He probably understood that Italy was the weakest party and was available to make concessions, rather than to embark on a military adventure that might evoke the bitter experience of Adwa.

The British assent to discuss a peace settlement with the Mullah was communicated to Italy in August 1904. After lengthy negotiations²⁶⁰, a protectorate and peace agreement was signed at Illig on 5 March 1905 by Pestalozza, on behalf of Italy, and the Mullah, on behalf of the tribes who followed him²⁶¹:

“Vi sarà pace ed accordo duraturo tra il Sayed Mohammed sullodato, i dervisci tutti da esso dipendenti ed il Governo d’Italia e chi da esso dipende fra Somali, Migiurtini ed altri.

In base ed in relazione a ciò, vi sarà anche pace e accordo tra il Sayed Mohammed, i suoi dervisci suddetti ed il Governo inglese e chi da essi dipende fra i Somali ed altri.

Così pure vi sarà pace tra il Sayed, i suoi dervisci suddetti ed il Governo d’Abissinia, e chi da esso dipende.

²⁵⁸ “Nel giorno successivo le navi *Fox* e *Hyacinth*, accompagnate dalla *Volturno*, compirono una ricognizione della costa in prossimità di Illig, bombardando e facendo saltare con granate-mina le grotte naturali numerosissime e quelle artificialmente scavate dagli abitanti nella parete rocciosa, che cade quasi a picco sul mare. In quelle grotte avevano trovato ricovero moltissimi fuggiaschi da Illig, non combattenti, donne, vecchi, bambini e pacifica gente del luogo. Gli effetti di quel cannoneggiamento furono orrendamente cruenti: gli scoppi delle granate colpirono alla cieca moltiplicando il loro effetto con la scheggiatura delle rocce e gli indigeni che s’erano agglomerati in quei rifugi non ebbero possibilità di scampo” (CAROSELLI, *Ferro*, cit., p. 56).

²⁵⁹ Text in NICOLOSI, *Imperialismo e resistenza in Corno d’Africa*, cit., p. 99.

²⁶⁰ See the report of 26 October 1904 by Pestalozza to the Minister of Foreign Affairs (MINISTERO DELLA GUERRA, *Somalia*, cit., p. 306).

²⁶¹ MINISTERO DEGLI AFFARI ESTERI, *Trattati*, cit., Vol. II, p. 759.

Il Governo italiano si fa avanti e si impegna per chi da esso dipende, come pure per quanto concerne il Governo inglese. (...)” (Art. 1).

In exchange for the peace, the Mullah obtained from Italy the right to establish himself in the territory of Nugaal. This territory, stretching along the coast from Ras Garaad to Ras Gabbe and extending into the hinterland, was at the border between the Italian protectorates of Hobyo and the Majeerteen and was a bone of contention between them. As a consequence of the agreement, Nugaal became the third Italian protectorate in Somalia:

“Il Sayed Mohammed ben Abdallah è autorizzato dal Governo d’Italia di costruire per sé e per la sua gente una residenza stabile in quel punto più conveniente per le comunicazioni col mare tra Ras Garad e Ras Gabbe. Ciò anche con l’assentimento di Jussuf Ali e del Sultano Osman Mahmud. Quella residenza o sede ed i suoi abitanti saranno tutti sotto la protezione del Governo d’Italia e sotto la sua bandiera. Sarà in facoltà del detto Governo, se e quando vorrà, di installare in quella sede un suo rappresentante di nazionalità italiana, od altra persona in qualità di Governatore con soldati propri, e di stabilirvi dogana.

In ogni modo il Sayed Mohammed dovrà essere di aiuto e di appoggio al Governo per ogni quistione; e sino a che il Governo abbia designato un suo Rappresentante speciale lo stesso Sayed Mohammed ne sarà il procuratore. All’interno il governo delle tribù da esso Sayed dipendenti rimarrà al Sayed Mohammed, che dovrà esercitarlo con giustizia ed equità. Egli pure provvederà alla sicurezza delle strade ed alla tranquillità delle carovane” (Art. 2).

Other provisions of the agreement bound the Mullah not to import firearms and to prevent the trade of slaves.

On 24 March 1905, in the presence of Pestalozza, the representative of the British Commissioner for Somaliland and the representatives of the Mullah signed in Berbera a provisional agreement of peace:

“Seeing that peace and friendship have long existed between the Italian Government and the Government of His Britannic Majesty, and seeing that the Sayed Mohammed bin Abdillah and his followers now have a fixed place of abode in Italian territory and enjoy the protection of the Italian flag, it follows naturally that there shall now be peace and friendship between the said Sayed Mohammed bin Abdillah and his followers and His Britannic Majesty’s Commissioner and the people of British Somaliland” (Art. 3).

“Seeing, however, that a state of war has until now existed between us, and that thereby the people of both sides have been much disturbed, it will rest with H. B. M.’s Commissioner to say when and to what extent trade and intercourse between the people shall be resumed” (Art. 4).

It was really unexpected to see the boldest opponent of foreign occupants in Somalia in the position of an Italian protected person²⁶². The Mullah was granted

²⁶² “Con l’accordo di Ilig accrescevamo il numero dei nostri irrequieti protetti nella Somalia settentrionale, pur non migliorandone certo la qualità, ed inserivamo, nell’instabile equilibrio poli-

the territory where he wanted to stay together with a port (Illig) that he could use without any effective control by his protector. Such a situation greatly increased the prestige of the Mullah in the eyes of the Somali people. He could benefit from enough time to organize his forces, to rebuild his arsenal, to make or strengthen alliances and to pursue his main political objective of the general insurrection of Somalia against foreign occupants²⁶³.

As regards the Italians, the Illig agreement was nothing other than a sign of political and military weakness, as was admitted by the minister of Foreign Affairs, Tittoni, in a letter of 29 October 1907 to the Minister of the Navy:

“Nessuna illusione ci siamo mai fatti sulla fede del Mullah, e l’accordo nostro con lui fu una necessità politica per salvare la nostra posizione di fronte all’Inghilterra e alla Etiopia, e per legalizzare una situazione di cose che menomava il nostro prestigio, poiché il Mullah occupava, senza permesso nostro, territorio italiano e noi non volevamo fare una spedizione per cacciarvelo. Mantenere il prestigio con un ribelle che vive di violenza e di rapina, che sono condizioni della sua esistenza, non è possibile quando non si voglia fare una spedizione militare. I nostri rappresentanti hanno in qualche momento avuto soverchia fiducia, ma ben presto l’hanno perduta arrendendosi alla penosa evidenza di non potere esercitare alcuna efficace azione sul Mullah senza combatterlo”²⁶⁴.

In other words, the Mullah would have settled at Illig with or without the agreement with Italy:

“(…) anche se la pace con Mullah non si fosse fatta, egli sarebbe stato ad Illig anche senza nostro consenso comparendo sulla spiaggia tutte le volte che le navi si allontanavano e ritirandosi nell’interno fuori dalla portata dei cannoni, tutte le volte che le navi comparissero”²⁶⁵.

tico dei due Sultanati contrapposti, un terzo elemento, che non era d’ordine e che, ad ogni modo, ci costringeva ad una revisione delle direttive nella linea d’azione fino allora seguita” (CAROSELLI, *Ferro*, cit., p. 94). “The ‘Mad Mullah’, regarded by the British as a brigand and fanatic, was given the Nogal territory between Obbia and the Mijertein and was recognized as the lawful ruler of a third Italian protectorate in northern Somalia” (HESS, *Italian Colonialism*, cit., p. 134).

²⁶³ In the discussion before the Chamber, Prinetti expressed some criticism of the agreement: “Non approvava incondizionatamente l’accordo col Mullah, perché gli sembrava un po’ un’illusione il credere d’aver fatto del Mullah un protetto italiano; avendo poi concesso a lui un territorio che arriva fino al mare, ciò gli avrebbe permesso di munirsi di armi e di preparare forse una futura riscossa non soltanto contro l’Inghilterra, ma anche contro di noi” (statement of 9 June 1905, in DIREZIONE CENTRALE DEGLI AFFARI COLONIALI DEL MINISTERO DEGLI AFFARI ESTERI, *L’Africa*, cit., p. 808). “Mohammed Abdullah Hassan non tardò a trasformarsi da un protetto italiano a un ‘problema’ italiano, e soprattutto riguardo alla possibilità di una minaccia diretta al Benadir” (NICOLOSI, *Imperialismo e resistenza in Corno d’Africa*, cit., p. 144).

²⁶⁴ Text *ibidem*, p. 177.

²⁶⁵ Statement by Tittoni before the Chamber on 9 June 1905 (DIREZIONE CENTRALE DEGLI AFFARI COLONIALI DEL MINISTERO DEGLI AFFARI ESTERI, *L’Africa*, cit., p. 811).

As sharply remarked by a British officer,

“it would appear as though the Italians were anxious to see everyone, except themselves, fighting the Mullah, and this, in spite of the fact that the Mullah is in Italian territory”²⁶⁶.

10. Persisting Problems

It took three years after the end of the private administration for parliament to enact the general legislation for the colony, which was called “Somalia italiana”. This was done by Law 5 April 1908, No. 161²⁶⁷:

“Le regioni dell’Africa orientale soggette alla sovranità dell’Italia, poste tra il Sultanato di Obbia ed il fiume Giuba e tra l’oceano indiano, l’Etiopia e la Somalia inglese sono riunite sotto un’unica amministrazione col nome di Somalia italiana” (Art. 1).

“La Colonia della Somalia italiana è retta da un governatore civile, nominato con decreto reale, su proposta del ministro degli affari esteri, sentito il consiglio dei ministri” (Art. 2, para. 1).

“L’amministrazione dei protettorati del sultanato di Obbia, del territorio di Nogal e del sultanato dei Migiurtini, conosciuto sotto il nome di Somalia settentrionale, è affidata al governo della Somalia italiana” (Art. 3).

The law included general provisions for the administration of justice in the colony that were supplemented by Royal Decree 7 July 1910, No. 708²⁶⁸. The territory of the colony was divided into eight regions (Itala, Mogadishu, Merca, Barawa, Jumbo, Bardheere, Luuq and Gheledi)²⁶⁹.

In the first years of governmental administration, the situation in Somalia did not basically change²⁷⁰. Perhaps, the main difference was that Italian public opinion, without the target of a private company, proved to be less interested in following the Somali affairs.

In 1907, the Biimals started a second riot, due to the policy of military penetration by the Italians in the interior of the country²⁷¹. In 1908 the Mullah resumed the holy war²⁷². It lasted until the end of 1920, when the Mullah died of

²⁶⁶ Memorandum of June 1908 by Col. Gough on the situation in Somaliland (in NICOLOSI, *Imperialismo e resistenza in Corno d’Africa*, cit., p. 229).

²⁶⁷ ROSSETTI, *Manuale*, cit., Vol. III, Roma, 1913, p. 5.

²⁶⁸ *Ibidem*, Vol. III, p. 281.

²⁶⁹ Decree of the Governor of 17 May 1908, No. 253 (*ibidem*, Vol. III, p. 20).

²⁷⁰ “A change in the administration, it had been decided, would take place; but the basic problems of a colonial power in Somalia were still present – low morale, little security, slavery and native hostility” (HESS, *Italian Colonialism*, cit., p. 84).

²⁷¹ See DEL BOCA, *Gli italiani in Africa Orientale*, cit., p. 806.

²⁷² *Ibidem*, Vol. II, p. 819.

pneumonia. The British were still chasing him, having bombed his forces and people from the air,²⁷³ but he was never caught by his enemies.

Slavery remained as it was before²⁷⁴ and probably was even strengthened by the fact that the hypocritical difference between “slavery” and “domestic serfdom” was reflected in the colonial legislation, in particular in the Commissioner’s Decree 17 July 1907, No. 177²⁷⁵, which established “servants’ villages”:

“Ritenuto che per quanto concerne la questione della schiavitù conviene adottare provvidenze che, mentre non danneggino i padroni privandoli ad un tratto delle braccia necessarie all’agricoltura, migliorino, sotto il rispetto morale ed economico le condizioni dei servi, attualmente esistenti a Benadir, in quei luoghi dove la schiavitù non si è potuta ancora trasformare in servitù domestica” (preamble)²⁷⁶.

Another Commissioner’s Decree²⁷⁷ prevented slaves who had been freed from leaving the colony:

“Considerati i danni che possono venire alla Colonia per la scarsenza di mano d’opera, che comincia a farsi sentire, specialmente nelle città della costa.

È vietato ai liberti di emigrare dal territorio della Somalia italiana meridionale”.

In fact, the question of slavery was understood by the Italians according to two contradictory views, namely the humanitarian one and the utilitarian one, and it was not clear which one was given priority²⁷⁸.

²⁷³ In January 1920 the British aircraft bombed the dervish fortifications of Medishi and Jidali, killing several people, including women and children. This was the first time that air bombing was used in Africa. In a letter written to the Italian governor of Somalia, Giovanni Cerrina Ferroni, the Mullah boasted of having shot down the British aircraft (but this was not true): “Circa la notizia dei sei volatili (aeroplani) sappi che li abbiamo abbattuti. Per quel che riguarda i morti sappi che non c’è stato contatto fra noi e gl’inglesi per la Guerra, però vi sono stati circa dieci uomini dei nostri uccisi e mille fra bambini e donne: questa notizia è certa” (text in CAROSELLI, *Ferro*, cit., p. 272).

²⁷⁴ DEL BOCA, *Gli italiani in Africa Orientale*, cit., p. 803.

²⁷⁵ ROSSETTI, *Manuale*, cit., Vol. II, p. 545.

²⁷⁶ How could measures, which were intended “to improve the condition of servants”, result in improving the condition of slaves “in those places where it has not yet been possible to transform slavery into domestic servitude” is something difficult to understand.

²⁷⁷ Commissioner’s Decree 7 May 1906, No. 75 (*ibidem*, p. 546).

²⁷⁸ See what was stated in 1908 before the Chamber by Ferdinando Martini, the former governor of Eritrea: “Perché questo accade: un carovaniere viene dall’Jeggiù, dai Vollo Galla, dal Goggiam, porta con sé pelli, zibetto, miele ed altre mercanzie; e, naturalmente, vengono con lui tre, quattro, cinque schiavi. Questi, arrivati in Colonia, domandano di essere liberati; naturalmente si liberano per essere fedeli all’atto di Bruxelles, ed anche perché se non si liberassero, della negata liberazione giungerebbe notizia in Italia, e alcuni giornali non tarderebbero a dar taccia al Governatore di barbaro e di negriero. Gli schiavi dunque si liberano; ma il carovaniere, che, in questo modo, perde più di quello che non ha guadagnato con le sue merci, in Colonia non torna più e prende altre vie, va in altri mercati dove l’osservanza dell’atto di Bruxelles è meno rigida. Perché

The boundary between Ethiopia and Somalia remained without delimitation in the vast region of Ogaden, due also to the Italian lack of willingness to settle the question²⁷⁹. The presence of Italian forces in Lugh and some localities that could also be claimed by Ethiopia was a reason for political and military friction. The worst occurred on 15 December 1907 at Bahallè, where 83 askaris and two Italian officers, Captains Bongiovanni and Molinari, lost their lives in a fight against an Ethiopian military detachment²⁸⁰.

Without the flow of immigrants from the mother country, the Italian population of Somalia was restricted to State officials, regular officers and a handful of businessmen who tried to exploit the natural resources of the territory. The policy of the Italian central government as regards this remote territory remained uncertain²⁸¹. But the importance of this colony as a bridgehead for resuming the plan of the aggression against Ethiopia²⁸² remained unchanged²⁸³.

in sostanza questo è il vero: questa abolizione della schiavitù, a cui si dà il pomposo nome di vanto umanitario, non è che un'insidia internazionale" (in MANTEGAZZA, *Il Benadir*, cit., p. 72).

²⁷⁹ "Non vedeva l'urgenza e la necessità di procedere subito alla delimitazione dei confini tra la Somalia italiana e l'Etiopia; tra il Benadir propriamente detto e l'Etiopia vi era una regione vastissima che non si sapeva esattamente a chi appartenesse e della quale in questo momento la delimitazione non avrebbe avuto alcuna importanza e non avrebbe portata alcuna buona conseguenza" (statement of 9 June 1905 before the Chamber by the Minister of Foreign Affairs, Tittoni, in DIREZIONE CENTRALE DEGLI AFFARI COLONIALI DEL MINISTERO DEGLI AFFARI ESTERI, *L'Africa*, cit., p. 811).

²⁸⁰ See DEL BOCA, *Gli italiani in Africa Orientale*, cit., p. 810.

²⁸¹ "Italian activity was characterized by confusion, uncertainty, hesitancy, and inner contradictions" (HESS, *Italian Colonialism*, cit., p. 177).

²⁸² "By 1905 there were still some Italian circles who regretted the failure of the plan to acquire a great empire in East Africa: (...) con un po' più di tatto e d'esperienza noi saremmo stati oggi partecipi del grande impero est-africano che dall'Egitto si stende allo Zanzibar" (statement of 13 June 1905 by Vigoni before the Senate, in DIREZIONE CENTRALE DEGLI AFFARI COLONIALI DEL MINISTERO DEGLI AFFARI ESTERI, *L'Africa*, cit., p. 813).

²⁸³ "Povera e lontana, la Somalia resta soltanto una testa di ponte per facilitare il disegno di un'annessione parziale o globale dell'Abissinia" (DEL BOCA, *Gli italiani in Africa Orientale*, cit., p. 833).

CHAPTER 2
THE MULLAH: SAYYID MOHAMMED ABDULLAH
HASSAN AND HIS MOVEMENT

Abdisalam M. Issa-Salwe *

SUMMARY: 1. Introduction. – 2. A Brief Background to Sayyid Mohammed's Life. – 3. The Beginning of the Darwish Struggle. – 4. From Movement to Proto-State. – 5. The Battles Between the Darwish and the Colonialists. – 6. The Ilig Treaty. – 7. Master of Eloquence. – 8. The Reconstruction of the Darwish State. – 9. The Darwish's Diplomatic Victories. – 10. The Support of the Darwish to Resistance of the Biyamal and Wa'dan. – 11. Conclusion.

1. *Introduction*

Somali resistance to foreign interference in their lives dates as far back as between 1528 and 1535 when, under the command of Imam Ahmed (Ahmed Ibn Ibrahim al-Ghazi), known as Ahmed "Gurey" (the left-handed), the Somali devastated, and for a time successfully pushed back, the Abyssinian Empire. It was only with the help of the Portuguese¹ that the Abyssinians defeated the Somali forces².

The resistance to colonial interference which Sayyid Mohammed Abdullah Hassan inspired and led by the close of the nineteenth century and for the succeeding two decades was nationalistic in essence and it was a tradition not seen in the Somali peninsula since Ahmed Gurey's war against Abyssinia in the sixteenth century.

At the end of the nineteenth century, Islam was reawakened in Eastern Africa,

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¹ BURTON, *First Footsteps in East Africa by Captain Sir Richard F. Burton*, Vol. I, London, 1894, p. 10.

² ISSA-SALWE, *The Collapse of The Somali State: The Impact of the Colonial Legacy*, London, 1996, pp. 25-26.

as a result of a revival of Islam in the Muslim world³. This tendency might have been triggered by the Euro-Christian colonisation of Muslim lands in Africa and Asia, creating a widespread reaction culminating in a resurgence of a revivalist movement against the Euro-Christian hegemony. The Mahdist revolt in Sudan in the 1880s and that of the Darwish movement led by Sayyid Mohammed in Somalia during the same period, are examples of this revivalist movement⁴.

The resistance led by Sayyid Mohammed Abdullah was motivated by religious and cultural principles. His objective was to establish his sovereignty over the whole of the Somali territory⁵.

Islam served as the ideology of the Darwish movement. A Darwish is a Muslim believer who takes vows of poverty to lead a life of austerity in the service of Allah and of his community.

2. *A Brief Background to Sayyid Mohammed's Life*

Sayyid Mohammed was born in the Sa'madeeqa valley, a small watering hole between Wud-Wud and Buhodle in 1856⁶, during the spring season known as Gobaysane⁷.

Two influences left an impression on the life of the Sayyid. The first influence was Islamic study, the other was the pastoralism.

At the age of seven, he attended Qur'anic school and at eleven he learned the 114 *suras* of the Qoran by heart. Afterwards he became a teacher. After two years of teaching the Qoran, he began to question his faith, a crisis that took him in search of more rigorous religious learning for ten years. He travelled to many Islamic seats of learning, including Mogadishu, Nairobi, Harar and Khartoum (Sudan), where he sought out the most learned *sheikhs* in each place.

In his thirties, he set off for Mecca to discharge his *haj* obligations⁸. While in Mecca, he met Sheikh Mohammed Salah (1853-1917), who changed the young Mohammed Abdullah Hassan's life completely. The mystic Sheikh Mohammed Salah of Sudan was the founder of the Salahiya order⁹, which at that time was

³ SHEIKH-ABDI, *Divine Madness: Mohammed Abdulle Hassan* (1856-1920), London, 1992, pp. 36-37.

⁴ *Ibidem*, pp. 36-40.

⁵ JARDINE, *The Mad Mullah of Somaliland*, London, 1932, p. 159.

⁶ CUMAR, *Tariikhdi Darwishta iyo Sayyid Maxamed Cabdulle Xasan* (1895-1921), Mogadishu, 1976, p. 4. Others believe that he was born in 1864.

⁷ Traditionally, Somalis name seasons on the basis of events or their effect. Gobaysane was famous for its abundance.

⁸ *Haj* is one of the five pillars of Islam. Every Muslim is required to do *haj*, in Mecca, at least once in his/her lifetime.

⁹ Salhiya is an offshoot of the Ahmadiya order.

spreading through the Arabian Peninsula and across the Red Sea into East Africa.

Islam has always had an association with brotherhoods (*dariga*, literally meaning “the way”), which express a mystical view of the Muslim faith. In the nineteenth century, various religious organisations developed in Somalia to the extent that the “Somali profession of the Islamic faith was synonymous with membership of a Sufi brotherhood”¹⁰.

The Sufi order grew out of the main Qadiriya order, founded by Sheikh Abdul-Qadir Jilani in the twelfth century. However, in later centuries Sufism sectarianism evolved into three groups of Muslim fellowship: (i) the resisters who believed in the struggle, (ii) the moderates who usually went about their pedagogical teaching, but occasionally sought to rebel, and (iii) the conservatives who practiced their mystic meditation without concern for their social environment, sometimes collaborating with the rulers of the country¹¹.

In 1895, following his sojourn in Arabia, Sayyid Mohammed Abdullah Hassan returned to Somaliland with a mandate to be the Salahiya representative¹². On his arrival into the port of Berbera, Sayyid Mohammed refused to pay a tax due to the customs officials. His arrival home coincided with the introduction of a new taxation system by the British Consul General, Colonel James Haya Sandler¹³. The Sayyid objected to paying customs duties to a foreign power since he was entering his own land. The story goes that, when the customs officer decided to arrest him, a well-intended interpreter explained away the sheikh’s refusal to pay as insanity by stating: “Sir, he mad mullah”¹⁴, which thereby provided the origin for the label of Mad Mullah which colonial literature later assigned to the Sayyid.

Before the return of Sayyid Mohammed to British Somaliland, the influence of Andarawiya, which like the Salahiya is an offshoot of Ahmadiya¹⁵, was limited. The Qadiriya settlements were well established both here and on the Benaadir coast in the south. In Berbera, Sayyid Mohammed established a base from

¹⁰LEWIS, *A Modern History of Somalia: Nation and State in the Horn of Africa*, London, 1980, p. 63.

¹¹MARTIN, *Muslim Politics and Resistance to Colonial Rule*, in *Journal of African History*, 1969, pp. 471-486.

¹²CUMAR, *Tariikhdiid Darwishta*, cit., p. 8. The question of his mandate is disputed. Others believe that the other *bajis* who accompanied him on the *haj* recommended him to represent Salahiya in Somalia.

¹³SAMATAR, *Oral Poetry and Somali Nationalism: The Case of Sayyid Mahammad'Abdille*, Cambridge, 1982, p. 106.

¹⁴CUMAR, *Tariikhdiid Darwishta*, cit., p. 9. There is another version of how the Sayyid acquired this epithet. That version says that when he left Mecca, he passed the port of Aden. The Sheikh had a skirmish with an English officer. An interpreter named Ali Qaje sought to explain and apologise, saying to the officer, “Sir, pardon, he Mad Mullah”.

¹⁵Ahmadiya was founded by Ahmad bin Idris Al-Fasi (1760-1837) in Mecca, Saudi Arabia.

which he campaigned and sought to spread the Salahiya order, while at the same time condemning the Qadiriya's moral laxity¹⁶ in accommodating colonialism.

Sayyid Mohammed's attempt to proselytise and convert urban Somalis into the Salahiya order, however, met with stiff resistance from the Berbera community. There was a firm opposition from the Qadiriya order which had established roots in the area. His conflict with the town's religious men caused him to lose the sympathy of the Berbera people¹⁷. In turn, Berbera *culama* (theologians) fought back to discredit him and his new order. To further undermine him, they informed the administration of his intentions¹⁸.

The rift between the two *dariiqas* intensified when the British administration sided with Qadiriya and closed down the Salahiya religious centre at the end of 1897. This infuriated Sayyid Mohammed, who later moved with his small group of followers to his maternal home, among the Dhulbahante, in the south of British Somaliland.

3. *The Beginning of the Darwish Struggle*

After being forced to leave Berbera, Sayyid Mohammed moved to Qorya-weyn in the south of British Somaliland, where he began preaching Islam under the Salahiya banner. In spite of failing to convince the urbanised Berbera residents, he found willing listeners in pastoral society which was largely uninfluenced by the growth of the urban lifestyle.

The Sayyid started to settle clan disputes, thus acquiring the reputation of a peacemaker, and began to be seen by the pastoralists as an *awliyo* (saint) who had been sent among them¹⁹. Initially the British administration welcomed his exercise of authority and saw him as an ally²⁰. However, the main aim of his work to mediate and unify the clans was to gain their support in the fight against the intruders, and it soon became evident that his primary aspiration was to oppose

¹⁶ SAMATAR, *Oral Poetry and Somali Nationalism*, cit., p. 106. The Qadiriya *dariiqas* was founded by Sheikh'Abdul-Qadir Jilani (d. AD 1166) and buried in Baghdad. It was divided into two groups: Zayla'iyas, named after its founder Sheikh Cabdiraxman Zaylici (Sheikh Abdul-Rahman Az-Zayli'i, d. 1883), in the north; Uwaysiya, named after its founder Sheikh Uways Mohamed (Sheikh Uways Bin Mahammad al-Barawa), who was killed in 1909 by the Darwish forces in Biyooley, in south Somaliland.

¹⁷ *Ibidem*, p. 107.

¹⁸ CUMAR, *Tariikhdiid Darwishba*, cit., p. 12. Aw-Gas Ahmed was the one who brought Sayyid Mohammed to the attention of the administration, saying "This sheikh is planning something. If you do not arrest him now, you will look for him very far" (*Wadadkas waxbuu soo wada. Haddan batan la qabanna mel fog ba laga dooni doona*).

¹⁹ *Ibidem*, p. 14.

²⁰ JARDINE, *The Mad Mullah of Somaliland*, cit., 1932, p. 86.

colonial interests. An incident that happened around this time, in 1899, proved to be a turning point in the relations between the Sayyid and the British authorities. A British administration constable, an *ilalo*, went to the Darwish settlement and sold his gun to the Sayyid²¹. On his return to Berbera the constable reported that his gun had been stolen by the Sayyid. The case prompted the British administration to send a letter to Sayyid Mohammed ordering him to surrender the stolen gun immediately, but instead, on 1st September 1899, Sayyid Mohammed replied to the letter by challenging British rule in the country. This defiance brought the Sheikh to the attention of Britain itself, and the episode soured British attitudes towards the Sayyid and his movement. The conflict between the Darwish movement and the colonial powers which was to last for two decades had begun.

In August 1898, the Darwish occupied Burao', the centre of British Somaliland, allowing Sayyid Mohammed to establish control over the watering holes of the local clans, namely the Habar Yonis and the Habar Tol je'le clans²². He engaged in some peace-making between Habar Yonis and Habar Tol je'le clans, and between the Dhulbahante and Habar Tol je'le²³. A huge assembly was held in Burao' at which Sayyid Mohammed urged the congregation to initiate a *jihad* (holy war) against the Ethiopians, British and Italians who had come to colonise the Somali territory.

Further differences began to appear during this period. Sultan Nur Ahmed Amman, sultan of the Habar Yonis clan, felt uneasy about the leadership of Sayyid Mohammed, yet he could do little to counter it alone. He therefore sought British help. Knowing this, the Sayyid was able to undermine the sultan's leadership, and persuaded the Habar Yonis clan to depose their leader²⁴ and replace him with one who was favourable to the Darwish cause. Sultan Nur was deposed and replaced by Sultan Madar who also soon opposed Sayyid Mohammed²⁵. Finding leadership which was sympathetic to the Darwish cause within the Somali clans became one of the Sayyid's principal policies.

Shortly afterwards, the Darwish raided a Qadiriya settlement at Sheikh, a small town between Berbera and Burao'. Fear of an imminent attack by the Darwish led to the spread of panic in Berbera. Surprised by this new development, the British authorities started to take the Darwish activities seriously. However, by the end of 1899, the British were preoccupied by the Boer War and could do

²¹ LEWIS, *A Modern History of Somalia*, cit., p. 68.

²² TOUVAL, *Somali Nationalism: International Politics and the Drive for Unity in the Horn of Africa*, Cambridge, 1963, p. 52.

²³ LEWIS, *A Modern History of Somalia*, cit., p. 69.

²⁴ *Ibidem*.

²⁵ Sadia Muse Ahmed, field note, interviewed on 25 August 1993, London.

little to contain the spread of the Darwish movement, which was badly hindering their trade with the interior of the territory under their administration.

The British administration in Berbera urged their government to take action. It did not take long for London to consent to raise a local levy of troops who would attempt to suppress the spread of the Darwish movement.

During that same period, Sayyid Mohamed preached the *Salahiya* philosophy and the practice of *tawassul* – the veneration of saints. He taught to chant and the praise of Sheikh Mohammed Salah by singing “Shay Lillah Sheikh Mohamed Salah”. He gave the name Darwish to the adherents of his *Salahiya dariqa* (order) and introduced the wearing of a white turban (*duub cad*) which was also customary *sufi* costume. Within a short time, many pastoral communities followed the Darwish. In 1898 the Darwish followers numbered more than 5,000 men and women, armed with 200 rifles. By the middle of April 1898, the Darwish had moved their base to Dareema-Addo, a watering hole North-West of Buhodle.

4. *From Movement to Proto-State*

Within a short time the Darwish grew in men, power and wealth. Because of this growth, it became necessary for Sayyid Mohamed to institutionalise the movement by creating four main governmental apparatuses²⁶. At the top there was the ministerial Council (*qusuusi*) which presided over affairs of state; next came bodyguards (*garbaye*) who were responsible for the security of senior members; third was the regular army (*maraweyn*) which was organised into seven regiments: Sheekhyale, Gola-weyne, Tar-gooye, Indha-badan, Miinanle, Dharbash and Rag-hun, each with its own commandant (*muqaddim*), and varying between 1,000 to 4,000 men; and fourth and finally was the civilian population (*reer-beede*) consisting mainly of people from clans who followed the Darwish movement.

By forming a standing army, the movement had to face pressing needs such as the provision of food and other logistical requirements to the troops. Initially they were supported by voluntary charity (*siyaro*), a payment which Muslims are required to give to religious men. However, as the needs of the army increased, the Darwish began to lobby for more help for “the State”. At the same time, they spread rumours that anybody who did not help the Darwish in the *jihad* struggle was not Muslim and, therefore, must be killed and have their property confiscated²⁷.

The Darwish structure could be considered to constitute a State, since some of the important salient features of statehood are defined as having a territory, a

²⁶ CUMAR, *Tariikhdiid Darwishta*, cit., p. 126.

²⁷ *Ibidem*, p. 23.

population living in that defined territory, and a government which is sovereign to rule the country and the people. Though fluid (and in some cases, particularly in terms of the question of sovereignty, limited), all these characteristics can be identified in the Darwish.

Such a State was fashioned on the model of the *Salahiya* brotherhood, with a strict hierarchy and rigid centralization by a religious order. The cohesive force of the Darwish State polity was based on religious ideology, and was a radical departure from the politics of clan alliance.

Some followed it with enthusiasm, some with caution, but soon enough conflicts began to develop. Garad Ali Garad Mahamud, Sultan of the Bah-Ararsame Dhulbahante clan, whose people lived in Nugaal, felt uneasy at the expanding power of the Sayyid among his matrilineal relatives of the Dhulbahante.

Towards the end of 1899, Sayyid Mohammed sent a delegation to the Garad to try and persuade him and his people to join the Darwish State. He sent a further delegation to the Garad inviting him to the *xarun* (headquarters). With reluctance Garad Ali accepted, and in the heated debate which followed Garad Ali emphasised his position in the following way: "I am the ruler of Nugaal and its people. Their management is mine and I expect everybody to respect it"²⁸.

This inevitably led to a confrontation between the two systems: the traditionalist against the new. The Darwish practice was alien to pastoral society. Traditionally, the clan is the most important political unit of the Somalis and this clashed with the new system introduced by the Sayyid.

The resulting hostility prompted Sayyid Mohammed to dispatch a group of Darwish to assassinate the Garad.

The killing of Garad Ali stunned the Somali clans and destabilised the Darwish²⁹. This incident proved to be one of the most catastrophic miscalculations made by Sayyid Mohammed. Many of his followers left him. Only his maternal kin, Ali Geri, stood by him. Having lost the support of the Nugaal people, Sayyid Mohammed and his followers were forced to flee to Western Somaliland, to his paternal kin.

5. The Battles Between the Darwish and the Colonialists

The Darwish had a military organisation that was expert in guerrilla warfare. By drawing their enemies to their preferred terrain, they were able to strike at will. The British, sometimes with their allies, sent one expedition after another. The first expedition left Burao' on 22 May 1901, and consisted of 21 officers of

²⁸ *Ibidem*, p. 25. This is what he said in Somali: "Nugal iyo dadka deggan ana Boqor u ah. Taladooda nin iiga dambeya mahe ninna uga dambayn mayo!"

²⁹ *Ibidem*, p. 26.

the British and Indian armies and a levy of 1500 Somalis. Between 1900 and 1904, four British expeditions were sent against the Darwish. Well-known battles were Afbakayle, which took place on 3 June 1901, Fardhidin on 16 July 1901, Beerdhiga (Eeragoo) on 4 April 1901, Agarweyne (Gumburo) on April 1903, Daratoole on 22 April 1903, Jidbale on 10 January 1904 and Ruugga (Dulmadoobe) on 9 August 1913³⁰.

Initially, the Darwish won many battles because of their experience of guerrilla warfare, their knowledge of the territory and adaptability to the environment, their belief that they were fighting a *jihad* (holy war) and therefore a just war, and their military organisation. However, after many successes over the intruders, they changed their tactics of guerrilla warfare to conventional tactics. This change of strategy proved fatal for them.

On 9 January 1904 on the plains of Jidbale, a watering hole north of Las Anod in the east of British Somaliland, they sought head on confrontation with the British. In the battle that followed, the Darwish lost between 7,000 and 8,000, either dead or injured³¹. The defeat demoralised and disorganised the Darwish. With the British forces on their heels, the fleeing Darwish headed to the Majeerteen Sultanate in the northeast. On their way they sent a message to Boqor Osman, whose relationship with the Sayyid had been marred by a failed political marriage when the latter had asked to marry a daughter of Boqor Osman, Qali³².

Meanwhile, the British asked the Italian Consulate in Aden to press Boqor Osman not to give the Sayyid sanctuary. Boqor Osman gave way to Italian and British pressure, and declined to give refuge to the frustrated Darwish. This angered Sayyid Mohammed at a time when many of his followers were deserting. Consequently, fighting erupted between the Darwish and the forces of Boqor Osman. The Darwish forces were obliged to head for Ilig, a strategic location on the Indian Ocean, in the northeast of Somaliland.

6. *The Ilig Treaty*

After four years of fighting, the British found that they could not annihilate the Darwish as they had believed. Because of financial troubles and opposition at home, in 1904 they had been compelled to change tactics and make peace with the Darwish through the Italians – who had not been in military conflict with the Darwish. Haji Abdille Shihiri, who was a Darwish confidant, became the mediator between the Italians and the Darwish. Haji Abdille Shihiri met with Cavalier

³⁰ See CUMAR, *Tariikhdiid Darwishba*, cit., pp. 41-102.

³¹ SAMATAR, *Oral Poetry and Somali Nationalism*, cit., p. 155.

³² CUMAR, *Tariikhdiid Darwishba*, cit., p. 63.

Giulio Pestalozza, the Diplomatic Representative of the Italian government at Aden, where he took a letter for the Sayyid.

Craving respite for his troops, Sayyid Mohammed agreed to enter negotiations with the Italians who proposed that the Darwish rule a territory from Ayl and Garad on the Indian Ocean to Nugal in the interior. The agreement included a condition to release Sultan Yusuf Ali Kenadid, Sultan of Hobyo, who had been deposed and imprisoned by the Italians after he refused to let British forces disembark at Hobyo with the intention of attacking the Darwish from the east while other British forces engaged with the Darwish at Cagarweyne (Gumburo) on 17 April 1903. As a result of his refusal, Sultan Yusuf Ali was forcibly exiled to Assab in Eritrea in 1903³³.

After heated negotiations, an agreement was reached on 5 March 1905. Giulio Pestalozza signed on behalf of the Italian government. In Berbera, on 24 March 1905, a provisional agreement was signed by the British and by representatives of the Darwish, declaring amongst other things, that the agreement between Italy and the Darwish forces was in accord with the views of the British government³⁴.

The Ilig Treaty recognised Sayyid Mohammed as leader of a small State in the Nugal Valley, under the protection of Italy. It also granted him religious liberty and freedom of trade, except in arms and slaves³⁵.

By assigning the Nugal Valley as a Darwish State, Italy hoped to eliminate the threat of the Darwish to influence and support revolt in their domain of Bena-dir³⁶. However, on receiving the news of the Darwish' status, the Bimaal and Wa'dan clans rebelled against Italian rule. Only after Italy bombarded Merca Town and all the neighbouring villages in a nearly hundred-kilometre range did the Italians subdue the Bimaal uprising³⁷.

The agreement of the Ilig Treaty stipulated an agreement of Peace and Protection between the Italian government and Sayyid Mohammed. Signed at Illigon 5 March 1905.

Cavalier Pestalozza, the special Envoy, acting under the authority of the Italian government, and Sayyid Mohammed, had agreed on the complete acceptance of the following clauses and conditions which include the following points (see Appendix I):

³³ GOVERNMENT OF THE SOMALI REPUBLIC, *The Somali Peninsula: A New Light on Imperial Motives*, 1962, pp. 120-121, pp. 117-118. On this occasion the Sayyid said "Talyan Koofiyad weynow, dabaded ad kalantoo. Kidibkii ad shubte, Kenadiid ma wadda?". Translated into English: "O Italian with big hat, talk later. Did you bring with you Kenadiid?".

³⁴ GOVERNMENT OF THE SOMALI REPUBLIC, *The Somali Peninsula: A New Light on Imperial Motives*, cit., pp. 120-121.

³⁵ For more details on the agreement see CUMAR, *Tariikhdiid Darwishta*, cit., p. 134.

³⁶ HESS, *Italian Colonialism in Somalia*, Chicago, 1966, p. 134.

³⁷ *Ibidem*, pp. 45-46.

1. Stabilising Peace: The agreement stipulated an attempt to have a peaceful and lasting accord between the Sayyid Mohammed and the Italian and British colonial powers. In the same agreement, a clause was added which made the government of Abyssinia a party to the agreement with all its dependents.

2. Protectorate or dependency: The agreement included a clause, not clearly defined, which informally agreed that the land defined under the control of the Darwish would become a protectorate of the Italian government. The clause states that "... the residence and its inhabitants shall be under the protection of the Italian government ...". The exact residence referred to was not made clear. Moreover, it added another clause which stated that "... the Italian government could install a representative with soldiers and custom-house (or tithes)"³⁸.

3. In case of disagreement: In case of differences between the Sayyid's people and the Italian protectorate, the Italian government, or those to whom the government has pledged themselves – including, for example, the English – their dependents are determined to be settled in a peaceful and friendly manner by means of 'erko'³⁹ from the two parties under the presence of an Italian delegate, and also in the presence of an English envoy whenever British interests are concerned.

4. The Darwish's controlled territory and population: Sayyid Mohamed was authorised to have the control of fixed territory at the point most convenient for communication with the sea, between Ras Garad and Ras Gabbe. To avoid the opposition of the Sultanates of Majeerteen and Hobyo to the agreement, the Italians added a clause to the agreement that was supposed to be accepted by the two sultanates.

a) The agreement was also with the approval of Yusuf Ali (Sultan of Hobyo) and Sultan Osman Mahammad (Sultan of Majeerteen) whom both of them had their controlled territories.

b) The land of Mudug was defined as being under the jurisdiction of the Sultanate of Hobyo.

5. Specifying the jurisdiction of the Darwish: The agreement specified that the Darwish should control the clans under their jurisdiction with justice and equality. Here, the agreement added that the Darwish was responsible for providing security of the roads and the safety of the caravans passing through the territory under their control.

a) The territory assigned to Sayyid Mohammed and his followers is that of the Nugaal and the Haud comprised within the limits of the Italian sphere of interest (this territory lies between the Sultanates of Hobyo and Majeerteen).

b) The agreements stipulated that Britain would authorize the Darwish to

³⁸Tithe is a one-tenth part of something, paid as a contribution to a religious organization or compulsory tax to the authorities.

³⁹Ergo is a delegation usually composed of traditional leaders.

enter their protectorate clan territories in the country of Nugaal for the purposes of allowing their animals to graze.

6. Commerce movement: Commerce was subjected to the regulations and ordinance of the agreement. Nevertheless, there was a clause which prohibited the Darwish from importing firearms, cartridges, lead, gunpowder and other similar materials.

7. Limitation for the Darwish: The agreement stated that the Darwish would not be permitted to pass beyond the pasturage of some defined territory which included the wells of Halin, and from these to those of Hodin, and from Hodin to Tifafle, and from Tifafle to Danot. Some of these lands were found in the Haud.

7. *Master of Eloquence*

Knowing that the colonialists could not be defeated by force alone, Sayyid Mohammed began to change strategy by beginning to use words as arms. Just as words, spoken or written, have been the most powerful means of communication of mankind⁴⁰, he consummately and skilfully used the medium of Somali verse. He repeatedly sought to gain in verse what he could not succeed in acquiring with arms. According to Samatar, when the Sayyid lost a battle, he “dipped into his reservoir of rhymes to encourage his shattered army”⁴¹. He designed his verse to enhance his cause, to encourage his followers or scorn and discredit his enemies. However, by scorning his enemies, he sometimes preached the pastoral ethos excessively like an “epigram that borders on the obscene”⁴².

The period in Ilig was, by consensus, the period during which he composed his best poems, dextrously using the Somali language which is well noted for its richness of vocabulary⁴³; using the medium of poetry as high powered propaganda warfare, Sayyid Mohammed became a “literary master”⁴⁴. As poetry is the principle medium of mass communication, his mastery of the art won him the reputation of being the greatest Somali poet, and earned him the description of “master of eloquence”⁴⁵ from one modern-day admirer.

The Sayyid appealed to a traditional code of ethics that he knew would strike a responsive chord in the hearts of those who heard them. The notion of unbending defiance in the face of calamitous circumstances was a theme he often stres-

⁴⁰ AFRAH, *The Mirror of Culture: Somali Dissolution Seen Through Oral Expression*, in SAMATAR (ed.), *The Somali Challenge: From Catastrophe to Renewal*, 1994, pp. 233-249.

⁴¹ Quoted in SAMATAR, *Oral Poetry and Somali Nationalism*, cit., p. 181.

⁴² *Ibidem*, p. 153.

⁴³ Cali Xirsi Cartan, fieldnote, interviewed on 22 August 1993, London.

⁴⁴ ANDREZEJEWSKI-LEWIS, *Somali Poetry: An Introduction*, Oxford, 1964, p. 74.

⁴⁵ TRIMINGHAM, *Islam in Ethiopia*, London, 1952, p. 34.

sed in his poems. Yet these tactics, designed to hold the ranks of the faithful together, concealed the real shift in strategy that the Sayyid was initiating in the light of grim realities⁴⁶.

According to Sheikh-Abdi, Sayyid Mohammed had an unusual charisma and poetic dextrousness as he used poetry to attract his followers and attack his enemies. Specifically Sheikh-Abdi stated that "The mullah's poetry was, on the whole, put into service for the dervish cause and does not seem to have come into a significant play until after the terrible dervish defeat in 1904 at Jidbale at the hands of the British, which threatened the embryonic movement with annihilation"⁴⁷.

Some have indicated that Sayyid Mohammed was not even conscious of his poetic talent until late in his life time, particularly with "the despair of utter defeat and ugly truth of betrayal by his compatriots unleashed this incredible reservoir of hitherto untapped talent"⁴⁸.

Long years of adversity gave vitality to Sayyid Mohammed's personality. He was persistent in the face of overwhelming odds. In spite of his totalitarianism and stormy character, his tyranny was directed towards a noble end⁴⁹ as his followers venerated him for getting rid of the colonial power.

As explained above, the inflexible rebelliousness in the face of tragic circumstances, which Sayyid Mohammed echoed in his poems, can be explained through Foucault's proposal. According to Foucault, power appears to become an unconfined or essential power of resistance, power which may be manifested as "an unhindered capacity to make oneself as a work of art"⁵⁰.

8. *The Reconstruction of the Darwish State*

The peace agreement gave the Sayyid a period of respite to recover his strength and influence. He built up his forces and, in breach of the treaty, imported arms on an unprecedented scale. He set up a well-coordinated strategy to sabotage the colonial administration and to terrorise and destabilise clans that he saw as loyal to British and Italian rule, those under the Majeerteen and the Hobyo Sultanates, and Ogaden clans, by sending out roving bands of raiders (*burcad*)⁵¹. He invaded Mudug to establish contact with Bah-Geri on the upper Shabeelle and extended his attacks on the Hobyo Sultanate.

⁴⁶ SAMATAR, *Oral Poetry and Somali Nationalism*, cit., p. 143.

⁴⁷ SHEIKH-ABDI, *Divine Madness: Mohammed Abdulle Hassan*, cit., p. 65.

⁴⁸ *Ibidem*, p. 65.

⁴⁹ LEWIS, *A Modern History of Somalia*, cit., p. 82. See DRAKE-BROCKMAN-RALPH, *British Somaliland*, London, 1912, pp. 5-20. See JARDINE, *The Mad Mullah*, cit., pp. 314-316.

⁵⁰ SIMONS-JON, *Foucault and the Political*, London, 1995, p. 4.

⁵¹ CUMAR, *Tariikhdiid Darwishba*, cit., p. 20.

Indiscriminate raiding, seizing and plundering of the property of fellow Muslims, and the breaking of a solemn treaty – even if it was agreed with infidels – were seen as dishonourable, and alienated Sayyid Mohammed from many among his followers.

At the end of 1909 the Darwish moved first to Aday-dhere, then two years later to Dameero and later still to Taleh. At Taleh, the heart of the Nugal valley, the Darwish reunited and started to build impressive and strategic garrisons. Taleh was ideally placed as it was at the centre between the western Haud, the Red Sea in the east, the Indian Ocean, the Majeerteen and Hobyo Sultanates to the south, and British Somaliland to the north. It was abundant with water and pasture for grazing. There they built four garrisons⁵²: *Silsilad* could take two thousand fighters and five thousand animals; *Falad*, was the headquarters for the Sayyid and his advisers; *Dawad* was for guests; and *Eegi* or *Dar-Ilalo* was an outpost for the headquarters.

Although the building of the fortress gave the Darwish the appearance of supremacy in the area, it was also a complete contradiction of the guerrilla warfare tactics that the Darwish had adopted in previous years, and would give the enemy a fixed target to attack and a defined territory for battle.

However, after the failure of another peace attempt by the British with the Darwish in November 1909, London ordered its colonial administration in the British Somaliland to confine themselves to three coastal towns on the Red Sea: Berbera, Zeyla' and Bullahar⁵³. This decision resulted in declining British prestige in the country.

By 1913 the Darwish dominated the entire hinterland of the Somali peninsula. In the new status quo, the Darwish became the only organised institution in the area⁵⁴, and as a result, the booming trade of the British-controlled coastal area with the hinterland became completely at the mercy of the Darwish. This prompted the British to revise their policy and they formed a mobile force, the Camel Corps, to police the immediate hinterlands. Under the command of the Colonel Richard Corfield, the Camel Corps soon began to patrol in the immediate hinterland.

9. The Darwish's Diplomatic Victories

On the diplomatic front, Sayyid Mohammed made an alliance with the new

⁵² *Ibidem*, p. 204.

⁵³ The order might have come from W. Churchill, the then Under-Secretary of State for Colonies who came to visit Berbera. See CUMAR, *Tariikbdii Darwishta*, cit., p. 166.

⁵⁴ Said Mohammed Gure, fieldnote, interviewed in March 1977, Iskushuban (Bari Region), Somalia.

Ethiopian Emperor, Lij Iyasu, who acceded to the throne in December 1913. Emperor Iyasu was sympathetic to Islam and moved his court to Dire Dawa among his Muslim subjects⁵⁵. He aspired to create a Muslim empire in East Africa. To fulfil his dream, he proposed to make an alliance with Sayyid Mohammed. It is probable that he supplied financial aid and arms to the Darwish, and sent a German arms technician, called Emil Kirsch, to Taleh to help the Darwish State.

The fear of an alliance of Ethiopian Muslims and the Darwish alarmed the European capitals, as well as the Ethiopian Orthodox church. Their concern was justified as the announcement of Emperor Iyasu's conversion to Islam was made in April 1916⁵⁶. However, before he could consolidate his power, Emperor Iyasu was deposed on 27 September 1916.

On another diplomatic front, Sayyid Mohammed made an alliance with the Ottoman Empire⁵⁷. However, in 1917, the Italians apprehended Sheikh Ahmed Shirwa Mohamed and found in his possession a document from the Turkish government giving assurance of their support and recognising Sayyid Mohamed as the Amir of Somaliland⁵⁸.

The diplomatic achievements, the Ilig Treaty, the British withdrawal to the coast, and the reconstruction of the Darwish State in the heart of the country helped to enhance the prestige of Sayyid Mohammed throughout Somaliland. But his success had disadvantages as it made the Sayyid overconfident, which in turn caused him to falsely evaluate the strategy of his enemies. He over estimated the help he could receive from Emperor Iyasu, who had only a short time left in power, and from the Ottoman Empire which was by then in decline.

10. *The Support of the Darwish to Resistance of the Biyamal and Wa'dan*

The Darwish resistance coincided with the rise of the resistance of the Bi-maal and Wa'dan in Merca in the early 1900s.

The resistance of the Bimaal and Wa'dan began when Vincenzo Filonardi, the administrator of the *Società Filonardi*, disembarked at Merca in October 1893 to create a colony in Benadir. But during the visit of the administrator, one member of his staff, Lieutenant Maurizio Talmone, the captain of one of the ships, was stabbed to death⁵⁹.

⁵⁵ *Ibidem*, p. 78.

⁵⁶ HESS, *Italian Colonialism in Somalia*, cit., p. 146.

⁵⁷ For the agreement see CAROSELLI, *Ferro e fuoco in Somalia*, Roma, 1931, p. 224. For more details see also CUMAR, *Tariikhdiid Darwishta*, cit., pp. 242-246.

⁵⁸ LEWIS, *A Modern History of Somalia*, cit., p. 78.

⁵⁹ HASSAN, *La città di Marka, i Biimal e il dominio sulla costa somala. La prima colonizzazione ita-*

The incident was the first sign of opposition to Italian intrusion in the southern part of Somaliland. Centred mainly around Merca, the resistance, led by the Bimaal clan, penetrated further to the north near Muqdisho and into the interior reaching the area of the Wa'dan clan who also formed a resistance against the intruders. The Bimaal clan, which is the largest and most powerful of the Dir clan-family in the southern Somaliland, live in the area behind the coast from Merca to Jamame, beside the river Shabeelle⁶⁰. While the Bimaal resistance front stretched along the Shabeelle river south from Merca, the Wa'dan clans fought in the area south from the powerful Gheledi sultanate in Afgooye, on the Shabeelle river.

Following the Talmone stabbing incident, many Merca elders were arrested and deported to Eritrea, and the town and its surroundings were bombarded. In a counterattack, the Bimaal and Wa'dan began to besiege the town, and blocked communications with the interior⁶¹. Blockading Merca meant ruin for the population of the town and that of the people who lived in its suburbs, as the port city depended on trading with the hinterland. The people of Merca could not survive without the agricultural commodities of the Shabeelle river area and the pastoral products of the interior. To meet the town's food requirement, the Filonardi Company had to supply the population by ship.

The conflict caught the Filonardi Company by surprise, and to meet the conditions it was necessary to increase its military prowess. What they had initially believed would be an effortless acquisition was turning into a sour and complicated operation.

In the first decade Bimaal and Wa'dan resistance was directed against colonial exploitation of their land. Then, between the end of 1906 and the early part of 1907 the Bimaal assumed a form of organized resistance. Under the leadership of Ma'alim Mursal Abdi Yusuf⁶² and Sheekh Abikar Gafle, the resistance was transformed from just a clannic resistance to one based on Islamic principles. Sheikh Abikar and Ma'alim Mursal crusaded widely against the intruders. The aim was to widen the struggle against all the intruders and infidel⁶³. The change reflected the clear influence of the nationalistic Darwish movement which opposed British and Abyssinian intrusion in the Somali peninsula. For the first time, their military tactics were changing as a result of modern weapons and perhaps of Darwish military advisers.

On 5 March 1905 Italy signed a peace agreement and protection treaty with

liana del Benadir, ca. 1800-1910, PhD dissertation, Università degli Studi di Napoli, Istituto Universitario Orientale, 1994, pp. 78-80.

⁶⁰ Gadsan, another group of the Bimaal clan, live in Western Somaliland.

⁶¹ HASSAN, *La città di Marka, i Bimaal e il dominio sulla costa somala*, cit., pp. 80-81.

⁶² Ma-alim literary means teacher of Islamic teachings.

⁶³ *Ibidem*, p. 137.

the Darwish at Ilig, in the north-eastern part of Somaliland. The Ilig Treaty recognised Sayyid Mohammed as the ruler of the Nugaal Valley. By assigning the Nugaal Valley to the Darwish State, Italy hoped to eliminate the threat of the Darwish moving into their dominion in Benadir. Italy was concerned about its colony in Benadir and believed that the object of the Darwish struggle was to have a base in the southern Somaliland, where they could find an abundance of water.

As Italy's attempt to contain the Darwish influence in the north was failing, the Bimaal resistance, inspired by religious fervour, was gaining new momentum. To counter the new threat Italy decided to reinforce its troops and use all means to suppress the resistance.

In early February 1907 Lieutenant Pesenti, a young Italian officer new to the colony and his troops ventured to interrupt a local meeting and arrest the local leaders in Moyale, east of the river Shabeelle. In a counter-attack Bimaal fighters destroyed the Italian position at Dhanane. In reaction, the Italian troops razed all villages in a nearly hundred-kilometers range, killed people and seizing animals⁶⁴.

The Dhanane clash was a turning point in Italian involvement in the Benadir area, as it accelerated the arrival of the new Governor, Tommaso Carletti, who arrived in Mogadishu in May 1907.

On the one hand, Italy was now intent on reinforcing its forces in southern Somaliland and bulldozing the resistance, on the other, Governor Carletti was instructed to start "pacifying" the people in order to enable him to penetrate the interior, an area which Italy had not hitherto entered⁶⁵.

Despite fierce resistance, from July 1908 Italian colonial authority began to thrust its way to the west of the river Shabeelle. Under the command of Major Antonio Di Giorgio, Italian forces, reinforced with an Eritrean contingent, started to overwhelm the rebels with the utmost savagery, burning any village suspected of nurturing opposition.

During the great days of the Darwish State in the Nugaal Valley, the *qusuusi* (advisers) of the State recommended that farming should stop, and trading with the coast should be halted to avert enemy spies from reporting about the Darwish⁶⁶. They suggested moving the headquarters to a location where rival informants could not spy on them. Sayyid Mohammed accepted the advice without examining the possible consequences. In mid-1918 the headquarters were transferred to Mirashi, a mountainous place which was difficult to access for their enemies⁶⁷. However, that decision proved detrimental to the Darwish tactics as

⁶⁴ HASSAN, *La città di Marka, i Biimal e il dominio sulla Costa Somala*, cit., p. 138.

⁶⁵ *Ibidem*, p. 139.

⁶⁶ CUMAR, *Tariikhdiid Darwishata*, cit., p. 260.

⁶⁷ *Ibidem*, p. 262.

it interrupted communication with their other settlements. During this period the Darwish knew little about their enemy's preparations⁶⁸.

While the Darwish were in this isolated situation, the British were able to build up their fire power and to further reinforce it with the use of the aeroplane, a newly invented lethal weapon, with which they started to attack all Darwish bases in Taleh and Mirashi simultaneously on 21 January 1920. This took the Darwish military leaders by surprise. Their plans never included a strategy to protect their bases against such fantastic weapons. On 3 February 1920 the British captured Taleh, and the Darwish troops abandoned their forts in the Nu-gaal Valley and other areas before fleeing to West Somaliland. There they regrouped when a natural disaster occurred. Smallpox broke out in the region and decimated the men and livestock.

Meanwhile, the British Governor despatched a peace delegation to Sayyid Mohammed pressing him to surrender. In exchange, he was to be allowed to establish his own religious settlement in the west of British Somaliland. Nonetheless, Sayyid Mohammed categorically refused to surrender, and to prove to the British authority that the Darwish were still capable of intimidating their subjects, raided Isaq clansmen grazing their livestock near the Ethiopian border. The attack outraged the Isaq clans, and with the help of the administration, a force of Isaq men led by Haji Warsame Bullale, known as Haji Warabe, staged a massive onslaught against the already weak Darwish.

After this fatal blow Sayyid Mohammed and some of his *qusuusi* members fled to Imay, in the Arusi country in Ethiopia. After arriving in Imay, the Sayyid and his remaining companions started the building of thirteen new garrisons but Sayyid Mohammed did not live long enough to realise the reconstruction of the Darwish State. He succumbed to an attack of influenza on 21 December 1920 at the age of fifty-six.

With the fear of the Darwish eliminated, the Italian colonial power was set to establish its rule over the rest of what would become the Italian Somaliland. Once it had taken control of Benadir, Italy set as its top priority the elimination of the northeastern sultanates.

11. *Conclusion*

This chapter discusses the events of the Darwish in Somali history, beginning with the formation of the Darwish movement which later became structured in the form of a State, with a territory, a population living in that defined territory and a government who is sovereign to rule the country and the people. Though fluid, all these characteristics were identifiable in the Darwish. This became clear

⁶⁸ *Ibidem*, p. 206.

when Italy and Britain signed a treaty (the Ilig Treaty) with the Darwish on 5 March 1895. The treaty stipulated that the Mullah should rule the territory between the Majeerteen Sultanate in the north and the Sultanate of Hobyo in north-eastern Somaliland. The agreement also granted the Darwish watering and grazing rights for their livestock within British Somaliland.

Darwish nationalism endured in a period when Somali society was widely dispersed and lacked the necessary organisation to form a single political unit, and at a time when colonial powers such as Britain, Italy, and France were expanding their hegemony over the country.

In this paper the consequences of the conflict between the Darwish and colonial powers of Italy and Britain have been discussed.

APPENDIX I

AGREEMENT OF PEACE AND PROTECTION BETWEEN THE ITALIAN GOVERNMENT AND SHEIKH MOHAMMED-BEN-ABDULLAH (MULLAH). SIGNED AT ILLIG, 5 MARCH 1905⁶⁹

(Translation from the Arabic)

Praise to the Merciful God!

In accordance with the common desire of the Contracting Parties to afford peace and tranquillity to all Somalis, Cavaliere Pestalozza, the special Envoy acting under the authority of the Italian government, and Sayyid Mohammed-ben-Abdullah, acting for himself and for the Chief and Notables of the tribes following him, have agreed on the complete acceptance of the following clauses and conditions:

1. There shall be peace and lasting accord between the above-mentioned Said Mohammed-ben-Abdullah, with his above-mentioned Dervishes, and the British government, with all its dependents among the Somali and other. So, likewise, shall there be peace between the Said, with his above-mentioned Dervishes, and the government of Abyssinia, with all its dependents. The Italian government guarantee and pledge themselves on behalf of their dependents, as also on behalf of the British government.

Every disagreement or difference between the Sayyid and his people and the dependents of the Italian government, or those for whom the government has pledged themselves – as, for example, the English and their dependents – shall be settled in a peaceful and friendly manner by means of “erko” or of Envoy from the two parties under the presidency of an Italian Delegate, and also in the present of an English Envoy whenever British interests are concerned.

2. Sayyid Mohammed-ben-Abdullah is authorized by the Italian government to establish for himself and his people a fixed residence at the point most convenient for communication with the sea, between Ras Garad and Ras Gabbe.

This also with the approval of Yusuf Ali (Sultan of Hobyoy) and Sultan Osman Mahmud (Sultan of Majeerteen).

That residence and all its inhabitants shall be under the protection of the Italian government and under their flag.

If and when the Italian government so desire, they shall be at liberty to install in

⁶⁹ GOVERNMENT OF THE SOMALI REPUBLIC, *The Somali Peninsula*, cit., pp. 120-121.

that residence a Representative of Italian nationality, or other person, as Governor, with soldier and custom-house (or tithes).

Sayyid Mohammed shall in every way afford help and support to the government in all matters, and until the government appoint a special Representative of their own the said Sayyid Mohammed shall be their Procurator.

The government of the tribes subject to him in the interior shall remain in the hands, of Sayyid Mohammed, and shall be exercised with justice and equity.

Moreover, he shall provide for the security of the roads and the safety of the caravans.

3. In the above-mentioned residence, commerce shall be free for all, subject to the Regulations and Ordinance of the government. However, from henceforth the importation and disembarkation of fire-arms, cartridges, lead and powder necessary for the same, are prohibited. Sayyid Mohammed himself and his people pledge themselves by a formal and complete pledge, as also by oath before God, to prevent the traffic, importation, and disembarkation of slaves and fire-arms whenever they may come, whether by sea or land.

Whoever shall infringe this Ordinance shall be liable to such punishment as shall be considered fitting by the government.

4. The territory assigned to Sayyid Mohammed and his followers is that of the Nugaal and the Haud comprised within the limits of the Italian sphere of interest (this territory lies between the Sultanates of Hobyo and the Migirtini). But in view of the special Agreement between the government of Italy and England, after the despatch and return of the "erko" (Somali delegation) sent to establish peace with the English according to Somali customs, and to settle certain formalities necessary for the general tranquillity, the English shall authorize Said Mohammed and his followers to enter their territories (those of the English) in the country of the Nogal, to feed their cattle there according to their former custom.

5. But the said cattle shall not be permitted to pass beyond the pasturage of the wells enumerated hereafter; they are the wells of Halin, and from these to those of Hodin, and from Hodin to Tifafle, and from Tifafle to Danot⁷⁰.

In the same manner, also, in the case of the Majeerteens, there shall be accorded and peace between them all and Sayyid Mohammed and all his Dervishes.

The land of Mudug and Galcaio shall continue to belong to Yusuf Ali and his sons.

The question of the pasturage which is at issues these latter and the Issa Mahmud, as also between them and the Omar Mahmud, shall be settled with the approval and consent of the parties according to former custom.

All questions between the Dervishes and their neighbours shall be referred to the examination and the decision of the Italian government.

In confirmation of all that is above stated, and as a pledge of the Contracting

⁷⁰This line was modified by an agreement between Great Britain and the Italian government of 19 March 1907, as follows: From Halin to Hodin, Hodin to Tifafle, Tifafle to Baran, Baran to Danot, Danot to Kurmis.

Parties, this document has been signed in duplicate by Sayyid Mohammed-Ben-Abdullah for himself and the Dervishes his followers, and by Cavaliere Pestalozza, the authorized Delegated of the Italian government, at Illig, Sunday, the 28th of the month of Zelheggia, in the year 1322 of Hegira, corresponding to the 5th March in the year 1905.

I have read the above document and understood its entire contents, have accepted it all in perfect sincerity, and have signed it – in short, Cavaliere Pestalozza, Representative, knows my state – in good faith.

Sayyid Mohammed-ben-Abdullah Cavaliere Pestalozza Illig, 5 March 1905.

CHAPTER 3

THE RESCISSION OF PROTECTION AGREEMENTS BY
THE FASCIST ADMINISTRATION AND THE ARMED
RESISTANCE AGAINST THE ITALIAN MILITARY
OCCUPATION OF THE SULTANATES

*Federico Battered**

SUMMARY: 1. Background on the Italian Policy Towards the Northern Sultanates and the Darwish Movement. – 2. The Political Structures of the Northern Sultanates. – 3. De Vecchi and the Fascist Italian Policy Towards Somalia. – 4. The Italian Intelligence on the Sultanates. – 5. The Military Operations (1925-1927). – 6. The Eelbuur and Bari Fallaago. – 7. The End of Sultanates and the Resulting Consequences. – 8. Epilogue: From Hobyto to the SYL.

1. *Background on the Italian Policy Towards the Northern Sultanates and the Darwish Movement*

Until 1908, Italian colonial policy had been constrained by three factors: 1) the lack of funds after the defeat of Adwa in 1896 – Hess aptly defined Italian colonialism as “shoestring colonialism”¹ –; 2) a lack of political penetration – the Italians had only managed to firmly establish themselves on the coastal Benadir, from Barawa to Adale, and some points on the Jubba (Juba) –; and 3) the capacity of the Darwish movement to attract followers, which therefore compromised efforts to establish firm rule over their Somali possessions². The Colony of Somalia was only declared in 1908. This represented a turning point, since the Italian authorities had sought to resolve their limited political penetration by ensuring a tighter control on the low-middle Shabeelle; the second significant point would

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¹ HESS, *Italian Colonialism in Somalia*, Chicago, 1966. See also CAROSELLI, *Ferro e fuoco in Somalia*, Roma, 1931, p. 60.

² See BATTERA, *La questione daraawish di fronte ai progetti d'espansione in Somalia*, in *Africana*, 1998, p. 55.

prove to be the Fascist control after 1923. Against the Darwish movement, Italian policy had been characterized by ambiguity until the declaration of the Colony: on one side the Italian government tried to encapsulate the movement in the low Nugaal valley, on the other they pressed the two Northern Sultanates.

Another important flaw of the years before 1908 and a consequence of limited resources and poor policy concerned the disconnection between the Italian political and civil authorities, on the one side, and the military employed in the field, on the other. Despite notable exceptions, the Italian administration lacked staff at the appropriate levels to implement its plans. Political decisions were often improvised or carried out on the back of a poor intelligence service which largely failed to fully understand the political structure of local institutions, especially regarding the Majeerteen Sultanate. While the civil authority enjoyed a large degree of autonomy, the lack of durable orders and a coherent policy from above left the military to act with total autonomy on several occasions, unaware of what political authorities were planning, therefore compromising their political work. In particular, in some cases, military men expressed more sympathy towards the leader of the Darwish, the Sayyid Mohammed Abdullah Hassan, and a profound aversion to *Suldan* Osman, who headed the Sultanate³. However, the determination by a few to find a solution to the religious movement, whose ambitions could be harmful to the Italian policy in the region, was temporarily solved by Pestalozza, who was able to sign a treaty of non-belligerence with the movement (1905), placing it in the lower Nugal, in a strategic position between the two Sultanates, the British and the Ethiopians⁴. Thanks to this agreement, Italy, an ambitious, but still weak low-rank-colonial power, hoped to obtain an advantage by exerting pressure on the reluctant Sultanates, especially that of Majeerteen, seeking to gain some territorial advantages, at least in perspective, against Ethiopia and, even better, at the expense of the British territory⁵.

³ *Suldan* Osman became boqor (*suldaan*) around 1860. He would lead the Sultanate up to the end. In January 1904, Frigate captain Eugenio Bollati di Saint Pierre after threatening to bomb some coastal Majeerteen cities attempted to contact the Sayyid to the great embarrassment of the Italian authorities (ASMAI, pos. 59/6, f. 88). In December 1910, Warsangeli and Majeerteen established an alliance against the Darwish with the assistance of British and Italian authorities. The latter and the Sultanate would finally find a *modus vivendi* after a long period of mutual distrust marred by incidents, for most of the coastal bombardment was initiated by Italian military authorities. The last one occurred during November 1909, and prompted a strong response from the Italian Ministry of Foreign Affairs to the initiatives of the Italian Admiralty (ASMAI, pos. 59/6, f. 88).

⁴ There is no question that those years were marked by the strong and creative personality of Giulio Pestalozza, perhaps the only man in the field who fully understood the environment. He had been civil commissioner in Asab, in 1884, where he had established a police corps. In charge of missions among the 'Afar chiefs, his wide experience and knowledge of the Arab world made him the best candidate to become General Consul in Zanzibar, between 1897 and 1903, and 'Aden, charged with the Somali dossier. For a short biography on Pestalozza, see CAROSELLI, *Ferro e fuoco in Somalia*, cit., p. 69, fn. 1.

⁵ In the absence of a coherent colonial policy, initiatives like that of Pestalozza were able, with

The agreement with the religious movement however lasted only up to 1908, when the Colony was finally proclaimed (5th April)⁶. The two – the agreement with the *Sayyid* and the proclamation of the Colony – were closely connected. Both arose from the need to ensure stability in the Italian possession by avoiding risks coming from the north, while attempting to curb turmoil in the south, marked by the Bimal revolt, who were close to the Darwish movement⁷. During these three years of peace, the Hobyo Sultanate was reconstructed and its defensive capacity restored. Meanwhile the British army had retired to the garrisons on the Somaliland coast leaving the hinterland to the Darwish activity. Indeed, in December 1902, while pursuing the Darwish, the British army led by General Manning, landed in Hobyo. The expedition was a complete disaster for Italian plans to make the Hobyo Sultanate a bulwark against northern incursions. The expedition planned to counter the Darwish from the south failed and left the Sultanate in jeopardy. The Darwish easily escaped from the British grip and the same *Suldan* Kenadid was arrested by the British with the compliance of the Italian authorities and kept in exile in Eritrea until 1905 because he was reluctant to provide supplies to the military expedition and was suspected of being complicit in the Darwish cause⁸.

During 1908, with the proclamation of the Colony, the Italian government attempted to establish a steadier policy. It was brought into force under the resolute action of Senator G. De Martino, who (would) lead the Colony for a remarkable six years, between 1910 and 1916⁹. Under De Martino, the administration was systematically re-organized into *commissariati* (regions), *residenze*

a margin of improvisation, to overcome the deficiencies and shortcomings of the “official policy”. Pestalozza was probably one of the first to initiate the policy of rewarding loyal chiefs, to be known as “capi-stipendiati” or “capi-cabila”, which were likely to become a pillar of political penetration and cooptation of native elites. For more information on the subject, see BATTERA, *Le confraternite islamiche somale di fronte al colonialismo (1890-1920)*, in *Africa*, 1998, p. 155 and BATTERA, *La questione daraawiish*, cit., p. 55.

⁶ However, the Nugal was kept outside the colony boundaries since it was considered part of the northern sultanates.

⁷ Bimal had started a revolt against Italian authorities in 1896. As a result of the agreement with the Sayyid, three sheiks were sent by the Sayyid to the Bimal in Merca in 1906 to promote a peaceful settlement with the Italian authorities (CAROSELLI, *Ferro e fuoco in Somalia*, cit., p. 105).

⁸ This episode proves the weaknesses, deficiencies and contradictions of the Italian policies in the field. Although Consul Sola in Aden was conscious of the importance of having the Sultanate as a buffer area against the *daraawiish* and it was meant to favour relations with the *Suldaan* (see Consul Sola to the Ministry of Foreign Affairs, 22 April 1902, ASMAI, pos. 59/3, f. 42) the Consul approved just a few months later the restrictive measures adopted by the British (CAROSELLI, *Ferro e fuoco in Somalia*, cit., p. 39). The episode happened seventeen years after the Berlin Conference and further proves without any doubt how the British saw Italian colonialism: as a subsidiary instrument of the British imperialism.

⁹ Nine successive administrators, commissars, governors preceded De Martino in about fifteen years.

(districts) and *vice-residenze*. In 1910, a native military corps was created, although recruits were still mainly drafted from Eritrea, Hadramawt and Yemen¹⁰. According to this re-organization, where previously relations with the Sultanates had been managed by the Italian consulate in 'Aden, the two protectorates were now placed under the indirect control of the Italian authorities in Mogadishu. Therefore, the Italian policy towards the Northern Sultanates was now definitively connected to that in respect of Southern Somalia. That placed a renewed emphasis on political and military control towards the north. In 1908, a new *residenza* had been created in Mareeg which was situated at the border with Hobyo-controlled territory and very near to Beledweyne which was to become an important garrison of the Darwish (1913). Creating a garrison in Mareeg extended the area directly controlled by the Italian authority in a territory – the Southern Galgaduud – which was disputed with Hobyo. Through the establishment of new *residenze* placed under a *residente* (District commissioner), Italian authorities sought to exert a more direct control over the Northern Sultanates. However, an agreement with the Sultan of Hobyo was only reached in April 1909, which finally established a *residenza* in Hobyo, twenty years after the protectorate agreement. Any interference in the internal affairs of the Sultanate was excluded by the agreement¹¹.

As far as the Majeerteen Sultanate was concerned, Sultan Osman would have resisted the establishment of a *residenza* until as late as 1914, when it was finally placed in Aluula, very far from where the Boqor used to reside. With the establishment of the *residenze*, the Italian authorities cultivated the illusion that it had finally created a stable system of relations which had placed the Northern Sultanates under a system of *chieftancies* that had just started in the Southern part of Somalia as a means to counteract the spread of the Darwish movement¹². This was not the reality for the Northern Sultanates, in particular that of Majeerteen, which maintained an unthinkable degree of autonomy notwithstanding the power of attraction towards the chiefs of lower rank that the *residente* placed in Aluula started to exert. It is not possible to appreciate why Italy failed to hold strong authority over the Northern Sultanates without recognizing their inner nature. It is this very factor which finally helps to explain the differences between the two and the reason for the autonomy and inner legitimacy they enjoyed during this stage. It is not therefore only about geography – the Hobyo Sultanate was much closer to the Italian garrisons than the Majeerteen Sultanate –; the influ-

¹⁰During 1910, only 10% of these troops were Somali. In 1917, out of the 10 companies which made up the entire colonial troops, 8 were composed of Arabs, the 2 remaining mixed (Arabs and Somalis). Somalis were mainly recruited in the Hiiraan and Galgaduud. Somalis were still mistrusted for the most part (source: excerpt from “*Argomenti di natura militare sulla Somalia Italiana*”, Roma, 3 December 1917, ASMAI, pos. 66/9, f. 93).

¹¹Article 2 of the Agreement (in CAROSELLI, *Ferro e fuoco in Somalia*, cit., p. 119). See also ASMAI, pos. 59/5, f. 85.

¹²BATTERA, *La questione daraawisb*, cit., p. 64.

ence of the Darwish movement – which were more resolutely against the Hobyo Sultanate, than the Majeerteen one to which it was more ambiguous –; or the military and political inadequacies of Italian colonialism, notwithstanding the importance they assumed.

2. *The Political Structures of the Northern Sultanates*

Although they had similarities, the Northern Sultanates also had important differences as well. The Majeerteen Sultanate appeared at first glance to be a loose clan confederations headed by weak chiefs described by I.M. Lewis in *A Pastoral Democracy*¹³. In a setting of this kind, the political authority of the chief is limited, as other chiefs, nominally subordinated, counterbalance him and because internal relations are founded on kinship. Furthermore, competition between and among clans (*reer*) only partially respected affinity. When one sub-clan acquired more power, it tended to claim its own autonomy. However, the clans were susceptible to divide rather than collapsing because they were vulnerable to the same principle; *i.e.* that they would further split, meaning that in the end there was a threat to corporate unity, which could only be re-established after countless mediations by chiefs called into play in temporary roles. I.M. Lewis, who observed this directly in British Somaliland, was not wrong and referred to it as the “segmentary opposition principle”¹⁴. Italian authorities, which were aware of the fragility of the Somali political setting and the frequent disputes among clans, counted exactly on that to exploit this lack of corporate unity in order to gain in influence during the early stages of the protectorate agreement, admittedly with little success. The lack of a continuous presence and poor resources used to attract disloyal subordinate chiefs by encouraging their greed probably played an important role. However, something had started to change by the second half of the XIX century, when the Boqor¹⁵, as the Sultan was traditionally referred to, had also started to be referred to using the Arabized title of *Suldaan*. Such a semantic shift was not only formal but also meant a slow and gradual strengthening in the political unity of the Majeerteen as a corporate group. This was however achieved only after the Sultanate was forced to cope

¹³ LEWIS, *A Pastoral Democracy: A Study of Pastoralism and Politics Among the Northern Somali of the Horn of Africa*, New York, 1961. For a more recent re-appraisal of Lewis work, see HÖHNE, *Traditional Authorities in Northern Somalia*, in *Max Planck Institute for Social Anthropology Working Papers*, no. 82, 2006.

¹⁴ The concept is borrowed from the well-known anthropologist Evans-Pritchard (EVANS-PRITCHARD, *The Nuer*, Oxford, 1940), of whom Lewis was a PhD student.

¹⁵ The word boqor also refers to a traditional belt worn by women (KEENADIID, *Ina Cabdille Xasan e la sua attività letteraria*, Napoli, 1984, p. 41).

with tremendous challenges that were provided by colonialism¹⁶. To call it a State at that time was too much, since from the start of the colonial pressures, the “Sultanate” had exerted a limited control over a territory which was subject to the rules of a still largely nomadic society. The Sultanate in this phase was not more than a tribal group, which recognized the Sultan as a legitimate representative of the group in its external relations. Such a political configuration kept maintaining its federal principles, but, as elsewhere stated, the “Sultanate” was able, notwithstanding unusual challenges, namely continuous harassment by the Italian military officials¹⁷ and the agitation and attraction created by the Darwish *jihad*¹⁸, to foster its unity against the outside world. As these threats grew, the Sultanate developed more stable institutions, as the Hobyos had already done previously. However, in the end, it was better able to face Fascist expansion because it was endowed with a traditional (*i.e.* native) legitimacy: that of Boqor¹⁹. This result was achieved mainly without coercion: in the face of external aggression, the different components of the *tol* majeerteen fostered their political union, at least in the Bari region.

While coercion was not at the foundation of polity in Bari, but rather kinship, mutual interest (trade with the Arab peninsula) and a common juridical culture (*xeer*)²⁰, coercion had played an important role in building up statehood in Hobyos at the end of the XIX century. However, dismissing the Hobyos Sultanate created by Yusuf Ali Keenadiid as solely a predatory enterprise supported by external forces (the Italians) means failing to recognize its complexity. Rather, on the eve of the Italian conquest, in 1924, the Sultanate appeared to be ruled by a composite elite, united at the core by marriages and economic interests. Further-

¹⁶ BATTERA, *Modelli di leadership nel Corno d’Africa*, in GRANDE (ed.), *Transplants Innovation and Legal Tradition in the Horn of Africa*, Torino, 1995, p. 167.

¹⁷ In 1901, Bereeda, one of the coastal residences of the Sultan was bombed by Italian vessels (BATTERA, *Dalla tribù allo Stato nella Somalia nord-orientale*, Trieste, 2004, p. 152).

¹⁸ BATTERA, *La questione daraawiish*, cit., p. 55.

¹⁹ The title of Boqor, in fact, was never supplanted by *Suldaan*, as the Majeerteen paramount chief is up until today referred to either as Boqor or *Suldaan*. The introduction of the title of *Suldaan* – “Sultan umum Majerten” – had probably started to be employed by the mid XIX century in official documents in external relations with foreign local powers – *i.e.* in the Southern Arabian peninsula – which had also employed the same title – for example the Sultanate of Shihr and Mukalla and the Sultanate of Oman – and only later with colonial powers. It marks an important shift in the pursuit of an external legitimacy and recognition of a territorial authority through the imitation of an ‘Arab’ model of authority which was intended to be no longer limited only to a population (*gens*) – the Majeerteen (BATTERA, *Modelli di leadership nel Corno d’Africa*, cit., p. 172-173). However such territorial recognition came only after the establishment of the protectorate when colonial authorities attempted to establish precise boundaries, with limited results.

²⁰ On *xeer* as a common Somali juridical culture see ABDI-MOHAMED (*Rétrospective de la crise somalienne. Réhabilitation de la société civile*, in ABDI-MOHAMED (ed.), *Pour une culture de la paix en Somalie, Actes du second Congrès International des Etudes Somaliennes*, Paris, 1997, pp. 103-149).

more, a network of alliances between this elite and tribes in the remote areas ensured a certain degree of legitimacy and external defence. Being a patrimonial polity, in the Weberian meaning, it was a complex and unstable political system destined to expand through defensive alliances (mainly against the Darwish) founded on mutual political and economic interest. In its forty-year lifetime, the Italian protectorate favoured expansion²¹, because the Italian power, still fragile, found in the Sultanate a counterbalance to oppose the Darwish movement when this, after the collapse of the Pestalozza's agreement, attempted to expand into Southern Somalia. However, as the Italian authorities grew in military strength, the Colony and the Sultanate were destined to collide.

Hobyó had been chosen as a safe harbour by Yusuf Ali about a decade before the establishment of the protection agreement, when the Bah Ya'aquub failed to impose themselves at the head of the Majeerteen Sultanate²². Compelled in the harbour of Aluula in the Gulf of 'Aden in the Bari region, part of them decided to move southward in the southern Mudug. This region was inhabited by a completely different clan realm, the Habar Gidir-Sa'ad of the Hawiye confederacy. Initial relations were bad and coercion played an important role at the beginning. However, special relations with the Northern Mudug Omar Mahamud²³ and an alliance with the Reer Ne'emaale-Sa'ad against the attempts of Zanzibar to control the region helped in consolidating their regional control. The development of Hobyo as a safe harbour from where they could trade the Sa'ad cattle turned Hobyo into an attractive place to stay in a region which had barely been touched by trade up to that point²⁴.

People that had followed Yusuf Ali in his expedition to Mudug from Aluula made up the bulk of the core administration. They became *naacib* (governors), *abbaanduule* (military chiefs) or Sultan advisors. However, they also maintained their economic interests in the Bari coast and Yemen. A sort of double political system survived at the early stages of the Sultanate life, that is to say an administration at the core attached to family relationships and loyalty towards the Sultan, and an "indirect rule" in border areas where the tribal system was kept intact for defensive purposes as in the Northern Abgaal or the Marehan territories. Nevertheless, the expansion of the "core", marked by the establishment of *gareesas* (forts), such as the northern ones of Gaalkacyo and Garacad, implied

²¹ In 1889, when the protectorate was signed, the authority exerted by the Sultanate was limited to the coastal areas between Raas Abaad and Mareeg. In 1918-1920, Hobyo had expanded from the outpost of Mahaas (Eastern Hiraan), in the South, to Illigh (Nugaal), in the North, and Gallaadi (Eastern Ethiopia), in the East. About 150,000 km square: almost the same dimension of the then Italian occupied Somalia.

²² The boqor is traditionally chosen among the Bah Dir. The Bah Yaaquub, although important, are a collateral branch of the Ismaan Maxamuud.

²³ CERULLI, *Razzie e razziatori nella Somalia settentrionale*, in *Oriente Moderno*, 1931, pp. 259-262.

²⁴ Pestalozza to the Ministry of Foreign Affairs (MAE), January 1900 (ASMAI, pos. 59/2-15).

the involvement of once peripheral clans, such as the Omar Mahamud, into that “core”. Marriages ensured elite cohesion and participation in economic prosperity. At this upper level affiliation to the family of the Sultan became known as “*reer Yuusuf*” from Keenadiid’s name. This involved people of heterogeneous origin. At a lower stratum, in remote areas the Sultan’s *askars* (soldiers), who were also heterogeneous by origin, married local women too.

Differences with the Majeerteen Sultanate are therefore obvious. While in the Majeerteen Sultanate the army was mostly just an assembly of armed clan warriors, in the Hobyo Sultanate the core of the army was made up of a militia of mixed origins loyal to the Sultan, while the borders remained guarded by armed clans still ruled according to tribal allegiances and common customary rules. The two levels permeated each other as the tribal sphere was shaped by Hobyo strength, but could also lead to clash when Hobyo was weakened by external forces such as the Darwish, or as happened in the southern border of the Sultanate, with the Ayr or the Abgaal, who preferred to establish stronger relations with Italian authorities. Only when the Darwish movement pushed the Majeerteen Sultanate from their southern and western bases, did the Sultan of Majeerteen start to develop a military structure shaped on the Hobyo’s model, organized on *naacib*, chosen among the Bah Dir elite or those Majeerteen groups with stronger relations with the Sultan, and fixed *garesas*. In any case, the Boqor/*Suldaan* of Majeerteen was endowed with a degree of legitimacy which derived, in Weberian terms, from tradition (*xeer*). A condition that the Sultan of Hobyo never met. That proved to be of utmost importance at the moment of conquest²⁵.

3. *De Vecchi and the Fascist Italian Policy Towards Somalia*

The end of the Darwish movement and the liberation of Nugaal and Hiraan created important political problems for the Italian administration, first, towards Hobyo. Ali Yusuf²⁶, having found the Middle Shabeelle barred by the Italians, who had established a new garrison in Buulobarde (Hiraan), had profited from the last five years weakness of the movement to realize a program of expansion towards the Ogaden and the Nugaal. This expansion raised concern in Britain. After the final defeat of the Darwish, the Sultan started to play the role of defender of the Daarood. Of course, Italy too was concerned about his increasing power²⁷.

²⁵ The differences between the two could be roughly summarized as those between traditional authority and patrimonial domination (WEBER, *Wirtschaft und Gesellschaft*, Köln, 1964). There is no radical break between the two; in fact, the latter is a development and alteration of the former.

²⁶ Ali Yusuf became Sultan at the death of his father at the end of September 1911.

²⁷ BATTERA, *Dalla tribù allo Stato nella Somalia nord-orientale*, cit., p. 215. See also, DE VEC-

After the occupation of the Darwish garrisons in the lower Nugaal that ended the buffer role of this region, the territories of the two Sultanates (Hobyo and Majeerteen) shared contiguous borders. Since 1920-1921, the Omar Mahamud factions had found refuge in the North Nugaal and began to go back to their land in the Mudug and the Golool (North Mudug), preoccupying the colonial authorities in Mogadishu who feared a possible clash between the two Sultans. Other sources of concern for Italian authorities were the relations between the populations protected by Italy and the ones protected by British authorities that increasingly provoked raids and collisions, especially between Hobyo, on the one side, and the Isaaq and the Dhulbahante, on the other. These problems were related to the need for a better delimitation of the borders between the two colonies that was added to the similar circumstances with Ethiopia that had been only partially resolved in 1908 with a signature of a convention between the two governments. Finally, one of the greatest concerns for Italian authorities remained the disarmament of the populations of the Colony, especially in the Shabeelle and the Hiraan that had previously been armed by the De Martino administration itself with the aim of countering the Darwish.

In May 1922, the problems related to the ownership claims of the clans that used to move between Somaliland and the Bari region were finally settled. In Bendersiyada a meeting was held between *Commissario* (commissioner) Crispi and Maj Lawrence, who was the *district commissioner* of the Warsangeli territory at that time. In this meeting, Boqor Osman and other Majeerteen and Warsangeli notables were also present. On this occasion, British authorities acknowledged Italian sovereignty over the Kabtanleh, a clan that shared its *xeer* in common with the Dishiiishe and that was therefore an integral part of the Sultanate²⁸.

During the spring of 1923, Governor Riveri, who preceded De Vecchi as Governor of the Colony, proposed the institution of a *commissariato* in the Nugaal with Illigh, at that time occupied by Ali Yuusuf, as capital city. His proposals meant the erection of some garrisons along the British border. His proposal was supported by the Minister of the Colonies Federzoni²⁹. This solution aimed to stop the raids between the Sultanates and the populations of the British Upper Nugaal, and therefore to establish a permanent solution for the definition of the borders, as well as to ensure greater control of the two Sultanates to be achieved through a new protectorate agreement³⁰. However, in October 1923, Riveri was dismissed and replaced by the *quadrumvir* Cesare Maria De Vecchi di Val Cismon³¹. For

CHI, *Orizzonti d'Impero*, Milano, 1935, p. 14.

²⁸ DE VECCHI, *Orizzonti d'Impero*, cit., 1935, p. 83.

²⁹ CAROSELLI, *Ferro e fuoco in Somalia*, cit., p. 307. Luigi Federzoni was Minister of the Colonies twice, between 1922 and 1924 and 1926 and 1928.

³⁰ DEL BOCA, *Gli Italiani in Africa Orientale, Parte 2, La conquista dell'Impero*, Bari, 1979, p. 55.

³¹ *Quadrumvir* was an honorific title for the group of four who had led Benito Mussolini's "March on Rome" in October 1922.

Somalia this marked the conclusion of one age and the beginning of another one.

What De Vecchi wanted to give was not merely a new image that was more coherent with the fascist ideas, but to imprint a new type of relations between the administration and its subjects. According to the *quadrumvir*, the “indirect rule” of previous administrations had just been a display of weakness that had to be redressed³². This assessment also applied to the policy adopted by the previous administration towards the two sultanates. Changing colonial mentality implied a tougher attitude both to subjects reluctant to be dominated and administrators who naively were fascinated by local culture. The first military action of the new Governor was the disbanding of the old police body and the institution of the *Corpo Zaptié della Somalia*, in order to provide greater control to the colonial troop in charge for maintaining internal order³³. The subsequent step was the disarmament of the clans that were once used against the Darwish. In January 1924, the clan chiefs were ordered to handover their weapons to the district commissioners (*residenti*). Disarmament proceeded without great difficulties with the notable exception of Hiiraan, against the Gaalje’el-Barsame led by *Sheikh Haji Hassan Sheikh Nuur*. The repression was strong and marked by seizure of cattle and torching of villages. Finally, the administration established new political measures that would have downsized the role of the “chiefs”. They were to survive but only to achieve a strong and centralized State, coherently with the fascist ideology that aimed to build the “Empire”. This disarmament operation reduced the autonomy of local groups that had preserved their self-defence to date. For this purpose, repression was the favourite means of Fascism to assure “pacification”.

The pages which follow, especially those regarding the military operations against the Northern Sultanates, are mainly based on De Vecchi’s *Orizzonti d’Impero* (“Horizons of Empire”)³⁴. This is now an important source on the Italian imperialism, imbued with arrogance, overconfidence on Italian moral superiority and profound contempt towards the “subjects”, native culture and institutions. De Vecchi regards himself without modesty as the maker of the Italian “Empire”. According to this vision, once “pacified” Somalia had to become a jumping off point for the next step of the Empire building: Ethiopia³⁵. The two sultanates were targeted for their strategic position. The *de facto* independence which they had enjoyed until then had to be redressed accordingly. Justifications for the submission of the reluctant sultanates to the authority of the Colony were not however only ideological – the primacy and prestige of Italy over its subjects – but

³² DE VECCHI, *Orizzonti d’Impero*, cit., 1935, pp. 67-68.

³³ DEL BOCA, *Gli Italiani in Africa Orientale*, cit., p. 55. The *Zaptié* was a constabulary force already employed in Eritrea. In Somalia, recruitment was from among Somalis and forces would be employed during the military operations in Northern Somalia.

³⁴ DE VECCHI, *Orizzonti d’Impero*, cit., pp. 125-280.

³⁵ *Ibidem*, p. 47.

also juridical. In *Orizzonti d'Impero*, De Vecchi recalls the legal distinction between an international and colonial protectorate, as the former signed by two legal and sovereign entities was subjected to the international law and the latter was subjected to domestic law as the colonial protectorate was the result of an agreement between a sovereign State and a “native” chief³⁶. The autonomy enjoyed by the sultans was therefore considered a simple concession by the Italian authorities as a result of their inability to enforce their own law.

Orizzonti d'Impero was published in 1935 when the “Empire” was about to be a reality, albeit ephemeral. De Vecchi was regarded by Mussolini as nothing more than a big head. Nonetheless, such an uncompromising and unscrupulous man, became the indispensable means through which a society which had been able to survive and to maintain some autonomy under extraordinary pressures from multiple imperialisms could be subjugated. He realized his job with brutality, prompting, contrary to his expectations, fierce resistance and a prolonging of the military conquest. This failure caused his final demise. But the mission had been accomplished and a new chapter in political relations between conquerors and conquered followed.

4. *The Italian Intelligence on the Sultanates*

Committed to establishing a new order in the Sultanates, in 1924, De Vecchi replaced the old District commissioners that resided in Hobyo and Aluula. Colonel Trivulzio was sent to Hobyo, while District commissioner Ettore Coronaro was sent in the Bari region. Their task was to be that of informing the Sultans about the new measures. These would likely end the statute of protectorate that had been accorded until that time, implying the annexation of the Colony and the disarmament of *qabaail* (clans). Furthermore, Trivulzio and Coronaro had to provide De Vecchi with accurate information gathered about the military capacities of the Sultans in case resistance to these measures would have required military intervention.

De Vecchi had no illusions about a possible acceptance of these conditions. He had been warned by British authorities about the prestige and influence that Ali Yuusuf had acquired on the Ogaden. British authorities also feared a renewed spread of *jihad*, this time led by the Sultan³⁷. In January 1924, the new Governor complained to Federzoni, Minister of the Colonies, about the excessive

³⁶ *Ibidem*, p. 64.

³⁷ During October 1924, the British Somaliland Governor gave De Vecchi a copy of a letter of Ali Yusuf, which was supposed to have been sent to some Daarood and Isaaq clans calling for a common cause against the “nonbelievers” (ASMAI, pos. 88/9, f. 32). In the meantime, according to the British authorities, Ali Yusuf attempted to “enlist” the Ogaden to his side (*Somaliland Protectorate Intelligence Report*, September-October 1924, R/20/A/1232).

independence of the Sultan and the lack of “respect” showed to Italian authority. The Sultan was also accused of diverting the trades from the Wabi Shabeelle river to Hobyo, with the effect of destabilizing the monopoly acquired by the Colony, and of distributing weapons outside its territory, most likely to the Ogaden³⁸. De Vecchi, bearing in mind the British expedition of 1902-1903, which had resulted in the rapid collapse of the political structures of the Sultanate, counted with a certain optimism on playing on the existing rivalries between Daarood and Hawiye in Hobyo.

As far as the Majeerteen Sultanate was concerned, the information on Bari, gathered by Italian authorities, was rather incomplete. In particular, those regarding the relations between groups in the Northern Sultanate dated back to 1880-1890³⁹. It was not only precise anthropologic and ethnographic information that was missing, but also information of topographic nature that were necessary in case of probable military operations. For this purpose, Coronaro decided to send Stefanini Puccioni to the Bari region⁴⁰. The mission started from Hurdiyo in May 1924 and finished in July of the same year having covered nine hundred and twenty-four kilometers.

The mission found out, as a crucial political factor, the importance of the Sultan authority over the groups under his authority and the predominant political and military role that his son Hirsi Osman had acquired in the recent years⁴¹. De Vecchi was however convinced and relied on the fact that the authority of Boqor Osman was rather compromised in the most remote areas⁴². Moreover, De Vecchi carelessly relied on the supposed bad relations between the “Bahdir oligarchy” and the coastal groups such as the Dishiiishe and the Wabeeneeye. He was hoping to use both groups together with the Ali Saleebaan (in the Bari) and the Isse Mahamud (in the Nugaal) in order to facilitate his political and military penetration into the interior of the Sultanate⁴³.

As far as the political-military organization of the two Sultanates was concerned, military reports related to Hobyo estimated that around 2,800 rifles had

³⁸ De Vecchi to Federzoni, Mogadishu, 20 January 1924 (ASMAI, pos. 88/9, f. 32).

³⁹ Revoil’s “*La vallée du Darror*” and Robecchi-Bricchetti’s “*Nel paese degli aromi*” (DE VECCHI, *Orizzonti d’Impero*, cit., p. 75).

⁴⁰ CORONARO, *La Migurtinia e il territorio del Nogal*, in *Monografie delle regioni della Somalia*, no. 2 (Regio Governo della Somalia Italiana), Torino, 1925.

⁴¹ In the meantime, Yuusuf Ismaan, who had succeeded Boqor Ismaan, died. Worrying that Xirsi could become boqor, which was excluded by the Majeerteen *xeer* since he was not a Bah Dir, Coronaro tried to convince Boqor Ismaan to declare himself in favour of Ali son of Yuusuf as legitimate successor (DE VECCHI, *Orizzonti d’Impero*, cit., p. 78). Not even Ali had to become boqor, but his brother Muuse.

⁴² DE VECCHI, *Orizzonti d’Impero*, cit., p. 77.

⁴³ *Ibidem*, p. 132.

been distributed between the *garesas* of eel Dheere, eelbuur, Mahaas, Harardheere, Ghallaadi, eelhuur, Galka'ayo, Jiriiban, Ilig, Gara'ad and Hobyo⁴⁴.

As far as the Majeerteen Sultanate was concerned, Coronaro considered that the Sultan could count on about six-seven thousand fighters of which four-five thousand were armed with rifles. These figures were only related to the autonomous populations of Bari, or more likely to the sole Osman Mahmud. Possible support by the Isse and Omar Mahamud was therefore discarded, as they were supposed to be hostile towards the Sultan. The Sultan could also count on a troop of about four hundred men called the "Midgo of the Sultan" whose supervision was managed by the Sultan himself. Likewise Hobyo, although less centralized, had its defense apparatus structured on four frontier *naacibiyo*. That of Eeyl, in the Nugaal, was in charge of the surveillance at the border with Hobyo and of control of the nomadizing movements of Isse and Omar Mahamuud. Dhuudo, on the border with Sool, was in charge of the surveillance of the southwestern frontier up to Taleeh, while two residences in the Daroor were in charge of watching over the area between Borraan and Karin⁴⁵. According to Coronaro, there was not a rigid military organization like the one in Hobyo, arranged around an army of *askars* recruited regardless of their clan background, instead in Bari the military defence still largely relied on the traditional model of the armed clans. It was therefore excluded that "[...] the Majeerteen could have never been able to organize a serious and prolonged resistance to our possible occupation of the territory [...]"⁴⁶. As we will see, it was exactly the opposite. This lack of information and incorrect estimates on the resistance capacity, especially as far as the Sultanate of Majeerteen was concerned, were due to both arrogance and underestimation, as well as poor intelligence, since most of the informers were in fact working for the Sultan⁴⁷.

5. *The Military Operations (1925-1927)*

The military operations against the Sultanate of Hobyo started with a political disintegration effort. For a long time, relations with the Omar Mahamud had

⁴⁴ Armed forces in the Sultanate had again been subdivided into six *naacibiyo* (DE VECCHI, *Orizzonti d'Impero* cit, p. 106). At the end of 1924 most of the Sultanate's *askar* had been withdrawn from Gaalkacayo to Hobyo. The Omar Mahamuud-Reer Khalaf and Reer Aadan were therefore free to move to Mudug, with the satisfaction of the Italian authorities (from De Vecchi to the Minister of Colonies, Mogadishu, 24 December 1924, ASMAI, pos. 89/9, f. 32).

⁴⁵ CORONARO, *La Migiurtinia e il territorio del Nogal*, cit., pp. 43-44.

⁴⁶ DE VECCHI, *Orizzonti d'Impero* cit, p. 111.

⁴⁷ Among them Ma'allin Jaama'a Bilaal, who later on had to play an important role in Mogadishu during the early developments of Somali nationalism. For further information, see BATTERA, *Dalla tribù allo Stato nella Somalia nord-orientale*, cit., p. 246, fn. 52.

deteriorated⁴⁸. The tension between these ones and the Sultanate seemed to explode again on the eve of the Italian occupation when, little by little, Omar Mahamud withdrew to their home places in the Mudug. However, this issue was resolved by the intercession of Boqor Osman prompted by Aali Yusuf himself⁴⁹. Most of the *askar* of the Sultan were by then composed by Marehan and Habar Gidir. The political disintegration was directed to the latter, in particular the Sa'ad that were more linked to the Sultan⁵⁰. The occupation of Hobyo therefore occurred, without major incident, in October 1925. The Sultan surrendered to the inevitable while the whole leadership of the Sultanate pledged allegiance to the Italian government⁵¹.

In the meantime, up in the North, in April of 1925, Eyl in the Nugaal, a garrison of the Majeerteen Sultanate, was occupied by the Italians. To the surprise of De Vecchi however, neither the Isse nor the Omar Mahamud lined up on the Italian side but withdrew to the Bari region reinforcing the armed forces of the Boqor. Only later on Islaan Farah with his faction, the *Reer Islaan*, surrendered⁵². However, most warriors' lineages, such as the *Reer Khalaf*, the *Reer Hirsin* and the *Reer Mahad* would have continued their resistance. To the disapproval of De Vecchi, military operations which ensued against the Omar Mahamud were further delayed by Boqor Osman's propaganda among the Sa'ad and the Saleeman that made up most of the *askars* of Ali Yusuf⁵³. Consequently, the submission of the Omar Mahamud, that could not move further north because of the great quantity of cattle that could not cross the British border, took place only at the end of June in Kalis, in the Nugaal. The Italians obtained this result only after they made several requisitions of cattle and after they had taken the *Islaan* himself and other notables as hostages⁵⁴.

In contrast with the apparent calm in Hobyo, in Bari the resistance of the Sultan was consolidating. He had withdrawn most of his troops into the hinterland. Against the Majeerteen, De Vecchi took personal command of operations. In October of 1925, he ordered the destruction of Bender Beyla, the habitual

⁴⁸They deteriorated after the death of the Keenadiid in 1912, when Ali Yusuf decided to strengthen its relations with the Habar Gidir at the expense of the influence that the Omar Mahamud had on the Sultanate (Captain Casale's report to the Colony, June 1912, ASMAI, pos. 59/7, f. 106). The *askar* of the Sultanate were mainly recruited among the Cumar Maxamuud.

⁴⁹DE VECCHI, *Orizzonti d'Impero* cit, pp. 70-71, fn. 2.

⁵⁰Sacad who were supposed to play this role were those already enlisted in the Italian army as "dubat" (DE VECCHI, *Orizzonti d'Impero*, cit., pp. 74 and 181).

⁵¹Among them Godagoddo. He was a Omar Mahamud and *abaanduule* of the Sultan. He had to play a crucial role during a *fallaago* against the Italians later on (DE VECCHI, *Orizzonti d'Impero*, cit., p. 120).

⁵²*Ibidem*, pp. 181-190.

⁵³*Ibidem*, p. 184.

⁵⁴*Ibidem*, pp. 196-202.

residence of Hirsi Osman, who also withdrew to the hinterland, and of Baargaal, one of the residences of the Sultan. Boosaaso, Bender Siyada and Aluula were occupied as a result, and the blockade of the coast and the seizure of the *sambuug* were put into force. Hundreds of notables were arrested, among which was Ahmed Osman Taajir, brother of the Sultan, who was forcibly transferred to Mogadishu⁵⁵. However, the resistance re-exploded again in the hinterland where the military strength of the Sultan had remained intact.

In the meantime, the situation of apparent calm in the territory of Hobyo was doomed to change shortly after. After occupation, a military administration took over. Its first target was the disarmament of the *askars* and the clans. In eelbuur, an uprising that lasted for years which spread outside Italian Somalia was about to occur⁵⁶. Among the people in charge of seizing the weapons, there were the *abaanduule* of the Hobyo *garesa*, Hirsi Guusha, Isxaaq-Gurey and Mahamud axamuud Mohammed “Godaggodo”⁵⁷. They opposed resistance to the measure and were then arrested. The uprising they took part in, in spite of Italian propaganda, saw many Habar Gidir also being involved⁵⁸, under the leadership of Omar Samatar, former *nacib* of the Sultanate⁵⁹. The uprising resulted in the liberation of the chiefs who were detained in the *garesa* and the murder of Captain Carolei. De Vecchi found himself “[...] with all the network of information and all his policy broken [...]”⁶⁰. Omar Samatar, being aware that it was impossible to resist in the hinterland of the Sultanate, withdrew with part of his armed forces beyond the border where he was soon joined by Muuse Yusuf, the brother of the Sultan. Godaggodo and Hirsi Guushaa instead, remained near Eelbuur hoping to rise up the Ayr but they were ambushed by them and killed⁶¹.

⁵⁵ *Ibidem*, p. 257. Taajir was one of the most prominent businessmen in the Bari Sultanate. He had played an important role in the negotiations between Boqor Osman and the Italian authorities during the entire history of relations between Italy and the Majeerteen. He was on the Italian payroll from Pestalozza’s time, in 1906 (Pestalozza to the MAE, ‘Aden, 15 March 1906, ASMAI, pos. 59/4, f. 58).

⁵⁶ All these revolts (*fallaago*) are orally celebrated. They have been mentioned by KEENADIID, *Ina Cabdille Xasan e la sua attività letteraria*, cit., pp. 39-40.

⁵⁷ *Ibidem*, p. 56, fn. 13.

⁵⁸ DE VECCHI, *Orizzonti d’Impero*, cit., p. 139.

⁵⁹ KEENADIID, *Ina Cabdille Xasan e la sua attività letteraria*, cit., p. 39.

⁶⁰ As an attempt to recover the support of the Habar Gidir, De Vecchi tried with no success to involve *Haji Osman* Osman Sharmaarke, who was a member of the Sultan’s family, and *Sharif* Ali Aydaruus, one of the most prominent religious men in Mogadishu (for further information, see DE VECCHI, *Orizzonti d’Impero*, cit., p. 150, fn. 1).

⁶¹ Contrary to the Soleeman and Sa’ad enlisted as *dubat* in the native Italian corps, who were for the most reluctant to take part to the military occupation, the Ayr welcomed the end of the Sultanate as they had suffered under its rule. Their “treason” is remembered by the Majeerteen poem by Farah Osman Kowto (in ANTINUCCI-ALI IDAAJAA (eds.), *Poesia orale somala*, in *Studi Somali*, 1986).

The new situation in Hobyo and Eelbuur and the escape of Muuse Yusuf convinced De Vecchi to impose more restrictive measures. The Sultan was first arrested and then deported with his family and the families of the Daarood notables, among which the family of *Haji* Osman Sharmarke, to Mogadishu, where they would be forced to stay. Once beheaded of its leadership, the Sultanate was then permanently eliminated and the Hawiye leadership was pressed to pledge allegiance to the government.

The rashness and the improvisation of the military operations, the harsh political measures adopted, in particular the ones regarding the Sultans and their families, the bombing of the residences in Bari and the arrest of Ali Yusuf contributed, despite the triumphalist tones of the propaganda, to a worsening of the position of De Vecchi in Italy where he was scarcely esteemed⁶². Nonetheless, the military operations could not be stopped and the political situation could not be brought to the *status quo ante* without compromising the image of the regime. The inadequacy and lack of preparation of military operations, the underestimation of the Sultanates that had prompted De Vecchi to act in such haste in order to satisfy his dreams of an "Empire" would not have halted the objective to install a single authority in Somalia. He had only started the process. On 28 October 1926, Mussolini therefore announced the end of the Sultanates and the proclamation of the direct dominion. The military operation therefore had to go further.

Once the occupation of the Sultanate of Hobyo was achieved and once the *fallaago* moved to Ethiopia, the greatest obstacle remained the Sultanate of Majeerteen. On 2 October 1926, Qardho gave in. Being placed in the heart of Sool, the only way open to escape to Somaliland remained the Daroor⁶³. With the conquest of Qardho, De Vecchi also hoped to separate the coastal clan in order to isolate the Omar Mahamud. He was however once more wrong because the occupation of Qandala caused the uprising of Ali and Ugaas Saleebaan whom he had wanted on his side. However, the Ali and Ugaas Saleebaan withdrew towards the interior, reinforcing the defences of the Sultan, helped by a great number of rifles, who was then able to attack and destroy the garrisons of Karin and Qardho itself. This episode delayed the final conquest. Only once De Vecchi had obtained large reinforcements, was he able to complete the conquest, in January 1927, after having defeated Hirsi Boqor at Iskushuban and Boqor Osman himself at Hiddo, not far from Qardho. Hirsi Boqor too sheltered in Ethiopia joining Osman Samatar, Muuse Yusuf and the other escaped Majeerteen. Boqor Osman fled to Somaliland from where he tried in vain to negotiate, counting on the intervention of British authorities. On 21 November 1927, he surrendered to De Vecchi, who confined him to permanent and compulsory residence in Mogadi-

⁶² DEL BOCA, *Gli Italiani in Africa Orientale*, cit., p. 60.

⁶³ This place was secured by the Abokor Isse-Isse Mahamud who had not surrendered, contrary to De Vecchi's expectations (DE VECCHI, *Orizzonti d'Impero*, cit., p. 237).

shu. The *quadrumvir* could therefore triumphantly announce that at last “[...] the name of the Sultan had finally disappeared from the political maps of Northern Somalia [...]”⁶⁴. However, the fortunes of De Vecchi was also doomed to change. Unpopular in Italy, in June 1928, he permanently left Somalia to be assigned to Corni⁶⁵. After years of destruction and repression, personalities that could be more suitable to the process of reconstruction were in deep need.

6. *The Eelbuur and Bari Fallaago*

The political success of the *fallaago* of Eelbuur and Bari, as they are remembered by the Northern Somali, especially the latter, show the degree of legitimization of the Sultan institutions despite the disproportionate number of forces and the inevitability of the Italian military success. The colonial aggression and the threats to the Boqor triggered a mechanism of solidarity among the Harti. During the attempts to fight against the Italian penetration, which lasted almost two years, the Boqor managed to obtain the support of all Majeerteen factions. These included the Osman, the Isse Mahamud and the Ali Saleebaan all of which, because of their traditional self-rule, De Vecchi had tried without success to separate and play against each other since the beginning of military operations. The Boqor also managed to gain the support and hospitality of the Warsangeli and Dhulbahante, even where especially the latter could have taken advantage of their weakness⁶⁶. Once faced with danger, such Harti fractions were able to put aside their differences and act in a unitary way.

In October 1925, facing the first threats of forced disarmament, Boqor Osman had called a *shir* of the whole *tol* Majeerteen near the wells of Dhur in the middle of the Isse Mahamud territory. Once he obtained the approval of the tribe, he opted for resistance⁶⁷. The populations of the coast that were directly exposed to retaliation measures and to the seizure of *sambuug* were the first ones to give in before the occupation, while others, like the Ali Saleebaan that were more rooted in the internal area, joined the Boqor until his final capitulation.

⁶⁴ *Ibidem*, p. 276.

⁶⁵ He was later on (1936) transferred as Governor to the Italian islands of the Aegean where he tried to establish a brutal policy of italianization (see the files on De Vecchi in *Archivio Centrale dello Stato* (ACS), *Segreteria particolare del Duce*, b. 4, f. 47/R).

⁶⁶ The Dhulbahante had been the bulk of recruits among the Darwish. After the end of the movement, they have resumed their traditional homeland in the Sool and Upper Nugaal. Their relations have remained strained with both the Warsangeli and Majeerteen. They could have profited from the weaknesses of the Majeerteen Sultanate, but they did not.

⁶⁷ DE VECCHI, *Orizzonti d'Impero*, cit., p. 128.

The Omar Mahamud participated in the *fallaago* of the Boqor and those who still resided in the territory of the Sultanate of Hobyo mostly sheltered in Ethiopia on the side of Muse Yusuf. The Omar Mahamud was among the traditionally most reluctant clan of the Majeerteen to make allegiance to the two Sultans. They had also behaved autonomously on this occasion but, in the end, in order to maximize their self-rule, they had joined forces with those of the Sultans. The nearly immediate capitulation of the *Ismaan* with his family and the other elders during the first stages of military operations took place while most of the clan kept fighting. This particular part should not be seen as the result of internal fissions; it was indeed a rather coherent position with a tradition that aimed to separate the *Reer Ismaan*, whose authority was institutionally aimed at mediation, from the rest of the *qabiil* that was formed as warriors, notably among them the *Reer Mahad*⁶⁸. Similarly, when the Boqor resigned in November 1927, his son Hirsi who was not supposed to succeed him chose to continue the resistance in Ethiopia. These strategies were aimed at preventing larger costs for the corporate identity of the group as a whole. Separating the leadership from the young warriors was made to preserve not only the physical integrity of the chiefs and the institution they represented, but also the responsibility and the task of defending the honour of the clan which was only provided by the warriors. Such non-involvement in violence by the political, religious and traditional authorities was a common feature in the whole Somalia which had always allowed the traditional authority to endure, even in the most difficult moments such as the contemporary ones.

The events in North-Eastern Somalia also echo the rest of the country although they did not prompt copycat effects such as the Darwish movement had done previously, with the exception of one brief episode in Dhanaane in October 1926, harshly repressed⁶⁹. Decades of war and repressions by colonial authorities and the divisive effects of the Darwish *jihad* had exhausted Somali society as a whole. The Italian administration, previously, during the operations of disarmament of Central-Southern Somalia, had proved to be firm and avoided any possible link among the different movements of resistance. However, the *divide et impera* played between Hawiye and Daarood in the former Sultanate of Hobyo had not immediately produced the desired effect. The Habar Gidir definitely left the Sultan only when the occupation was inevitable⁷⁰. However, the strict connection between the two *fallaago* is clear. Omar Samatar and Hirsi Osman were in contact. The former warned the latter against the movements of

⁶⁸ *Ibidem*, p. 202.

⁶⁹ *Ibidem*, pp. 243-246.

⁷⁰ De Vecchi admits that some notables petitioned for the return of Ali Yusuf in Hobyo but with no success (*ibidem*, p. 180, fn. 1).

Italian troops in the Mudug⁷¹. Once a way out was found, Hirsi joined him in Ethiopia.

The *fallaago* of Hobyo had a wider participation than the one that was easily dismissed by De Vecchi. Entire clans moved to Ethiopia, finding support and assistance beyond the border among the Ogaden or among those factions that had previously adhered to the Darwish movement. The Ajuraan, who had already been part of the Darwish, welcomed the Marehan⁷². Those Omar Mahamud determined to fight were hosted among the Dhulbahante in the Upper Nugaal. The same happened to the *Reer Bi'idyahan* in Qorrahee among the *Reer Abdille-Ogaden*⁷³. Part of the *Reer Abdille*, of the Dhulbahante and the entire Makaa-hill, all former Darwish, shared a common cause with the rebels, increasing the Italian authorities' concern about an enlargement of the anti-colonial front⁷⁴.

As the situation became increasingly stable, most of these groups went back to their original territories in the following years and agreed to a settlement with the government. Nonetheless, a heterogeneous nucleus remained in Ethiopia based in Qorrahee under the leadership of Omar Samatar. In Iidoole, on the Wabi Shabeelle, they elected Muse Yusuf as their Sultan. However, there was no enlargement of the anti-colonial front. For years these groups' motives were of concern for Italian authorities and caused frictions between Italy and Ethiopia, as they were successfully able to penetrate the Italian territory⁷⁵, forcing De Vecchi to reinforce the border guards (*bande di confine*) and to shift the border forward in 1928 on the line Ferfer-Shillawo-Wal Wal-Damot⁷⁶. As is well known, the latter became an opportunity for the Walwal incident which prompted the invasion of Ethiopia in 1935.

Qorrahay camp became the base where all the political refugees of previous uprising movements converged. These comprised the Hawaadle, once guided by Indha'el during the uprising of Buuloburde in 1916 against the Italians; what remained of *Sheek Mursaal's* followers, mostly Awlyahan-Ogaden, who participated in the anti-British uprising of Sarinleey, in the Upper Juba⁷⁷; and the un-

⁷¹ *Ibidem*, p. 166.

⁷² KEENADIID, *Ina Abdille Hassan e la sua attività letteraria*, cit., p. 56, fn. 13.

⁷³ *Ibidem*.

⁷⁴ ASMAI, pos. 89/9, f. 34.

⁷⁵ During one of these incursions, the insurgents reached the Golol (from De Vecchi to the Minister of Colonies, 2 March 1927, ASMAI, pos. 89/9, f. 33). Another short rebellion led by some Habar Gidir who had previously taken part at the *fallaago* of Eelbuur happened in 1930 near the wells of Hamara (between Hobyo and Miirsaale) (Queirolo to the Minister of Colonies, Mogadishu, 16 September 1930, ASMAI, pos. 89/18, f. 74).

⁷⁶ De Vecchi to the Minister of Colonies, 1st June 1926, ASMAI, pos. 89/18, f. 70.

⁷⁷ In 1916, the Awlyahan sacked the British military outpost of Sarinleey, killing many soldiers. The repression which ensued prompted a long period of enmity between the British authorities

tamable Abshir Dhoorre of the Omar Mahamud, one of the most faithful members of the *kbusuusi* of the Sayyid⁷⁸. Dhoorre probably died in 1928 in Garlooggube during a raid of the Italian border guards⁷⁹. Hirsi Boqor, by then seriously ill, willing to return to Somalia, gave in to the Italian Legation in Addis Ababa in April 1929. However, having contracted smallpox, he died a few days later⁸⁰. Omar Samatar, instead, continued his fight first on the side of the Ethiopians and then moved to Somaliland⁸¹. Finally, on 25 May 1932, the Sultan Osman Mahamud “*Umum Majeerteen*”⁸² died in Mogadishu, in exile.

7. *The End of Sultanates and the Resulting Consequences*

On 28 October 1926, Mussolini announced the end of the Sultanates. However, on 11 September of the same year, with the military operations not yet completed, De Vecchi had already decreed a new administrative re-organization⁸³. The Sultanates were divided into three regions (*commissariati*) headed by a Commissioner: Hobyo, Nugaal and the Migiurtinia. The regions of Nugaal and Migiurtinia, not being occupied yet, were waiting for new provisions while the new *residenza* of Eyl was temporarily included in the region of Hobyo. This one was further divided into four *residenze*: Hobyo, Eelbuur, Galka’ayo and Harardheere. The *residenza* of Sina Dhaqa that was part of the territory of the former Sultanate

and the Awlyahan in the Jubaland, before this was ceded to Italy (BESTEMAN, *Unraveling Somalia*, Philadelphia, 1999, p. 253, fn. 8).

⁷⁸ The *kbusuusi* was an advisory council in the *Dervish* movement which collaborated with the Sayyid (CIISE, *Diiwaanka Gabayadii Sayyid Maxamed Cabdulla Xasan*, Xamar, 1974, pp. 128-135). Abshir Dhoorre first surrendered to the Italian authorities in 1922 in Baydhabaa. He evaded and took refuge in the Ogaden and then in Hobyo together with other Majeerteen refugees before Hobyo occupation. Arrested by the Resident he was detained in Agordat (Ethiopia) where he escaped again in May 1925. He was arrested by the Ethiopian authorities which however denied his extradition to the Italian colony. Freed thanks to the intercession of Omar Samatar, he joined the resistance in 1927 (Riveri to the Minister of Colonies, Mogadishu, 22 November 1923, ASMAI, pos. 89/18, f. 70; interview by the Author to Aw Jaama’a Omar Isse, Nairobi, April 1995).

⁷⁹ Interview by the Author to Aw Jaama’a Omar Isse, Nairobi, April 1995.

⁸⁰ ASMAI, pos. 89/18, f. 74.

⁸¹ He took part to the Wal Wal incident (*Nota Politica del Governatore della Somalia*, January 1924, Archivio dell’Ufficio Storico dello Stato Maggiore dell’Esercito (AUSSME), racc. 25). In 1939 an Italian report identified him in Somaliland where he was organizing an irregular militia under the supervision of Sir Glendey in case of an Italian invasion of British Somaliland (Archivio Centrale dello Stato, *Ministero dell’Africa Italiana, archivio segreto*, b. 24, 13/8).

⁸² That was the title that resulted from the Protectorate Convention of 1889 (BATTERA, *Dalla tribù allo Stato nella Somalia nord-orientale*, cit., p. 144).

⁸³ *Bollettino Ufficiale della Somalia Italiana*, Mogadishu, 30 September 1926, ASMAI, pos. 89/9, f. 33.

became part of the Border Region (*Regione di Confine*), which extended from Dolow to Gellinsoor on the border with Ethiopia. The institution of new *residenze* and the delimitation of their territorial borders, rested on ethnic criteria seeking to keep separate the populations of Daarood and Hawiye⁸⁴.

The doubts about the lawfulness of the act of suppression of the Sultanates soon disappeared. The Convention of Berlin considered the shift from the protectorate status to direct administration an act of internal public law⁸⁵. In other words, according to international law, the Sultans were such only because they had been recognized by Italian authorities. Their position was not considered as the result of an act of self-government.

The military campaign and the new administrative organization had significant effects on the economy of the region and caused political and often irrecoverable consequences. Corni, the successor of De Vecchi, was still by June of 1931, at the moment of leaving Somalia, complaining about the instability and uncertainty of the native politics that he had inherited from his predecessor which he called “[...] bloody repressions [...]” perpetuated in some parts of the Majeerteen territory⁸⁶. In the middle of the 1930s, the economic situation of Bari, particularly on the coast, was still suffering, due to the prolonged periods of blockade and the seizure of Majeerteen fleet. In particular, the incense economy was also suffering⁸⁷. However, the colonial authority maintained in the former Sultanate of Majeerteen, although only nominally, the Boqor authority. The regime of the “*capi-stipendiati*” (chiefs) was extended to the Boqor office. Acting as such, the Boqor would have prevented the process of disintegration which could have followed the collapse of the Sultanate, ensuring a minimum of accord in the region despite a certain dislike and opposition on the part of the military authority which was still the major rule in the Majeerteen territory⁸⁸.

As far as the economy was concerned, the situation in Hobyo was better than in Migiurtinia even though the subsequent transfer of the Commissioner to Galka’ayo led to the final decadence of the former capital city of the Sultanate⁸⁹. It

⁸⁴ The Isse and Omar Mahamed were under the Eeyl residenza; the Omar Mahamud and Reer Bicii’yahan of Mudug and Golol were under Galka’ayo; the Marehaan were under Sinadhaqo; the Sa’ad were under Hobyo; the Ayr, Saleeman, Duduble and Saruur were under Harardheere; the Murusade were under Eelbuur.

⁸⁵ See the meeting of 8 May 1926 by the Comitato Interministeriale per gli Affari Politici di Interesse Coloniale (Minister of Colonies, Atti del Comitato, Roma, 1926).

⁸⁶ From *Riassunto della mia azione di governo nel triennio 1928-31*, G. Corni to the Minister of Colonies, Mogadishu, 3 June 1931, ASMAI, pos. 89/13, f. 49.

⁸⁷ Less affected was the cattle economy, since most of the camel herds were rapidly replenished having followed the nomads into their exile in the British Somaliland (*Notiziari politici del Governo della Somalia*, May-October 1933, AUSSME, racc. 1925).

⁸⁸ See the political considerations by the Brigadier General C. Micheli, ASMAI, pos. 89/13, f. 49.

⁸⁹ During the 1930s, Northern Somalia was once again administratively re-organized. The *com-*

was the political and social situation that worsened owing to the long build up of hatred and grievances generated by the Italian presence, between those who initially opposed and those who surrendered to the Italian conquest⁹⁰. In April of 1933, the government had to intervene in Mudug, imposing an agreement and a specific territorial delimitation between Hawiye and Daarood with doubtful effects. In this way, future generations would have inherited a unresolved problem.

8. Epilogue: From Hobyo to the SYL

The downfall of the Northern Sultanates marked the beginning of a period where the entire Somali society had to be subdued by a new colonial approach distinguished by a notable intensification of military tones. Somalia had to become a jumping off point for Ethiopia, which had also been considered as a missing opportunity for Italian colonialism. In particular, the areas once under the control of the Hobyo Sultanate – the Mudug and Galguduud – had to play a considerable role in what was designated in colonial terms as “*la politica di Oltreconfine*” which implied an extraordinary endeavour of infiltration, propaganda and the attraction of the Somali groups which inhabited the Ogaden. Most of these groups had already been involved in a network of sufi *jamaacooyini* which the Italian colonial authorities had funded in order to counter the Darwish activity during the First World War⁹¹. As the war with Ethiopia was approaching, this network proved to be incisive in facilitating the conquest of Eastern Ethiopia. The Sultanate of Hobyo dissolved as the Somali society returned to its segmentary rules which were much more similar in tone with Fascist militarism. Important parts of the Somali society, especially in the Hiraan, Galguduud and Mudug, were therefore militarized, as entire clans were recruited in the *Dubats* corps. They had to play an important role as irregular bands during the Walwal crisis and as auxiliary forces in the subsequent war against Ethiopia.

Against the traditional “segmentary model”, in the face of powerful challenges from imperialism and by drawing from others examples coming from the broader Islamic world, Somali society had displayed an interesting degree of institutional and political innovation. On the one side, we could find a religious

missariato di Migiurtinia was re-organized into four *residenze* – Haafuun, Aluula, Boosaaso and Qandala – and that of Nugaal with the capital city in Eeyl. The region of Hobyo became the Mudugh *commissariato* organized in four *residenze*: Gaalkacayo (now Rocca Littorio), which became the new regional capital city, Hobyo, Eelbuur and Dhuusamarreeb (in place of Sinadhaqo, once the Border Region suppressed). Harardheere was suppressed and its territory split between Hobyo and Ceelbuur.

⁹⁰From *Governo della Somalia*, newsletter no. 160, 21 April 1932, *Politica regionale* in ASMAI, pos. 89/13, f. 49.

⁹¹BATTERA, *Le confraternite islamiche somale*, cit., pp. 155-85.

model embodied by the Darwish movement, which was both an adaptation and a profound alteration of the segmentary model. On the other side, the Sultanate of Hobyo represented an important attempt in crafting statehood and going beyond clanism while maintaining a clan politics⁹². What was left by the Sultanate of Hobyo in terms of culture and political vision migrated with its leadership in Mogadishu where, after the Second World War, it helped under new conditions – a new multicultural, mixed and cosmopolitan culture – in crafting and cultivating the nascent Somali nationalism. The Osmaniya script and the foundation of the Somali Youth League (SYL) owe much to Hobyo and its attempt to manufacture new societal relations in the Mudug.

⁹²On this point, see KHOURY-KOSTINER, *Introduction*, in KHOURY-KOSTINER (eds.), *Tribes and State Formation in the Middle East*, Berkeley, 1990, pp. 1-22. As far as the Hobyo is concerned, I resumed the concept by referring to it as an “Arab model”, given the importance that sheikhdoms and Sultanates of the Southern Arabian Peninsula had acquired for the economic prosperity of the Northern Horn of Africa in late XIX century (BATTERA, *Modelli di leadership nel Corno d’Africa*, cit., p. 167).

PART II
CRUCIAL ISSUES DURING
THE ITALIAN COLONIAL PERIOD

CHAPTER 4

THE ASCENT OF ITALIAN COLONIALISM IN
SOMALIA AND THE LABOUR QUESTION, 1890s-1930s

*Stefano Bellucci**

SUMMARY: 1. Colonial Economies and African Labour. – 2. Italian Economic Interests and Labour in Southern Somalia. – 3. Forced Labour and International Law. – 4. Colonialism, Forced Labour and Somali Societies.

1. *Colonial Economies and African Labour*

In a pamphlet entitled *Colonialism Today*, published in 1976, Hosea Jaffe claimed that colonialism was the cradle of capitalism¹. His central point was that, although in chronological terms the capitalist mode of production preceded the economic, political and military imperialism of European countries around the world, it is with the advent of colonialism that the capitalist mode of production became a “system”. A system is a set of rules or a regime that governs the actions of human beings. Central to the capitalist mode of production is wage labour: capitalism exists when an individual sells his/her labour power in exchange for a wage. Wage labour therefore tends to define the presence of the capitalist mode of production. In other words, if there is wage labour in place or if wage labour is the prominent mode of production within a given society, it is possible to identify that society as “capitalist”, because the capitalist mode of production is present within this society. Conversely, other type of societies, feudal or ancient, cannot be properly considered capitalistic because, here, the dominant relationship between capital and labour is not based on wage labour but on slavery or tributary labour, *i.e.* forms of labour relations other than wage labour. Recently, labour historians who study global labour history have reached other conclusions: namely, that the capitalist mode of production can occur also in the presence of

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¹ JAFFE, *El imperialismo hoy*, Bilbao, 1976.

“unfree” forms of labour relations – slavery, servitudes, forced labour, etc. Indeed, it is impossible to find in history a society in which one hundred per cent of the labour force belongs to only one form of labour relations, be that one based on free wage labour or on slave labour².

Following this reasoning, it is implausible to study colonial economies or colonialism without keeping the organisation of labour in good view. Part of the territory that in the nineteenth century was inhabited by the Somali people was colonised by Italy, a European semi-capitalist nation. Indeed Italian capitalism has been rightly defined as “*imperialismo straccione*” (imperialism of the beggars) by Gramsci who picked up a concept elaborated by Lenin. This idea implies that Italy, when it started its imperialist endeavours, did not have capital to export and conquered African territories in order to avoid lagging behind other more powerful neighbouring nations – namely, its rival France which colonised Tunisia, a country Italy had had its eyes on for a long time and where thousands of Italian families settled³. Therefore, Italian colonialism was not driven by a real need to expand economically as a capitalist necessity, but rather as a subjective political design to attain a perceived international standing at the expense of African people. However, colonialism gave the growing Italian capitalist class – closely linked to the political class – a precious point of comparison with their European counterparts.

For the African peoples subjected to Italian colonial domination, including those living in what is today the southern part of Somalia, different questions arose. Historians still struggle to explain with any degree of certainty whether there was a radical transformation of the political and social systems in place as a result of the colonial intrusion, as the onslaught was described by John Iliffe⁴, or whether, in reality, colonialism had a limited impact on the social and economic processes and structures prevalent in African societies, and, in particular, in Somalia, the case in point. With regard to questions of labour, one of the political motivations that was used to justify European interventionism in Africa, including Italian colonial policy, was to put an end to slavery and unfree labour. In other words, colonialism acted as a conduit for a socio-economic system based on the freedom of individuals/workers to decide whether or not to engage in a working relationship characterised by wage remuneration. In short, colonialism was to be a harbinger of capitalism in Africa – signalling the advent of a mode of production based on a supposedly “free” relationship between worker and capitalist/em-

²For an overview on historical changes in labour relations globally, see The International Institute of Social History, Global Collaboratory on the History of Labour Relations, 1500-2000, available at: <https://collab.iisg.nl/web/labourrelations>.

³There are not many authoritative sources on this subject, which needs more research. Amongst the existing literature see PENDOLA, *Gli italiani di Tunisia: storia di una comunità (XIX-XX secolo)*, Foligno, 2007.

⁴ILIFFE, *Africans. The History of a Continent*, Cambridge, 2007, pp. 193-218.

ployer. This relationship must necessarily be premised on the exchange of labour power by the worker for a wage⁵. In this regard, the figure of the European worker epitomised the free wage worker – usually male. The idea was for the African worker to resemble his/her European counterpart, and thus it would follow that slave labour would be banished. In this preliminary, short chapter, we will seek to shed some light on these aspects. According to a number of studies on the colonial era – including surveys conducted in those days – forms of forced labour remained in place and served to obtain low-cost and hard-to-come-by manpower (which would serve to undermine Schumpeter's theory of slavery and capitalism)⁶. This included forced labour, a historical issue, which, to this day has not been studied enough in Italy, which is not surprising in a country that never engaged in a real debate over its colonial past and its relationship with Africa as pointed out by Giampaolo Calchi Novati and Angelo Del Boca⁷.

2. Italian Economic Interests and Labour in Southern Somalia

In 1889, Italy established protectorates over the Hobyo Sultanate, over the Majeerteen Sultanate, and declared part of the Somali coast to be under its control. In 1908, the Italian Somalia colony was proclaimed. In between these dates, from 1893 to 1896, the Filonardi & Co. (*Società Filonardi e Compagnia*) administration started by taking possession over the Benadir Coast (Merca, Mogadishu and Warsheikh). From 1898 to 1905, the Benadir Company (*Società Anonima Commerciale Italiana del Benadir*) took over its administration, replacing Filonardi & Co.

Apart from the establishment of ports and other inland trade routes, in Crispi's mind, the Filonardi Company – a navigation company – was also supposed to be the driver of ambitious projects of land clearing and agriculture. Despite

⁵ A synthesis of this discussion can be found in the compendium-cum-booklet *Wage Labour and Capital* written by Marx in 1849, available at: www.marxists.org/archive/marx/works/1847/wage-labour.

⁶ See, for example, DRESCHER, *Capitalism and Slavery after Fifty Years*, in *Slavery & Abolition*, 1997, pp. 212-227; FYFE, *The Emergence and Evolution of African Studies in the United Kingdom*, in WEST-MARTIN (eds.), *Out of One, Many Africas: Reconstructing the Meaning and Study of Africa*, Urbana, 1999, pp. 54-61; MARTIN, *Slavery and Colonial Rule in French West Africa*, Cambridge, 1998; LEGASSICK, *Review Article: Perspectives on African Underdevelopment*, in *The Journal of African History*, 1976, pp. 435-440; O'BRIEN, *Economic Development: The Contribution of the Periphery*, in *Economic History Review*, 1985, pp. 1-18; WALLERSTEIN, *The Modern World-System*, Vol. I, *Capitalist Agriculture and the Origins of the European World-Economy in the Sixteenth Century*, New York, 1974.

⁷ See, in particular, CALCHI NOVATI, *Come dimenticare il colonialismo*, in *Nuova Antologia*, 2007, pp. 141-165; and DEL BOCA (ed.), *Introduzione*, in *La storia negata. Il revisionismo e il suo uso politico*, Vicenza, 2009, p. 7-38.

some initially successful attempts in the cultivation of sesame, tobacco, and other local products, as well as in the cattle business the Filonardi administration collapsed and was replaced by the Benadir Company. The Benadir Company's commercial strategy came up with some novel elements, one of which was the development of a plantation economy along the Shebelle and Juba rivers. The development of the Shebeelle took place later on in the 1920s. The initial development policy was put in place in the Juba region, especially the lower Juba, where Italians intended to develop large-scale cotton production. Due to the harsh climate conditions, almost inexistent infrastructure, and the scarcity of capital invested to clear the land, cotton production never took off.

Another major social issue was labour. If financial capital was scarce, land (which is also a type of capital) was abundant. The problem was finding enough workers to make land a productive asset. Unlike in the rest of Somalia, where pastoralism was the main economic activity, in the Benadir it was possible to find Somali nomads who also engaged in agricultural production. The problem was, as noted by many Italian observers of the time, that Somali populations were not inclined and did not want to adapt to the colonisers' modes of production. Therefore, Somalis rarely manifested the will to entered into a labour relationship with the Italians based on wage or even sharecropping, continuing to prefer communal labour⁸. In the Somali and other Horn of Africa's cultures, in fact, especially in those times and until the 1940s and 1950s, these forms of labour relations were considered socially degrading⁹. Italians attempted to attract Somali to work in their plantation by offering high salaries and other benefits, but to no avail¹⁰. It is from against this structural background that coercion and force labour spread, expanding after the enforced break caused by the First World War.

After the war, the Italian economic development strategy changed and the regional and investment focus moved, within Somalia, from the lower Juba region to the Shebelle valley, especially around Janale, closer to the colonial capital Mogadishu. In the agricultural sector, one of the most prominent companies was the *Società Agricola Italo-Somala* (SAIS) founded in 1920 by an Italian royal family member Luigi di Savoia, duca degli Abruzzi, who himself died in Somalia in 1933¹¹. Bananas, sugar cane and other agricultural products were produced by

⁸ See COLUCCI, *Principi di diritto consuetudinario della Somalia italiana meridionale: i gruppi sociali, la proprietà con dieci tavole dimostrative, sotto gli auspici del governo della Somalia italiana*, Firenze, 1924, p. 75.

⁹ See CRUMMEY, *Land and Society in the Christian Kingdom of Ethiopia: From the Thirteenth to the Twentieth Century*, Urbana, 2000 and PANKHURST, *An Economic History of Ethiopia: 1800-1935*, Addis Ababa, 1968.

¹⁰ "Relazione del Prof. Onor su "Taluni problemi agrari della Somalia", 1912, Archivio storico della Banca Commerciale Italiana, ETC, b, 23, f. 2, cit. in PODESTÀ, *Il mito dell'Impero: Economia, politica e lavoro nelle colonie italiane dell'Africa orientale, 1898-1941*, Torino, 2004, p. 110.

¹¹ PODESTÀ, *Il mito dell'Impero*, cit., p. 200.

dozens of Italian concessionaries. Aside from the SAIS, with Cesare Maria De Vecchi, the fascist Governor from 1923 to 1928, the Italian state increased its share in the development activities. Farmers' consortia or mutual associations were encouraged and financially supported by the Fascist regime. Despite this renewed Italian engagement, production remained low and was not even sufficient for the self-subsistence of the colony. The reason was always the same: labour scarcity¹².

The influx of Italian farmers to Somalia was nothing in comparison with the migration of Italians to Eritrea. Italian labour was therefore not sufficient to fulfil the objectives of the development plans of Somalia. A major issue was therefore labour supply, which was scarce. Various measures were introduced by the fascist regime in order to address this imbalance between investment and labour. The main one was the "obligatory shifts" for Somali workers. These shifts were very similar to the labour *corvées* adopted by other European colonial powers elsewhere in Africa. Obligatory shifts implied forced residence of workers on the farms' grounds or plantations fields. A consequent process of forced villagisation also took place. The measures imposed on Somali farmhands and their families did not bring about the expected economic fruits. However, it proved that Italians, like other colonialists, did not hesitate to impose unfree forms of labour relations. It is also interesting to note that the impositions on restriction of the free movement of workers was not that dissimilar to that in place in other parts of Africa at the time including pre-apartheid South Africa¹³.

3. *Forced Labour and International Law*

In common with many acts of barbarity, colonial imperialism claimed to have guiding principles of morality, its own internal reasoning and *raison d'être*. According to this misguided vision, the dominant political force, Italy, had an obligation to ensure a peaceful social order for the benefit of local Somalis, in exchange for their subjugation and loss of independence. Another interconnected but more practical imperative was that the colonies should be cheap to run¹⁴. Unrest requires repression and repression costs money. To guarantee peace and order, the administration in place must ensure respect for life and liberty through justice, protection and development of production activities, and, above all, re-

¹² See MILANESE, *La società agricola italo-somala e l'opera del Duca degli Abruzzi in Somalia tra il 1920 e il 1933*, articolo originale: <http://dspace-roma3.caspur.it/handle/2307/5709>.

¹³ For a report on the objectives and implementation of forced labour in Somalia, see *Relazione sulla manodopera agricola*, 1939, ASMAI, Africa III, b. 127. Excerpts of the Report (probably by Governor Caroselli) can be found in PODESTÀ, *Il mito dell'Impero*, cit., pp. 203-204.

¹⁴ See AUSTIN, *African Economic Development and Colonial Legacies*, in *International Development Policy*, 2010, pp. 11-32.

spect for labour within the economic organisation of the colony. But such an approach was a far cry from the policies actually followed by many colonial countries which tolerated and even encouraged unfree regimes within their colonies.

From 1922 onwards, the Council and Assembly of the League of Nations repeatedly invited its Member States, pursuant to Article 23 of the Covenant¹⁵, to provide information about the existence of slavery in the territories under their control. On 27 September 1924, the Chief of Staff of the Italian Foreign Ministry, Lojacono, transmitted to the Secretary-General of the League of Nations, Drummond, a set of reports on the question prepared by the Governor of Eritrea, Gasparini, and by Governor De Vecchi. In particular, De Vecchi gave an overview of the Italian initiatives to abolish slavery in a document addressed to the League of Nations. In short, the document set out the following measures and official acts undertaken to this end¹⁶. The first was an 1876 Treaty between the Sultan of Zanzibar and the Kingdom of Italy, according to the terms of which Sultan Sayyid Barghash bin Said Al-Busaid, who was sovereign over the maritime settlements along the Benadir coastline, declared the abolition of slavery in the Benadir area and the Kismayo district, parts of both of which had been given in concession to Italy by the Sultan. Subsequently, the Sultan of Zanzibar acceded to the General Act of Berlin in 1885 and signed the Brussels Conference Act of 2 July 1890, both of which Acts envisaged the end of the slave trade. Italy thus considered that the anti-slavery measures provided for by these Acts would also apply to the Sultan's possessions along the Benadir coast, under Italian administrative control. Under the 1892 Convention, the Sultan of Zanzibar granted to Italy a concession over the Benadir ports (Barawa, Merca and Mogadishu), with their outlying territory, in exchange for an annual lease payment. Pursuant to Article 1 of that Convention, Italy undertook to respect "the duties imposed or which might be imposed" as a result of the government of Zanzibar's accession to the two General Acts of Berlin and Brussels. By means of a declaration in 1898, the Italian Commissioner and the British Consul-General in Zanzibar issued an Edict dated 13 September 1889 granting freedom to all peoples born in Zanzibar territory. From 1898 to 1905, during the period when the area in question was being run by the Italian company, *Società Anonima Commerciale Italiana del Benadir*, various provisions were introduced regarding the suppression of slavery. In particular, the gubernatorial Order of 2 March 1903 prohibited the trafficking

¹⁵ Article 23 states: "Subject to and in accordance with the provisions of international conventions existing or hereafter to be agreed upon, the Members of the League: [...] b) undertake to secure just treatment of the native inhabitants of territories under their control" (*Prassi italiana di diritto internazionale, Trattati e Convenzioni*, XXIV, pp. 97-98. This meant also undertaking measures for the abolition of slavery, and the conversion of unfree forms of employment into legitimate labour relations such as free wage labour.

¹⁶ The collection of these acts is available online at *Prassi italiana di diritto internazionale*, section *I casi della prassi*.

and trading of slaves and established a framework for the liberation and rescue of slaves, accepting only that sons of “free” mothers would be granted hereditary rights. Under the terms of the gubernatorial Order of 20 April 1903, issued pursuant to the instructions of the Italian Consul in Zanzibar, special courts were set up in Mogadishu, Merca, Barawa and Luuq, among other places, which were composed of an Italian official known as the Resident¹⁷, who presided over the proceedings, along with “an Arab elder”, a Muslim judge or *Qadi* and two noblemen. These special courts dealt with all questions relating to slavery, questions which needed to be resolved through the decrees and orders issued by the Sultan of Zanzibar pursuant to the General Act of Brussels. The Italian Resident held the casting vote.

In 1904, the Italian Consul-General in Zanzibar, who had supervisory authority over the local administration, at that time entrusted to the above-mentioned *Società Commerciale del Benadir*, along with the Governor of the Benadir coastal settlements, issued three Orders. The first Order, which was applicable solely to inhabitants of the cities of Barawa, Merca, Mogadishu and Warsheikh, declared once again the complete abolition of slavery. The second Order, which was applicable to inhabitants living outside of those urban settlements, abolished the trafficking and trading of slaves, released all existing slaves from their bonds of slavery, thereby transforming their status to that of domestic servitude, and announced that all those born to slaves or to domestic servants from 18 March 1904 onwards were completely free. Through these Orders, a framework was also established for the liberation and rescue of “domestic servants”, and for the treatment of servants by their masters¹⁸. The settlement of disputes between servants and masters was to be the responsibility, in the first instance, of the *Qadi's*, and then, if still unresolved, the matter would be brought before the special courts described above. Complaints about runaway servants would be heard by the Italian-presided special court. Under the terms of these new legislative acts, freed domestic servants were required to choose a domicile and to find a stable occupation. Despite the anti-slavery discourse, the Italian colonial government was still prone to interning these individuals in villages designed specifically for liberated domestic servants. While the idea was apparently to give these formerly subjugated people free land to cultivate, in reality it came down to forced labour. The third Order provided for fines and monetary penalties for those who failed to respect the above Orders. Any moneys collected as a result were to be

¹⁷ “Residents” were always Italian officials, whose function was similar to that of a mayor in a local Italian city.

¹⁸ The division between slaves and servants is quite contradictory. In reality, the labour conditions of slaves and servants were very similar. However, the Italian authorities did nothing to investigate cases of legitimate servitude or illegitimate slavery. Here, in this chapter, there is little choice but to keep on treating the two labour relations as similar. This is due to the fact that a disquisition on this issue will be inevitably sterile due to a generalised lack of sources.

placed in a Fund for the liberation of domestic workers. This Fund never amounted to much and did little to assist in the process of liberating people from domestic servitude.

In 1905, the grant to the *Società Anonima Commerciale del Benadir* was terminated and the Somali colony was placed under the direct control of the Italian government. Orders and decrees were now issued by Italian Commissioners. In 1907, Decree No. 177 was issued, in relation to “liberated slave” villages. Under the terms of this Decree, these villages were to be governed by two chiefs: one to be chosen by the masters (and former slave-owners) and the other by the servants (freed slaves)¹⁹. The task of the two chiefs was to oversee treatment of the servants and the way in which they engaged in labour, *i.e.* the mode of production in the villages, which should no longer be based on a model of slavery but, rather, should be capitalist and thus premised on wage labour. The idea was that these chiefs, chosen by the interested parties, would be able to find an amicable solution to any questions arising between workers and employers. In the event of a deadlock, the matter would be brought to the Resident, for a further attempt at conciliation. Failing any resolution by the Resident, the dispute would be placed before the local special court.

One last initiative on behalf of the Italians was to entrust colonial Residents with the duty of establishing a set of rules explaining the obligations and rights of servants and masters. These rules were meant to be followed by the special courts in the event that they became involved in the dispute. By means of these measures, Italy considered that it had met all of its obligations as a colonial power with regard to the eradication of slavery in its areas of influence. In reality, the situation was quite different. While formally, on paper, slavery had been abolished, and perhaps the measures taken by Italy represented some small steps forward in that direction, in point of fact, slavery was often tolerated and ignored. It was certainly not true, as falsely claimed by De Vecchi in his declaration to Mussolini, that “slavery [...] has disappeared” and that all that was required was “to be consistently vigilant in eradicating, through punitive sanctions, any occasional incidents of slavery that might arise in such a vast territory as Somalia”²⁰.

Slave workplaces were banned by law, but forced labour was permissible and regulated by the law²¹. In the period from the 1890s to the 1920s, before the administrative reorganization effected by the Fascist colonial government – which is beyond the scope of this essay – the abolition of slavery was more a matter of

¹⁹ See *Prassi italiana*, cit.

²⁰ Letter by De Vecchi to Mussolini, Mogadishu, 4 August 1924, appendix to the file Lojacono to Drummond, Rome, 27 September 1924, Archive of the League of Nations, Geneva, 1-30682X-23252.

²¹ With regard to Italy, see PERGOLESI, *Diritto coloniale del lavoro*, in *Trattato di diritto del lavoro*, Vol. 4, Padova, 1939.

law than a matter of fact. Indeed, not only did the Italian authorities lack the means to put a stop to the institution of slavery, they were also keenly seeking to find manpower, using forced labour if necessary, given the vast and underpopulated nature of the territory they controlled. This is the context in which forced labour came to replace slave labour as a means of ensuring that the fertile lands along the coast and valleys of Southern Somalia could be put to good use by the Italian administration. This was essential to Italy as the colony of Somalia was not viable if it merely represented a cost to its European motherland; it needed to be, as far as possible, economically self-sufficient.

4. Colonialism, Forced Labour and Somali Societies

Why was manpower so hard to come by? In large part this was because the needs of the Somali population, at the point in time when the Italians arrived, were not heavily dependent on monetarized labour exchanges or on the exchange of goods for money. In short, money was not the motor of production and money was not needed in order to acquire goods, including goods to be used in the production of other commodities. Upon their arrival, many Italians noticed how “money and cash provoked embarrassment [...] which explained the great reluctance to sell cattle, which, of itself, is a moveable source of capital”²². Thus, livestock, a primary asset, had a high value in terms of its use but little-to-no exchange value. Changes in the ownership of cattle were never made by reference to price and demand, but rather by reference to the seasons and how best to meet basic daily needs. This model was far removed from a capitalist one, because local Somali society did not place value on money: those who possessed money were not empowered by that money, and money was not used to make more money. The Italian administration began a process of monetarization, which created another type of slavery, based on the need to have money²³. In the meantime, Italian authorities had to rely on forced labour²⁴, as Somali workers were not attracted by the prospect of payment in money, which was not yet perceived to hold any benefit in terms of a worker’s daily subsistence needs.

²² ONOR, *La Somalia italiana. Esame critico dei problemi di economia rurale e di politica economica della Colonia*, Torino, 1925, p. 256.

²³ A first attempt was made with the Commissarial Decree of 1st May 1905, No. 6.

²⁴ Italian colonial authorities, following the trend set by the British Administration in other parts of Africa, and following the mainstream economic theories of the day, believed (perhaps with justification) that an increase in the need for money could only come about with economic transformation, in particular, by replacing subsistence farming with commercial farming. One could indeed see the extent to which commercial activities, along the coastal regions, where there were closer contacts with Arab traders, Italians, Europeans and other peoples, had resulted in a capitalist transformation within the local population.

Forced labour thus provided an answer during a transitional period. Forced labour refers to situations where individuals are coerced into work or into providing services through the use of threats and intimidation, *i.e.* situations where individual workers have not entered into a labour arrangement of their own free will. Forced labour did not include work or services by an individual in the context of: the obligatory military regime in place in the colony; the legally established civil regime; the sentence of a criminal court; a situation of *force majeure*, such as war or natural disasters; necessary maintenance works in villages, *i.e.*, works carried out for the collective benefit of all of the inhabitants²⁵.

More research is certainly needed to identify and analyse sources on forced labour in Somalia at the start of the colonial era, between the late nineteenth and early twentieth centuries. However, we know that, between 1924 and 1928, in the most fertile regions of Somalia along the Shebelle river basin and the Juba, under the governorship of De Vecchi, important land reclamation works were carried out in order to allow for the creation of new agricultural farmsteads, and, even more so, to further develop the existing farming enterprise (*Azienda agricola sperimentale governativa di Genale*) set up in Merca in 1911 by Romolo Onor, the agricultural adviser of the colonial government at the time²⁶.

Greatly aided and subsidised by the colonial regime, these agricultural enterprises relied on local labour to function, making use of around 10,000 workers, for the most part forced labourers. The *Genale* farming settlement, for the improvement of which De Vecchi handed over obscene amounts of money, was expanded to include a further 40,000 hectares of land, divided into 83 farming concessions, each of which was between 75 and 1000 hectares, which, as noted by A. Del Boca, were granted by the Governor to “random colonials whose sole merit was to have belonged to the *Gruppo Pionieri Fascisti di Torino* [Fascist Pioneers Group of Turin]²⁷ and to have followed the Governor to Somalia”²⁸. Thus, instead of granting the farming concessions to actual farmers or experts in agricultural matters, most of the concessions were given to a disparate group of colonials with wide-ranging socio-professional backgrounds, including politicians, doctors, aristocrats, ex-soldiers and military employees, engineers and craftsmen. A heterogeneous group of people, whose common cause had been their fierce lobbying of the government over the years to obtain grants and subsidies, thereby advancing the system of concessions that were essentially based on the exploitation of indigenous labour.

²⁵ See PERGOLESI, *Diritto coloniale del lavoro*, cit.

²⁶ See *L'agricoltura coloniale (Organo mensile dell'Istituto agricolo coloniale italiano)*, Vol. IX, n. 9, 1915, pp. 537-539.

²⁷ Turin was the hometown of Governor De Vecchi.

²⁸ Angelo Del Boca cited by RANDAZZO, *L'Africa del Duce: i crimini fascisti in Africa*, Varese, 2007, p. 157.

Those granted concessions were given well-irrigated parcels of land, thanks to the dam built over the Shebelle river and the canal system, access to cheap labour to cultivate the land, allowances and tax incentives, as well as being able to benefit from a series of support measures and rewards aimed at encouraging production. Despite these inducements, the concessionaires demanded that the system of forced labour on which they relied should be legally anchored. Even De Vecchi complained to the Resident of Merca about the extent of their demands:

“[...] as if every white man who arrives here from Italy, simply by virtue of the fact of having crossed the ocean and having been granted a farming concession, should be fully entitled to have working for him for free a certain number of locals [...]”²⁹.

Although the Governor did not publicly accede to the requests of the concessionaires, nor did he seek to stand in opposition to them, choosing instead to allow the existence of a *de facto* system of exploitation akin to slavery – a system which his colonial successors were also happy to let be.

Somali labour for farming concessions continued to be scarce not only because of the reluctance of Somalis to work for Italians, but also because of an intra-imperialist competition for workers on the part of Italian farms on the one hand and enterprises involved in the building of infrastructure on the other hand. In order to accommodate Italian colonial interests which required local labour to ensure the success of the farming industry, and keeping in mind the objective of rendering the colony self-sufficient in terms of food production, De Vecchi's colonial government introduced a system of “co-participation” between Somalis and Italians. Under this system, Somalis had to contribute to the colonial efforts to fully exploit farmland with an obligatory service for two to six months a year in commercial farms and other colonial enterprises. Their service was to be remunerated with wages in Italian lire. In 1929, the post-De Vecchi administration decreed that Somali workers and their family were under an obligation to reside within the perimeters of the workplace. The decree transformed the service into a hybrid labour structure in which wage labour coexisted with a system of control typical of enslaving societies. Outside of the period of service, Somali farmers and herders were allowed to engage in food production according to indigenous agricultural systems.

Working for Europeans meant the abandonment of indigenous cultivation and food production over long periods of time. The return to indigenous production after months when Somalis and their families were not able to tend the land was highly inefficient and food production remained insufficient and below Italian targets. The system was therefore not sustainable. Most importantly, as noted

²⁹The text of the letter is reported by DEL BOCA, *Gli italiani in Africa orientale, Parte 2, La conquista dell'Impero*, Bari, 1979, p. 81.

by Gianluca Podestà, the “co-participation” system was not in any real sense a partnership of interests. The Somali case simply shows how economic development and stability cannot be achieved when based on the interests of a minority, to the detriment of the socio-economic conditions of the majority. The autochthon populations suffered greatly under this system, which also lent itself to abuses of power and unprovoked violence³⁰.

A fascinating testimonial and searing indictment of the degrading way in which local workers were treated at the *Genale* farming settlement can be found in the complaints submitted to the Italian government in Rome, between 1930 and 1934, by Marcello Serrazanetti, at the time Federal Secretary of the Colony. In his three submissions, of which only a limited number of copies were printed, he shares his views on the situation in Somalia, and in particular, the exploitation and abuse of the indigenous workforce³¹. This brand of abuse by Italians, referred to by the epithet “slave labour” by the Somalis, only really came to an end with the collapse of Italian colonialism³². There were still traces of its existence in 1948, on the eve of the United Nations’ decision to entrust Italy with the fiduciary administration of Somaliland, with the subject of “forced labour” being specifically mentioned at the Conference of Somalia. The abolition of this practice indeed became one of the conditions for acceptance of the United Nations’ Trusteeship proposal³³.

³⁰ PODESTÀ, *Il mito dell’Impero*, cit., p. 204.

³¹ SERRAZANETTI, *Considerazioni sulla nostra attività coloniale in Somalia*, Bologna, 1933, p. 9.

³² PANKHURST, *Ex-Italian Somaliland*, New York, 1951, p. 192.

³³ For an exhaustive history of the Italian Trusteeship over Somalia see MORONE, *Come l’Italia è tornata in Africa 1950-1960*, Roma-Bari, 2011.

CHAPTER 5

INTERACTION AMONG CUSTOMARY LAW,
ISLAMIC LAW AND COLONIAL LAW DURING
THE ITALIAN ADMINISTRATION OF SOMALIA

Salvatore Mancuso *

SUMMARY: 1. Introduction. – 2. Legal Characteristics of the Somali Society. – 3. The Italian Attitude to Customary and Religious Law in the African Colonies. – 4. Normative Orders in the Somali Colony. – 5. Interactions during the Colonial Period. – 6. Interactions between Customary and Religious Law. – 7. Interactions during the Italian Trusteeship Administration of Somalia.

1. *Introduction*

The issue of legal pluralism finds in Africa one of its most striking manifestations. Despite the long debate about the not merely anthropological value of legal pluralism in Africa, the search for solutions that can lead to a more “operational” approach to pluralism itself in African countries remains one of the most fascinating issues to be solved for scholars of African law. Beyond mere statements of principle, occurring also at the constitutional level¹, the problem of how to make legal pluralism formally operative remains, indeed, unresolved.

Somalia is not excluded, of course, from the pluralist phenomenon. But here legal pluralism assumes some peculiar aspects, given the characteristics of the Somali customary law and the historic development of Somalia as a colony and, afterwards, as a State.

The fundamental characteristic of Somali customary law (as for other African customary laws in general) is represented by its extreme flexibility. Consequently, the relationship between official and customary law is quite complex and dialectic-

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¹ The most famous example is, of course, that of Art. 4 of the Constitution of Mozambique.

tical. In line with what happens in the rest of sub-Saharan Africa, Western law affects local traditions in Somalia too, yet customary norms nonetheless resist any attempts to erode them and tend to adapt themselves to the new reality². It should also be noted that in Somalia the customary system of dispute resolution strongly influences the exercise of the official judicial power³. Furthermore, the importance of Islamic culture in general, and the role of the Koran and *shari'a* in particular, in eroding the cardinal principles of the customary law (*xeer*)⁴ should be noted.

This contribution is not intended to address the issue of legal pluralism in Somalia in general. Rather, it will try to describe the phenomena of interaction between the law of Italian origin, customary law (*xeer*) and religious sources during the periods of the Italian administration – colonial and trusteeship – to grasp specific and peculiar aspects. Some references will be made from time to time to the British administration of the northern territories in the area known as British Somaliland.

2. *Legal Characteristics of the Somali Society*

It has already been observed that the Somali society falls within the so-called societies with diffused power⁵.

Historically, the Somali society has been a tribal and nomadic society, whose form of social organization is based on the clan, the only place where decisions are made for all its members, and through which the individual blends into the community. The groups that form the extended clan often compete for scarce resources, while, outside, the clan expresses a vague common identity determined by genealogies not always accurate and the sharing of common cultural traits. Even acts of violence, such as acts of punishment, revenge or retaliation, are not originated by the individual, but rather are decided by the entire clan. All Somalis live in small communities called *reer* or, more commonly, *karia*, the Arabic

²The phenomenon is widely studied and documented. See SACCO, *Il diritto africano*, Torino, 1995; GUADAGNI, *Il modello pluralista*, Torino, 1995; ALLIOT, *Les résistances traditionnelles au droit moderne dans les Etats d'Afrique francophones et à Madagascar*, in POIRIER (ed.), *Études de droit africain et de droit malgache*, Paris, 1965, p. 235. As far as I am concerned, I made reference to the phenomenon with respect to family law in a lusophone context, in O *direito da família num contexto pluralista: o caso de Moçambique*, in WEI-MASSARONGO (eds.) *Contribuições jurídicas sobre a união de facto e direitos sobre a terra em Macau e Moçambique*, Macau, 2011.

³See BATTERA, *State-building e diritto consuetudinario in Somalia*, in BALDIN (ed.), *Diritti tradizionali e religiosi in alcuni ordinamenti contemporanei*, Trieste, 2005, p. 27.

⁴SACCO, *Le grandi linee del sistema giuridico somalo*, Milano, 1985.

⁵VAN NOTTEN, *The Law of the Somalis: A Stable Foundation for Economic Development in the Horn of Africa*, Lawrenceville, 2005.

word for “village”. The Somali *xeer* may be composed of a single extended family, or several families related to each other that come together to ensure common protection⁶. Unlike much of the African continent, the Somali people speak one language, divided into three main dialects well understood everywhere, and there are no different languages between the different clans that could hinder communication.

Customarily, the *xeer* system governs the life of the entire clan starting from the broader aggregations up to the individual clan. The *xeer* system assigns to these groups the collective and individual members’ defence tasks, as well as even, if necessary, the power of undertaking acts of retaliation and offence; it regulates the organization of the group through assemblies (*shir*), where the most important decisions are taken, as well as the activities of the leaders (*suldaan*, *boqor*, *garaad*, *ugaas*, *islaan*) who act as mediators. Leaders may request the support of other elders to which the community pays respect due to their status and their knowledge of customary law, as shaped by the rules of *shari’a*, to better perform duties such as conciliation and arbitration used for the resolution of disputes according to customary law. As regards the social life and the possibility of performing valid (legal) acts, *xeer* regulates the issues of capacity and social position in an anti-egalitarian way, setting the free against the freedman and the slave, the member of the group against the foreigner, the men against the women, and subdividing the population into castes, according to each one’s occupation and economic function. *Xeer* also has rules for the individual (subordinate) and group (primary) use of land, wells and livestock. Moreover, it provides specific rules regarding donations and the patrimonial obligations prior to marriage, as well as family and succession. Finally, it lays down the rules for compensation arising out of wrongful acts⁷.

3. *The Italian Attitude to Customary and Religious Law in the African Colonies*

Most African colonies had a dual legal system: one for the European colonizers and the other one for the indigenous people. The relationship between the two systems varied from one place to the other. In some places, they were kept rigidly separated, while in others there were several linkages between the two systems. The situation was even more complex where Islamic law was part of the local system together with a number of customary normative orders.

⁶On the Somali society the reference text remains that of LEWIS, *A Pastoral Democracy: A Study of Pastoralism and Politics Among the Northern Somali of the Horn of Africa*, Münster-Hamburg, 1961, reprinted with a new introduction in 1982.

⁷SACCO, *Introduzione al diritto privato somalo*, Torino, 1973, p. 18.

As a general principle, Italy maintained the application of customary law to the legal relationship involving indigenous people. Such law was codified in the different legal systems of its colonies from the first provisions for the Assab territory in Eritrea to the *ordinamenti giuridici* (“organic laws”) for Eritrea and Somalia and to the laws enacted for Libya. Such an approach was justified by the fact that, according to its 1865 Civil Code⁸, Italy was already open to considering the possibility of applying foreign rules in its legal system⁹. It goes without saying that such orientation does not touch upon the considerable differences between (Western) foreign law and customary law. In any case, the same 1865 Civil Code indicated as a fundamental requisite for the application of foreign rules their conformity with public order and morality¹⁰.

In the relationship between colonial law and local normative orders, especially where the latter were more structured, the inappropriateness of entirely displacing the customary law was affirmed, because such an abrogation could have easily offended the indigenous people and would therefore have been contrary to the very metropolitan interests. The option of taking into account as much as possible the normative orders already existing in the colony was preferred, with the aim of (formally) respecting them whilst trying to paralyze their harmful effects, or of recasting the indigenous institutions, making them work in line with the colonizers’ interests¹¹.

The Italian scholars on colonial law considered the local normative orders (both customary and religious) as external sources of colonial law, as opposed to the internal sources, which originated from the metropolitan power (either central or local), and from the rules of colonial law arising from public international law¹². Such local normative orders were recognized by the colonial administration, with some limits, as rules governing legal issues involving local people.

During the colonial period there was a strong interest in developing the knowledge of local law, especially customary law. Colonial officers, judges, scholars, all embarked upon different efforts aimed at writing down the customary rules of the local people within the Italian colonies. Remarkable and still valuable are the studies concerning Eritrea and Somalia, and also worth mentioning are those produced during the short period of Italian administration in Ethiopia, even if their scientific value has been questioned¹³. All those documents are interesting from

⁸ See the General Provisions on the Law, Arts. 6 to 12.

⁹ SAVOIA-AOSTA, *Studi Africani*, Bologna, 1942, p. 25.

¹⁰ 1865 Civil Code, General Provisions on the Law, Art. 12.

¹¹ ROMANO, *Corso di diritto coloniale*, Roma, 1918, p. 160.

¹² FRAGOLA, *Manuale di diritto coloniale comparato*, Napoli, 1948, p. 81. The Author upholds that as long as these rules are applied in the colonial territory, they are included in the official normative order and therefore become internal rules.

¹³ See MARTONE, *La giustizia italiana nelle colonie*, Torino, 2015.

an ethnological and anthropological point of view, and display scientific relevance as examples of the theoretical and practical issues raised by the interaction of different legal cultures. The original idea was that of writing customary law to facilitate its application by the colonial judges. Since they were drafted to be used by European judges through European procedural rules, such a codification of customary laws mainly contained (and froze) substantive rules, while scarce attention was paid towards recording procedural rules, where the “essence” of the African legal culture is to be found primarily. Therefore, during colonial times in many cases this “essence” survived (legally or illegally according to the rulers’ view) in those communities in the countryside that were difficult to reach for the colonial power, or in the urban areas, as an “underground” legal order (and culture). Afterwards, the scholars acknowledged the original features of (African) customary law and the consequent impossibility of codifying them due to the difficulty in their ascertainment, their extreme flexibility, the scarce knowledge of the local language¹⁴. Consequently, their efforts became more oriented towards pure knowledge rather than to a direct and immediate application of their studies.

The doctrine of colonial law conceived three different approaches towards the local normative orders: suppression, coexistence and conservation. Italy officially adopted the latter, limiting in any case the possibility of its application to those rules not contravening the colonial public order. This was conceived as a concept different from the metropolitan one: indeed, the concept of colonial public order should have taken into consideration local traditions and usages, as some things or actions that were considered unlawful in Europe were lawful in Africa, and the same colonizers would have gotten used to that specific circumstance after a period of life in the colony, without feeling disturbed by it¹⁵.

As far as the issue of dispute resolution relating to local people is concerned, the Italian colonial doctrine found it necessary that the judge, especially in the early instances of the process, be a colonial subject who had more knowledge and practice of customary law, which for a European judge was uncertain and not written. Moreover, even when, for political and public policy reasons, the judge was European, it was deemed appropriate that he was assisted in its function by local experts: this is the reason why the advisory role of the local people in assisting the judge in the case decision was introduced into the Italian colonial system¹⁶.

¹⁴ BENNETT-VERMEULEN, *Codification of Customary Law*, in *Journal of African Law*, Vol. 24 (1980), p. 219.

¹⁵ MARTONE, *La giustizia*, cit., p. 88.

¹⁶ ROMANO, *Corso*, cit., p. 197, for whom when all the elements of judgment were collected and it had already started, then its continuation could have been passed to European judges.

4. Normative Orders in the Somali Colony

In general, three legal orders were present in the colony: Italian (intended as Italian law applicable in the colony), Islamic and customary, with the Italian law considered to be prevailing in case of conflict of laws¹⁷.

Italian law (as applicable to the colony) was composed of different elements. First, there were general laws whose application was extended to the entire State territory (which therefore meant that colonies were included). Second, all metropolitan laws whose application had been expressly extended to the colony, with or without minor changes, were also included. Then there were all those norms issued expressly for the colony by the metropolitan competent authorities or by the colonial ones that were normally, or on a case-by-case basis, competent to issue binding norms¹⁸.

As far as customary law is concerned, in Somalia it was constituted by all those norms of all the different Somali clans, verbally transmitted by the elders (*wayēl*) and created during the *shir*. As previously mentioned, all Somali clans share the same language, and the different dialects are easily understandable by all Somalis.

Due to the fact that all Somalis are Sunni Muslims of Shafi rite, Islamic law in Somalia includes the texts of Muslim law of the Shafi school¹⁹. One of the pillars of the Italian colonial administration was religious autonomy²⁰. Therefore, the colonial administration recognized the applicability of Islamic law as an exclusive source of law in matters of personal status for Muslims, and, more generally, in the relations between Muslims if the applicable rules were not contrary to the principles of public policy of the colonizing country.

In fact, the Italian legislator and most of the Italian authors at that time considered customary and Islamic law to be a whole set of rules under the name of *diritto indigeno* (indigenous law), therefore conflating, in this way, the two dif-

¹⁷ Court of Appeal of Addis Ababa, 20 November 1937, in *Foro italiano*, 1938, p. 1396, at 1400.

¹⁸ CUCINOTTA, *I conflitti di leggi nell'Africa italiana*, Padova, 1943, p. 35 ff.

¹⁹ A description of the substantive rules can be found in MILESI, *Il diritto presso i somali*, Mogadishu, 1937; and in the booklet ISTITUTO UNIVERSITARIO DELLA SOMALIA, *Corso di diritto islamico secondo la dottrina sciafeita*, Mogadishu, 1960, that is a summary of Theodor W. Juynboll's book *Handbuch des islamischen gesetzes nach der Lehre der schafitischen Schule* in its Italian translation *Manuale di diritto musulmano secondo la dottrina della scuola sciafeita con una introduzione generale*, Milano, 1916. The procedural aspects can be found in MELLANA, *Nozioni di diritto giudiziario somalo*, Mogadishu, 1957; and MELLANA, *Diritto processuale islamico somalo*, Mogadishu, 1957.

²⁰ Art. 34 of the 1936 organic law for the Italian East Africa. Previously see also Art. 21 of the 1933 organic law for Eritrea and Somalia.

ferent legal orders. The fact that all Somalis are Muslims meant a strong influence of the religious tenets on the customary rules²¹, rendering it difficult therefore for foreigners (who didn't have a specific interest in that) to clearly distinguish the religious principle from the customary one, and easier to join them in a single normative order to have it submitted to the metropolitan law.

Further to its express recognition in the Italian legislation concerning Somalia (reference is made here to the organic laws and the judicature acts described below), such indigenous law – as seen in the previous paragraph – became part of the law in the colony, recognized only for a set of legal relations involving local people²². Such recognition implied the obligation not only for the local but also for the Italian judges to apply such indigenous law when necessary. This obviously created the issue of the proper knowledge of this indigenous law and, in particular, of the applicable Islamic law, as well as of all unwritten customary rules, an issue made more serious by Italian judges' scarce knowledge of the local languages and the consequent difficulty of determining if the applied customary rule was correctly reported, was still in force and had not been changed.

The fundamental difference between the two approaches lies in the fact that Italian (and in general Western) laws are territorial, since they apply to all people and things that are in the territory on which the State exercises its jurisdiction. Conversely, both customary and religious (Islamic in our case) laws are personal, since they bind only those people belonging to a given ancestry or religion, and they don't have links with a specific territory²³. This obviously caused conflicts between the different normative orders.

5. Interactions during the Colonial Period

At the end of the nineteenth century Italy colonized the territories of north-eastern, central and southern Somalia²⁴, while in 1884 the British acquired control of the North-western part of the Somali territory identified as British Somaliland from Egypt²⁵. Consequently, in the first territory the Italian colonization

²¹ On the interaction between the customary and the religious laws see more in Section 6.

²² MACCHIA, *Consuetudine e legge nel diritto coloniale*, in *Rivista di diritto coloniale*, 1941, p. 158.

²³ CUCINOTTA, *I conflitti*, cit., p. 49 ff.

²⁴ On the process of the Italian colonization of Somalia see ROMANO, *Corso*, cit., p. 76; PAPA, *L'Africa italiana*, Roma, 2009, Chapter III.

²⁵ This territory lies on the southern shore of the Gulf of Aden, from the border with the French Somaliland (west) to the border with the Italian Somaliland (east) at Bandar Ziada, and south up to the border with Ogaden at Buuhootle, in the territory inhabited by the Dhullbahante sub-clan.

brought in a civil law system, while in the second a system based on English common law and the indirect rule principle was applied²⁶.

Both colonial powers were immediately conscious of the clan division and of the strength of *xeer*, and decided not to introduce drastic changes in order to avoid subverting the structure of the Somali society, limiting their intervention only to those cases – mainly concentrated in urban areas – where peace and the public order were threatened by conflicts between different clans.

From the very beginning of the colonization of the Somali territories, Italy used the “double track system”, through which Italian citizens and those assimilated were subject to the application of Italian law, while indigenous people were subject to their customary rules applied by the *qadi*²⁷. Such an approach can already be found in the agreement by which the Filonardi company accepted the provisional management of the Benadir concession for three years from 1893²⁸; and was continued in the first *Ordinamento* (organic law) related to the Somali territories under Italian control at that time²⁹, where the general principle of the applicable law according to the personal status is set forth³⁰. Such organic law was accompanied by a first regulation on the settlement of disputes based on the *qadi's* jurisdiction over disputes involving Somalis, with an appeal to be filed to an indigenous tribunal composed of five *qadi*. Somalis also had the possibility to resort to the Italian judge, the *Residente*, assisted by the notables (*sciuba*)³¹.

This system was further confirmed in the *Ordinamento della Somalia Italiana* (organic law for the Italian Somaliland)³², the first covering the entire colonial territory, where Italian citizens were subject to Italian law, and the local people

For a history of the colonization of the British Somaliland and a detailed map of the territory at that time see: *The Soldier Burden. Somaliland 1884-1898* available at <http://www.kaiserscross.com/188001/257522.html>.

²⁶ For an overview of the system administered in British Somaliland see MILLMAN, *British Somaliland: An Administrative History, 1920-1960*, London, 2013.

²⁷ On the difference between the approach with a unique judiciary and the one with two separate judiciaries, one for the colonizers and another for the colonized people, and the reasons brought forward in Italian doctrine to support the latter see SERTOLI SALIS, *La giustizia indigena nelle colonie*, Padova, 1933.

²⁸ See VICINANZA, *La Somalia Italiana*, Napoli, 1910, p. 134 ff.; GUADAGNI, *Colonial Origins of the Public Domain in Southern Somalia (1892-1912)*, in *Journal of African Law*, 1978, p. 2.

²⁹ Ministerial Decree 24 February 1905, enacted in the colony by Commissioner Decree 1st May 1905, no. 1, available in ROSSETTI, *Manuale di legislazione della Somalia italiana*, Vol. II, Roma, 1912, p. 145. See also MONDAINI, *La politica indigena dell'Italia coloniale*, in *Rivista Coloniale*, 1924, p. 240 ff.

³⁰ Art. 4.

³¹ Commissioner Decree 11 January 1906, no. 48, available also in ROSSETTI, *Manuale*, cit., p. 347.

³² Law 5 April 1908, no. 161.

were expressly subjected to Islamic (*sharī'a*) and customary (*xeer*) law according to the different religious and customary tenets³³, unless they requested the application of Italian law³⁴.

Despite the apparent situation of co-existence, it was clear that customary law remained limited to those confined areas where the limits posed by metropolitan law allowed its application. Such a system of customary rules therefore necessarily collided with the introduction of legal patterns of the Western type subsequent to the Italian colonization³⁵: the result was a variety of solutions based on the local context³⁶. The outcome is the inapplicability of metropolitan

³³ Art. 13. The two systems have always been equally considered by the Italian colonizer. See BERTOLA, *Il regime dei culti nell'Africa italiana*, Bologna, 1939. As SERTOLI SALIS observes in his *La giustizia indigena*, cit., p. 36 ff., the general understanding was that Islamic law was applied by the coastal people and limited to family and successions law, while customary law was applied in the interior and was related to the social and political organization of the people on a family basis.

³⁴ Art. 15.

³⁵ Guglielmo Ciamarra, Colonial Judge (*Giudice della Somalia*) in Somalia since 1910, describes perfectly – but always, of course, with an ethnocentric approach – this encounter/clash of the two legal cultures: “The conditions of the Somali people, especially in regions of new occupation, are still those of primitive tribes, where the normal situation is that of war. While on the one hand this determines in the indigenous people a different concept about respect for life and the goods of others, on the other hand it gives to the acts of hostility, made by tribes in struggle, a solidarity character whose consequence is the collective liability. In these contingencies it is easy to see how the authority that is vested with the judgment power must be faced with two very serious difficulties. The one of the physical impossibility of establishing who is guilty, the other even greater difficulty being that of the legal determination of the individual liabilities. Then, while our civil legislations do not have any legal instrument to punish the community that has the greatest responsibility for these events, too severe and disproportionate are often the legal provisions set forth to punish the individual offense, given the mentality of the local people and the way how such events happen. According to our laws these facts, which are very frequent in the life of the local people, can only find an inappropriate repression or impunity. [...] Therefore it is not possible to apply our legal rules to these facts, being them based on the principle of determining the guilty and the punishment, since the individual has disappeared within the social group, which in turn rises with a strong economic and legal unity in its external relations with other groups. Then the issue of the prevalence of our legal principles – set forth in the organic law of Somalia – on the indigenous institutions that mostly contradict them, whether they are consecrated in sharia or in certain customs, disappears. Against such survivals of ethical manifestations of primitive peoples a whole different appreciation of the facts becomes necessary, from which it follows easily that the same legal principles rightly understood, do not permit the application of strict legal sanctions to facts which are not conceived at civilized peoples, being greater elasticity and width of repression therefore required. Then consequence is that, in addition to take the judgment on these facts over from the indigenous jurisdiction, the infliction of legal sanctions in such circumstances should be free from the ties of a strict application of the law itself” (translation from Italian by the Author). Quoted in PAPA, *L’Africa*, cit., p. 106.

³⁶ The local context could have taken into consideration objective (like the local environment, lack of bodies or offices, distance, lack of proper ways of communication) or subjective (lineage, religion, customs) situations. On this see more in CUCINOTTA, *Le condizioni locali nel diritto coloniale*, in *Rivista di diritto coloniale*, 1940, p. 29 ff.

law, or its application, but corrected by the consideration of such local conditions. So, for example, revenge was completely incompatible with premeditation and was punished with the excuse of provocation³⁷; raiding was not considered robbery and it had to be punished less seriously³⁸; the offence committed in the execution of a customary rule lost – in general – much of its seriousness³⁹, going so far as an acquittal where there was a lack of the element of the intentional wrongdoing⁴⁰; the sanction set forth in Art. 350 of the Italian Penal Code was diminished in the case of rape committed in relation to local woman⁴¹. In any case, the judge was the one who determined if metropolitan law should be applied as it was, adapted or discarded⁴².

Ultimately, the conflict was normally resolved with the victory of the strongest (metropolitan law) over the weakest (local normative orders)⁴³ since Italian law was considered more evolved and civilized, so that the predominance of metropolitan law eventually derived from the same reasons for which the colony was created⁴⁴. The only exception to the predominance of the Italian law was when Italian citizens expressly chose the application of indigenous (customary or religious) law or established a legal relation based on indigenous law⁴⁵. Moreover, the judicial structure introduced with colonization was limited to the recognition of the Islamic judge (*qadi*) as jurisdiction competent in criminal matters in accordance with the local legal rules (customary or religious)⁴⁶, and to the set-up of a second indigenous jurisdiction, that of the *Tribunale dell'Indigenato* (indigenous tribunal). An official application of customary law was not taken into consideration. Customary law was rather considered to be a supplementary element for the better application of the general principles of Italian law when

³⁷ *Assise Mogadiscio*, 1st March 1912 and *Assise Mogadiscio*, 15 July 1912, both in CIAMARRA, *La giustizia nella Somalia. Raccolta di giurisprudenza coloniale*, Napoli, 1914.

³⁸ *Giudice della Somalia*, judgment of 20 March 1912, in CIAMARRA, *La giustizia*, cit., p. 198. CAVICCHIONI, in his *Dalla Somalia italiana all'isola di St. Helena*, Bologna, 1914, p. 82, observes that “the raid, which would be a crime according to our law, as it is not more than an armed robbery, for the indigenous is a natural phenomenon created by very special feelings and needs”.

³⁹ *Giudice della Somalia*, ordinance of 12 September 1912, in CIAMARRA, *La giustizia*, cit., p. 249.

⁴⁰ This is the interpretation outlined by SACCO, in *Introduzione*, cit., p. 19, further to the examination of the cases reported in CIAMARRA, *La giustizia*, cit.

⁴¹ *Giudice della Somalia*, judgment of 25 May 1912, in *Giustizia in Somalia*, 1912, p. 64.

⁴² CUCINOTTA, *I conflitti*, cit., p. 59.

⁴³ Art. 59, Royal Decree 20 June 1935, no. 1638.

⁴⁴ SOLUS, *La loi applicable aux rapports juridiques de droit privé entre indigènes et non-indigènes*, in *Compte rendu de la XXIII Session de l'Institut Colonial International tenue à Lisbonne les 18, 19, et 20 avril 1933*, Bruxelles, n.d. [1933], p. XI ff., quoted in CUCINOTTA, *I conflitti*, cit., p. 107.

⁴⁵ Art. 60, Royal Decree 20 June 1935, no. 1638.

⁴⁶ Contrary to the Italian policy to maintain the *qadi*'s jurisdiction was ZIRONDA, *L'ordinamento della giustizia penale nella Somalia Italiana*, in *Rivista di diritto e procedura penale*, 1911, p. 609 ff.

the mere application of metropolitan law was deemed to be inappropriate⁴⁷, so that the role of customary law was reduced to that of a legal formant in the application of the rules of metropolitan law⁴⁸.

The legal system of Italian Somalia had its own autonomous development. The colonial administration adopted a double jurisdictional system through which judicial bodies following the Italian pattern settled disputes involving Italian citizens (or foreigners of a Western culture), while disputes involving Somalis were under the jurisdiction of Islamic judicial bodies. In principle, such a system entailed a strong division between the two legal orders, but in practice this happened with reference to personal status, family and succession law due to the strong religious implications attached to them. This caused the *shari'a* – as integrated by customary law – to be absolutely mandatory. On the other side, the strong cultural differences with the Italian pattern, coupled with the impossibility for the Italians of derogating from Italian law and jurisdiction, prevented customary law from governing the relations where one of parties was Italian.

Apart from the areas identified above, customary law was receptive to the Italian rules, making a hidden penetration of the Italian pattern into Somali law possible. Such penetration was realized using the following three means: the departure (legal or voluntary) from the judicial competence; the (express or tacit) agreement on the application of Italian law as the law determining legal relationships; mixed legal relationships (involving Italians and Somalis), which were subject to Italian laws and jurisdiction⁴⁹.

The principle of determination of the applicable law according to the origin of the people was confirmed in the 1911 *Ordinamento Giudiziario* (1911 Judicature Act)⁵⁰. The adoption of this law was inspired by the need to ensure to all Italian and foreign citizens an administration of justice based on the metropolitan system adapted to the local needs for greater simplicity, and to maintain for the local population the indigenous institutions to the extent that they were compatible with the general principles of Italian law, unless they preferred to resort to the Italian judge for any dispute not relating to family and personal status issues. In contrast to what happened in other Italian colonies, in Somalia the choice of the Italian jurisdiction by the Somalis also automatically determined the choice of the applicable law, so that when Somalis chose the Italian jurisdiction they were judged according to Italian law (as applicable in the colony)⁵¹.

⁴⁷ App. *Mogadiscio*, 25 May 1912 and *Assise Mogadiscio*, 16 January 1913, both in CIAMARRA, *La giustizia*, cit.

⁴⁸ On the theory of the legal formants see SACCO, *Legal Formants: A Dynamic Approach to Comparative Law*, in *American Journal of Comparative Law*, 1991, p. 1 (part I) and p. 343 (part II).

⁴⁹ SACCO, *Le grandi linee*, cit., p. 41.

⁵⁰ Royal Decree 8 June 1911, no. 937, as subsequently modified, especially with the Royal Decree 20 December 1923, no. 3036.

⁵¹ SERTOLI SALIS, *La giustizia indigena*, cit., p. 181.

Determining the way in which customary law could have been applied by the metropolitan judge involved allowing the use of a fair appreciation by the judge to adapt the customary norm to the requirements of Italian law if its application would not have been suitable for the local situation through the *indigenato* jurisdiction administered by the *Tribunale dell'Indigenato* and the Regional Courts (*Tribunali Regionali*). The *Tribunale dell'Indigenato* was fundamentally a political jurisdiction to judge all facts that were considered to be an obstacle to the activity of the Italian government, even if not classified as crimes by the Penal Code⁵². At the very end, the application of customary rules was left to the judge, his sensibility, and his willingness to study and understand the local environment. The care with which the local magistrates studied and applied local customary rules, with the scope of understanding the local situation, is a further sign of the intention to adapt customary rules to the principles of metropolitan law.

The basic principles laid down in the 1911 *Ordinamento Giudiziario* were maintained in the 1935 *Ordinamento Giudiziario* (1935 Judicature Act) approved by R.D. 20 June 1935, no. 1638⁵³. The *qadi* was competent to settle disputes on every civil and commercial matter involving Somalis (or those assimilated to them)⁵⁴, as well as criminal cases not falling within the competence of the *Corte d'Assise* (Assize Court) or of the *Residente*⁵⁵, while the civil, commercial and criminal cases involving Italians were judged by the metropolitan judge. A detailed appeal system was set forth⁵⁶. The “double track system” was maintained in terms of applicable law; the particularity being the possibility given to the Governor to introduce by decree into customary law those changes necessary to render it compatible with the general principles of Italian law⁵⁷.

In the meantime, the *Ordinamento Organico* (organic law) for Eritrea and Somalia, enacted by Law 6 July 1933, no. 999, determined the laws applicable to the colony by providing that:

⁵² If the fact was not classified as a crime by the laws applicable in the colony a light sanction was imposed (up to one month imprisonment and 100 Lira fine), while if the fact was considered to be a crime the court could have applied a sanction lighter than the one fixed by the law or even special punishments.

⁵³ As indicated in the report presented by the Ministerial Commission to the Minister for the Colonies, the 1911 judicature act was considered to be well adapted to the Somali conditions so that it should have been kept without extensive changes, but only those necessary to fill gaps or to update those rules which were considered outdated. See MELLANA, *L'Italia in Africa. L'amministrazione della giustizia nei territori d'oltremare*, Vol. II, *L'amministrazione della giustizia nell'Africa Orientale Italiana (1936-1941)*, Roma, 1972, p. 43 ff.

⁵⁴ Art. 6.

⁵⁵ Art. 11.

⁵⁶ See Art. 5 ff.

⁵⁷ Art. 59 ff.

“The civil, commercial and criminal codes, that of criminal procedure, the criminal military and maritime codes, and the related additional provisions now in force in the Kingdom [be] extended to Eritrea and Somalia and must be observed as far as it is allowed by the local conditions and subject to the modifications thereto which may be made with special laws for Eritrea and Italian Somalia”⁵⁸.

The Governor was granted the right to introduce by decree into indigenous law any necessary amendments to make it compatible with the general principles of the Italian legal system, while the judge maintained the power to adapt metropolitan law to local conditions⁵⁹. On the other hand, the parties could prove by any means the existence of the custom whose application they requested, and the judge could make arrangements, *ex officio*, for the most appropriate means to ascertain its existence.

In general, in carrying out his task of administering justice, the colonial judge was always looking for a balance between metropolitan legal concepts learned in Italian universities and the legal rules proper for the Somali society. It did not take that long (for him) to figure out that the European pattern – the result of centuries of trials, errors, failures and adjustments – could not be imposed as a permanent solution that would have been uncritically accepted, lacking further evidence that its adoption would lead to an improvement in the situation. Hence the search began for bespoke solutions proposed as general principles of law, where fair appreciation of the judge or the like became “a sort of natural law, which no one quite knows what it is, but is understandable and acceptable to all human beings”⁶⁰.

The result was the development of an Italian model that we can define as “atypical”. The absence of clear rules, coupled with the absence of organic collections of local customary laws, required, in practical terms, a “creative” effort by the colonial judge who had to adjudicate using his personal knowledge of Italian law shaped by the very important and personal experience of local customary rules earned by living in the Somali reality and through the cases he had to solve. The judge was therefore called upon to mitigate the rules set forth in the Italian codes whenever he found them to be incompatible with the local conditions. Consequently, this system led the colonial judiciary to be itself a source of law, since the legal precedents, citing very rich and diverse sources, constituted a source of knowledge of local customary laws and a guide for the judges in the application of the law according to the needs of the colony⁶¹.

⁵⁸ Art. 39 (translation into English from Italian by the Author).

⁵⁹ PARPAGLIOLO, *La nuova legge organica per l'Eritrea e la Somalia italiana*, in *Rivista delle colonie italiane*, 1934, p. 349.

⁶⁰ MAROTTA GIGLI, *Giustizia sotto l'albero: taccuino di un giudice italiano in Somalia*, Roma, 1989, p. 35.

⁶¹ PAPA, *L'Africa*, cit.

Thus, for example, in criminal matters, the introduction of metropolitan law did not prevent the *diya* from continuing to exist, having even being incorporated into the official law⁶². The result was that – although on different assumptions (*i.e.* a resort to the principle of joint and several liability in the Italian Somalia; the setup of separate proceedings, one official for the prosecution of the offence, and one based on customary rules for compensatory effects in the British Somaliland) – the *diya* became an instrument through which it could regulate what, according to European law, constituted the civil effects of a crime⁶³.

On the other hand, if Western law could quite easily have established punishment for the offences it considered criminal without affecting the substance of the compensation based on customary law, an individual subject to the latter found himself in trouble in understanding the reasons for the intervention made by the metropolitan judge: the commission of an unlawful act caused consequences that were well defined by customary law and any issue arising from it was considered foreclosed once the composition was reached and the compensation paid. So, it was not understandable why, despite the resolution (already complete) of the case carried out according to customary law, the State would continue to pursue the wrongdoer to add an additional penalty imposed by the metropolitan judge. More generally, the principle of the separation of powers – the cornerstone of the metropolitan legal model (not even fully applied by the Italians, if we consider the wide judicial powers recognized to the *Residente* first⁶⁴ and to the *Commissario Regionale* after⁶⁵, both administrative authorities) – was clashing with the local culture, pursuant to which an indigenous leader without judicial powers could not be considered as a leader⁶⁶.

The enactment of the 1936 *Ordinamento dell’Africa Orientale Italiana* (organic law for the Italian East Africa)⁶⁷ maintained the general principle by which the respect of local traditions was granted to everyone as long as they did not contravene public order and the general principles of the civilized nations⁶⁸. The

⁶² SANTIAPICHI, *Il prezzo del sangue e l’omicidio nel diritto somalo*, Milano, 1963.

⁶³ SANTIAPICHI, *Il prezzo*, cit.; CONTINI, *The evolution of blood money for homicide in Somalia*, in *Journal of African Law*, 1971, p. 78, who also refers to how the group responsible for the payment of the compensation is called the *diya-paying group*, and its composition changes from a few hundreds to thousands of people. Within the group each member pays or receives the *diya*, so that the group becomes a guarantor for the protection of the life and the assets of its members, and each member becomes guarantor and guaranteed at the same time. The subject is more widely developed in LEWIS, *A Pastoral Democracy: A Study of Pastoralism and Politics among the Northern Somali of the Horn of Africa*, 3rd ed., Oxford, 1999; and in VAN NOTTEN, *The Law*, cit.

⁶⁴ 1911 Judicature Act, Artt. 16, 22, 24 and 25.

⁶⁵ 1935 Judicature Act, Artts. 3, 4, 8 and 9.

⁶⁶ PAPA, *L’Africa*, cit., p. 183.

⁶⁷ Royal Law-Decree 1st June 1936, no. 1019, converted into Law 11 January 1937, no. 285.

⁶⁸ Art. 31, paras. 3 and 4.

same organic law eliminated the principle by which the metropolitan judge should have applied customary law if resorted to by a Somali, by prescribing that he should have applied Italian law; in any case, the principle by which a legal relation created under a given normative order should have been governed by the same normative order was maintained⁶⁹. All local people were subject to the law of their religion, place or ancestry⁷⁰, the disputes involving Muslims were ruled over by the *qadi* according to Islamic law and the local traditions of the Muslims⁷¹; since no distinction was made according to legal relations, as well as in the Judicature Act, in principle all legal relations involving local people were subject to customary and Islamic law. The judge retained the autonomy to apply a punishment lower than the minimum provided for in the Penal Code in all cases where even the application of the minimum punishment was considered disproportionate with respect to the local legal and social conceptions⁷², but he was not allowed to change the type of punishment⁷³ or to eliminate it.

By contrast, the relationship between colonial law and *sbari'a* was essentially peaceful, thanks to the freedom of religion granted by the Italian colonizer and the possibility given to the *qadi* to continue to exercise its jurisdiction, albeit under control of the colonial power.

In any case, the introduction of the Western pattern in Somalia (as, indeed, elsewhere in Africa) created a situation of “fictitious pluralism” where the other legal orders in the country (customary and/or religious law) were recognized subject to certain conditions, the most important of which was to be in compliance with the general principles of metropolitan law. This limit meant, at times, an adaptation of the rule coming from the alternative orders to the legal principles of European origin. The ultimate goal was to provide some form of recognition to these legal orders – in a version “diluted” by the aforementioned compliance filter – in the colonial legal order: the result was the creation of a sort of “customary law with European characteristics”. Consequently, the space for a real legal pluralism remained – at least officially – essentially insignificant. The same expression “customary law”, coined during the colonial period as “a residual category of local norms claiming tradition as legitimation that pertain to matters on which there has been no legislation or binding judicial rulings by the central State, yet which the State is willing to acknowledge and enforce”⁷⁴, presents substantial differen-

⁶⁹ Art. 33.

⁷⁰ Art. 50, para. 2.

⁷¹ Art. 31, para. 5.

⁷² Art. 50, para. 2.

⁷³ MANCINELLI-PICAZIO, *Il procedimento penale davanti alle autorità politico-amministrative dell'A.O.I.*, Addis Ababa, 1940, p. 103 ff.

⁷⁴ FALK MOORE, *History and the Redefinition of Custom on Kilimanjaro*, in STARR-COLLIER (eds.), *History and Power in the Study of Law: New Directions in Legal Anthropology*, Ithaca, 1989, p. 300.

ces with the customary concept of “custom” based on the real nature and the characteristics of this particular aspect of African legal culture⁷⁵.

Despite the central role given to Italian law, the identification of the applicable law remained at times difficult, especially in private matters, due to the plurality of sources of law. The indigenous judge was never set aside since he was the only one possessing proper knowledge of customary law and able to understand its spirit, even if his autonomy was limited by the possibility that his judgments could be appealed before Italian judges, and by the possibility given to local people to apply Italian law to their relationships and to consequently resort to the Italian judge in case of dispute by relying on the institute of the voluntary jurisdiction⁷⁶.

Then, if we examine the evolution of the organic laws applied in Somalia (and Eritrea too) during the colonial administration, the common thread has been the formal conservation of the traditional institutions and the gradual replacement by the State power of the local chiefs who became the State representatives for the local people and whose activity was performed through the traditional institutions under the control and direction of the State⁷⁷.

In any case, this positivist approach from the colonial legislator has not prevented customary law from keeping its characteristics and its central role in the life of African societies, despite the colonial system’s attempt to put it under its control. Hence, the emergence of the well-known phenomenon of the resistance of African customary law and the consequent continuation (in submerged form) of legal pluralism as a coexistence of normative orders of the same level competing with each other⁷⁸.

The Italian colonizer allowed in Somalia (as well as in other colonies) religious freedom and a substantial equality among the different religions practiced in the colony/colonies⁷⁹. On the other side, the relationship between shariatic and customary rules, which was developed prior to the colonial period, was maintained and continued to survive.

⁷⁵ In this work I used the expressions “customary law” and “customary rule” for the sake of clarity, being this the wording used by most of the African law scholars. However, as noted in the text, the expression “customary” has several unfavourable implications and cannot be considered satisfactory. The French expression “*droits originellement africains*”, proposed by Jacques Vanderlinden in his *Les systèmes juridiques africains*, Paris, 1983, gives a better idea on the sense and the characteristics of these normative orders. However, the impossibility of effectively rendering the French expression into English, together with the absence of an equally satisfactory wording, brought me to keep the use of the adjective “customary”.

⁷⁶ CATTANEO, *La giustizia italiana in Africa*, Roma, 1942, p. 59 ff.

⁷⁷ SAVOIA-AOSTA, *Studi*, cit., p. 28 ff.

⁷⁸ VANDERLINDEN, *Les droits africains entre positivisme et pluralisme*, in *Bulletin des séances de l'Académie royale des sciences d'outre-mer*, Vol. 46, 2000, pp. 279-292.

⁷⁹ The theme is widely developed in BERTOLA, *Il regime*, cit.

6. Interactions between Customary and Religious Law

When measuring the reciprocal impacts of customary and (Islamic) religious laws, it is necessary – first of all – to underline the spirit of great tolerance of the latter towards the former, provided that *shari'a*'s prevalence and correspondence to the Holy tenets are not (formally) brought into discussion. The Muslim religion permeates many parts of Africa, and numerous are the cases where the religious tenets apply to the daily life out of those areas that remain covered by customary law⁸⁰.

However, differently from most of the African customary laws, for which the sacral component is predominant, the *xeer* is fundamentally laic⁸¹. The relationship between Islamic and customary law was not completely coherent. If, on the one hand, the former has generally prevailed over the latter, also thanks to the diffusion of the activity of the *qadi*, on the other hand, customary rules sometimes maintained their main features and resisted the penetration of the Islamic tenets, although sometimes shaped by a certain degree of Islamic influence, especially in matters relating to personal status⁸².

Therefore, more closely to the Islamic law, the affirmation of religious congregations (*jamiica*) based on associative rather than noble relationships has had considerable influence on land tenure: the congregations steered toward sedentary activities rejecting nomadism and they differently obtained rights on land that was – then – divided among the members of the congregation itself. If the *xeer* considered these lands as a kind of concession from the tribal group to the congregation in an attempt to continue to recognize a lordship (albeit limited) on the land by the group, for its part the congregation considered the same land subject to the *waqf* regime, therefore applying Muslim tenets, without recognizing any other competing right⁸³.

On the other side, customary law changed the shariatic principles on liability for unlawful acts (the distinction between civil and criminal liability appears to be unknown to the Somalis⁸⁴): the liability was not individual but collective at

⁸⁰ VANDERLINDEN, *Les systèmes*, cit., p. 66 ff.

⁸¹ SACCO, *Le grandi linee*, cit., p. 22.

⁸² For a detailed description of the interaction between customary and Islamic law, with references also to the period prior to the colonization see CERULLI, *Note sul movimento musulmano della Somalia*, in CERULLI (ed.), *Somalia. Scritti vari editi e inediti*, Vol. I, *Storia della Somalia. L'Islam in Somalia. Il libro degli Zengi*, Roma, 1957, p. 206.

⁸³ SACCO, *Introduzione*, cit., p. 27.

⁸⁴ This difficulty in grasping the difference indicated in the text can be clearly inferred from the history of the 1960 Somali Constitution, especially with reference to the relation existing between *diya* and personal criminal liability, as reported in the judgment of the Somali Supreme Court No. 2 of 16 May 1964, in *Journal of African Law*, 1965, p. 170 ff.

the group level⁸⁵. Consequently, when an unlawful act was committed, this could have led to an act of revenge by the victim's group against any member of the offender's group; revenge was often replaced by compensation (*diya*), agreed by their respective clan assemblies and payable by the offender's group in favour of the victim's group, in accordance with the traditional principle that "no one receives or pays compensation individually"⁸⁶. Furthermore, the customary principles of the prohibition of marriage between cousins, as well as that of the firm refusal of any succession right in favour of women have been "introduced" into the religious law⁸⁷.

As mentioned above (see Section 4), for the Italians both normative orders were considered as a single set of rules (*diritto indigeno*) subordinate to metropolitan law. The Italian legislator did not consider such a relationship and often considered them as a unique, "customary" normative order; being concerned only with allowing the coexistence of the indigenous (customary and religious) law with metropolitan law. The lack of any accessible source made it difficult to properly understand the interaction between the two normative orders. Therefore, there are no specific rules in colonial law regarding the interaction of these normative orders⁸⁸.

7. Interactions during the Italian Trusteeship Administration of Somalia

The peace treaty between the Allied and Associated Powers and Italy following the Italian defeat in the Second World War, signed in Paris on 10 February 1947 and entered into force on 16 September of the same year, provided, in Art.

⁸⁵ The fact that customary law has been able to modify *shari'a*'s principles in such a sensitive issue is expressly recognized in the Somali Supreme Court's judgment No 2 of 1964, cited in the previous footnote.

⁸⁶ CONTINI, *The Evolution of Blood Money for Homicide in Somalia*, in *Journal of African Law*, 1971, p. 78, who also refers to how the group responsible for the payment of the compensation is called the *diya-paying group*, and its composition changes from a few hundreds to thousands of people. Within the group each member pays or receives the *diya*, so that the group becomes a guarantor for the protection of the life and the assets of its members, and each member becomes guarantor and guaranteed at the same time. The subject is more widely developed in LEWIS, *A Pastoral Democracy*, cit.; and in VAN NOTTEN, *The Law*, cit.

⁸⁷ VANDERLINDEN, *Les systèmes*, cit., p. 68. On the refusal of any succession right in favour of women see also SACCO, *Di alcune singolari convergenze fra il diritto ancestrale dei Berberi e quello dei Somali*, in AA.VV., *Scritti in Onore di Angelo Falzea*, Vol. IV, Milano, 1991, p. 415.

⁸⁸ CUCINOTTA, in his *I conflitti*, cit., p. 152 ff., observed that Art. 3 of the 1911 Judicature Act seemed to have put customary law in a position of little supremacy over Islamic law since all disputes involving locals should have been decided according to Muslim law as long as not modified by customary law, but the 1935 Judicature Act did not repeat the same rule, so putting the two normative orders at the same level.

23, para. 1, the explicit renunciation of Italy to all its colonial possessions in Africa, therefore including Somalia.

On 19 November 1947, Italy sent a memorandum to the Deputy Foreign Ministers of those nations meeting in London requesting a trusteeship administration of its former African colonies. Regarding Somalia, the Italian request was repeated several times⁸⁹. The General Assembly recommended that only Somalia remain under Italian administration. Then, in its Resolution of 21 November 1949 the Assembly adopted the main guidelines of the Trusteeship Agreement on Italian Somalia. The full text was written by the Trusteeship Council and approved by the same body in its meeting in Geneva on 27 January 1950. On 18 November of the same year the final text of the Agreement was approved by the Commission IV and, on 2 December, by the General Assembly in plenary meeting⁹⁰. With the latter vote, the long and tormented path to the establishment of the Italian trusteeship over its former colony finally ended⁹¹.

The Agreement provided that the authority charged with the administration had full legislative, administrative and jurisdictional power over the Territory, together with the possibility to apply there – temporarily and with the necessary adaptations – Italian laws⁹². Having considered the temporariness and the functionality of the Trusteeship Administration, this meant that Italy was “lending” its legal order to Somalia while it was putting in place its own legal system; therefore, while any Italian law should have been specifically extended to the Territory to be applicable in Somalia, its general principles were considered implicitly referable also to Somalia in the above mentioned lapse of time⁹³. This was because Italy was not facing an already complete and working legal order, but one in the process of being made, and of this formation Italy had full initiative and responsibility in line with the Agreement and its Annex.

The legislative power had to be exercised by the Administrator until a Legislative Assembly was formed. Using such an instrument, the application of a num-

⁸⁹ For the reasons on which the Italian request was based see: VEDOVATO-MORENO-MANGANO, *La questione dell'amministrazione fiduciaria delle colonie italiane in Africa*, Firenze, 1947.

⁹⁰ The text of the Agreement can be found in the document No. A/1294. On the Italian Trusteeship Administration of Somalia see MEREGAZZI, *L'Amministrazione Fiduciaria Italiana della Somalia (A.F.I.S.)*, Milano, 1954; SOCINI, *La tutelle italienne sur la Somalie*, in *Annuaire français de droit international*, 1956, pp. 571-581; MORONE, *L'ONU e l'amministrazione fiduciaria dell'Italia in Somalia. Dall'idea all'istituzione del trusteeship*, in *Italia contemporanea*, 2006, p. 242; MORONE, *L'ultima colonia. Come l'Italia è tornata in Africa (1950-1960)*, Roma-Bari, 2011.

⁹¹ The Italian administration in Somalia had been already started on a provisional basis from 1 April 1950, following an agreement with England, which occupied the territory. With regard to Italian law, it should also be noted that the provisional administration only ended on 22 December 1951, when the Italian law on the ratification and implementation of the Trusteeship Agreement came into force.

⁹² Art. 7.

⁹³ See MEREGAZZI, *L'Amministrazione*, cit., p. 28 ff.

ber of Italian laws, including the Civil Code, the Civil Procedure Code, and bankruptcy law, was extended to the Somali Territory⁹⁴. With the Italian Trusteeship Administration, the perspective therefore changed: there was no longer an Italian law applicable to Somalia as such; rather there were “territorial laws” or “laws in force in the Territory” of Italian origin and alternative to customary rules (*xeer* and *shari’a*) applicable to local Muslims⁹⁵.

With reference to legal relations involving Somalis, the “double track system” initiated during the colonial period was maintained. Therefore, all these relations were subject to Islamic and customary law, and the *qadi* was the competent judge to solve the related disputes using the procedural rules applicable to those systems⁹⁶. The applicable law remained the above mentioned 1935 *Ordinamento Giudiziario*, as amended by the Administrator to make it in line with the provision (Art. 7) of the Annex to the Trusteeship Agreement, with the final aim of gradually reaching the full independence of the judicial power⁹⁷. In particular, there was a judiciary structure for cases where Somalis and those having the same personal status were involved, and another for Italian citizens and those assimilated to them, and the composition of the common judicial bodies changed according to whoever was involved in the dispute⁹⁸. At the very end, the conditions set forth in the Trusteeship Agreement and its Annex with reference to judicial activity had already been realized with the 1935 *Ordinamento Giudiziario*, requiring the Italian Administration only to enact and to apply those rules necessary to facilitate Somalia’s independence⁹⁹.

Due to the continuity in the application of the above mentioned 1936 *Ordinamento dell’Africa Orientale Italiana*¹⁰⁰, in civil cases the option for Somalis to resort to the jurisdiction set forth for the Italian citizens was maintained¹⁰¹. In criminal cases, Art. 50 of the same organic law aiming at adapting criminal punishments to local circumstances was replicated by the Italian Trusteeship Administration through an ordinance enacted to adapt the previous legislation to the new social and legal reality¹⁰²: therefore, for crimes committed by Somalis

⁹⁴ Ordinance 28 December 1950, no. 146, entered into force on 1st May 1951.

⁹⁵ SACCO, *Le grandi linee*, cit., p. 42.

⁹⁶ Art. 7 of the Annex. See also MEREGAZZI, *L’Amministrazione*, cit., p. 36.

⁹⁷ During colonial times jurisdictional functions in the peripheral offices were often exercised by the same governmental officials (*Commissari* and *Residenti*) due to the scarcity of judicial personnel.

⁹⁸ For a full description of both judicial structures see MEREGAZZI, *L’Amministrazione*, cit., p. 122 ff.

⁹⁹ MELLANA, *L’Italia in Africa*, cit., p. 444.

¹⁰⁰ Royal Law-Decree 1st June 1936, no. 1019, converted into Law 11 January 1937, no. 285.

¹⁰¹ Art. 33.

¹⁰² See Ordinance 12 April 1950, no. 7, Art. 9. See also MELLANA, *L’Italia in Africa*, cit., p. 446.

(or those having the same personal status) the judge, while applying any criminal provision from the codes or any other law or regulation, could determine a punishment lower than the minimum provided for by the law; moreover, it could choose either the detention or the fine when the crime was punishable by the law with both punishments.

The system delineated above was applied up to the enactment of the new 1956 Judicature Act, in compliance with the prescription of Art. 7 of the Annex to the Trusteeship Agreement¹⁰³. The main goal of this new Judicature Act was to realize in Somalia – even if still under Trusteeship Administration – a system based on the three levels of jurisdiction, whilst maintaining the distinction between ordinary and religious jurisdiction¹⁰⁴. The 1956 Judicature Act was thus characterized by replacing the distinction between Italians and Somalis with that of Muslims and non-Muslims, and by integrating the two jurisdictional structures into one, having a unique court of last instance.

The 1956 Judicature Act also redefined the operational areas of territorial and customary law. When both parties were Muslim, *xeer* and *shari'a* were applicable, while territorial law was applicable when both parties were non-Muslim or when the parties were Muslim and non-Muslim¹⁰⁵. The law expressly presumed these situations, but it was always possible to prove that the parties created their legal relation under a different normative order¹⁰⁶. The trespassing of territorial law in the legal relations involving Muslims was also determined by the rules regarding judicial competence. The *qadi* was the competent judge to solve disputes concerning the above-mentioned relations¹⁰⁷, while the *Giudice Regionale* was competent for any other case¹⁰⁸, but the Muslim plaintiff was always able to resort to the *Giudice Regionale* for any case not concerning family and successions¹⁰⁹. Moreover, the *Giudice Regionale* was competent for any case arising from a written instrument, or where the legal relation was created without following the rules, regardless of the identity of the parties¹¹⁰. The Italian Trusteeship Administration also brought the application of the Italian Civil Procedure Code, therefore repealing the general rule introduced with the 1911 *Ordinamento Giudiziario* prescribing to the judges the application of the general principles of Italian procedural law as adapted to the local circumstances¹¹¹.

¹⁰³ Ordinance 2 February 1956, no. 2.

¹⁰⁴ MELLANA, *L'Italia in Africa*, cit., p. 452.

¹⁰⁵ Art. 35.

¹⁰⁶ Art. 36.

¹⁰⁷ Art. 2, para. 2.

¹⁰⁸ Art. 4.

¹⁰⁹ Art. 2, para. 2.

¹¹⁰ Art. 2, para. 4.

¹¹¹ Art. 35, Royal Decree 8 June 1911, no. 937.

As has already been noted above, the Italian Administrations (colonial first, Trusteeship after) also introduced principles concerning the administrative, commercial and labour sectors. Differently from the civil (including procedural) law described above, these principles were applied to areas marginally or even not affected by the application of customary (including Muslim) law: it was therefore easier for the Italian legislator to extend Italian laws¹¹² or prepare specific laws for Somalia following the European pattern¹¹³.

Criminal law deserves specific discussion. When the Italian pattern was introduced, a set of customary rules governing the area that the Western jurist considered to be “criminal” (it has been noted above how the distinction between civil and criminal liability was unknown in Somali customary law) was present. Such rules were based on a different concept of liability (collective, at family or clan level), contrary to the Western one (personal). These customary rules were considered applicable only when in line with the general principles of metropolitan law, and provided that it was an Italian entity (judge or governor) who was competent to decide on such compatibility. Moreover, even if the “double track system” was formally also in force for criminal cases, at the end of the pyramid the two judiciaries converged, since the *Corte di Assise* was competent to judge on the most serious crimes and it applied metropolitan law; and it should be remembered that since 1911 the *Tribunale dell’Indigenato* had been working to judge the crimes involving different clans, or those committed against the colonial power¹¹⁴. It is therefore within this framework that the wide possibility of applying the Italian Penal Code should be considered, an application in any case adapted and shaped through local circumstances, as described above.

At the end of the Trusteeship Administration, when Somalia became independent on the 1 July 1960, justice was still administered using the 1956 Judicature Act briefly described above, whose rules were then largely transposed into the new Somali Judicature Act approved by Legislative Decree 12 June 1962, no. 3¹¹⁵.

¹¹² See, for example, ordinances Nos. 1, 2 and 3 of 22 January 1955 extending the application of the Italian laws concerning patents, industrial models and trademarks to Somalia.

¹¹³ See, for example, the 1958 Labor Code.

¹¹⁴ Art. 76, Royal Decree 8 June 1911, no. 937.

¹¹⁵ MELLANA, *L’Italia in Africa*, cit., p. 456.

PART III
FROM COLONIZATION TO TRUSTEESHIP
AND INDEPENDENCE

CHAPTER 6

ITALY'S "RIGHT OF RETURN" TO SOMALIA AFTER
THE DEFEAT IN THE SECOND WORLD WAR

Debora Valentina Malito *

SUMMARY: 1. Introduction. – 2. The Second World War in North and East Africa. – 3. The Italian "Right of Return". – 4. The International Compromise. – 5. The Somali Response: Pan-Somalism. – 6. Conclusions.

1. Introduction

The Second World War has often been seen as a great divide in the history of the African continent. Among other things, the war has been credited with releasing national and liberation forces which exacerbated and accelerated the crises within the colonial empires. It precipitated the collapse of colonial structures. It changed the structure of the international system. It marked the decline of the European military power, and the rising antagonism between the US and the USSR. The Second World War was clearly a divide, but seen from the horizon, the Moon also appears bigger than it actually is¹. The war shaped the structure of the international system, but not the nature of the system itself. The war did not mark a turning point in the inter-imperialistic competitions that led to the conflict. The end of the war also led to the increasing economic dependency of the former colonies on their former colonial powers. The war itself was crucial in incorporating emerging African nation-States into the world capitalist economy². Unequal relationships of power between former colonial powers and the colonised did not change substantially, and existing inequalities of power led to the formation of neo-colonial forms of domination. In the words of Lons-

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¹ SHIPWAY, *Decolonization and Its Impact: A Comparative Approach to the End of the Colonial Empires*, Malden, 2007.

² MANDEL, *The Meaning of the Second World War*, London, 1986.

dale, “Colonialism was a social process which decolonization continued”³. Yet, what impact did Italy’s defeat in the Second World War have on Somalia’s decolonisation?

This chapter shows how Somalia’s post-colonial status was secondary to a complex negotiation, and compromise. It focuses on the immediate post-war period, comprising the period between the military defeats (1943-44) and the United Nations General Assembly’s final decision on the process of decolonisation of the former Italian colonies (1949). It considers three main implications: 1) the “right of return” claimed by the Italians; 2) the international bargain and final compromise pursued by the International Community, and 3) the political response provided by the Somalis.

Considering contemporary claims for decolonising African studies and systems of knowledge⁴ at large, scrutinising Western archives about the diplomacy of decolonisation holds a special relevance: given the contested, delayed⁵ or non⁶, decolonisation which took place in Italy, many aspects of post-colonial Italian history are still trapped into negligent silences⁷. Ben Ghiat and Fueller put it thus:

“the collapse of Italian colonialism in a context of a wider military and political defeat, and the fact that the Italian colonies did not undergo any real process of decolonization, had long-term repercussions for how Italian colonial history has been written and remembered”⁸.

In contrast with apologetic interpretations of the colonial past, a number of significant studies have contested the myth of the benevolent Italian colonialism. Many have denounced to what extent, and in what way, memories of the period have been characterised by institutional amnesia⁹, a lack of critical debate¹⁰, in-

³ LONSDALE, *The Depression and the Second World War in the Transformation of Kenya*, in KILLINGRAY-RATHBONE (eds.), *Africa and the Second World War*, London, 1986, p. 135.

⁴ See, for instance, the contemporary struggle across South African universities. See MBEMBE, *Decolonizing the University*, Johannesburg, 2015.

⁵ LABANCA, *Oltremare: Storia dell’espansione coloniale italiana*, Bologna, 2002.

⁶ CALCHI NOVATI, *Italy and Africa: How to Forget Colonialism*, in *Journal of Modern Italian Studies*, 2008, pp. 41-57.

⁷ For a comprehensive view of the debate on Italian colonialism see ANDALL, *Italian Colonialism: Historical Perspectives Introduction*, in *Journal of Modern Italian Studies*, 2003, pp. 370-374; CALCHI NOVATI, *Italy and Africa*, cit.

⁸ BEN-GHIAT-FULLER, *Italian Colonialism*, New York, 2005, p. 2.

⁹ TRIULZI, *L’Africa come icona. Rappresentazioni dell’alterità nell’immaginario coloniale italiano di fine Ottocento*, in DEL BOCA (ed.), *Adua. Le ragioni di una sconfitta*, Roma-Bari, 1997, pp. 255-258. ANDALL-DUNCAN, *Italian Colonialism: Legacy and Memory*, Bern, 2005.

¹⁰ DEL BOCA, *Il mancato dibattito sul colonialismo italiano*, in *Studi Piacentini*, 1989, pp. 25-115.

dulgent myths¹¹, and unnatural¹² silences. It is by following these epistemological insights that this chapter investigates the aftermath of the Second World War in relation to the decolonisation of the former Italian colonies.

On a methodological note, this chapter is based on archival research conducted at the Historical Archives of the European Union in Florence (HAEU); the *Archivio Storico e Diplomatico del Ministero degli Affari Esteri* in Rome; and the *African Studies Collection, Library* of the University of Cape Town. Access to the *African Studies Collection* and De Gasperi's fonds have proven extremely useful. Sources consulted in the De Gasperi fonds have been of great value in allowing the position of De Gasperi governments to be thoroughly investigated. Access to the Italian archival sources has proven extremely problematic. On one side, the Africana collection hosted by the Library of the *Istituto Italiano per l'Africa e l'Oriente* (ISIAO) was not accessible as the Library has been closed to the public for several years. While conducting the research for this chapter in fact, a process of liquidation was ongoing which sought to find a resolution to the financial failure of the institute and its relocation¹³. On the other side, access to the *Archivio Storico e Diplomatico del Ministero degli Affari Esteri* was constrained by the impossibility of consulting all the fonds required, due to physical damage to archival storage rooms. Far away from just being a technical issue, negligence in conditions and accessibility of our archival resources fed revisionism or apologetic silences that this volume contributes to address¹⁴.

2. The Second World War in North and East Africa

On 10 July 1940 Italy declared war against France and Britain, and the African continent became the theatre of two important military campaigns, in North and East Africa. Although the 10th of June is widely considered to be the official start date of the Second World War, in fact it started in Africa well before hostilities escalated in Europe. The 1935 invasion of Abyssinia and the formation of the Italian East African Empire were crucial to the campaigns further fought during the Second World War. In July 1940, Italian forces moving from Abyssinia towards Sudan and Kenya occupied British Somaliland. This advance was possible because of the asymmetry in ground forces. Italy maintained an army of

¹¹ BARATIERI, *Memories and Silences Haunted by Fascism: Italian Colonialism, MCMXXX-MCMLX*, Bern, 2010; DEL BOCA, *Italiani, brava gente? Un mito duro a morire*, Vicenza, 2005.

¹² BARATIERI, *Memories and Silences Haunted by Fascism*, cit.

¹³ For more information on the ISIAO's liquidation see the website of the Association for African Studies in Italy, available at: <http://www.asiafrica.org/contatti/liquidazione-isiao/>.

¹⁴ BARATIERI, *Memories and Silences Haunted by Fascism*, cit., p. 23.

92,000 Italians and 250,000 natives in Ethiopia¹⁵. But Britain reacted to the Italian invasion by organising a three-fold counter-offensive: in the north through Eritrea, in the south through Italian Somaliland, and in the west through the Anglo-Egyptian Sudan.

The Italian advance on East Africa was counterbalanced by a set of defeats in North Africa. In the view of the fascist regime, war in the North was to have been fast and easy. On 13 September 1940, Italy launched an offensive in Egypt led by Marshal Graziani against the British Army. In parallel, after the Germans neutralised the French forces, Italy took advantage by proceeding across the East African territories. The Italian offensive into Egypt did not last and Graziani halted his force in defensive positions in Sidi Barrani. When in September the British launched the Western desert campaign, Italian defences in Sidi Barrani crumbled and were forced to retire back to Tripoli. Since October, the British had already been planning a major counter-offensive, the Ethiopian campaign, to retake the East African British territories. Following the imminent Italian attack on Greece, Graziani's forces were limited, and the Battles of El-Alamein (between July and November 1944), signalled the Italian defeat in North Africa.

In conjunction with this defeat, the Allied forces also conquered the Italian troops in East Africa. Following the initial impetus and the invasion of British Somaliland, the illusion of conducting a *guerra lampo* disappeared once the British forced the Italians to withdraw. Since January 1941, British troops under General Cunningham's command carried out a counter-offensive leading to the collapse of the Italian positions. British Somaliland was recaptured in mid-March 1941, Eritrea was occupied in April, when the Emperor Helie Salasiè also re-entered Addis Ababa. In the meantime, Vichy forces in the French Somaliland were also isolated; and in cooperation with the Free French forces, the Allies also occupied the French colony of Djibouti.

Fighting between Italian and British forces continued until the Duke of Aosta, viceroy of the Italian East Africa, officially surrendered. A group of Italian forces led by the General Nasi retreated in Gondar and surrendered in November 1941. Other guerrilla forces continued to fight until the Italian forces crumbled in 1943. But the Italian defeat in Gondar signalled the end of large-scale hostilities.

3. *The Italian "Right of Return"*

One of the immediate consequences of the Italian defeat in the North and East African campaign was the militarisation of the Somali inhabited territories. Under British command the Allies remained in the former Italian colonies for

¹⁵KEEGAN, *The Second World War*, London, 2011.

almost a decade. In June 1941, the British Military Administration (BMA) was set up to govern British and Italian Somaliland until 1950. As a result, the UK expanded her control over 90% of the territories inhabited by Somali speaking people. While in Ethiopia the monarchy's legal authority was partially restored, important areas of the country (like the Ogaden, Jigjiga and the Haud) were put under the BMA¹⁶. Strong limitations on Somali (and in part) Ethiopian sovereignty were exercised by the British. As pointed out by Barnes "The occupation of this territory, justified as a military necessity, then became entwined with larger and older imperial questions in northeast Africa, such as frontier rectification and rationalisation"¹⁷.

On the military side, Italy's defeat meant the dissolution of the colonial empire. Yet the war did not change the colonial attitude of the Italian governing forces or main political parties¹⁸. In 1945, Italy still reclaimed sovereignty rights over Somalia, Tripolitania, Cyrenaica and Eritrea.

On 10 February 1947, Italy signed the Treaty of Peace in Paris. The Treaty formalised the cessation of hostilities and provided for important political, economic and territorial provisions. It firstly redrafted Italian borders to those existing before January 1938. Yugoslavia gained the territories of Zara and a set of islands and territories within the province of Istria; the Dodecanese Islands went to Greece. Most importantly, by formalizing the end of the Italian colonial empire in Africa, the Treaty established that the Italians renounced their rights, titles and territorial possessions¹⁹. Yet discussion on the post-colonial arrangement was postponed due to a subsequent decision by the Council of Foreign Ministers of the Four Powers. The Treaty also established that without an agreement, the Council would submit the final decision to a binding recommendation of the United Nations Assembly General.

The Italian political establishment widely considered the Treaty to be a punishment²⁰. The Italian Prime Minister De Gasperi described the Paris Treaty as a "mutilated peace"²¹, while the new elected Foreign Minister Sforza denounced

¹⁶ Ethiopian sovereignty was finally restored on 31 January 1942, but the British maintained control over the Reserve Areas of the Ogaden, Haud, Eritrea and Italian Somaliland.

¹⁷ BARNES, *The Somali Youth League, Ethiopian Somalis and the Greater Somalia Idea, c.1946-48*, in *Journal of Eastern African Studies*, 2007, p. 279.

¹⁸ BARATIERY, *Memories and Silences Haunted by Fascism*, cit., p. 17; DEL BOCA, *Gli italiani in Africa Orientale. Nostalgia delle colonie*, Bari, 1979, pp. 21-24. Cfr. DEL BOCA, *Italiani, brava gente?*, cit.

¹⁹ Treaty of Peace with Italy, 10 February 1947, p. 322.

²⁰ As reported by Del Boca, in the inaugural speech at the Peace Conference in Paris, De Gasperi stated that the Treaty held a punitive character ("carattere punitivo"). See DEL BOCA, *Gli italiani in Africa Orientale*, cit., p. 27.

²¹ The use of the expression "*pace mutilata*" reminds us of the expression "mutilated victory" invented by D'Annunzio at the end of the First World War, when the peace settlement left many nationalists unsatisfied and betrayed by the loss of Fiume.

the punitive rationale of the Treaty as a way of “paralysing” the life of the Italian people²². In response to the Paris Treaty, Italy claimed a “right of return” based on those economic and demographic arguments that originally animated the colonial enterprise: *i.e.* that settler colonialism was a response to Italian overpopulation, unemployment, and lack of raw materials. As Del Boca outlines, within the public debate, many intellectuals also supported the claim of restoring the Italian claim over the African colonies²³. For the Christian Democratic Party, access to raw materials was considered indispensable to preserve the Italian role in “developing” the colonies. In October 1945, the Italian Foreign Ministry released a Memorandum in preparation for the London Conference that reiterated the demographic argument: since Italian overpopulation generated migration pressure, losing the colonies would represent “a punitive act” against the Italian people²⁴. Although economic and demographic arguments were often unrealistic and contradictory²⁵, they were widely used by Italian political forces to claim a proper right of return meant to satisfy the Italian consumption demands²⁶; to preserve the rights of Italians who had already emigrated to East Africa; but also of “those of our labours who cannot find work on the national territory, too small and not sufficiently rich to provide work for all”²⁷. De Gasperi also played the native card, referring to Italian settlers as “the masses of Italians who are to be considered, as well as the natives, citizens of those regions”²⁸. Inside a note prepared for the Conference of Foreign Ministers in Paris, De Gasperi spelled out the refusal of any “unconditional surrender of the Italian sovereignty rights”²⁹. Thus, the Trusteeship idea introduced by the UN was also considered

²² SFORZA, *Cinque anni a Palazzo Chigi: la politica estera italiana dal 1947 al 1951*, Roma, 1952.

²³ DEL BOCA, *Gli Italiani in Africa Orientale*, cit., p. 10.

²⁴ *Ibidem*, p. 22.

²⁵ The idea that the East African colonies had really represented an attractive opportunity for Italian migrants and resources has been widely contested. Also the official diplomacy often mentioned the non-profitability of these colonies. The prosperity of the Italian community in Somalia had also deteriorated during the post-war period. Between 1943 and 1946, 3,324 Italians living in Mogadishu came back to Italy, and only 2,292 Italian still remained inside the country. Because of the tense relationship between British and Italians under the BMA, the Italian Somaliland was also deprived of key infrastructure, undermining the real and non-rhetoric validity of the demographic and economic arguments for the Italian return in Africa. Cfr. also MANGANO, *The Economic and Agricultural Problem*, cit.; DEL BOCA, *Gli italiani in Africa Orientale*, cit.; CALCHI NOVATI, *Italy and Africa*, cit.

²⁶ MANGANO, *The Economic and Agricultural Problem*, cit., p. 75.

²⁷ *Ibidem*, p. 73.

²⁸ *Appunti dattiloscritti non datati sulla Somalia (Affari Esteri, Vb, 1949.)*, De Gasperi fonds, HAEU.

²⁹ *Ibidem*.

to be conflicting with the Italian need³⁰, and to be "incompatible" with the nature of Italian settler colonialism³¹.

The Italian post-war government and political forces also made use of the "civilising mission" argument to justify their right of return. The acquisition of full political independence was considered to be an evolutionary process³², where the Italian presence could be crucial in valuing local resources and enhancing the "civil existence"³³ and standards of living of the indigenous population. Because of this "contribution to civilisation", for De Gasperi's government Italy could not be excluded from a plan of development and valorisation of the African continent³⁴. As pointed out by Rossi, both De Gasperi and Sforza justified Italy's claim over the colonies on the basis of the "moral right", and "dignity", of continuing a "pacifist" civilisation mission in Africa³⁵. As also claimed by Calchi Novati³⁶, De Gasperi used the colonial issue as an instrument through which he could negotiate military agreements. Inside the message sent to Byngton on 15 August 1948, De Gasperi defined the Italian return in Africa as an act of "humanity" and justice essential for the development of civilisation³⁷; while Sforza claimed that, without the Italian colonisation, the African colonies would be condemned to "desertification"³⁸. Different political parties shared and reiterated the same argument. As Calchi Novati claims, Italian political forces in general disagreement about everything found an astonishing level of common under-

³⁰ DEL BOCA, *Gli italiani in Africa Orientale*, cit., p. 18.

³¹ The theme of the civilisation mission was so well established in the post-war debate, that even the proposal of a collective Trusteeship was considered to be not in line with the premise of the civilisation mission. In 1947, Giuseppe Vedovato (a member of the Christian Democrats, and active supporter of the European project and institutions) claimed that "there is but one truth: to colonise means to civilise". And a collective Trusteeship would not allow the transmission of the genius of a civilization, requiring indeed "unity of aspiration". Cfr. VEDOVATO, *The Question of the Italian Colonies in Africa under Trusteeship*, Firenze, 1947, p. 19.

³² As reported by Vittorio Zoppi, Secretary General to the Foreign Minister Affairs, it is exactly because of this civilising responsibility, that Italy fully "adhere[d] to the formula of trusteeship administration [...] as a step to self-determination". *Rapporti del e al Segretario Generale del Ministero degli Affari Esteri Vittorio Zoppi*, Affari Esteri, V b 3, n.d., De Gasperi fonds, HAEU.

³³ BARBAGALLO, *Cento anni di vita italiana*, Milano, 1948, p. 16.

³⁴ *Rapporti del e al Segretario Generale del Ministero degli Affari Esteri Vittorio Zoppi*, cit.

³⁵ ROSSI, *L'Africa italiana verso l'indipendenza (1941-1949)*, Milano, 1980.

³⁶ CALCHI NOVATI, *La sistemazione delle colonie italiane dell'Africa Orientale e i condizionamenti della Guerra Fredda*, in DEL BOCA-AL-HESNAWI, *Le guerre coloniali del Fascismo*, Roma-Bari, 1991, pp. 519-548.

³⁷ *Messaggio di De Gasperi a Byngton*, Affari Esteri, Vb 2, 20 August 1948, Ministry of Foreign Affairs (MAE).

³⁸ MAE, *L'Italia in Africa. La politica coloniale dell'Italia*, p. 291, in DEL BOCA, *Gli italiani in Africa Orientale. Nostalgia delle colonie*, cit., p. 34.

standing on the colonial issue³⁹. The socialist Pietro Nenni – Foreign Minister during the first De Gasperi government – emphasised the Italian contribution to African civilisation. He also defended the Italian right to administer territories placed under Trusteeship as the “adequate” response to the “importance of the Italian interests in Africa”⁴⁰. The Socialist Deputy Lupis also claimed that the Italian presence in Africa implied a “valorization” of the entire continent⁴¹. As mentioned inside the Report on “The Question of the Italian Colonies in Africa under Trusteeship” – based on a meeting held in 1947 by the Centre for Colonial Studies of the University of Florence – the “new conception of government of territories” was anchored to the old patronising idea of a “common colonial conscience towards their dependant people comparable to that of a tutor towards his ward who is on his way to become of age”⁴².

In sum, in full continuity with old colonial attitudes, economic, demographic and moral arguments were used to justify Italy’s maintaining of sovereignty rights first, and the assignment of Trusteeship responsibilities later. In this view, a discontinuity between colonial and post-colonial discourses was provided only by the fascist imperial enterprise. Post-war governments formalised a division between more or less acceptable forms of colonialism, by juxtaposing the colonisation of Somalia and Eritrea with the imperial enterprises in Ethiopia and Libya; and this distinction has been instrumental in justifying the Italian “right of return” in East Africa. The pretence of maintaining Italian authority over the “historical colonies” was based on the “virtues” of the pre-fascist colonisation⁴³. Different Italian political forces tended to reiterate the existence of a sharp distinction between pre-fascist and fascist colonialism – a “good” colonialism opposing a “bad” colonialism. The first phase of Italian colonisation was portrayed as undertaken for a “just cause” (absorbing the Italian labour migration) and with a “just method” (in agreement with international law); the fascist enterprise was indeed condemned because of its unacceptable intent (Mussolini’s imperial ambitions) and unacceptable method (military occupation).

4. *The International Compromise*

One of the long-term consequences of the Italian defeat related to the process of decolonisation of the former colonies. During the international conferen-

³⁹ CALCHI NOVATI, *La sistemazione delle colonie italiane dell’Africa Orientale*, cit., p. 523.

⁴⁰ Appunti dattiloscritti non datati sulla Somalia, cit.

⁴¹ Dal discorso dell’On. Lupis alla Camera Dei Deputati (Affari esteri, Vb 4, 16 October 1948), De Gasperi fonds, HAEU.

⁴² VEDOVATO, *The Question of the Italian Colonies in Africa under Trusteeship*, cit., p. 7.

⁴³ DEL BOCA-AL-HESNAWI, *Le guerre coloniali del Fascismo*, Roma-Bari, 1991.

ces in Yalta, Potsdam and San Francisco, important tributes were paid to the principle of self-determination. Yet, the decolonisation of the Italian colonies became one of the most vexing debates of the post-war diplomacy. During the 1945 Conference of Foreign Ministers, Italy still claimed sovereignty rights over Libya and Italian Somaliland. While the Italian government was extremely confident about its ability to retain a "right of return", the Allies opposed the Italian return in Africa. They also disagreed on how to interpret the Italian position within the post-war international order. Since the first meeting of the Council of Foreign Ministers, between September and October 1945, the Four Powers expressed divergent positions. The British firmly opposed the Italian claims; the French suggested a single Trusteeship for all the pre-fascist colonies; the Soviets proposed individual administrations for each colony and the Soviet Trusteeship for the Tripolitania; while the USA advanced a single UN-led collective Trusteeship for the three colonies. Significant tensions arose during this first round of negotiations around the Anglo-American attempts to contain Soviets influence over the post-war settlements⁴⁴. In particular, the UK and USA opposed the Italian return in Tripolitania to discourage any possible Soviet intervention in the Mediterranean⁴⁵. The decision on the post-colonial arrangement became subordinated to the wider political interests and changes taking place within the structure of the international system. Italy gradually realised the impossibility of maintaining full sovereignty rights overseas, and Somalia's post-colonial settlement became subject to complex international negotiation, and compromise.

Major disagreements also emerged in Paris, in 1946, during the second session of the Council of Foreign Ministers. The Soviets, with the support of the French delegation, proposed a joint Soviet-Italian Trusteeship over all the former Italian colonies. In response, the British Foreign Secretary Bevin advanced a plan for creating a United Libya, with immediate independence; and a Greater Somalia, under a transitional British administration. The proposal of a Greater Somalia entailed the unification of Somali-speaking regions of Ogaden, British and Italian Somaliland under the British Trusteeship; but the Four Powers did not reach a final agreement. Both the options (collective or single Trusteeship) became the object of negotiation among the Great Powers. In reaction to the British plan, the Soviets withdrew the proposal of a joint Trusteeship and they campaigned indeed for a single, Italian, Trusteeship⁴⁶; and both the UK and USA supported in the end this solution, but disagreements remained around the Eritrea and Tripolitania questions.

⁴⁴ See the French secret report on "The Issue of the Italian Colonies" quoted in MAZOV, *The USSR and the Former Italian Colonies, 1945-50*, in *Cold War History*, 2003, p. 61.

⁴⁵ *Questione Colonie - Atteggiamento Inghilterra*, pacco 5, 1949, *Direzione Africa Orientale Italiana*, 20 September 1949, MAE.

⁴⁶ DEL BOCA, *Gli italiani in Africa Orientale*, cit., p. 25; cfr. MAZOV, *The USSR and the Former Italian Colonies, 1945-50*, cit., p. 70.

After three years of negotiations the Four Powers could not find a solution. It was only in early May 1948 that the Italian and British Foreign Ministers finally came to an agreement that constituted the draft for further discussion at the UN General Assembly (GA), on 18 May 1949. The Bevin-Sforza plan envisaged: 1) the partition of Libya via the British Trusteeship of Cyrenaica, the Italian Trusteeship of Tripolitania and the French Trusteeship over the Fezzan; 2) a ten-year Italian Trusteeship of Somalia; 3) the division of Eritrean territories between Ethiopia and Sudan, with a special status for Asmara and Massaua. Yet, the resolution containing the agreement failed to gain the majority of votes. Moreover, in July 1948 the Four Power Commissions of Investigation for the former Italian Colonies presented the results of investigations made among the inhabitants of Eritrea, Italian Somaliland, and Libya⁴⁷. Although local populations clamoured for freedom and self-government, the international diplomacy did not prioritise these demands.

During the Paris Conference of September 1948, the delegates decided to refer the decision of the former Italian colonies to the GA. Because of conflicting claims, the discussion within the GA also became highly polarised. As reported by Revlin, five positions could be identified: 1) the Anglo-American, claiming for Italian trusteeship over Somalia, British trusteeship over Cyrenaica, Eritrean partition between Ethiopia and Sudan; 2) the Soviet Union's positions, supporting UN trusteeship over all the colonies, with the participation of the Four Powers; 3) the Latin-American bloc championing for Italian trusteeship over most of her colonies, but British trusteeship over Cyrenaica; 4) the Arab states' position, prioritising Libya's independence; and 5) the Asiatic delegation claiming for a direct UN administration without the Four Power's participation. The Bevin-Sforza plan hence did not win the majority of votes. The proposal to place Tripolitania under Italian trusteeship gained opposition from the Soviets, as well from the Arab-Asiatic bloc. Although consistent efforts were undertaken by the Latin-American and Asian delegates to find an agreement, the Assembly did not reach a decision after its third meeting.

With the failure of the Bevin-Sforza agreement, Italy radically shifted position by supporting the Libyan and Eritrean independence. This change did not reflect an authentic reconsideration of the question. Great Powers also widely used and abused the anti-colonial rhetoric to justify tactical changes within the negotiation. Americans and British denounced the neo-colonial nature of Italy's claims over Eritrea, but they also denied the legitimacy of the Eritrean claim for independence. The UK proposed the Eritrean partition between Ethiopia and Sudan, while she also actively supported the Eritrean Unionist party, whose main agenda was to unite Eritrea with Ethiopia. For the Americans, Eritrea was

⁴⁷ *Four Power Commission of Investigation for the Former Italian Colonies, Report on Somaliland*, Vol. II, *Direzione Africa Orientale Italiana*, 1949, MAE.

an Ethiopian province and, in their view, the Eritreans "over 90 percent, want[ed] to be reunited with their mother country"⁴⁸. The US position was officially informed by anti-colonial rhetoric⁴⁹. Yet, it is because of the superpower competition, that while opposing the Italian return in Africa, the USA supported Eritrea's annexation to Ethiopia⁵⁰.

This long diplomatic discussion terminated on 21 November 1949, when the GA through Resolution 289⁵¹, established: 1) the creation of an International Commission for the resolution of the Eritrean issue; 2) the immediate independence of Libya (1952); 3) the formation of a ten-year Italian Trusteeship on Somalia, preparing for Somali independence (1960). The negotiation over the Eritrean situation terminated on 2 December 1950, when the GA established the incorporation of Eritrea as an autonomous unit of Ethiopia. Diplomatic communications preceding the vote at the GA show that between August and October 1948, the Italian government intensified the diplomatic activity within the Latin-America bloc to gain support oriented to neutralise the Arab-Asiatic vote⁵². In particular, while many delegations agreed on the Italian trusteeship over Somalia, key contentions arose over Libya and Eritrea. The Italians certainly needed a "friend delegation" championing Eritrean independence⁵³. But the British and Americans pointed out that without the approval of their partition plan over Eritrea, no solution favourable to the Italians would be gained. In particular, they clarified the necessity of deterring the Latin-America bloc from vetoing the Eritrean independence. Many Latin American countries confirmed their support for the Italians⁵⁴, while the Arab bloc opposed the partition of

⁴⁸ *Stralcio del Congressional Record*, pacco 4, 1949, *Questione colonie. Atteggiamento vari Paesi all'ONU*, maggio-luglio 1949, *Direzione Africa Orientale Italiana*, 13 April 1949.

⁴⁹ For Adam Clayton Powel, the US Representative to the UN, the Italian return in Eritrea was "completely in contradiction to the treaty with Italy [...] and to every part of our conscience and religious concept" (*ibidem*).

⁵⁰ *Eritrea, nuovo atteggiamento inglese ed americano*, pacco 4, 1949, *Questione colonie. Atteggiamento vari Paesi all'ONU*, maggio-luglio 1949, MAE.

⁵¹ United Nations General Assembly, Resolution 289(4), *Question of the Disposal of the Former Italian Colonies*, 21 November 1949.

⁵² *Questione Colonie: Assemblea ONU*. *Telespresso Ministeriale* n. 3/1968. Pacco 5, 1949, *Direzione Africa Orientale Italiana*, 1949, MAE. *Questione colonie - stampa inglese*, pacco 4, 1949, *Atteggiamento vari Paesi all'ONU*, maggio-luglio 1949, *Direzione Africa Orientale Italiana*, MAE; *Questione colonie: discussione e votazione ONU*, pacco 5, 1949, *Direzione Africa Orientale Italiana*, MAE; *Questione colonie. Atteggiamento vari Paesi all'ONU*, pacco 5, 1949, *Direzione Africa Orientale Italiana*, MAE.

⁵³ *Questione Colonie: Assemblea ONU. Appunto Osservatorio Italiano presso le Nazioni Unite*, pacco 5, 1949, *Direzione Africa Orientale Italiana*, MAE.

⁵⁴ *Questione Colonie. Atteggiamento vari paesi ONU*, agosto-settembre-ottobre, DG A0 b4, pacco 5/IV, 1949, *Direzione Africa Orientale Italiana*, MAE.

Libya. In a meeting held in New York, on 2 October 1949 with Italian minister Alessandrini, the Arab states representatives (Egypt, Iraq, Lebanon, Pakistan, Yemen and Saudi Arabia) confirmed the necessity of granting immediate independence to Libya. The Iraqi Foreign Minister pointed out the necessity of solving the Libyan question, if necessary, as separate from the Somali and Eritrean questions. While the Pakistan representative, Zafrullah Khan, clarified that Pakistan did not boycott the Italian trusteeship over Somalia as such, but rather any form of individual trusteeship as opposed to collective ones⁵⁵. The final agreement on the Italian Trusteeship over Somalia was counterbalanced with the international necessity of: finding a compromise on Libya; satisfying the Ethiopian claims on Eritrea, as well Western and Arab States' interests⁵⁶. In the subcommittee of 21 members mandated by the GA, the proposal of a single Trusteeship was approved with 12 votes in favour, 8 against (Czechoslovakia, Egypt, Ethiopia, Iraq, Liberia, Pakistan, Poland, USSR) with 1 abstaining (India).

Although Sforza and De Gasperi attempted to minimise the role played by geopolitical interests, the decision on the former colonies was a clear puzzle of the cold-war competition. On the one side, the UN aimed at "minimising possibilities for Soviet influence in the process of decolonisation and to exclude the USSR from the colonial settlement"⁵⁷. On the other side, the real reasons for the claim of an Italian right of return in Africa – reported in a secret document⁵⁸ on 30 November 1948 by the Italian Foreign Ministry – were: a) the economic return from Italian investments; b) the strategic relevance of the area within the emerging role played by the Soviet Union; c) the necessity to weaken the potential appeal of communism for the 150,000 Italian refugees who had escaped from the colonies; d) the necessity to find a role in the "defence of the West". In sum, the decision upon the post-colonial arrangement became deeply intertwined with the importance of the Italian alignment with the Western bloc⁵⁹. During discussions concerning the ratification of the Paris Peace Treaty, De Gasperi claimed that refusing the Treaty would compromise the Marshall Plan, and lead to international isolation. Despite using moral and economic arguments denouncing the "punitive peace" inflicted by the Allies, the ratification was considered a necessary step "not only in the interest of our country and to ensure Ita-

⁵⁵ *Appunto redatto dal Ministro Alessandrini, in relazione ad un incontro con il delegato libanese Malik e altri rappresentanti Arabi*, pacco 5, 1949, *Direzione Africa Orientale Italiana*, MAE.

⁵⁶ *Questione Colonie-Atteggimento Nord-Americano*, pacco 5, 1949, *Direzione Africa Orientale Italiana*, MAE; *Questione Colonie- Colloquio Con Evatt*, pacco 5, 1949, *Direzione Africa Orientale Italiana*, 13 August 1949, MAE.

⁵⁷ JACOBSON, *The United Nations and Colonialism: A Tentative Appraisal*, in *International Organization*, 1962, p. 41.

⁵⁸ DEL BOCA, *Gli italiani in Africa Orientale*, cit., p. 40.

⁵⁹ *La seduta conclusiva. L'intervento di Sforza. Il Popolo*, Affari Esteri, Vb 8, 30 July 1949, HAEU.

ly's return to the community of free nations, but also having in view those aims of general cooperation that all countries of Europe must pursue so as to build a better world"⁶⁰. During a conversation with De Gasperi, the former UK Foreign Ministry Spaak clarified that the possibility of extending the Brussels Treaty to Italy was dependent on the Italian capacity to demonstrate a willingness to cooperate with western Europe powers in the defence of the West⁶¹. The Brussels Treaty was a collective defence alliance signed in March 1948 by Britain, France, Belgium, the Netherlands, and Luxembourg. It represented the political and military component complementary to the formation of the economic union anchored to the Marshall Plan. While the Paris Treaty left Italy in a clear subordinate position, the Brussels Treaty was signed when in Italy there was still a consistent "party of neutrality" advocating for equidistance between Moscow and Washington. The Europeanist position sponsored by De Gasperi certainly became a more acceptable solution for the Italian "securitisation under the Atlantic umbrella"⁶².

While negotiating the decolonisation of the former Italian colonies, the Anglo-American axis aimed at countering the Soviet Union's presence in the Mediterranean, by discouraging for instance any military cooperation allowing the Soviets to use Italian military bases⁶³. The Anglo-American axis also wanted to provide some form of 'satisfaction' to Ethiopia (with the Eritrean annexation) and Italy as well (with the transitional administration over Somalia). Inside the top-secret message sent by De Gasperi to Marshall on 31 July 1948, the Italian Prime Minister clearly recognised the US strategic needs on the Mediterranean⁶⁴. For De Gasperi, solving the question over the former colonies was also of paramount importance so as not to galvanise communist opposition in Italy. According to De Gasperi, communist forces, with the support of the Soviet Union, might instrumentalise the colonial issue to campaign against the government⁶⁵. The communist threat was clearly used to encourage American support at the GA discussion⁶⁶. On 31 July 1948, Luigi Longo – Secretary General of the Italian Communist Party – claimed that for the Italian communists it was clear that the armed insurrection was the only viable instrument to defend national inte-

⁶⁰ *Lettera non inviata di De Gasperi al Segretario di Stato George Marshall*, Affari Esteri II, 101.1, 8 February 1948, De Gasperi fond, HAEU.

⁶¹ *Conversazione tra il Presidente De Gasperi e il Primo Ministro Spaak*, Affari Esteri, V b 3, 20 November 1948, De Gasperi fonds, HAEU.

⁶² LEUSTEAN-MADELEY, *Religion, Politics and Law in the European Union*, London, 2013, p. 120.

⁶³ *Lettera di Crespi a Missiroli*, Affari Esteri, XIII (April 1948), De Gasperi fonds, HAEU.

⁶⁴ *Messaggio top secret di De Gasperi a Marshall*, Affari Esteri, Vb 4, 31 July 1948, De Gasperi fonds, HAEU.

⁶⁵ *Ibidem*.

⁶⁶ *Ibidem*.

rests. During the same day, De Gasperi sent a message to Marshall where he reported Longo's speech as a proof of "general insurrection". Inside this message, De Gasperi connected the aftermath of the colonial issue with existing domestic tensions ("In merito situazione politica interna e relative ripercussioni esito questione coloniale, ricorda recente sciopero generale e discorso Longo") and with the Italian capacity to manage the communist threat ("cui Governo ha fatto fronte con fermezza e successo riconoscendovi prova generale insurrezione che potrebbe essere ritentata a scadenza non determinata")⁶⁷.

Post-war governments, and De Gasperi's in particular, critically anchored the post-colonial arrangement to the creation of a new space of European cooperation⁶⁸. As claimed by Freund, in 1945 "it was hardly the intention of the colonial regimes to get out of Africa in the foreseeable future"⁶⁹. As Hansen has deeply elucidated, post-war in Europe was marked by the institutionalisation of the Eurafrica concept, *i.e.* the promotion of a stronger European cooperation with former colonial countries⁷⁰. For De Gasperi, the constitution of the European federative project could not take place with "the exclusion of Italy from cooperation in the Mediterranean and in the colonies"⁷¹. It was a question of "justice": given Italy's role inside the European project of integration and cooperation, the country could not be excluded from new patterns of cooperation with the African continent. As expressed inside the letter to Byngton:

"[...] is our resolve to achieve full cooperation with the western peoples of Europe with a view to attaining a European Federation. But we need a certain lapse of time for this idea to take root and develop in the minds of our people. But how can my Government ever succeed in this constructive undertaking if it had to start out by admitting the exclusion of Italy from co-operation in the Mediterranean and in the colonies"⁷².

The disposal of former colonies hence became an important piece of the De Gasperi's Europeanist agenda. The aspirations of the Italian people in Africa were considered to have been moved by "universal interests"⁷³ forging the new

⁶⁷ *Ibidem*.

⁶⁸ *Messaggio confidenziale Marshall per il Presidente del Consiglio*, Affari Esteri, Vb 4, 1948, De Gasperi fonds, HAEU.

⁶⁹ FREUND, *The Making of Contemporary Africa: The Development of African Society since 1800*, London, 1984, p. 183.

⁷⁰ HANSEN, *European Integration, European Identity and the Colonial Connection*, in *European Journal of Social Theory*, 2002, pp. 483-498; HANSEN-JONSSON, *Eurafrica: The Untold History of European Integration and Colonialism*, London, 2014.

⁷¹ *Messaggio di De Gasperi all'Ambasciatore Byngton*, Affari Esteri, Vb 4, 15 August 1948, De Gasperi fonds, HAEU.

⁷² *Ibidem*, p. 2.

⁷³ *Ibidem*.

"European Humanism". The European civilisation was considered a special developmental force⁷⁴, and the necessity of exporting progress and modernity laid at the core of the Italian "right of return" in Africa. As reiterated by De Gasperi during the National Congress of the Christian Democrats, Italian sacrifices during the colonial era contributed to legitimise the Italian right of return⁷⁵. This modernising rhetoric worked as a bridge between colonial and post-colonial attitudes: the Italian return in Africa was indeed for De Gasperi a "*junctim*"⁷⁶ essential in fostering European cooperation⁷⁷, but also in creating an "imperial mentality", still considered a priority in shaping the formation of the post-war order⁷⁸.

5. *The Somali Response: Pan-Somalism*

The Italian defeat had a series of important consequences on Somali politics, as well as on the partitions of the Somali inhabited lands. On the one side, the Italian defeat spurred the formation of new political groups and coalitions within the Somali political scene. The collapse of the Italian East African Empire forged a unified nationalist movements and ideology, defending Somali interests against the "barbaries of colonialism"⁷⁹. Italian crimes and cruelties inspired in many Somalis the need to unify their resistance into a common cause. As pointed out by Samatar, "the indignation of the past, the upheavals of the East Africa campaigns, the defeat of their oppressors, and the growing awareness of the world at large created a classically fertile ground for the emergence of nationalist movements"⁸⁰. The Somali inhabited territories under the British administra-

⁷⁴ *La via della pace nel Paese e fra i popoli. Discorso tenuto al Senato*, Affari Esteri, X 4 b, 3 January 1950, De Gasperi fonds, HAEU.

⁷⁵ "È giusto che noi rivendichiamo un diritto morale, fondato sulla nostra opera e sui nostri sacrifici per la civiltà. Lo conoscete il nostro sacrificio: ci è costato dai 70 agli 80 miliardi all'anno, abbiamo investito nelle colonie 709 miliardi, di cui più di 500 devoluti all'agricoltura e all'industria, e naturalmente qui non metto in conto le spese a causa della guerra di Etiopia, che costò, sia pure in parte per opere di valorizzazione, circa 2.250 miliardi". Cfr. *III Congresso Nazionale della DC: intervento di Alcide De Gasperi*, 1949, available at: http://www.storiadc.it/doc/1949_03congr_degasperi.html.

⁷⁶ *Conversazione tra il Presidente De Gasperi ed il Primo Ministro Spaak*, cit.

⁷⁷ *III Congresso Nazionale Della DC: Intervento Di Alcide De Gasperi*, cit.

⁷⁸ "Al tempo fascista si diceva che bisognava svincolarsi dalla mentalità peninsulare e crearsi una mentalità imperiale, cioè proiettata nel mondo. Io ripeto tale esigenza, ma non in funzione dell'impero militare, bensì in funzione dell'espansione pacifica del nostro lavoro e della nostra cultura" (*ibidem*).

⁷⁹ MUKHTAR, *The Emergence and Role of Political Parties in the Inter-River Region of Somalia from 1947-1960*, in *Ufabamu: A Journal of African Studies*, 1989; SAMATAR, *The State and Rural Transformation in Northern Somalia, 1884-1986*, Madison, 1989.

⁸⁰ SAMATAR, *The State and Rural Transformation in Northern Somalia, 1884-1986*, cit., p. 76.

tion had been administered under the previous partition established by the Italians. This partition contributed to what Thompson defined as a “psychology of unification”⁸¹ that constituted the bedrock of pan-Somalism. The popular reaction against former and future exploitation also arose in conjunction with the difficulties and challenges of this transition. Anti-Italian feeling, as well as the presence of a military administration, made a Somali unification thinkable and desirable⁸². In 1943, the Somali Youth Club (SYC), was formed in Mogadishu around the political idea of pan-Somali nationalism and solidarity. The Club was born in an urban-middle class environment. It advanced a progressive agenda, opposing clannism and sponsoring education and social welfare programmes. In 1948, the visit of the Four Power Commissions of Investigation mandated by the UN spurred the Club’s reorganisation into a party. In May 1947, the SYC became the Somali Youth League (SYL), a political party claiming for the unification of all the Somali inhabited territories. As reported in the Constitution, the SYL aimed at “unit[ing] all Somalis in general and youth in particular and to reject all old habits such as tribalism, sufi orders, clanism and the like”⁸³. While the SYL occupied centre stage during these years, it was not the only party emerging in the aftermath of the Italian defeat. Somali political parties leveraged the political opportunities presented by the Italian defeat in different ways. While members of the SYL made good use of their position within the BMA, other groups used Italian patronage for their own survival. Somali nationalism was fed not only by anti-colonial feeling generated by past Italian violence. Italy assumed a new interventionist strategy⁸⁴. To counter the growing role gained by the British in post-war Somali politics, the Italians also supported pro-Italians groups, and built alliances with some Somali communities. However, as pointed out by Urbano⁸⁵, the formation of a pro-Italian front did not derive just from past networks of alliances. Somali organisations also joined the front in a pragmatic spirit, moved by concerns about access to land and resources, and in reaction to new political alignments between local and in-

⁸¹ THOMPSON, *Conflict in the Horn of Africa: The Kenya-Somalia Border Problem 1941-2014*, Lanham, 2015, p. 27.

⁸² SAMATAR, *Africa’s First Democrats: Somalia’s Aden A. Osman and Abdirazak H. Hussen*, Bloomington, 2016, p. 84.

⁸³ ABUHAKEMA-CARMICHAEL, *The Somali Youth League Constitution: A Handwritten Arabic Copy (c. 1947). From the Ethiopian Security Forces Archives in Harär*, in *Journal of Eastern African Studies*, 2010, p. 454.

⁸⁴ *Reluctant Decolonisation: Italian Secret Activities in the Horn of Africa 1947-1953*, *Storia e Futuro* (blog), 28 June 2017, available at: <http://storiaefuturo.eu/reluctant-decolonisation-italian-secret-activities-in-the-horn-of-africa-1947-1953/>.

⁸⁵ URBANO, “*That Is Why We Have Troubles*”: *The pro-Italia Movement’s Challenge to Nationalism in British-Occupied Somalia (1946-9)*, in *The Journal of African History*, 2016.

ternational parties⁸⁶. Italy financed and supported in particular, the Patriotic Benefit Union (*Unione Patriottica di Beneficienza*) and a wider coalition, the Somalia Conference (*La Conferenza Somala*)⁸⁷ which advocated the return of Italian rule under a thirty-year trusteeship. Another important party which emerged in 1947 was the Hizbiya Digil-Mirifle (HDM), which represented and defended the rights and interests of the Digil and Mirifle clans, which predominantly inhabited the Inter-riverine region, in the South. The HDM resulted from the transformation of the Patriotic Benefit Union into a party. It had pro-Italian tendencies, and supported the Somalia Conference, but it mainly opposed the SYL with a regionalist agenda, advocating for confederation, and self-government.

On the other hand, the Italian defeat also generated new opportunities for international actors striving to exert their own influence. The idea of a Somali unification gained both champions and opponents, allies and enemies, across the international arena. Ethiopians and British instrumentalised anti-Italian feelings to promote their political agenda, and to co-opt Somali nationalist forces. Under military administration, the British tolerated and actively supported the SYL. A series of liberalising policies were established to improve the Somali participation in the exercise of public functions⁸⁸. With the "Somalisation" of lower government positions, the British removed the discriminatory policies put in place by the Italians, and they facilitated the employment of SYL members within important functions: government, military, and civilian administrations⁸⁹. As observed by the Four Power Commission of Investigation, the SYL became a "state within the state"⁹⁰. Moreover, the Italian capitulation and passage into the "wrong side of history" became for the British a critical opportunity to engage in protracted diplomatic activity oriented to negotiate some territorial adjustments and frontier rectifications⁹¹. The British Minister of Foreign Affairs supported the cause of a Greater Somalia. At the Paris Conference, in 1946, Bevin advanced his unification proposal – concerning British Somaliland, Italian Somaliland, and the Ogaden to be combined as a trust territory. Yet a series of oppositions (mainly coming from Italy, Ethiopia, France, and USSR) led the proposal to be abandoned. In the meantime, the British had already signed an agreement in 1944 with the Ethiopians, recognising Ethiopia's sovereignty over the Oga-

⁸⁶ *Ibidem*.

⁸⁷ MORONE, *L'ultima colonia. Come l'Italia è tornata in Africa 1950-1960*, Roma-Bari, 2011.

⁸⁸ SAMATAR, *The State and Rural Transformation in Northern Somalia, 1884-1986*, cit., p. 76.

⁸⁹ MUKHTAR, *The Emergence and Role of Political Parties in the Inter-River Region of Somalia from 1947-1960*, cit.

⁹⁰ *Four Power Commission of Investigation of the former Italian Colonies*, cit., p. 107.

⁹¹ BARNES, *The Somali Youth League, Ethiopian Somalis and the Greater Somalia Idea, c.1946-48*, in *Journal of East African Studies*, 2007, p. 279.

den and Reserved Areas (RA) – annexed to the Italian Somaliland during the ‘35s Italian occupation of Ethiopia. The Ogaden remained however under the BMA until 1955, when the Anglo-Ethiopian treaty was concluded, and the Ogaden returned to Ethiopian jurisdiction.

International decisions about the post-colonial arrangement had important consequences on SYC’s expansion, and its gradual transformation into a mass nationalist movement (SYL)⁹². The visit of the Four Powers Commissions of Investigation in Mogadishu, in July 1948, became the litmus test for everyone involved in Somali politics. Italian propaganda tried to emphasise in different ways the “italianità” of the colonial territories, and the fact that native populations genuinely aspired to the Italian return to their land⁹³. In contrast, the SYL contested the possible return of an Italian administration and championed the collective Trusteeship proposed by the British. SYL’s representatives mentioned the existence of anti-Italian feelings in Somalia⁹⁴ and expressed vivid preoccupations with the Italian return. During the visit of the Commission, clashes between the Somalia Conference and SYL culminated with the death of 51 Italians and 14 Somali. While in Italian history the revolt has often been represented as an expression of dirty British politics in antagonising the Somali against the Italians, the incident became a crucial reference point in Somali nationalism and history⁹⁵.

While Somali nationalism was under constant, political pressure from global and regional patrons, the SYL gradually took its distance from both Ethiopian and British interests, and manoeuvrings. Bevin’s proposal of a Greater Somalia surely inflamed the hopes of many Somali. However, the British agreement with the Ethiopians over the Ogaden, as well Bevin’s realignment with Sforza in 1949, generated discontent. Somalia’s decolonisation also became the object of a commodification negotiation and partition process within the UN, where the British supported the Italian position to merely strengthen their pretences over Libya⁹⁶. SYL started to expand political activities beyond Mogadishu. The Club’s strength and popularity also rapidly increased across the eastern territories of Og-

⁹² BARNES, *The Somali Youth League, Ethiopian Somalis and the Greater Somalia Idea*, c. 1946-48, cit., p. 277.

⁹³ *Direttive politiche riservate per il Dr. Giuseppe Barbato. Direzione Generale per Affari Politici, Questione colonie: discussione e votazione ONU, Direzione Africa Orientale Italiana*, 12 January 1947, MAE.

⁹⁴ *Stralcio del Congressional Record*, cit., p. 4641.

⁹⁵ AIDID, *Haweenku Wa Garab (Women Are a Force): Women and the Somali Nationalist Movement, 1943-1960*, in *Bildhaan: An International Journal of Somali Studies*, 2011, p. 10.

⁹⁶ LOUIS, *The British Empire in the Middle East, 1945-1951: Arab Nationalism, the United States, and Postwar Imperialism*, Oxford, 1984, p. 287.

aden and RA⁹⁷, generating important long-lasting consequences over the Somali nationalist trajectory⁹⁸. Disarming the Ogaden became a priority for the British, which then alienated the growing nationalist movement. The BMA's disarmament campaign, as well the Ethiopian plans of regaining control of the Ogaden, raised opposition among many Somali, especially in the town of Harar, where a branch of the SYL was established in 1946. Even though Ethiopians sought to co-opt the SYL "into accepting its imperial hegemony over Somalia"⁹⁹, Ethiopians claims over the Ogaden and RA were a central preoccupation in the nationalist discourse of the SYL coalition. The SYL was also operating in the Northern Frontier District (NFD) of Kenya, where it became an illegal organisation after clashes with NFD forces. In British Somaliland, growing nationalist concerns led to the evolution of the existing social club – the Somaliland National Society – into a nationalist party (the Somali National League). In the Protectorate, the British had established an Advisory Council, with the aim of forging a "collaborationist class for purposes of indirect rule"¹⁰⁰. Such a policy alienated parts of the middle class (mainly emerging business and trading groups) from the nationalist movements in the South. But at the same time it also cemented the formation of a northern nationalist party.

As a result of these growing nationalist pressures and the international interference set in motion in part by the Italian defeat, the SYL advanced a Greater Somalia argument, that included RA and Ogaden, as well Harar and Dire Dawa. However, once the BMA withdrew from the Ogaden in 1948, the SYL did not manage to oppose the restoration of Ethiopian rule. As pointed out by Barnes, "The historical experiences of Somalis from Mogadishu and 'Ethiopian' Somalis from the RA and Ogaden brought very different perspectives to the SYL, a division in time and space that the nationalist movement could never quite overcome"¹⁰¹.

6. Conclusions

The Italian defeat in World War II had important consequences on Somali politics and the decolonisation process. This chapter surveys three implications:

⁹⁷ BARNES, *The Somali Youth League, Ethiopian Somalis and the Greater Somalia Idea*, c. 1946-48, cit., p. 281.

⁹⁸ *Ibidem*.

⁹⁹ SAMATAR, *Africa's First Democrats*, cit., p. 42.

¹⁰⁰ SAMATAR, *The State and Rural Transformation in Northern Somalia, 1884-1986*, cit., p. 77.

¹⁰¹ BARNES, *The Somali Youth League, Ethiopian Somalis and the Greater Somalia Idea*, c. 1946-48, cit., p. 282.

1) the “right of return” claimed by the Italians; 2) the international negotiation and final compromise pursued by the International Community, and 3) the political response provided by the Somalis.

Following the military defeat inside the North and East African campaigns the Italians claimed a “right of return” on the basis of the same demographic, economic and moral arguments used to justify the Italian colonial expansionism. By discussing elements of continuity and change between the colonial and the post-colonial era, this chapter reveals that the Second World War did not represent a great divide in the post-war political setting. Important elements of the colonial logic survived and were adapted to the formation of a new global order. While economic and moral arguments typical of the colonial era dominated the Italian “right of return” in Africa, two new factors deeply influenced the future of the colonies: the Italian alignment with the Western bloc, and the formation of a European political project.

The chapter therefore surveys the international negotiations on the formal post-colonial arrangement of the Italian colonies that took place between Italy and the Allied powers. While rhetorically championing the principle of self-determination, the International Community in Somalia proposed a paternalistic top-down process of decolonisation¹⁰². At the same time, the collapse of the Italian East African Empire forged a unified nationalist movement and ideology, defending Somali interests, and calling for the unification of all the Somali-speaking territories into the Greater Somalia. The end of the Italian colonial empire surely set in motion genuine liberation forces, but Somalia’s decolonisation was also secondary to a complex international negotiation. The definition of the post-colonial setting became instrumental in defining the Italian alignment with the West. It is within this context, that the Italian Trusteeship over Somalia assumed the character of a diplomatic compromise between Italian and Anglo-American interests. This diplomatic hazard was the prelude to the formation of the *Amministrazione Fiduciaria Italiana* (AFIS), the “experiment of democratic colonialism”¹⁰³ that the Italians undertook in Somalia.

¹⁰² MORONE, *L’ultima colonia. Come l’Italia è tornata in Africa 1950-1960*, cit.

¹⁰³ MORONE, *The Struggle for Somali Writing: Political Competition and Religious Confrontation on the Eve of National Independence*, in *The Annual Review of Islam in Africa*, 2013-2014, p. 14.

CHAPTER 7

THE UNITED NATIONS
AND THE SOMALI QUESTION:
THE TRANSFORMATION PROCESS
FROM COLONY TO INDEPENDENCE

*Mohamed Trunji**

SUMMARY: 1. Introduction. – 2. The Italian Colonies before the General Assembly of the United Nations. – 3. The Somali Political Parties Invited to the UN. – 3.a. The Bevin-Sforza Compromise Plan. – 3b. Hearing Accorded to the Somali Youth League. – 3c. Hearing Accorded to the *Conferenza Somala*. – 4. First Committee Accepts a Resolution Based on Bevin-Sforza Plan. – 5. Bevin-Sforza Plan Narrowly Defeated in the General Assembly. – 5.a. The Crucial Vote of the Haitian Delegate. – 5.b. Italy's Turnabout. – 6. The Issue of the Colonies Comes before the Fourth General Assembly. The Views of the Somali Organizations. – 7. The Work of the First Committee. – 8. The General Assembly Decides the Future of the Colonies. – 9. Instituting the Trusteeship Arrangement Ethiopia Attempts to Delay the Work of the Drafting Committee. – 10. Conclusions.

1. *Introduction*

The problem of the break up and disposal of the Italian colonies proved to be one of the most vexing and difficult questions the victorious Four Powers had to face in the post-war era. The Allied Council of Foreign Ministers, charged with drafting peace terms for Italy, took up the colonial question at its first meeting in London in September 1945. But neither there nor during its sessions in Paris in 1946 was it found possible to harmonize the views of the four great Powers represented on the Council.

In the four years during which the problem was under discussion, the United States, Great Britain, and the Soviet Union repeatedly shifted their respective positions, favouring one suggested solution and then another but never all agreeing on the same proposals at the same time. France alone maintained a consistent

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stand in supporting the return of the colonies to Italy as Trustee for the United Nations. Fluctuations in the views of the other powers reflected in part the complexities of the problem and in part the developing tensions of the Cold War.

The 1947 Peace Treaty with Italy as finally drafted merely alienated the colonies from Italy and provided that the United States, Great Britain, the Soviet Union, and France should jointly determine what was to be done with them. And those powers agreed to hand the problem over to the UN General Assembly, and to accept its recommendations, if they were unable to reach a settlement within a period of one year from the coming into force of the treaty.

2. *The Italian Colonies before the General Assembly of the United Nations*

Further efforts at a Four-Power agreement prior to the deadline date of 15 September 1948, having proved fruitless, the question of the disposal of the former Italian colonies was referred to the General Assembly of the United Nations¹.

The Assembly was thus given the role of arbiter in a dispute that had defied solution despite protracted and intricate negotiations among the leading powers of the world. "The role which the Assembly assumed", comments Rivlin, "was very similar to the role it was asked to play when the British turned over to it the problem of Palestine, with however, one important difference that, while on the Palestine issue, the General Assembly's recommendation was not binding, with respect to the Italian colonies the Assembly was given the unique function of making a final and binding recommendation"².

The General Assembly, on the recommendation of the Bureau in the course of its 142nd ordinary meeting held on 24 September 1949, decided to pass the issue to the First Committee for consideration and report. However, when the first part of the third regular session of the General Assembly opened in Paris at the *Palais de Chaillot* on 21 September, the issues on the agenda were many and not all the delegations had had enough time to "digest" the abundant documentation transmitted by the Council of Ministers. The late inclusion of the question on the Assembly's agenda left delegates with hardly enough time to consult with their governments on the matter³. The Assembly placed the discussion of the issue on the last point of its agenda, which left it behind a number of important questions such as the reports of the Atomic Energy Commission, the Palestine

¹ UN Docs. A/645, and A/645/Add.1, 15 September 1949.

² RIVLIN, *The Italian Colonies and the General Assembly*, in *International Organization*, 1949, p. 459.

³ ROSSI, *L'Africa Italiana verso l'indipendenza (1941-1949)*, Milano, 1980, p. 398.

question, the political independence and territorial integrity of Greece, and the independence of Korea. Due to the pressure of business, it was not possible to take a decision on the question during the Paris session of the General Assembly; therefore, examination of the issue was deferred until the second part of the third regular session of April 1949 to take place in Lake Success, New York.

3. The Somali Political Parties Invited to the UN

3a. The Bevin-Sforza Compromise Plan

While the Assembly was in recess, it was suddenly announced that British Foreign Secretary, Mr. Bevin, and Italian Foreign Minister, Count Carlo Sforza, meeting in London, had come to a compromise plan on the future of the Italian colonies. This agreement became widely known as the Bevin-Sforza Plan⁴. The Plan was signed in London on 4 May 1949 and reflected the desire of the two countries to apportion the colonies between them without considering the positions of the populations concerned, or that of the other three allies. The new Anglo-Italian deal advocated the division of Libya into three different provinces:

1. Tripolitania: to be placed under Italian Trusteeship in 1951, assisted by a Consultative Committee, composed of France, India, Italy, USA and Egypt (or any other Arab country) and a representative from the local population.
2. Fezzan to be placed under Trusteeship assigned to France.
3. Cyrenaica to be placed under Trusteeship assigned to Britain. All of Libya would be granted independence after a period of ten years.

For Eritrea, the Plan envisaged the following arrangement: with the exception of the Western provinces, Eritrea would be annexed to Ethiopia through a treaty with the UN, giving a guarantee of special status for the cities of Asmara and Massawa. The terms of such a guarantee would be established by the UN in consultation with Italy. The Western provinces would be incorporated into neighbouring Sudan.

Somalia would be placed under Trusteeship with Italy as administering power; no mention was made of any date for independence.

The Bevin-Sforza Plan is a further demonstration of the continued disagreement among the Four Powers regarding the disposal of the Italian colonies. It also reflects changing patterns of relationship between the former enemies, Britain and Italy, further confirming that the efforts of the Italian Foreign Minister, Count Sforza, were successful in winning Mr. Bevin's assent to a compromise plan. The results of the 1948 Italian elections, in which the democratic forces

⁴United Nations Press Release, Doc. GA/PS/217, 10 May 1949.

emerged hugely victorious, appear to have produced the effects of diminishing Britain's doubts about Italy's democratic credentials⁵.

Mutual understanding between Italy and Britain was facilitated not only by the results of the Italian elections of 18 April 1948, but also by Italy joining the North Atlantic Treaty Organization (NATO) as a full and equal member. In fact, on 14 April 1949, Sforza signed the North Atlantic Treaty on behalf of Italy as an equal founding member.

The provisions of the Anglo-Italian plan were incorporated in a Resolution submitted by Britain to the General Assembly of the United Nations⁶ and was referred to the First Committee, known as the Political and Security Committee appointed by the General Assembly which debated the issue between 6 and 13 May 1949.

The Plan was categorically rejected by the Somali League; however, it received enthusiastic support by the leaders of the *Conferenza Somala*⁷. When the General Assembly reconvened at Lake Success (New York) in April 1949 for the second part of the third session, the question of the disposal of the former Italian colonies received immediate attention. In fact, it was the first item on the agenda of the First Committee. Immediately after convening, a sub-committee of the First Committee (Sub-Committee 15) was established with the task of considering the various proposals. The Sub-Committee immediately turned its attention to the Bevin-Sforza compromise plan on the future of the colonies, rather than to resolutions previously presented to the First Committee since several delegations viewed the plan as the only one that could possibly muster the necessary two-thirds vote. Before opening the debate on the question, the First Committee approved a resolution, submitted by the United States of America, inviting the government of Italy to appoint a representative to sit, without a vote, in the Committee's discussions, in accordance with its request. Enrico Cerulli, the Italian observer at the United Nations, was allowed to take part in the discussions on the colonies⁸.

On 11 April 1949, at its 242nd meeting, the Committee adopted a resolution submitted by the United Kingdom. There was a provision that a Sub-Committee (Sub-Committee 14), composed of Brazil, Egypt, France, Haiti, India, New Zealand, Norway, Poland, the Union of Soviet Socialist Republics, the United Kingdom and the United States of America, examine the requests presented by political parties or organizations of the territories concerned not later than 23

⁵ SETON-WATSON, *Italy's Imperial Hangover*, in *Journal of Contemporary History*, 1980, p. 169.

⁶ UN General Assembly, Annexes to the Summary Records of Meetings of the 1st Committee, United Kingdom: Draft resolution, 3 May 1949, UN Doc. A/C.1/446, p. 19.

⁷ *Archivio Storico Casale Monferrato* (ASCM), Doc. 34/65, 15 May 1949.

⁸ UN Doc. A/C.1/430.

April 1949, and report to the Committee on the extent to which those bodies represented substantial sections of the opinion in those territories⁹.

Following the recommendations of Sub-Committee 14, the Committee heard, on behalf of Somaliland, the representatives of the following political parties: the Somali Youth League and the *Conferenza Somala*.

3b. *Hearing Accorded to the Somali Youth League*

The first Somali political organization to emerge in the territory that was then the Italian Somaliland was the Somali Youth Club, which was established in May 1943.

In 1947, preparing for the arrival of the Four Power Commission of Investigation, the Somali Youth Club reorganized itself as a political party, assuming the new name of Somali Youth League (SYL). During the discussions at the United Nations on the future of Somalia, the party campaigned against the Italian return to Somalia. The SYL party had two main political programmes: (a) the independence of the territory under international Trusteeship within ten years and (b) the unification of all five territories inhabited by Somalis.

On 21 April 1949 Abdullahi Issa, representative of the Somali Youth League and *Gioventù* Hamar, explained that the purpose of his organization in appearing before the Committee was to express the categorical opposition of the overwhelming majority of the inhabitants of Somalia to the restoration of Italian administration in any form or guise whatsoever.

He urged the Committee to act in accordance with that expression of opinion and drew its attention to the principles contained in paragraph 2 of Annex XI of the Italian Peace Treaty.

The envoy stressed that, during the fifty years of Italian rule, the population had been kept in slavery, deprived of education, of commercial opportunities, and of possibilities for social and political advancement. He stated that their lands had been seized and, under the dreaded "*colonia*" system, the people had been pressed into forced labour under conditions of almost incredible cruelty. Mr. Issa appealed to the Commission to be guided not by the principle of political expedience but the interests of the inhabitants. He added that, "if, contrary to the express desire of the Somali people, the United Nations should decide to return the territory to Italy, then the Somalis could not be expected to have faith in the United Nations"¹⁰.

On the notion that Italy was now a democratic country, different from the

⁹UN General Assembly, Annexes to the Summary Records of Meetings, Resolution adopted by the 1st Committee at its 242nd meeting, 11 April 1949, UN Doc. A/C.1/435, p. 3.

¹⁰Quoted from summary record. See UN General Assembly, Summary Record of the 248th Meeting: 1st Committee, UN Doc A/C.1/SR.248, 21 April 1949, p. 98.

Fascist regime, he said that no persuasion could convince the Somali people that the new Italian regime would behave any better than preceding ones. He claimed that Italy based its desire to share in the administration of the former colonies upon the necessity of procuring an outlet for its surplus population.

He stated that the programme of his organization, as presented to the Four Power Commission of Investigation, had been: (a) collective Trusteeship under the United Nations of no more than ten years leading to the establishment of complete independence; and (b) strong opposition to the restoration of Italian administration in any form.

3c. *Hearing Accorded to the Conferenza Somala*

The *Conferenza Somala* was an umbrella of political organizations advocating that Italy be given the Trusteeship of Somalia. It included the Patriotic Beneficence Union, the Somali Progressive Committee, Hizbia Dighil Mirifle, the Union of Africans in Somalia, the Somali Young Abgal Association, and Hidayat Islam Shidle and Mobilen. In its twenty-three point programme the Organization advocated a thirty year Italian trusteeship and a gradual approach to modernization, in contrast with the SYL's anti-Italian policy and independence in a decade. The party's programme was to abolish the tribal system through gradual economic, social and political reforms.

With direct Italian financial assistance and guidance, a four-man delegation representing the *Conferenza* attended the debates of the United Nations at Lake Success on the future of Somalia¹¹.

Appearing before the Political Committee of the General Assembly of the United Nations on 3 May 1949, Isiao Mahadalla Mohamed said that, as President of the *Conferenza Somala*, he was speaking on behalf of the seven parties formed in September 1947.

Explaining the grounds upon which his organization favoured Italian administration, the President of the *Conferenza Somala* said that Italy had brought great administration and economic progress to Somaliland. The Italian language and civilization were more widely spread in the country than any other European language or civilization. The Italian government had promised to administer Somaliland in accordance with the principles of the Charter and the wishes of the inhabitants¹².

Appearing again before the Committee on 12 May 1949, the representative

¹¹ The members of the delegation included Isiao Mahadalla Mohamed, Yassin Ali Sharmarke, Abikar Gassin and Mohamed Sheikh Osman, "Edmondo". See Archivio storico del Ministero degli Affari Esteri, Doc. n. 1176, 9/11, 20 September 1949.

¹² UN General Assembly, Summary Records of the 254th Meeting: 1st Committee, UN Doc. A/C.1/SR.254, 3 May 1949, p. 115.

of the *Conferenza Somalia* stated that it was the cherished desire of the Somali people to attain complete independence, but they realized that the time was not yet ripe for such action and that an interim period of administrative guidance was essential. He advised the Committee against placing undue importance upon the opposing views expressed by the spokesman of the Somali Youth League which represented only a small minority group living in or near Mogadishu¹³.

4. First Committee Accepts a Resolution Based on Bevin-Sforza Plan

Various draft Resolutions were submitted to the First Committee, the most important one being that presented by the United Kingdom reflecting the Bevin/ Sforza agreement on the future of the three pre-war Italian colonies. The United States delegate presented a draft resolution recommending the establishment of a sub-committee (Sub-Committee 15) consisting of the representatives of Argentina, Australia, Brazil, Chile, Denmark, Egypt, Ethiopia, France, India, Iraq, Mexico, Union of South Africa, Union of Soviet Socialist Republics, United Kingdom and United States of America. This Sub-Committee would consider the various proposals which have been submitted or may be submitted to the Committee, draft a resolution for the Committee's consideration and report to the Committee not later than Thursday noon, May 12, 1949. The Sub-Committee held four meetings on 10 and 11 May. After an exchange of views on the best and speediest approach to the various proposals concerning the former Italian colonies, the Sub-Committee broadly agreed to decide on the principles contained in the said proposals rather than on the proposals themselves. On the basis of the above mentioned decision, it was agreed to examine the question of the disposal of each of the three territories separately: Libya, Somalia and Eritrea.

With regard to Somalia, the Sub-Committee noted that none of the proposals submitted envisaged immediate independence for Italian Somaliland. By nine votes against four, with three abstentions, the Sub-Committee rejected the proposal calling for Somalia to be placed under direct United Nations Trusteeship. By ten votes against three, with three abstentions, the Sub-Committee rejected the proposal calling for Somalia to be placed under collective Trusteeship. By nine votes against six, with one abstention, the Sub-Committee adopted the proposal calling for Somalia to be placed under Italian Trusteeship¹⁴.

The Sub-Committee thus approved the Anglo-Italian plan and submitted it to the First Committee.

¹³UN General Assembly, Summary Record of the 270th Meeting: 1st Committee, UN Doc. A/C.1/SR.270, 12 May 1949, p. 344.

¹⁴UN Doc. A/C.1/466, 11 May 1949.

In the full First Committee the Bevin-Sforza agreement approved by Sub-Committee 15 provoked a prolonged and heated debate. With regard to Somalia, Sir Zafarullah Khan, of Pakistan, bitterly noted that “fifty years of Italian rule had not prepared Somali people in the slightest way for independence, there not even being a newspaper in the language of the people of the territory from which they could derive information and political instruction”¹⁵. He wondered whether fifty more years of Italian rule would bring the Somalis any closer to the attainment of independence. Criticism of the Resolution came also from the Saudi Arabia delegate, Mr. Aousley W. Dejeni, who said:

“It was alleged in the Sub-Committee’s report that the recommended proposal represented a compromise. If that was so, many delegations would be bitterly disappointed, for the compromise would have been reached at the expense of the population whose fate was being decided”¹⁶.

The Soviet delegate commented on the Bevin-Sforza agreement by stating:

“History, or rather diplomatic tragedy, had rather unfolded itself behind the back of the First Committee. Its members were being called upon to set the seal on a *fait accompli*, that is to say, an agreement reached between United Kingdom and Italy, with the tacit consent of the United States”¹⁷.

The Egyptian delegate, reacting to the Anglo-Italian plan on the future of the Italian ex-colonies, recalled that riots had broken out among the Somalis when they had heard of the possibility of the return of Italy to their country. He read the following quotation from a cable received from Italian Somaliland:

“The unfortunate decision of the Sub-Committee was based exclusively on political and imperialistic considerations framed outside the United Nations. In fact, the whole debate of the Sub-Committee was based on the discussions in Whitehall between Count Sforza and Mr. Bevin”¹⁸.

With the strong backing of the USA, UK, France and the Latin American Republics, the Resolution based on the Bevin-Sforza plan, was adopted by the First Committee, despite the bitter opposition within the Committee. The vote was 34 to 16, with 7 abstentions, which matched the over two-thirds vote required to ensure adoption in the General Assembly. However, the paragraph-by-paragraph vote indicated that adoption at the General Assembly of all provisions of the compromise was in doubt, since the proposal to place Tripolitania under

¹⁵ UN General Assembly, Summary Record of the 270th Meeting: 1st Committee, UN Doc. A/C.1/SR.270, 12 May 1949, p. 350.

¹⁶ UN General Assembly, Summary Record of the 271th Meeting: 1st Committee, UN Doc. A/C.1/SR/271, 12 May 1949.

¹⁷ *Ibidem*.

¹⁸ UN General Assembly, Meeting record, UN Doc. A/PV. 218, 17 May 1949.

Italian Trusteeship was adopted by a vote of only 32 to 17, with eight abstentions.

5. Bevin-Sforza Plan Narrowly Defeated in the General Assembly

5a. The Crucial Vote of the Haitian Delegate

Predictably, the Bevin-Sforza plan, approved by the Political Committee, was met with strong criticism from various quarters in the General Assembly. Soviet Minister Jacob Malik denounced the planned disposal of the former Italian colonies as a move by the United Kingdom and the United States of America to maintain their hegemony and domination. The Russians, supported by the other Eastern European States and many Arab and Asiatic States declared that the Resolution failed to reflect the views and the interests of the peoples of the colonies themselves. The USA, United Kingdom, France and Latin American countries claimed that, since it was not possible to find a solution that would completely reconcile all the various suggestions, the Bevin-Sforza plan was the best that could be expected under the circumstances.

The heated plenary session took place as the General Assembly was driving hard towards adjournment. However, one author comments:

“when at late evening of May 17, the voting process started, the result confirmed the Italian fears: while the paragraphs relating to Britain’s Trusteeship over Cyrenaica was adopted by 36 in favour, 17 against and 6 abstentions and French Trusteeship over Fezzan by 36 in favour, to 15 and 7 abstentions; obtaining thus the required majority, the paragraph concerning Italian Trusteeship over Tripolitania was short of one vote to obtain the required two-thirds majority in the General Assembly having obtained 33 votes in favour to 17 against with 8 abstentions”¹⁹.

Haiti, which was not expected to vote against the Bevin-Sforza package on former Italian colonies, did instead vote against the plan.

Again when the question of Italian Trusteeship over Somalia was put to the vote, the Haitian delegate to the United Nations, Senator Saint-Lot, voted against the plan which thus obtained 35 yes, 19 no and 4 abstentions; it was only one vote short of the required two-thirds majority.

After the votes on single paragraphs, some delegates from Central and South America, in addition to France, unhappy about the rejection of the paragraphs on Tripolitania and Somalia, announced they were going to vote against the entire resolution of the Political Committee. When what was left of the Resolution came up for final votes, it was overwhelmingly defeated by a combination of Latin America, Arab, Asiatic and Soviet States, each group for its own reasons. In the

¹⁹ROSSI, *L’Africa Italiana verso l’indipendenza*, cit., p. 468.

final tally, the Resolution received only 14 favourable votes, with 37 against and 7 abstentions. The vote of Haiti was decisive in the failure of the Bevin-Sforza plan. Haiti's delegate, Senator Emile Saint-Lot, broke ranks with the position of other Latin American States, known for their support for the return of Italy to her former African colonies. According to Count Carlo Sforza, the Haitian delegate was drunk and not in full possession of his mental capacity at the time of voting²⁰. Some alleged that he had been "bribed" by Arab delegates who opposed the delay to grant independence to Libya. Others, by contrast, gave positive comments on the personality of the Haitian diplomat portraying him as a person who, unlike other American or Latino delegates, made known his opposition to Italy's Trusteeship over any of its former African colonies.

5b. *Italy's Turnabout*

The growing pressure from within Italy on the colonial issue, particularly from the right wing parties in the Constituent Assembly, did not allow De Gasperi's government to abandon the hope of retaining some foothold in North Africa despite the defeat of the compromise Bevin-Sforza solution at the General Assembly of the United Nations. After long insisting on Trusteeship for her former African territories, and in the face of the rejection of the Anglo-Italian plan, Italy came out in favour of full and immediate independence of the two most progressive territories, namely Eritrea and Libya. However, with regard to Somalia, Italy renewed its request for Trusteeship because it wanted to continue the work it had started in that part of the world and which it felt was not completed. Following this new development, the Arab-Asian States became less hostile towards the idea of Italian Trusteeship over Somalia, which was considered to be the least advanced among the three territories in question. As was to be expected, the Latin American States supported the new Italian position without hesitation and, as a further show of solidarity with Italy, approved a proposal submitted by the head of the Brazilian delegation which linked the question of independence for Libya with the Italian administration of Somalia. Under this joint proposal, the Latin American States would not vote for Libyan independence unless the Assembly agreed on Italian Trusteeship over Somalia.

6. *The Issue of the Colonies Comes before the Fourth General Assembly. The Views of the Somali Organizations*

When the General Assembly of the United Nations convened its fourth ordinary session on the recommendation of the General Committee, at its 224th

²⁰ SFORZA, *Cinque anni a Palazzo Chigi*, Roma, 1952, p. 97.

plenary meeting of 22 September 1949, the General Assembly referred this item to the First Committee for consideration and report. During its meeting held on 30 September 1949, the Committee adopted a proposal by the chairman to invite the government of Italy, in accordance with its request to appoint a representative to sit, without a vote, during the Committee's deliberations. At its meeting on 1st October 1949, the Committee approved a second draft Resolution by the Chairman providing for the request of representatives of political parties or organizations in territories concerned, who presented not later than 10 October, to be referred to a sub-committee (known as Sub-Committee 16). Sub-Committee 16 was also tasked with reporting to the Committee on the extent to which these parties or organizations seeking to be heard may represent substantial sections of opinion in the territory in question. Following the recommendation of the Sub-Committee, like in the previous session, two representatives from Italian Somaliland, namely, the Somali Youth League and the *Conferenza Somala* were given hearings by the First Committee.

Appearing before the First Committee of the General Assembly on 7 October 1949, the representative of the SYL stated

“At the opening of the previous session of the General Assembly of the United Nations, when the question of the disposal of the former Italian colonies had come before the General Assembly, for the first time, the Somali people had been imbued with great confidence and faith in the United Nations. However, that confidence and faith had been considerably reduced in the light of subsequent developments which had resulted in the so-called Bevin-Sforza agreement²¹”.

The SYL envoy declared that the Bevin-Sforza plan would have meant survival of colonialism of the worst type. He spared no criticism to his political rivals who, appearing before the First Committee last session, expressed support for the Bevin-Sforza agreement, calling them “quislings”. These “traitors”, as he called them, were far more interested in receiving eight years back pay due to them as ex-servicemen, claiming that Italy had formally promised this back pay to all servicemen in the event that Italian administration would be returned to Somalia. He claimed that his party enjoyed the unanimous support of the Sultans, tribal chiefs, elders and religious leaders of all tribes living in the former Italian Somaliland. “The Somali Youth League”, he said, “was expressing the greatest desire of our people in demanding the immediate independence of Somaliland”. However, he added

“the Somali Youth League was reasonable enough to state that, if the General Assembly would consider it best to place Somaliland temporarily under Trusteeship, the party would not object provided that the restoration of Italian administration in

²¹ UN General Assembly, Summary Record of the 288th Meeting: 1st Committee, UN Doc. A/C.1/SR.288, 7 October 1949, p. 67.

any form and guise, even as a trustee under the supervision of the United Nations be completely excluded”.

Speaking before the General Assembly's Political and Security Committee, on 7 October 1949, the Representative of the *Conferenza Somala*, Isiao Mahadalla, renewed his appeal for a prompt and just decision for the future of his country still under military occupation. He called for an Italian Trusteeship over Somalia until the country was ready for independence. “At the very least”, he said, “Italy should be included among the administering powers if the United Nations voted for multiple trusteeships”.

In a fresh move seen as a departure from the earlier demand for Trusteeship over a thirty year period, he signalled his acceptance for the independence of Somalia to be granted within the time limit strictly necessary to achieve the level of progress which would ensure wise administration and stable democratic liberties.

Isiao Mahadalla contested the SYL's claim that they were representing the majority of the Somali population. He referred, in particular, to the Somali Sab community who, although they were the first to fall victim of Fascist oppression, were now convinced that democratic Italy would not repeat the mistakes of the past. Mr. Mahadalla referred to his rival party, the SYL, as an extremist and “terrorist” organization²².

At its 291st meeting on 11 October 1949, the First Committee established a sub-committee, (known as the Sub-Committee 21) with the purpose of studying all drafts and suggestions submitted to the First Committee or which might be submitted to the Sub-Committee or to propose a draft Resolution or Resolutions to settle the question of the disposal of the former Italian colonies in Africa.

With regard to Somalia, the Sub-Committee adopted a number of key principles: (a) that Italian Somaliland should be accorded independence; (b) the principle contained in a proposal of the United States of America that Italian Somaliland should become independent after a period of ten years, unless the General Assembly decided otherwise; (c) the principle for a single power trusteeship, with Italy as the Administering Power. The Sub-Committee decided also to recommend a Declaration of Constitutional Principles, proposed by India and designed to guarantee the right of the people of Italian Somaliland and to establish and develop self-government in the territory should be annexed to the Trusteeship Agreement with the Administering Power.

²² UN General Assembly, Summary Record of the 286th Meeting: 1st Committee, UN Doc. A/C.1/SR.286, 6 October 1949, p. 58.

7. *The Work of the First Committee*

The First Committee examined the report of Sub-Committee 21 between 4 and 8 November 1949 and then proceeded to vote upon the various draft Resolutions placed before it. In voting on the report, the First Committee voted on each paragraph, accepting in the process a number of amendments, while rejecting several others. The Committee adopted three key amendments of section 2 of the report dealing with Somalia.

First was an oral amendment by the Philippines proposing to delete the last phrase of paragraph 2, proposed by the United States of America and reading “unless the General Assembly should subsequently decide otherwise”.

Second was a Lebanese proposal with respect to paragraph 3, according to which, an Advisory Council would be set up to aid and advise the Administering Authority. This was adopted.

Third was an Argentine recommendation proposing to invite Italy to undertake the provisional administration of Italian Somaliland “pending approval by the General Assembly of a trusteeship agreement for that territory”. The Indian proposal on the Constitutional Principles was taken as mere recommendation which would serve as guiding principles to the Administering Authority; consequently, it was inserted as an Annex to the draft Resolution²³. The majority of the Committee members supported section B of the Resolution concerning Somalia. However, the most stringent criticism of section B of the Resolution came from Ethiopia and Liberia, the only two African countries who were members of the United Nations. The Italian representative, Ambassador Alberto Tarchiani, intervening on a number of occasions on the debate, had given assurances to the Political Committee on the honesty and reliability of Italian intentions attempting to dissipate any fear about any Italian intention to extend the Trusteeship period and also to give assurances on the intention of Italian government not to discriminate against those Somali leaders who opposed the return of Italy to Somalia.

The key to the success of the Resolution lay in the Italian government’s new policy announced immediately after the defeat of the ill-fated Bevin-Sforza compromise. The final decision reflected mainly a political compromise, painfully worked out in the General Assembly over two years, in which the positions of the Arab-Asian and Latin American blocs were united for a solution to the Somali question.

²³ UN General Assembly, Summary Record of the 321st Meeting: 1st Committee, UN Doc A/C.1/SR.321, 10 November 1949, pp. 238, 240.

8. *The General Assembly Decides the Future of the Colonies*

On 11 November, the First Committee recommended the adoption by the General Assembly of the following resolution with regard to Somalia: (1) Somaliland will become an independent and sovereign State; (2) this independence shall become effective at the end of ten years from the date of approval of the Trusteeship Agreement by the General Assembly; (3) during this period, mentioned in paragraph 2, Italian Somaliland shall be placed under the International Trusteeship System with Italy as the Administering Authority; (4) the Administering Authority shall be supported and advised by an Advisory Council composed of representatives of the following States: Colombia, Egypt and the Philippines. The headquarters of the Advisory Council shall be Mogadishu. The precise term of reference of the Advisory Council shall be determined in the Trusteeship Agreement; (5) the Trusteeship Council shall negotiate with the Administering Authority the draft of a Trusteeship Agreement for submission to the General Assembly, if possible, during the present session, and in any case, not later than the fifth regular session; (6) the Trusteeship Agreement shall include an Annex containing a Declaration of Constitutional Principles guaranteeing the rights of the inhabitants of Somaliland and providing for institutions designed to ensure the inauguration, development and subsequent establishment of full self-government; (7) that Italy be invited to undertake the provisional administration of the territory.

Finally, after all-night discussions on 21 November 1949, the General Assembly of the United Nations, after section by section approval, overwhelmingly accepted the draft Resolution by a vote of 48 to 1 and 9 abstentions, placing Somalia under Italian Trusteeship. The lone dissenting voice being that of Ethiopia, the abstaining Powers were: Byelorussia, Czechoslovakia, France, New Zealand, Poland, Sweden, Ukraine, USSR and Yugoslavia²⁴.

9. *Instituting the Trusteeship Arrangement: Ethiopia Attempts to Delay the Work of the Drafting Committee*

In its Resolution of 21 November 1949, the General Assembly of the United Nations recommended, inter alia, that Italy should be invited to undertake the provisional administration of Italian Somaliland. In the meantime, the Italian government, by a communication addressed to the Secretary General of the United Nations on 22 February, 1950, undertook to administer the territory in accordance with the provisions of the Charter relating to the International Trusteeship System and the said Trusteeship Agreement, pending approval by the General Assembly of the Trusteeship Agreement for the territory.

²⁴RIVLIN, *The Italian Colonies and the General Assembly*, cit., p. 61.

Two weeks later the General Assembly made its recommendations; initial steps for carrying out the provisions on Somalia were taken by the Trusteeship Council establishing a special Committee with the task of preparing a draft Trusteeship Agreement. The Committee was composed of: France, Iraq, the Philippines, the Dominican Republic, the United States of America and the United Kingdom. The responsibility of preparing a Trusteeship Agreement was not left to Italy, who was invited to participate, without a vote, in the deliberations on the Italian Somaliland, as were Egypt and Colombia by virtue of their membership of the Somalia Advisory Council. A fourth country invited to participate in the deliberation of the drafting Committee, without a vote, was Ethiopia which claimed to have a "special interest" in East Africa invoking article 79 of the Charter of the United Nations. India was also invited because of her authorship of the Constitutional Principles annexed to the Resolution.

The Committee was also empowered to allow representatives of the political parties and organizations in Somalia to express their views before it, if they so desired. However, this decision taken on the motion of the Philippines to invite native inhabitants met with strong British objections on the desirability of consulting local opinion. In any case, the argument proved somewhat academic as no representative of Somali political parties appeared before the Committee to express their views.

The Somaliland Committee held an organizational meeting on 13 December 1949 at Lake Success, electing Max Henriquez-Urena of the Dominican Republic as Chairman. It reconvened at Geneva on 9 January 1950 and in the course of the following ten days it prepared a draft text for presentation to the Trusteeship Council. The draft Agreement was chiefly based on two drafts submitted by Italy and the Philippines respectively. On 5 December 1949, the Ethiopian Minister of Foreign Affairs, Abte-Wold Aklilou, appealed to the Secretary General of the United Nations, Trygve Lie, to take all appropriate steps to ensure that the Trusteeship Agreement for the former Italian Somalia should not be prepared without the participation and agreement of Ethiopia²⁵. Ethiopia refused to participate in the work of the Trusteeship Council, unless her right to vote as a "State directly concerned" was recognized. When the Trusteeship Council went ahead with its plan to draft the Agreement, ignoring the Ethiopian arguments, Ethiopia sought to delay the work. In a cablegram to the Trusteeship Council, Ethiopia requested that sufficient time be allowed to clarify and elucidate certain points. Ethiopia referred first to the fact that the Ethiopian-Italian Somaliland border was not demarcated, and secondly, raised doubts over the legality of Italy, a non-member of the United Nations, assuming the functions of Trustee. Ethiopia declared that it was considering submitting the case to the International Court of Justice (ICJ) for an advisory opinion. Under Chapter XII of the Charter, the au-

²⁵ UN Doc. A/C.1/W8/Add.2, par. 164.

thority which would exercise the administration of a Trust territory might be one or more States or the Organization itself. In fact, Article 81 of the Charter refers to "one or more States" and not to members of the United Nations. For this reason, it had never been stated, either by the Four Powers or by any other government consulted, that the fact that Italy was not a member of the United Nations excluded her from participation in the Trusteeship System.

The Ethiopian threat to bring forward a legal argument, however, did not deter the Trusteeship Council from proceeding with the drafting of the Agreement, and Ethiopia, in an effort not to prejudice her position, refrained from taking part in the work of the Council without a vote. Consequently, it merely sent observers to the Committee's sessions.

The Trusteeship Agreement, as drafted by the Committee, with a few changes introduced by the Trusteeship Council itself, was approved by the Council at its meeting of 27 January 1950. The Trusteeship Council report, comprising the draft Agreement, was submitted to the General Assembly, after which the Fourth Committee considered the question during the period 10-16 November 1950.

The Agreement was subsequently approved by the General Assembly at its plenary meeting on 27 December 1950 by a vote of 44 to 6.

10. *Conclusion*

The Trusteeship regime placed on Somalia presented a unique feature, for it was the only case in which trusteeship responsibility was assigned to a defeated former colonial power which was not even a member of the United Nations. This particular situation led to the approbation of stringent trusteeship arrangements for Somalia. These strict conditions included a specified duration of ten years set for the mandate given to Italy, followed by independence after this period. For the first time in the history of the United Nations, a target date was imposed on a Trusteeship Power. Another unique feature of the Trusteeship Agreement for Somalia was the provision for an Advisory Council to assist the Administering Authority in the control of affairs in the Trust Territory.

The actual acceptance of the ten years as a limit came about more because it was politically acceptable than because it was theoretically justified in consideration of the state of underdevelopment and political and social immaturity of the population of the Trust Territory.

PART IV
THE AFTERMATH
OF ITALIAN COLONIALISM

CHAPTER 8

THE CASE OF THE BOUNDARY DISPUTE BETWEEN
ETHIOPIA AND SOMALIA: SOME REMARKS
FROM AN INTERNATIONAL LAW STANDPOINT

*Elena Carpanelli**

SUMMARY: 1. Introduction. – 2. An Historical Overview of the Frontier Problem: From the *Menelik-Nerazzini* Agreement to Independence. – 3. On the Validity and Termination of the 1908 Boundary Treaty. – 4. On the Interpretation of the 1908 Boundary Treaty. – 6. Conclusion.

1. *Introduction*

Boundary disputes in Africa mainly date back to the colonial era, when colonial powers used to draw international borders without any effective knowledge of the geographical areas at stake and regardless of any ethnic or religious considerations¹, often driven solely by existing rivalries or apportionment agreements². In most cases, new independent States have inherited these boundaries, as well as long-standing disputes arising from them.

Somalia is not an exception to this general consideration: some of the current disputes over its borders are rooted in the colonial period³, when Somalis were forcibly separated and placed under the control of different colonial administrations (France, Great Britain and Italy)⁴.

What is more, after the Country gained independence, the very claim that some areas in neighbouring States were inhabited by Somalis led – in light of na-

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¹ See, *inter alia*, ODUNTAN, *International Law and Boundary Dispute in Africa*, London-New York, 2015, p. 85.

² See, e.g., TOUVAL, *Somali Nationalism. International Politics and the Drive for Unity in the Horn of Africa*, Cambridge, 1963, p. 155.

³ *Ibidem*.

⁴ CUKWURAH, *The Settlement of Boundary Disputes in International Law*, Manchester, 1967, p. 99.

tionalist aspirations towards the establishment of a so-called “Greater Somalia” – to a “four-way controversy” concerning Somalia’s boundaries with Ethiopia⁵, Kenya⁶, and Djibouti⁷ (former French Somaliland)⁸. As has been noted: “As Somali see it, their frontier dispute is not essentially about land. It is about people – nomadic people at that – for whom there is one frontier only: the furthest limits to their pastures”⁹.

The current lack of settlement of Somalia’s boundaries disputes and even their partial exacerbation (as testified, *inter alia*, by the proceedings initiated by Somalia against Kenya, currently pending before the International Court of Justice)¹⁰ are clear evidence of the extent to which both colonial legacy and nationalist inspirations which followed independence may exert effects on present-day reality.

Under this perspective, the vexing Ethiopia-Somalia frontier dispute¹¹ can be regarded as an interesting example of the long-standing “inheritance” of Italian colonialism in Somalia, later exacerbated by nationalist attitudes. Furthermore, this dispute raises challenging issues under an international law perspective, which appear worth being examined in depth¹². In this regard, the analysis of the di-

⁵ On the frontier between Somalia and Ethiopia see, *inter alia*, US Department of State, Office of the Geographer, Bureau of Intelligence and Research, No. 153 (Rev.), Ethiopia-Somalia Boundary, 9 January 1978.

⁶ On the border between Somalia and Kenya see, *inter alia*, US Department of State, Office of the Geographer, Bureau of Intelligence and Research, No. 134, Somalia-Kenya Boundary, 14 May 1973.

⁷ On the frontier between Somalia and Djibouti see, in particular, US Department of State, Office of the Geographer, Bureau of Intelligence and Research, No. 87 (Rev.), Djibouti-Somalia Boundary, 18 May 1979. The present Djibouti-Somalia frontier was established in the Agreement between the British and French governments with regard to the Gulf of Tadjourra and the Somali Coast (London, 2-9 February 1888), reported in HERTSLET, *The Map of Africa by Treaty*, Vol. II, 3rd ed. (reprint), London, 1967, p. 726 ff.

⁸ CUKWURAH, *The Settlement of Boundary Disputes in International Law*, cit., p. 93. See also SHARMA, *International Boundary Disputes and International Law*, Bombay, 1976, p. 46.

⁹ DRYSDALE, *The Somali Dispute*, London, Dunmow, 1964, p. 7.

¹⁰ International Court of Justice (ICJ), *Somalia institutes proceedings against Kenya with regard to “a dispute concerning maritime delimitation in the Indian Ocean”*, press release of 28 August 2014, No. 2014/27. On 2 February 2017, the ICJ delivered its judgment on preliminary objections and found Somalia’s application admissible. See ICJ, *Maritime delimitation in the Indian Ocean (Somalia v. Kenya)*, judgment (preliminary objections) of 2 February 2017.

¹¹ On the background of this dispute see, *inter alia*, WOLDE MARIAM, *The Background of the Ethio-Somalia Boundary Dispute*, Addis Ababa, 1964.

¹² It is worth stressing that this contribution will mainly focus on the issues emerging from the conclusion of a boundary agreement between Italy and Ethiopia, leaving almost untouched the problems arising out of the agreements concluded between Ethiopia and Great Britain. However, most of the issues at stake may apply to both cases. On the boundary agreements concluded between Ethiopia and Great Britain and some of the issues underpinning them see, *inter alia*, BERHANE,

spute at stake may also confirm the fact that, from a general international law standpoint, “[...] colonialism has remained a significant background theme, providing the setting for doctrinal debates [...] [and] informing emergent doctrine such as [...] boundary delimitation”¹³.

Against this background, after a brief overview of the historical origins of the Ethiopia-Somalia boundary dispute (section 2), the present contribution will attempt to delve into some of the legal arguments which have been put forward with reference to the exact delimitation of the border, taking into specific account the issues of validity, termination (section 3) and interpretation (section 4) of the treaty which originally established it.

2. *An Historical Overview of the Frontier Problem: From the Menelik-Nerazzini Agreement to Independence*

Italian control over the East coast of Africa dates back to the end of the XIX century. In 1889, the Italian government concluded protectorate agreements with the sultanates of Hobyo and Majeerteen. In the following years, it further expanded its possessions in the Horn of Africa and, since 1893, it assumed control over the Benadir region through two commercial societies¹⁴.

Italian growing presence in the Horn of Africa, as well as Ethiopian expansionistic attitude in the region, prompted the need to delimitate the frontier between Ethiopia and “Italian Somaliland”.

The first effective attempt to regulate the boundary-line between the two Countries followed Italy’s defeat in the battle of Adowa in 1896¹⁵. In 1897, Italy and Ethiopia reportedly reached an agreement over a proposed boundary-line drawn by Menelik – the Ethiopian emperor of that time – on a map of Africa by Hermann Habenicht, which was sealed, handed to the Italian representative, Major Cesare Nerazzini, and subsequently accepted by the Italian government (the agreement is accordingly generally referred to as the “Menelik-Nerazzini agreement” after the names of its two main negotiators)¹⁶. The map is, however,

State Succession and Boundary Treaties: The Ethio-Somalia Boundary Dispute, in *National and International Boundaries*, 1985, pp. 629-649.

¹³ CRAVEN, *Colonialism and Domination*, in FASSBENDER-PETERS (eds.), *The Oxford Handbook of the History of International Law*, Oxford, 2012, p. 863.

¹⁴ *Ibidem*.

¹⁵ In the peace treaty concluded between Ethiopia and Italy on 26 October 1896, the two parties agreed that the question of frontiers should have been solved within a year (Art. IV). For the text of the treaty (in French) see again HERTSLET, *The Map of Africa by Treaty*, cit., p. 459.

¹⁶ The unpublished map was accepted by the Italian government on 3 September 1897. The documents attesting the conclusion of the agreement are reported, *inter alia*, in ROSSI, *L’Africa verso l’unità 1945-2000. Dagli Stati indipendenti all’Atto di Unione di Lomé*, 2nd ed., Roma, 2013, p. 94 ff.

nowhere to be found¹⁷ and, as a consequence, the exact line may only be tentatively retraced by referring to official declarations, such as the so-called “Nerazzini report”. Pursuant to this document, the frontier would have started from the intersection of the Italian boundary with British Somaliland and would have granted Italy absolute possession over a zone, parallel to the coast, of about 180 miles in depth reaching the Cataracts of Von der Decken¹⁸. Nerazzini’s report further acknowledged Ethiopian control over the Sultan of Luuq¹⁹. On 9 August 1897, the *Agenzia Stefani* also reported the proposed boundary-line in the following terms: “from the Indian Ocean, the proposed boundary-line runs parallel to the coast at a distance of 180 miles reaching the Juba north of Bardera”²⁰.

Yet, it is arguable whether these descriptions gave a precise account of the boundary drawn in the map of Habenicht. Scholars have indeed pointed out that the 180 miles criterion could hardly be reconciled with the definite points provided for in the descriptions (*i.e.*, the Von der Decken Cataracts and Bardera). Moreover, the reference to the intersection point with the British Somaliland’s boundary (located at about 100 miles from the coast) would also fail to support the 180 mile-claim²¹, apparently revealing inconsistencies between Italian and Ethiopian terms of reference²². Arguably, this circumstance is supported also by the a letter sent by the Italian Ministry of Foreign Affairs, Visconti Venosta, to Federico Ciccodicola, an Italian diplomatic agent, on 18 December 1897, pursuant to which “the line proposed by Menelik and indicated in the sealed map, brought to Italy by Major Nerazzini, does not run at 180 miles, but at about 200 kilometres from the coast”²³. By the same token, in a note of the Italian government concerning the delimitation of the frontier between Ethiopia and Italian Somaliland dated 5 August 1910 (to which the sealed map drawn by Menelik

¹⁷ See, *inter alia*, DRYSDALE, *The Somali Dispute*, cit., p. 88.

¹⁸ The text is reported, *inter alia*, in *Atti parlamentari, Camera dei Deputati, legislatura XXII*, 13 February 1908, p. 19138.

¹⁹ *Ibidem*.

²⁰ *Ibidem*. Unofficial translation.

²¹ WOLDE MARIAM, *The Background of the Ethio-Somalia Boundary Dispute*, cit., p. 37. See also CAROSELLI, *Ferro e fuoco in Somalia*, Roma, 1931, p. 312.

²² According to Ethiopia, the exact point at which the Anglo-Ethiopian border would join the one between Ethiopia and Italian Somaliland would be 48° longitude, 8° parallel. Conversely, the 180-miles claim would collocate the tripoint at 47° longitude, 8° parallel. It is interesting to note, however, that in the instructions given by the Ministry of Foreign Affairs to Captain Citerni on 28 August 1910 concerning the delimitation of the frontier between Ethiopia and Italian Somaliland, the tripoint is located at 48° longitude, 8° parallel. See Doc. D. 200 of 28 August 1910, reported in Ministero degli Affari Esteri, *I documenti diplomatici italiani*, quarta serie: 1908-1914, Vol. V-VI (11 December 1909-29 March 1914), Rome, p. 466.

²³ Unofficial translation. See Doc. 47095/572, reported in MINISTERO DEGLI AFFARI ESTERI, *I documenti diplomatici italiani*, terza serie: 1896-1907, Vol. II (1 May 1897-23 June 1898), Rome, 1958, p. 230.

was attached), no mention was made of the 180-mile claim, but only of a line running parallel to the coast from the Cataracts of Von der Decken to the jointure with British Somaliland²⁴.

In academic literature it has been argued that two reasons may have driven such official accounts: either the scarce knowledge of the geographical area at stake or a deliberate attempt to increase confusion about the boundary exact trace, mostly motivated by Italian expansionistic attitude in the region²⁵.

It has also been stressed that the “Cartographic Agreement of 1897 [...] [would be] at the roots of the present frontier problem between Ethiopia and Somalia”²⁶. Whilst this statement may appear to account only for part of a more complex issue, it is true the uncertainties surrounding the exact boundary-line in the Menelik-Nerazzini agreement have long characterized – and still partly characterize – the boundary “dispute” between Somalia and Ethiopia. This is also due to the fact that the Menelik-Nerazzini determinations have been recalled – and therefore made legally binding – in the subsequent 1908 Treaty signed by Italy and Ethiopia for the settlement of the frontier between the Italian possessions of Somalia and the Provinces of the Ethiopian empire²⁷. The 1908 Treaty, by which Italy extended its possessions in the former Ethiopian territory (especially in Luuq), states that:

²⁴ See *Promemoria sulla delimitazione dei confini tra Somalia italiana e l’Etiopia*, 5 August 1910, reported in MINISTERO DEGLI AFFARI ESTERI, *I documenti diplomatici italiani*, quarta serie: 1908-1914, Voll. V-VI (11 December 1909-29 March 1914), Rome, p. 426.

²⁵ Concerning Italian interests in gaining control over the Sultanate of Luuq see once again *Atti parlamentari, Camera dei Deputati, legislatura XXII*, 13 February 1908, p. 19138. See also, *inter alia*, Memorandum of Current Business in the Easter Department [since November 1900, in continuation of Confidential Paper No. 7449], reported in BOURNE-CAMERON WATT-PARTRIDGE (eds.), *British Documents on Foreign Affairs: Reports and Papers from the Foreign Office Confidential Print*, Vol. 13, *Abyssinia and Its Neighbours (1854-1914)*, 1995, p. 188; Doc. 47095/572, cit., p. 230; instructions of Visconti Venosta to Ciccodicola, 6 January 1898 (Doc. T.41), in MINISTERO DEGLI AFFARI ESTERI, *I documenti diplomatici italiani*, terza serie: 1896-1907, Vol. II (1 May 1897-23 June 1898), Rome, 1958, p. 244; and instructions of Visconti Venosta to Ciccodicola, 3 April 1898 (Doc. T.727), in MINISTERO DEGLI AFFARI ESTERI, *I documenti diplomatici italiani*, terza serie: 1896-1907, Vol. II (1 May 1897-23 June 1898), Rome, 1958, p. 305. On the topic see also GRASSI, *Le origini dell’imperialismo italiano. Il “caso somalo” (1896-1915)*, Lecce, 1983, p. 328 ff.

²⁶ *Ibidem*, p. 36.

²⁷ Convention between Ethiopia and Italy setting the Frontier between the Italian Possessions of Somalia and the Ethiopian Empire, signed at Addis Ababa on 16 May 1908 (entered into force on 17 July 1908). A translation in English of the treaty is reported in BROWNLIE, *African Boundaries. A Legal and Diplomatic Encyclopaedia*, London, 1979, p. 835 ff. The Italian text reads as follows: “I. La linea di frontiera tra i possedimenti italiani della Somalia e le provincie dell’Impero etiopico, parte da Dolo alla confluenza del Daua e del Ganale, si dirige verso est per le sorgenti dei Maida-ba e continua fino all’Uebi Scebeli seguendo i limiti territoriali fra le tribù di Rohaneri che restano alla dipendenza dell’Abissinia. II. Il punto di frontiera sull’Uebi Scebeli sarà al punto di confine fra il territorio della tribù di Baddi-Addi che resta alla dipendenza dell’Italia ed il territorio della tribù a monte dei Baddi Addi che resta alla dipendenza dell’Abissinia”.

“I. The line of frontier between the Italian possessions of Somalia and the provinces of the Ethiopian Empire starts from Dolo at the confluence of the Daua and the Ganale, proceeds eastwards by the sources of the Maidaba and continues as far as the Wabi Shabeelle following the territorial boundaries between the tribe of Rahanwayn, which remains dependent on Italy, and all the tribes to its north, which remain dependent on Abyssinia.

II. The frontier on the Wabi Shabeelle shall be the point where the boundary between the territory of the Baddi-Adde tribe, which remains dependent on Italy, and the territory of the tribes above the Baddi-Adde, which remain dependent on Abyssinia, touches the river.

III. The tribes on the left of Juba, that of Rahanwayn and those on the wabi Shabeelle below the frontier point, shall be dependent on Italy. The tribes of Dagoodi, of Afgab, of Djedjedi and all the others to the north of the frontier line shall be dependent on Abyssinia.

IV. From the Wabi Shabeelle the frontier proceeds in a north-easterly direction, following the line accepted by the Italian Government in 1897; all the territory belonging to the tribes towards the coast shall remain dependent on Italy; all the territory of Ogaden and all of the tribes towards the Ogaden shall remain dependent on Abyssinia (...)” (emphasis added)²⁸.

The 1908 Treaty explicitly refers to the line accepted by the Italian government in 1897, whose trace, as previously stressed, was anything but clear.

As has been noted, the 1908 “agreement [...] is a masterpiece of ambiguity, [whose] [...] wordings [...] were such that it almost assured the continued existence of the frontier problem”²⁹. Apart from the vague reference to the Menelik-Nerazzini Agreement, the 1908 Treaty also includes a reference to “enigmatic” ethnic criteria (such as, for instance, the reference to the “tribes towards the coast” and “the tribes towards the Ogaden” in Art. IV), which, taking into account the nomadic character of the concerned tribes, add further complexity (and confusion) to the determination of the exact trace of the boundary-line. Reportedly, practical inconsistencies existed among the very territorial and ethnic criteria envisaged in the 1908 Treaty, to the point that, in an order of 20 September 1912 concerning an alleged raid among tribes, the judiciary held that “it [was] impossible to affirm whether ethnic or territorial criteria will prevail with respect to the demarcation of the frontier as both views find support in the 1908 Treaty”³⁰.

It is thus no surprise that the treaty was hardly implemented in practice. In 1910-1911, a joint boundary Committee demarcated part of the frontier (about

²⁸ *Ibidem*.

²⁹ WOLDE MARIAM, *The Background of the Ethio-Somalia Boundary Dispute*, cit., p. 40.

³⁰ Unofficial translation. See CIAMARRA, *La giustizia nella Somalia: raccolta di giurisprudenza coloniale*, Napoli, 1914, p. 231.

30 kilometres in proximity of Dolo) in accordance to the 1908 Treaty. Due to the different views of the two sides concerning the interpretation of the Treaty provisions, however, the demarcation process was never completed.

The instructions over demarcation issued by the Italian Ministry of Foreign Affairs Di San Giuliano to Captain Citerni in 1910³¹ contain some important elements with respect to the issues underpinning the reference to the Menelik-Nerazzini agreement and the Italian position concerning the interpretation to be given to the 1908 Treaty in this respect. According to Di San Giuliano, the agreement reached in 1897 was that the frontier line should have run from the Cataracts of Von der Decken to the intersection with British Somaliland parallel to the coast at around 180 miles from the coast³². Yet, given that this last point lied at the 48°/8° (and thus at 100 miles from the coast), the line drawn on the map did not respect the 180-mile agreement³³. According to the Minister, this circumstance had been caused by the two parties' scarce knowledge of the geographical area at stake and should have led to interpret the 1908 Treaty in the sense of delimiting the boundary at 180 miles from the coast³⁴. Interestingly enough, the Italian Ministry also seemed to resort to the existent uncertainty surrounding the reference to the 1897 Agreement as a possible ground to satisfy, through demarcation, Italian expansionist attitude: "it seems possible to gain on the ground [...] more than what could be gained on paper [...]"³⁵.

The lack of agreement upon the interpretation of the frontier Treaty of 1908 came up again on the occasion of the Wal Wal accident in 1934³⁶, which took place on the "undefined" boundary-line between Ethiopia and Italian Somaliland. As has been noted, at that time, "the absence of a clearly defined border served Italian expansionist aims" towards the Ogaden region³⁷. Under the fascist regime, Italy had indeed developed a peripheral policy, whereby Italian au-

³¹ On the expedition of Citerni see Citerni, *Ai confini meridionali dell'Etiopia: note di un viaggio attraverso l'Etiopia ed i Paesi Galla e Somali*, Milano, 1913, where reference is also made to the vagueness of the 1908 Treaty (p. 11).

³² See again Doc. D. 200 of 28 August 1910, reported in *MINISTERO DEGLI AFFARI ESTERI, I documenti diplomatici italiani*, cit., p. 467.

³³ *Ibidem*.

³⁴ *Ibidem*.

³⁵ *Ibidem*, p. 478.

³⁶ The lack of a clear delimitation of the frontier between Ethiopia and Italian Somaliland is made evident also from the maps of the time where no line was drawn in this respect. See, for instance, *Colonie dell'Africa orientale italiana. Eritrea-Somalia italiana, Etiopia-Somalia francese e britannica*, Milano, 1935. On the episode see, *inter alia*, *Dispute between Ethiopia and Italy. Report of the Council of the League of Nations*, in *American Journal of International Law*, Vol. 30, Supplement: Official documents, 1936, pp. 1-26, and PANKHURST, *Ex-Italian Somaliland*, New York, 1951, p. 99 ff.

³⁷ TOUVAL, *Somali Nationalism*, cit., p. 161.

thorities attempted to incite local tribes at the extreme border of Ethiopia to favour the Country's disruption³⁸.

Following the Wal Wal accident, in line with its political goals³⁹, Italy relied on the ethnic criterion envisaged in the 1908 Treaty to justify its alleged trespass in Ethiopian territory, whilst Ethiopia accused Italy of unwarranted aggression based on the territorial boundary-line set in 1897 and 1908⁴⁰.

Remarkably, in the letter it submitted to the Secretary General of the League of Nations on 15 January 1935, the Ethiopian government seemed eventually to surrender to Italy's 180-mile claim:

*“L'article 4 du [1908] Traité renvoi donc au 'tracé accepté en 1897 par le Gouvernement italien'. Quel est ce 'tracé' antérieur de onze années à la signature de cet acte important du droit international italo-éthiopien? Il résulte de conversations directes entre le major Nerazzini, représentant le Gouvernement italien, et S.M. l'Empereur Ménélick II, et d'une simple carte sur laquelle la frontière fut dessinée selon une ligne de délimitation se maintenant à 180 milles à partir de la côte de l'océan Indien rejoignant le Giuba au nord de Bardera. [...] La frontière de la Somalie et de l'Ethiopie est donc déterminée par une ligne sinueuse épousant les contours de la côte de l'océan Indien, à 180 milles de distance”*⁴¹.

³⁸ See, *inter alia*, telegram from Vinci to Mussolini, 18 May 1934 (Doc. T. rr. 1901/233), reported in *I documenti diplomatici italiani, settima serie: 1922-1935*, Vol. XV (18 March-27 September 1934), Rome, 1990, p. 268; telegram from Vinci to Mussolini, 18 May 1934 (Doc. T. 1902/234 r.), reported in *I documenti diplomatici italiani, settima serie: 1922-1935*, Vol. XV (18 March-27 September 1934), Rome, 1990, pp. 269-270 (where the Italian Ministry in Addis Ababa also suggested to clarify the frontier dispute between Ethiopia and Italian Somaliland as evidence of the abandonment of the “peripheral policy”). This suggestion was rejected at first by the Italian Ministry for Colonial Possessions (see, in particular, telegram from Suvich to Vinci, 10 June 1934 – Doc. T. 786/141 r. – reported in *Documenti diplomatici italiani, settima serie: 1922-1935*, Vol. XV (18 March-27 September 1934), Rome, 1990, p. 399), but was later supported, at least formally, by the Italian Minister for Foreign Affairs Mussolini (see telegram from Mussolini to De Bono, 7 July 1934 – Doc. 5358 – reported in *I documenti diplomatici italiani, settima serie: 1922-1935*, Vol. XV (18 March -27 September 1934), Rome, 1990, p. 529).

³⁹ Mussolini's strategy with respect to Ethiopia well emerges from a letter of 10 August 1934 (reported in *I documenti diplomatici italiani, settima serie: 1922-1935*, Vol. XV (18 March-27 September 1934), Rome, 1990, pp. 732-733), where he suggested to disguise Italian expansionistic aims by pretending to abide by the friendship treaty between the two Countries).

⁴⁰ See The Royal Institute of International Affairs, *Abyssinia and Italy*, Information Department Papers No. 16, 3rd ed., London, 1935, p. 27 ff., which also reported how Italian newspapers pointed out the existence of three conflicting definitions of the frontier between Ethiopia and Italian Somaliland: (i) the 180-mile limit; (ii) the Menelik Line; (iii) the 1908 definition.

⁴¹ *Mémoire du Gouvernement impérial éthiopien sur les incidents de Walwal entre le 23 novembre et le 5 décembre 1934*, in *League of Nations, Official Journal*, February, 1935, p. 256. However, in the same document, Ethiopia mentions the different views between Italy and Ethiopia concerning the tripoint with British Somaliland, expressly setting this issue aside.

The border question was provisionally set aside following the Italian occupation of Ogaden in 1936 and the passage of the whole Somalia region under British military administration in 1942.

However, parallel to the establishment of an International Trusteeship System over the former Italian Somaliland in 1949⁴², the “unsettled” boundary issue gained relevance once again⁴³. Italy proposed, in its draft Trustee Agreement, to include a clause pursuant to which the boundaries of the territories of Somalia would have been those resulting from the treaties and conventions concluded between the Italian government and neighbouring States, with effect from 1st January 1935. This provision was harshly contested by the Ethiopian representatives, according to whom any agreements existent at that time would have in any case been made invalid by Italian aggression of Ethiopia⁴⁴.

Eventually, the United Nations General Assembly called upon an Interim Committee “to study the procedures to be adopted to delimit the boundaries of the former Italian colonies in so far as they [*were*] *not already fixed by international agreement*”⁴⁵. In light of the Interim Committee’s findings, in 1950 the General Assembly recommended that the boundary between the Trust Territory of Somalia and Ethiopia, that had not been already delimited by international agreement, should have been established by bilateral negotiations between the Ethiopian government and the Administering Authority (*i.e.*, Italy) and that differences arising between the parties ought to be solved by a mediation procedure or – as a last resort – by arbitration⁴⁶. Meanwhile, British authorities established, in consultation with Ethiopia and Italy, a *provisional* administrative line⁴⁷.

Neither bilateral negotiations nor the attempt to set up an arbitration procedure had any positive impact on the frontier issue⁴⁸. As Touval pointed out, “the principal obstacle was a fundamental disagreement between the Italian and Ethiopian governments on the proper approach to the problem”⁴⁹. Ethiopia

⁴² United Nations General Assembly, Resolution No. 289 (IV) A, “Question of the Disposal of the former Italian Colonies”, 21 November 1949.

⁴³ FINKELSTEIN, *Somaliland under Italian Administration. A Case Study in United Nations Trusteeship*, New York, 1955, pp. 23-24.

⁴⁴ The debate is reported in PANKHURST, *Ex-Italian Somaliland*, cit., pp. 360-361.

⁴⁵ United Nations General Assembly, Resolution No. 289 (IV) C, “Question of the Disposal of the former Italian Colonies”, 21 November 1949 (emphasis added).

⁴⁶ United Nations General Assembly, Resolution No. 392 (5), “Procedures to be adopted to the delimit the boundaries of the former Italian colonies in so far as they are not already fixed by international agreement”, 15 December 1950.

⁴⁷ United Nations, Doc. ST/DPI/SER.A/70 (Background paper No. 70), 3 March 1952, p. 30.

⁴⁸ See, *inter alia*, United Nations General Assembly, Resolution 392 (V) of 15 December 1950, Resolution No. 854 (IX) of 14 December 1954; 947 (X) of 15 December 1955; 1068 (XI) of 26 February 1957; 1213 (II) of 14 December 1957.

⁴⁹ S. TOUVAL, *Somali Nationalism*, cit., p. 162.

disputed that the issue was one of a merely legal nature, revolving around the correct interpretation of the 1908 Treaty. Conversely, Italy contended that the problem also required taking into account equity considerations⁵⁰.

The dispute did not find any solution after Somalia gained independence in 1960. Somalia claimed, in fact, not to be bound to the boundary agreements concluded between colonial powers and its neighbouring Countries, including Ethiopia. This argument mainly relied on two sets of considerations. First, Somalia held that, based on protectorate agreements, colonial powers did not have any legal right to give away Somali territory by concluding treaties with neighbouring Countries, without having obtained the previous consent from local tribes. Second, Somalia relied on the principle of self-determination to support its claims to lands inhabited by the Somalis⁵¹.

As far as the Ethio-Italian Somaliland boundary is at stake, such argumentations add further complexity to some challenging questions, such as: is the 1908 boundary treaty valid under international law? How should this treaty be interpreted? Which are the effects, if any, of States' subsequent practice? The following sections will be devoted to explore – and try to answer to – some of these “open” questions.

3. *On the Validity and Termination of the 1908 Boundary Treaty*

It is generally recognized that “boundary disagreement [...] will commence in legal terms with a consideration of relevant border treaties. If there be such pertinent treaty or treaties, the dispute in question will revolve upon the validity, application and interpretation of such instruments”⁵². Whether applied in the case at stake, this consideration requires to first question the validity of the 1908 boundary Treaty between Somalia and Ethiopia.

The validity of the 1908 Treaty has been often challenged based on several arguments, some of which have already been briefly mentioned in the previous section. One of the arguments used to impeach the validity of the aforesaid Treaty traces back to the colonial context in which it was stipulated. As also noted by the International Law Commission, Somalia has indeed consistently challenged the validity of the boundary treaties with Ethiopia and Kenya on the grounds that they were concluded between foreign colonial powers without the consent or

⁵⁰ *Ibidem*.

⁵¹ For a general overview of Somalia's arguments see, *inter alia*, WOLDE MARIAM, *The Background of the Ethio-Somalian Boundary Dispute*, in *The Journal of African Modern Studies*, 1964, p. 189 ff.

⁵² SHAW, *Boundary Treaties and their Interpretation*, in RIETER-DE WAELE (eds.), *Evolving Principles of International Law: Studies in Honour of Karel C. Wellens*, Leiden, 2012, p. 244.

knowledge or against the interests of the Somali people⁵³. This view calls into the picture some general questions, such as the validity of treaties allegedly concluded in breach of protectorate agreements and the interplay between the principle of self-determination and the principle of respect of borders existing on achievement of independence⁵⁴.

As to the first aspect, Somalia has argued that boundary treaties concluded by the colonial powers would be void due to the fact they were stipulated in breach of the existing protectorate agreements, as these latter, due to their nature, did not transfer sovereignty to the protecting State.

In this respect, however, arbitrator Huber already said in the 1928 *Island of Palmas* case that:

“[...] it is the sum-total of functions [...] allotted [by means of agreements with native peoples] either to the native authorities or to the colonial power which decides the question whether at any certain period the conditions required for the existence of sovereignty are fulfilled. It is a question to be decided in each case [...]”⁵⁵.

Protectorate treaties concluded between chiefs of Somali tribes and colonial powers entrusted the protecting State with the control over external relations; it is nonetheless a questionable matter whether, lacking any effective transfer of sovereignty, this circumstance would suffice to assert the validity of treaties “ceding” parts of territory.

As noted by James Crawford, State practice seems to point towards the conclusion that, generally, “in case of colonial protectorates [...] the validity of the cession by the protecting State to a third State could not be impugned, although such cession was or might have been in breach of the conditions upon which the protectorate was assumed”⁵⁶.

The principle of self-determination has constituted a further ground by which Somalia has challenged the validity of boundary treaties concluded by its predecessors. Under international law, those agreements that are concluded in breach of a *jus cogens* norm are indeed void⁵⁷. However, such a principle has emerged

⁵³ International Law Commission, Draft Articles on Succession of States in respect of Treaties, with commentary, in *Yearbook of the International Law Commission*, Vol. II, 1974, p. 199-200.

⁵⁴ This principle was adopted by the Organization of African Unity in its Resolution AHG/Res. 16(I) of 1964 (so-called “Cairo Resolution”) and is enshrined in Art. 4(b) of the Constitutive Act of the African Union. On the difference between this principle and the principle of *uti possidetis juris*, to which is often equated, see Interantional Court of Justice, *Frontier Dispute (Burkina Faso v. Niger)*, judgment of 16 April 2013 (Separate Opinion of Judge Yusuf), para. 7 ff. On the principle of the *uti possidetis* see, *inter alia*, G. NESI, *L’uti possidetis iuris nel diritto internazionale*, Padova, 1996.

⁵⁵ See *Island of Palmas case (Netherlands, USA)*, 4 April 1928, in *Reports of International Arbitral Awards*, Vol. II, p. 858.

⁵⁶ CRAWFORD, *The Creation of States in International Law*, 2nd ed., Oxford, 2006, p. 311.

⁵⁷ Vienna Convention on the Law of Treaties, Art. 53.

only in the aftermath of World War II⁵⁸, thus much later than the boundary agreement at stake was concluded. Accordingly, the subsequent uprising of the principle of self-determination could be regarded, at most, as a cause of termination of the 1908 Treaty⁵⁹.

Already in 1966, the International Law Commission stressed that the recognition of a special status to boundary treaties in the Vienna Convention on the Law of Treaties “would not exclude the operation of the principle of self-determination in any case where the conditions for its legitimate operation exist”⁶⁰, thus not excluding that such pre-emptory norm of international law could, under certain circumstances, constitute a ground for invoking the termination of boundary treaties.

The “self-determination argument” may, however, be practically barred: the vagueness of the notion of *jus cogens*, generally, and the difficulties in establishing whether the 1908 boundary Treaty does *violate* the principle of self-determination, more specifically, would arguably prevent its application.

Moreover, the aforesaid considerations cannot leave aside the operation of the principle of respect of borders existing on achievement of independence, which, at least *prima facie*, would impose the respect of the borders existing at the time of independence⁶¹. Several elements may, however, reduce the weight to be ascribed to this principle in the case at hand. First of all, unlike the *uti possidetis juris*, the principle of respect of borders does not apply to “inadequately defined regions or areas in frontier zones or physically non-existent boundaries”⁶². Second, this principle does not amount to a method for settling frontier disputes⁶³. Third, Somalia has repeatedly contested the application of this principle. Yet, nothing would prevent in practice one from relying on the different principle of *uti possidetis juris* as a method to settle peacefully a boundary dispute⁶⁴.

⁵⁸ Concerning the importance of the principle of self-determination in international law see, *inter alia*, International Court of Justice, *Legal consequences of the construction of a wall in the occupied palestinian territories*, advisory opinion of 9 July 2004, para. 88. On the alleged *jus cogens* character of this principle see, in particular, GROS ESPIELL, *Self-Determination and Jus Cogens*, in CASSESE (ed.), *UN Law Fundamental Rights: Two Topics in International Law*, Alphen de Rijn, 1979, p. 167 ff. For a more general study on the normative levels ascribed to this principle see, *inter alia*, SAUL, *The Normative Status of Self-Determination in International Law: A Formula for Uncertainty in the Scope and Content of the Right?*, in *Human Rights Law Review*, 2011, pp. 609-644.

⁵⁹ Vienna Convention on the Law of Treaties, Art. 64.

⁶⁰ International Law Commission, Draft Articles on the Law of Treaties, with commentaries, in *Yearbook of the International Law Commission*, Vol. II, 1966, p. 250.

⁶¹ See International Court of Justice, *Frontier Dispute (Burkina Faso v. Niger)* (Separate Opinion of Judge Yusuf), cit., para. 22 ff.

⁶² *Ibidem*.

⁶³ *Ibidem*.

⁶⁴ On the topic, in general, see RIZIKI MAJINGE, *Uti Possidetis and State Secession in International Law: An Examination of the Evolving Legal Practice in International Law*, in *African Yearbook*

A further argument challenging the validity of the 1908 boundary Treaty between Somalia and Ethiopia concerns specifically the way in which it was concluded. It could indeed be argued that Italy's or both parties' consent to be bound to the agreement was vitiated due to an error related to its/their scarce geographical knowledge, thus entailing the invalidity of the treaty at stake⁶⁵. However, pleas of error do require certain conditions to be satisfied: the error should relate to a fact or situation which formed an essential basis for the State's consent and should be excusable⁶⁶. As far as the 1908 boundary Treaty between Ethiopia and Somalia is concerned, it is doubtful whether one could plausibly assume that it would not have been concluded if the "geographical error" had been known; a circumstance that, pursuant to Judge Higgins's declaration in the *Kasikili/Sedudu Island* case, would prevent from considering the "essential basis for consent" requirement satisfied in the specific case at hand⁶⁷.

Moreover, the "excusable" nature of the alleged mistake should also be tested against factual elements excluding that the party/ies brought the error upon itself/themselves. It has been argued, in fact, that a "lesser standard of diligence would apply to the erring State if the other contracting party was aware of the error and exploited the misconception to its advantage ('exploited error')"⁶⁸. Whilst this circumstance could not be excluded with respect to the circumstances that led to the conclusion of the 1908 boundary Treaty, there is a lack of solid evidence supporting such a claim.

Expanding upon this line of reasoning, 'fraud' may also represent, at least *prima facie*, an additional ground by which possibly challenging the validity of the 1908 boundary treaty. Based on the account of facts reported in the previous section, it could indeed be argued that, to a certain extent, the reference to the controversial Menelik-Nerazzini Agreement in the 1908 Treaty was partly motivated by the deliberate attempt by Italian colonial authorities to enhance confusion about the boundary exact line, even in light of their expansionistic attitude

of *International Law*, 2010, p. 81 ff.; SHAW, *Peoples, Territorialism and Boundaries*, in *European Journal of International Law*, 1997, p. 495; and SARVARIAN, *Uti possidetis Iuris in the Twenty-First Century: Consensual or Customary?*, in *International Journal on Minority and Group Rights*, 2015, p. 1571 ff.

⁶⁵The International Law Commission has recognized that, under international law, no distinction can be made between mutual and unilateral error (Doc. A/5509, in *Yearbook of the International Law Commission*, Vol. II, 1963, p. 196).

⁶⁶Vienna Convention on the Law of Treaties, Art. 48. The applicability of this norm to a treaty concluded in 1908 may be based on the fact that it partly represents a re-statement of existing customary law. See, *inter alia*, VILLAGER, *Commentary on the 1969 Vienna Convention on the Law of Treaties*, Leiden, Boston, 2009, p. 611.

⁶⁷*Case concerning Kasikili/Sedudu Island (Botswana v. Namibia)*, judgment of 13 December 1999 (Declaration of Judge Higgins), p. 1114.

⁶⁸See, *inter alia*, DORR-SCHMALENBACH (eds.), *Vienna Convention on the Law of Treaties: A Commentary*, Heidelberg-Dordrecht-London-New York, 2012, p. 831.

in the area. However, to invoke the fraudulent conduct of the other party invalidating the agreement would require effective evidence of “false statements, misinterpretation or other deceitful proceedings”⁶⁹ which, in the specific case, appear absent.

Even if one upholds that the 1908 Treaty was originally valid, one can still question whether it eventually terminated due to subsequent factors, *i.e.*, an armed conflict, a fundamental change of circumstances and the supervening impossibility to perform it. As to the first ground, it could be argued that the outburst of an armed conflict between Italy and Ethiopia following the Wal Wal accident could act as a basis for invoking the termination of the related boundary Treaty. As noted by the International Law Commission, however, it is generally recognized that treaties creating boundaries are not terminated in case of an armed conflict⁷⁰. According to the Commission, this conclusion is indeed supported by State practice – especially case law – and, more generally, by the special status that States have accorded to boundaries treaties⁷¹.

As to the second claim, one could argue that succession of Somalia to Italy amounted to a fundamental change of circumstances, which, if invoked, could lead to the termination of the 1908 Agreement. Yet, it has to be recalled that, pursuant to Art. 62(2)(a) of the Vienna Convention on the Law of Treaties, the fundamental change of circumstances cannot be relied on as a ground for terminating a treaty establishing a boundary. This provision is based on the principle of stability and finality of boundary treaties, which aims at enhancing the maintenance of international peace and security⁷². It is nonetheless to be stressed that several States have formulated general objections to this provision, stressing the inherently sensitive character of territorial questions.

Finally, with respect to the third scenario, one could argue that the disappearance of the traced map, by making the execution of the 1908 Treaty impossible (*i.e.*, by hindering delimitation), would provide a sufficient ground for claiming the termination of the treaty itself. The non-automatic operation, in most cases, of the recalled grounds of invalidity or termination of treaties⁷³ would, nonetheless, prevent in any case the abovementioned theoretical considerations from

⁶⁹International Law Commission, Draft Articles on the Law of Treaties, with commentaries, in *International Law Commission Yearbook*, Vol. II, 1966, p. 245.

⁷⁰See International Law Commission, Draft Articles on the Effects of Armed Conflicts on Treaties, with commentaries, in *International Law Commission Yearbook*, Vol. II, 2011, para. 8.

⁷¹*Ibidem*, para. 14.

⁷²See, *inter alia*, DORR-SCHMALENBACH (eds.), *Vienna Convention on the Law of Treaties: A Commentary*, cit., p. 1090. In similar terms, see also Art. 11 of the 1978 Vienna Convention on Succession of States in respect of Treaties, pursuant to which: “a succession of State does not as such affect [...] a boundary established by a treaty”.

⁷³CONFORTI-LABELLA, *Invalidity and Termination of Treaties: The Role of National Courts*, in *European Journal of International Law*, 1990, p. 44 ff.

having practical effects, lacking a proactive conduct of the involved parties in terms of denunciation or equivalent act.

4. *On the Interpretation of the 1908 Boundary Treaty*

If one assumes the validity of the 1908 Treaty, the question still arises as to its correct interpretation. In this respect, a first important remark concerns the value that should be attributed to the map of the Menelik-Nerazzini Agreement to which the said Treaty makes express reference. As noted by the Permanent Court of International Justice in the advisory opinion in the *Jaworzina* case, in general “maps [...] cannot be regarded as conclusive proofs, independently of the texts of the treaties [...]”⁷⁴. At most, they may have a “confirmative” value of the conclusions drawn by the relevant documents⁷⁵. To the contrary, maps may acquire particular relevance when the text of the agreement does not allow establishing where the boundary line lies⁷⁶. In the case of the boundary Agreement between Italian Somaliland and Ethiopia, however, the problem arises due to the fact that no textual delimitation exists with respect to a portion of the boundary line, the only reference being made to the map of the Menelik-Nerazzini Agreement, which has been lost.

That said, it can be wondered whether the application of international rules on treaty interpretation may nonetheless help shading light on the correct interpretation of the 1908 boundary Treaty⁷⁷, partly compensating its ambiguous drafting⁷⁸.

In particular, the question arises as to whether the subsequent practice of the States concerned may allow inferring some indications as to the effective trace of the boundary line. As highlighted in the previous section, subsequent practice does encompass pronouncements by which the Ethiopian State adhered to the 180-mile criterion. By referring directly to the 1897 and 1908 instruments, such

⁷⁴PCIJ, *Publications*, B, n. 8, p. 33.

⁷⁵*Ibidem*. See, however, *contra* International Court of Justice, *Case of the Temple of Preah Vihear (Cambodia v. Thailand)*, judgment of 15 June 1962, p. 33.

⁷⁶See, for instance, the broad use of maps made by the International Court of Justice in the Case concerning the land and maritime boundary between Cameroon and Nigeria (*Cameroon v. Nigeria, Equatorial Guinea intervening*), judgment of 10 October 2002.

⁷⁷These rules are contained in Artt. 31-32 of the Vienna Convention on the Law of Treaties, whose customary nature has been recognized by the International Court of Justice. See, *inter alia*, *Case concerning Kasikili/Sedudu Island*, *cit.*, para. 18.

⁷⁸On the use made by the International Court of Justice of Artt. 31-32 of the Vienna Convention on the Law of Treaties to interpret boundary treaties see, *inter alia*, ALVAREZ-JIMENEZ, *The International Court of Justice's Use of the Vienna Convention in the Interpretation of Boundary Agreements: 2000-10*, in *Journal of International Dispute Settlement*, 2012, pp. 409-443.

statements seem to reveal an agreement between the two parties in setting the boundary line at 180 miles from the coast. However, this practice appears anything but consistent; a circumstance that, arguably, may defeat its interpretative value⁷⁹.

Against this backdrop, a useful method of interpretation of the relevant treaty may be represented by the so-called “equity *infra legem*”, that, whether applied, will likely lead to an equitable divide of the disputed territory. Whilst equity cannot be relied on to modify an established boundary⁸⁰, it may indeed step in when no such an agreement is in place or may be detected⁸¹. In this respect, however, the application of equity should interplay with the so-called principle of “effectiveness”, defined by the International Court of Justice as “one of the fundamental principles of interpretation of treaties”⁸². The detection by effectiveness of an implicit agreement between the concerned parties would indeed end up barring the application of any equity consideration.

For the sake of completeness, it is worth stressing that, like equity, the relevance of the effectiveness principle is limited to those cases in which the ambiguity of treaty provisions on delimitation cannot be overcome by means of the rules on treaty interpretation provided for in Artt. 31-32 of the Vienna Convention on the Law of Treaties. If a treaty-based title exists, from which different conclusions may be drawn, preference should be given to it⁸³. In the case of the Somalia-Ethiopia boundary, however, the legal title, although existing, does not appear capable of exactly defining the relevant territorial limits. Accordingly, *effectivités* may play an important role in guiding the interpretation of the treaty in practice.

5. Conclusions

The Ethiopia-Somalia boundary dispute poses a complex delimitation and demarcation problem. As previously showed, the very validity of the 1908 boundary Treaty raises some intriguing legal challenges, whose solution is anything but

⁷⁹ See, for instance, International Law Commission, Second Report on subsequent agreements and subsequent practice in relation to the interpretation of treaties, UN Doc. A/CN.4/671, 26 March 2014, paras. 47-48.

⁸⁰ See, *inter alia*, International Court of Justice, *Case concerning the land, island and maritime frontier dispute*, cit., para. 58.

⁸¹ See, *inter alia*, ORAKHELASHVILI, *The Interpretation of Acts and Rules in Public International Law*, Oxford, 2008, pp. 227-228.

⁸² See International Court of Justice, *Case concerning the territorial dispute (Libyan Arab Jamahiriya v. Chad)*, judgment of 3 February 1994, para. 51.

⁸³ See, *inter alia*, International Court of Justice, *Case concerning the frontier dispute (Burkina Faso v. Republic of Mali)*, judgment of 22 December 1986, para. 63.

cut-clear. Whilst some of the arguments that have been brought forward against the validity of the said treaty can indeed be easily dismissed, there are others that seem to highlight valuable grounds based on which invoking its voidness or termination. The non-automatic operation of invalidity or termination causes and the controversial debate about the consequences of their invocation add further complexities to the picture. But even if one upholds the validity of the 1908 Treaty, the loss of the Menelik-Nerazzini map, to which the treaty directly refers, still makes it arduous to definitively establish where the boundary lies.

To date, the only feasible path to reach a definitive solution seems to be represented by judicial or arbitral proceedings. It remains, however, doubtful how the seized tribunal could overcome the evidentiary problem underpinning this specific boundary dispute. Against these obstacles, it is likely that any pronouncement would eventually highly rely on *effectivités*, thus taking into account the effective exercise of authority over the dispute territory.

CHAPTER 9
REPARATION FOR COLONIAL CRIMES:
THE CASE OF SOMALIA

*Alessandro Bufalini**

SUMMARY: 1. Introduction. – 2. The Applicable Law and the Inter-Temporal Question. – 3. Individual Claims to Reparation for Colonial Violence: a Scant, but Potentially Successful, Practice. – 4. Remarks on the Peculiar Position of Italy on State Immunity for International Crimes. – 5. Interstate Reparation Settlements.

1. *Introduction*

The issue of reparation for crimes committed during the colonial era raises a number of moral, political and legal problems. As for the latter, some of the thorniest questions to be solved relate to the amount of time that has passed since the crimes were committed. It might be difficult, for example, to identify the victims of the violations or their descendants. A point could also be made in respect of the difficulty in identifying those who owe the obligation to repair; in particular, one could argue that the present generations should not pay for the wrongs of their ancestors. Equally, a difficult task could be to determine the law applicable at the time of the facts.

Another set of questions concerns the legal tools provided for the implementation of the right to reparation, as well as the determination of the amount of reparation due. In fact, it might be arduous to identify both the effective remedies available for the individuals affected and the instruments at the State's disposal to invoke the international responsibility of the wrongdoer State seeking to enforce the obligations breached. Eventually, one has to establish the extent and the different forms of reparation, a deed obviously implying a wide margin of discretion.

This chapter is an attempt to deal at least with some of these reparation is-

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sues related to Italy's colonial domination of Somalia. Before going into the details of the present case study, however, I would like to provide, as an introduction, some elements of the ongoing debate on reparations for colonialism.

Questions of reparation related to historical facts were notoriously discussed at the United Nations Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in Durban in 2001. The idea for the conference sprang out of General Assembly resolution no. 52/111 of 12 December 1997 and in the context of the implementation of the Programme of Action for the 3rd Decade to Combat Racism and Racial Discrimination¹. The event was originally and primarily conceived of to address a worldwide and, at the time, current phenomenon. However, the General Assembly Resolution included, among its aims, the review of the historical origins of racism and racial discrimination, thereby paving the way to a debate on the wrongs of the past², and in particular on the question of reparation for slavery and, more generally, the consequences of colonialism.

Despite this backdrop, in Durban, due to the opposition of Western countries and some political controversies³, the recognition of a specific obligation to repair for the injuries suffered during the time of colonization was not reached. In the Durban Declaration and Programme of Action, adopted by consensus, States only agreed on "the importance and necessity of teaching about the facts and truth of the history of humankind", the need to call upon "the international community and its members to honour the memory of the victims of these tragedies" and to take "appropriate and effective measures to halt and reverse the lasting consequences of those practices"⁴.

In 2009, at the Durban Review Conference, these promising assertions did not prevent States from avoiding, again, the making of any commitment to provide compensation for the historical wrongdoings of colonial powers. They simply recalled that "slavery and the slave trade, including the transatlantic slave trade, apartheid, colonialism and genocide must never be forgotten" and welcomed "actions undertaken to honour the memory of victims"⁵. The outcome document,

¹ General Assembly Resolution no. 52/111 of 12 December 1997.

² Art. 28 of the Resolution no. 52/111. See, for an assessment of the results achieved at the conference, LINDGREN ALVES, *The Durban Conference Against Racism and Everyone's Responsibilities*, in *Netherlands Quarterly of Human Rights*, 2003, pp. 361-384.

³ In particular, the expressions of anti-Semitism coming from Iranian President Ahmadinejad that led United States and Israel to leave the conference.

⁴ Durban Conference, 2001, paras. 98 ff.

⁵ Durban Review Conference 2009, para. 62. For an interesting contribution on slave trade and State responsibility, see BOSCHIERO, *La traite transatlantique et la responsabilité internationale des Etats*, in BOISSON DE CHAZOURNES-QUEGUINER-VILLALPANDO (sous la direction de), *Crimes de l'histoire et réparations: les réponses du droit et de la justice*, Bruxelles, 2004, pp. 203-262.

however, significantly recognizes the “actions of those countries that have, in the context of these past tragedies, expressed remorse, offered apologies, initiated institutionalized mechanisms such as truth and reconciliation commissions and/or restituted cultural artifacts since the adoption of the Durban Declaration and Programme of Action”. In addition, and more importantly, the conference “calls on those who have not yet contributed to restoring the dignity of the victims to find appropriate ways to do so”⁶. It is unclear whether this restoration of dignity implies an obligation to repair and what form this reparation should possibly take. What is sure is that Italy did not take any step towards restoring the dignity of the Somali people or other peoples subject to Italian colonization⁷.

Bearing in mind the principles expressed in Durban and the importance of reopening a discussion on colonialism and its enduring effects, this essay will explore several issues that the question of reparation for historical injustice could raise. In particular, I will first endeavour to ascertain whether some of the acts of violence committed by Italy during its colonial occupation of Somalia might be deemed to be internationally unlawful at the time they were perpetrated (para. 2). I will then elaborate upon whether individuals have a right to reparation and especially by what means they have, at least in some cases, implemented that right (para. 3). A few remarks will then be dedicated to the peculiar Italian position on the law of State immunity in case of serious violations of human rights and humanitarian law and the impact that this position might have on the question at issue (para. 4). Lastly, I will explore some interstate solutions for repairing colonial crimes (para. 5).

2. *The Applicable Law and the Inter-Temporal Question*

It is quite common among Italians to see themselves as “*brava gente*” (“good-hearted people”). The basic idea behind this stereotypical image is an alleged and intrinsic goodness of the Italian people. This self-representation ironically gained its roots in the colonial era. That is to say that the belief that Italian colonialism would have been marked by a gentle attitude towards local people and would have contributed to the economic and cultural development of the colonized countries.

The hollowness of this self-representation has already been illustrated⁸. As an example one could mention the De Vecchi governorship (1923-1928), when

⁶ *Ibidem*, para. 63.

⁷ See, generally, SCOVAZZI, *Casi, esempi e divagazioni sul metodo descrittivo dei fenomeni giuridici*, in *La comunità internazionale*, 1999, pp. 595-618.

⁸ DEL BOCA, *Italiani, brava gente?*, cit., e *I crimini del colonialismo fascista*, in DEL BOCA (ed.), *Le guerre coloniali del fascismo*, Roma-Bari, 1991, pp. 232-255.

thousands of indigenous people were subjected to forced labour. In the same period, the Italian governor undertook a campaign of aggressive military expansion marked by a violent repression of the civilian population. Moreover, and notwithstanding the attempt to ignore or try to explain away evidence of the atrocities occurred, it is a fact that at the end of 1935, Italy extensively used poison gas in Africa. In September 1935, thirty-six tons of mustard gas were apparently sent to Somalia in order to be used in the war against Ethiopia⁹. In addition, in the very same year, a concentration camp was established at Danane, not far from Mogadishu and operated, as a place of torture and forced labour, until 8 March 1943.

Indeed, the acts of violence against civilians date back to before the advent of Fascism. In the early twentieth century, the Italian army almost wiped out populations stationed on Somali territory, for instance the Biimàls and Majerteens. In 1905, slavery was formally outlawed, but in practice remained widely tolerated for many years¹⁰. In fact, the Benadir officials' practice of purchasing female slaves or coercing local women to be their mistresses met minimal obstruction when the Italian government asserted its direct administration of Somalia¹¹.

This section aims at determining which treaties concluded or ratified by Italy, and which customary international rules existing during the colonial period, could possibly have been breached by the Italian colonial administration. The analysis will especially focus on slavery and forced labour since their practice can be assumed.

As briefly mentioned in the introduction, the intertemporal question can prevent a State from being held responsible for conduct that is, nowadays, generally regarded as unlawful. In particular, it is a well-established principle in international law that States can be held responsible only for the breach of an international obligation in force at the time the act was committed¹². The principle *tempus commissi delicti* has been set forth in Art. 13 of the International Law Commission (ILC)'s Draft Articles on State Responsibility. Indeed, the non-retroactivity principle is considered to be so fundamental for granting the certainty of the legal relations among States, that according to the ILC's Commentary to Art. 13, even the emergence of a new *jus cogens* rule "does not entail any retrospective as-

⁹ ROCHAT, *L'impiego dei gas nella guerra di Etiopia 1935-1936*, in *Rivista di storia contemporanea*, 1988, p. 95, fn. 84.

¹⁰ REESE, *Renewers of the Age, Holy Men and Social Discourse in Colonial Benaadir*, Leiden-Boston, 2008, p. 147 ff. For a more detailed account on this period and practice, see SCOVAZZI, *The Origins of Italian Colonization in Somalia*, in this book, *supra*.

¹¹ HESS, *Italian Colonialism in Somalia*, London, 1966.

¹² *Island of Palmas Case*, in *Reports of International Arbitral Awards*, Vol. II, 4 April 1928, pp. 829-871.

sumption of responsibility”¹³. However, this does not mean that, under certain circumstances, international rules might nonetheless be retroactively applied. States can always conclude a new agreement dealing with a certain past situation. In other words, States are free to determine the temporal application of a norm. According to some scholars, moreover, the possible retroactive application of an international rule cannot be entirely excluded and, in practice, “would depend on each norm to determine how far rights and obligations that have previously arisen are affected”¹⁴. After all, the *nullum crimen sine lege*, a cornerstone of modern criminal law, can hardly be considered a rule to which no derogation is admitted when it comes to State responsibility¹⁵.

In any case, at least as regards slavery and forced labour, a retroactive application of the law might be unnecessary. To support this assertion, it is crucial to assess whether Italy was under an obligation not to allow the practice of slavery at the relevant time, say, the last decade of the nineteenth century and the first two decades of the twentieth century.

Italy became part of the 1926 Slavery Convention only in 1954. However, prohibitions against slavery were already part of customary international law by the time of the Second World War¹⁶, although it is not easy to establish when this customary rule would have come into existence.

In this respect, it is of some interest to report the words of Dionisio Anzilotti, the Italian delegate at the international commission established at the Paris Peace Conference of 1919 and entrusted to revise the General Acts of Berlin and Brussels on the activities of the European powers in Africa. Anzilotti proposed an article that would have committed States to preventing the slave trade “*conformément aux principes du droit des gens*”¹⁷. More interestingly, Anzilotti suggested a

¹³ International Law Commission, Draft Articles on Responsibility of States for Internationally Wrongful Acts, with commentaries, in *Yearbook of the International Law Commission*, Vol. II, 2001, p. 58, para. 5.

¹⁴ GAJA, *Jus Cogens Beyond the Vienna Convention*, in *Recueil des Cours*, 1981-III, p. 293; see also, TAVERNIER, *Recherches sur l'application dans le temps des actes et de règles en droit international public*, Paris, 1970, pp. 162-165.

¹⁵ See on this aspect, CONDORELLI, *Conclusions générales*, in BOISSON DE CHAZOURNES-QUEGUINER-VILLALPANDO (sous la direction de), *Crimes de l'histoire et réparations: les réponses du droit et de la justice*, Bruxelles, 2004, pp. 297-298.

¹⁶ This clearly emerges from Trials of the Major War Criminals before the International Military Tribunal, Nuremberg. See the “Blue Series”, International Military Tribunal Secretariat, 1947-1949.

¹⁷ “Art. A. Conformément aux principes du droit des gens tels qu'ils sont reconnus par les Puissances signataires (la traite des esclaves étant interdite, et les opérations qui sur terre ou sur mer, fournissent des esclaves à la traite devant être également considérées comme interdites), chacune des Puissances signataires du présent Acte ou qui adhéreront de suite, s'engage à continuer à employer tous les moyens en son pouvoir pour empêcher ce commerce et pour punir ceux qui s'en occupent”, Commission pour la revision des Actes Généraux de Berlin et de Bruxelles, Paris, 1st August 1919, ASE, CPA, 370).

general provision aimed at governing States parties' behaviour towards indigenous people. This article began with the following words: "*Au nom de la civilisation, les méthodes colonisatrices contraires à l'existence, au bien-être et à la graduelle élévation des populations indigènes sont à jamais bannies*"¹⁸. Following a number of objections received regarding the need to introduce such a provision, Anzilotti simply replied that "*la Délégation italienne voulait rappeler que ces principes font partie de la conscience juridique universelle*"¹⁹. Although the general provision was not included in the treaty, no objection to this conclusion and principle of *ius gentium* was raised. As Anzilotti underscored, then, some fundamental principles protecting indigenous people from slavery were probably well-established before Italian intervention in Somalia. Italian practice would therefore constitute a violation of some basic rules of international law already existing at the time of the colonial domination²⁰.

Similar reasoning applies to forced labour practices. The prohibition of forced labour is also nowadays widely recognized to be part of customary international law²¹. At Nuremberg, the Military Tribunal included forced labour in the category of both war crimes and crimes against humanity²². Recently, the International Court of Justice had the opportunity to examine a number of international and national legal materials on forced labour and concluded that its practice was a war crime under international law during the Second World War²³. In the last few decades, some governments, in particular Germany and Japan,

¹⁸The Article continued stating that: "En conséquence, la législation concernant la propriété foncière devra respecter autant que possible les coutumes en vigueur dans les territoires et les intérêts des populations indigènes. Les terrains et les droits réels appartenant à des indigènes ne pourront être transférés à des non-indigènes sans le consentement du Gouvernement local et aucun droit sur lesdits terrains ne pourra être créé au profit de non-indigènes sans le même consentement. De sévères dispositions contre l'usure seront adoptées par tous les Gouvernements exerçant leur autorité dans les territoires visés à l'article 1^{er}", in *ibidem*.

¹⁹*Ibidem*, this passage is also available at: <http://www.prassi.cnr.it>.

²⁰Several scholars support the view that prohibition of slavery has been part of customary law since at least the beginning of the twentieth century, see, for example, BASSIOUNI, *Enslavement as an International Crime*, in *New York University Journal of International Law and Politics*, 1991, p. 445 ff.

²¹International Committee of the Red Cross, *Customary International Humanitarian Law*, rule 95: "State practice establishes this rule as a norm of customary international law applicable in both international and non-international armed conflicts".

²²See, in particular, "*Slave Labor Policy*", International Military Tribunal, 1st October 1946, in *The Trial of the German Major Criminals*, Proceeding of the International Military Tribunal sitting at Nuremberg, pt. 22, 1950, p. 460 ff. and US Military Tribunal, Nuremberg, 17 April 1947 (Milch Trial), in *Trials of War Criminals*, Vol. II, p. 773 ff. For an overview of the relevant case law see VILLALPANDO, *Forced Labour/Slave Labour*, in *Max Planck Encyclopedia of Public International Law*, available at: <http://opil.ouplaw.com>.

²³ICJ, *Jurisdictional Immunities of the State (Germany v. Italy: Greece intervening)*, in *Judgment*, ICJ Reports, 2012.

have established a number of mechanisms to compensate victims of forced labour²⁴. Moreover, several individual compensation claims have been brought before national tribunals of those countries²⁵. Although most of the claims have been, for different reasons, rejected, humanitarian law violations have never been denied.

Again, the problem might be to determine when a customary rule on the prohibition of forced labour came into existence. Before tackling this issue, it is important to underline that, at least with regard to forced labour and related practices put in place in the Thirties, the conduct of Italian officials might be deemed unlawful and prohibited by the same 1926 Slavery Convention. The Convention adopts a restrictive definition of slavery and does not take a clear position on the prohibition of forced labour. However, States parties committed themselves “to take all necessary measures to prevent compulsory or forced labour from developing into conditions analogous to slavery”²⁶. In this respect, it is important to bear in mind that forced labour could sometimes be considered as a condition similar to slavery. And this seems to be the case with regards to several Italian practices towards Somali people²⁷. Although it is sometime difficult to distinguish between forced labour and slavery situations, it would seem that, when forced labour involves total control and subjugation of the victim, inhumane conditions of life or forms of sexual exploitation, it shall be qualified as a crime under international law²⁸.

However, forced labour practices have been considered unlawful since before World War Two. In this respect, it is important to recall Art. 52 of the 1907 Hague Convention IV Regulations. These provisions state that “requisitions in kind and services shall not be demanded from municipalities or inhabitants” of the occupied territories. The Nuremberg Tribunal applied this norm, affirming that forced deportation and inhumane treatment of civilian workers was “in fla-

²⁴ See, in particular, the German Foundation “Remembrance, Responsibility and Future”, established in August 2000.

²⁵ See, for example, as regards some “comfort women” cases, 2nd Petty Bench of the Japanese Supreme Court, Nishimatsu Construction Case, 27 April 2007 and 1st Petty Bench of the Japanese Supreme Court, Second Chinese “Comfort Women” Case, 27 April 2007.

²⁶ Art. 5, Slavery Convention. Moreover, another provision of the Convention excludes from the scope of the treaty a number of activities, such as compulsory military service or work which is part of the normal civic obligations, prison labour or work exacted in cases of emergency (Art. 2, para. 2).

²⁷ See the clear words on the conditions of the native forced labourers, expressed by Marcello Serrazanetti, Secretary of the National Fascist Party in Somalia (subsequently removed from his position), *Considerazioni sulla nostra attività coloniale in Somalia*, Bologna, 1933. See also, more generally, BERTIZZOLO-PIETRANTONIO, *A Denied Reality? Forced Labour in Italian Colonies in Northeast Africa*, in *Africana Studia*, 2004, pp. 227-246.

²⁸ See RATNER-ABRAMS-BISCHOFF, *Accountability for Human Rights Atrocities in International Law: Beyond the Nuremberg Legacy*, Oxford, 2009, p. 118 ff.

grant violation” of Art. 52²⁹. The only, limited, exception to this provision concerns “the needs of the army of occupation”. Although not much material is available, it seems beyond doubt that forced labour was a widespread practice both in liberal and fascist Italian colonialism³⁰. Mostly, this labour, based on the exploitation of indigenous people, was not needed for the military occupation, but was motivated by the aim of developing the agricultural sector and designed to favour the installation of Italian agrarian companies³¹.

With regard to the Hague Regulations, the question remains open as to which provisions were, at the time of their adoption, declaratory of existing customary law and which ones instead constituted an advancement in the laws of war. Another problem concerns the applicability of the law of occupation to colonial domination. The so-called “European project” of the law of occupation, in fact, considered colonialism as an exception to the application of this part of the *jus in bello*³². It is a fact, however, that the law of occupation has constantly shifted towards an emphasis on the need to protect the population in the occupied territory, rather than on the nature and the scope of the occupant’s intervention³³. More generally, to answer these further questions, one could take into account the interpretive role possibly played by the Martens clause and consider that “in case of doubt, international rules [...] must be construed so as to be consonant with general standards of humanity and the demands of public conscience”³⁴. Although forced labour was not an uncommon practice in the pre-First World War period, it has on many occasions been censured by States³⁵. This would again support the idea that, even when reprehensible practices of forced labour were tolerated, there was at least a common *opinio juris* among States on the unlawful nature of conduct which offended the conscience of the international community³⁶.

²⁹ Trial of the Major War Criminals Before the International Military Tribunal, 14 November 1945-1st October 1946, Vol. I, pp. 243-247.

³⁰ ONOR, *La Somalia italiana. Esame critico dei problemi di economia rurale e di politica economica della colonia*, Torino, 1925, pp. 226 ff.

³¹ BERTIZZOLO-PIETRANTONIO, *A Denied Reality?*, cit., p. 236.

³² BENVENISTI, *The Origins of the Concept of Belligerent Occupation*, in *Law and History Review*, 2008, p. 622 ff.

³³ See, for a detailed analysis on this and others developments, RONEN, *A Century of the Law of Occupation*, in *Yearbook of International Humanitarian Law*, 2014, pp. 169-188.

³⁴ CASSESE, *Martens Clause: Half a Loaf or Simply a Pie in the Sky?*, in *European Journal of International Law*, 2000, p. 212.

³⁵ See, for example, in relation to the deportation of Belgian workers in German factories during the First World War, *Violations of the Laws and Customs of War: Reports of Majority and Dissenting Reports. American and Japanese Members of the Commission of Responsibilities, Conference of Paris, 1919, Foreign Relations of the United States, 1919: The Paris Peace Conference, Vol. III*, reprinted in *American Journal of International Law*, 1920, p. 95.

³⁶ One could make reference here to a famous contribution which in basic terms aimed to sup-

3. *Individual Claims to Reparation for Colonial Violence: a Scant, but Potentially Successful, Practice*

There is little doubt that serious breaches of international human rights and humanitarian law that a State commits against civilians or military personnel of another State imply an obligation to make full reparation. In general, the obligation to repair injuries resulting from an internationally wrongful act was historically consecrated in the words of the Permanent Court of International Justice in the famous *Chorzow Factory* case. According to the Court, it would be “a principle of international law that the breach of an engagement involves an obligation to make reparation in an adequate form”. According to the Permanent Court, this compensation must, “as far as possible, wipe out all the consequences of the illegal act and reestablish the situation which would, in all probability, have existed if that act had not been committed”³⁷.

Under certain circumstances it may be difficult to determine the subjects that may claim a right to reparation and those (not necessarily the same subjects) towards whom the relevant obligation is owed. The injured State is certainly entitled to invoke the responsibility of the wrongdoer State and seek reparation, as provided by Art. 42(b)(i) of the ILC’s Draft Articles on State Responsibility. In cases of human rights and humanitarian law violations, it could be argued that such a right also belongs to those individuals who are victims of the wrongful act. There is, in fact, a tendency to recognize the existence of an individual right to reparation in customary international law in cases of gross violations of human rights and humanitarian law. This tendency would have been confirmed through the adoption by the United Nations General Assembly of the *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of the International Human Rights Law and Serious Violations of International Humanitarian Law*³⁸. Theo Van Boven, whose work is at the heart of the General Assembly Resolution, argued that there are good reasons to consider this document “as declaratory of legal standards in the area of victims’ rights, in particular the right to a remedy and reparation”³⁹. The individual would then

port the idea that, as regards all norms protecting human beings, “principles have always preceded practice”, cf. SIMMA-ALSTON, *The Sources of Human Rights Law: Custom, Jus Cogens and General Principles*, in *Australian Yearbook of International Law*, 1992, pp. 82-108.

³⁷ *Chorzow Factory Case* (Ger. V. Pol.), 1928, Sr. A, no. 17, p. 29.

³⁸ Resolution adopted by the General Assembly on 16 December 2005, UN Doc. A/RES/60/147.

³⁹ VAN BOVEN, *Victims’ Right to a Remedy and Reparation* *Reparations: The New United Nations Principles and Guidelines*, in FERSTMAN-GOETZ-STEPHENS (eds.), *Reparations for Victims of Genocide, War Crimes and Crimes against Humanity: Systems in Place and Systems in the Making*, Leiden-Boston, 2009, p. 32. Other scholars expressed their critical view, by affirming that the resolution does not reflect the real position of individuals in international law, cf. TOMUSCHAT, *Human*

hold a right to be compensated for the damages suffered by the State that committed a serious breach of international law. In general, the assertion of an individual right to reparation would result from the development and the importance that the protection of human rights has acquired in international law. In this respect, regional conventions for the protection of human rights would be a tangible, albeit limited, sign of this evolution. Principles and fundamental rights enshrined in those conventions – in particular the right of access to a court and to an effective remedy and the obligation for States to ensure adequate redress to individuals – may have contributed to the formation of a customary rule recognizing the individual right of reparation.

Should one accept that there exists nowadays an individual right to reparation, it must be acknowledged, however, that the General Assembly's *Basic Principles* do not say anything about colonialism and reparation for historical injustices. Furthermore, the existence of an individual right to reparation in general international law is anything but unproblematic⁴⁰. In particular, one could observe that the affirmation of a substantive right to reparation has not been followed by the creation of procedural mechanisms to enforce it. Practical application of an individual right to reparation is actually quite scant, in particular with regard to reparation for colonial crimes. However, individual compensation claims have proved at times to be successful.

An interesting case concerns the violence suffered by Mau Mau rebels in their fight against British colonial rule in Kenya in the 1950s. During the insurgency against British domination, in fact, Kenyan Mau Mau were victims of multiple forms of abuse, including torture, rape and castration⁴¹. In 2009, five elderly victims brought an action before the High Court in London for damages for personal injuries against the Foreign and Commonwealth Office, as representing the government of the United Kingdom⁴². The United Kingdom used two main ba-

Rights and National Truth Commissions, in BAHER-FLINTERMAN-SENDERS (eds.), *Innovation and Inspiration: Fifty Years of the Universal Declaration of Human Rights*, Amsterdam, 1999, p. 152.

⁴⁰ There are several contributions on this issue, see, for example, EVANS, *The Right to Reparation in International Law for Victims of Armed Conflicts*, Cambridge, 2012, pp. 38-42; CANNIZARO, *Is there an Individual Right to Reparation? Some Thoughts on the ICJ Judgment in the Jurisdictional Immunity Case*, in ALLAND-CHETAIL-DE FROUVILLE-VIÑUALES (eds.), *Unity and Diversity of International Law. Essays in Honour of Professor Pierre-Marie Dupuy/Unité Et Diversité Du Droit International, Melanges En L'Honneur Du Professeur Pierre-Marie Dupuy*, Leiden-Boston, 2014, pp. 495-502; PISILLO MAZZESCHI, *Reparation Claims by Individuals for States Violations of Humanitarian Law and Human Rights: An Overview*, in *Journal of International Criminal Justice*, 2003, pp. 339-347 and TOMUSCHAT, *Human Rights: Between Idealism and Realism*, Oxford, 2003, p. 294 ff.

⁴¹ See ANDERSON, *Histories of the Hanged: The Dirty War in Kenya and the End of Empire*, New York, 2005 and MALOBA, *Kenya: Mau Mau Revolt*, in SHILLINGTON (ed.), *Encyclopedia of African History*, New York, 2005.

⁴² During the proceedings one claimant passed away and another one decided to waive their claim. For a commentary on these cases, see HOVELL, *The Gulf between Tortious and Torturous UK*

ses of reasoning as a bar to subsequent trial. The first argument of the United Kingdom Foreign and Commonwealth Office aimed at asserting the status of the Colonial government and Administration in Kenya as “separate and distinct from that of the UK government” and as the only entity that could “conceivably have been held liable for the torts at the time when they were committed”. This argument was rejected on the basis of the United Kingdom’s direct involvement in the widespread and systematic practice of torture⁴³. The second defensive argument lay on the amount of time which had elapsed between the facts and the trial, considered as a limitation to a fair solution of the case. Mr. Justice McCombe, however, concluded on this point that “a fair trial on this part of the case does remain possible and that the evidence on both sides remains significantly cogent for the Court to complete its task satisfactorily”, allowing Mau Mau veterans to pursue damages for torture against the British government⁴⁴. In 2013, in order to avoid an embarrassing and presumably losing trial, the British government proposed an historical settlement of the Mau Mau claims. More than five thousands elderly Kenyans were compensated. In 2016, a new lawsuit was brought by more than forty thousands Kenyans. In 2018, however, the case was dismissed since the events date too far back in time⁴⁵.

Another interesting case relates to Dutch crimes committed in Indonesia. As is well known, Indonesia was a Dutch colony, part of Dutch East Indies until 1949. According to the Linggadjati Agreement of 25 March 1947, Indonesia was supposed to become independent on 1° January 1949. However, a disagreement between the two States about the interpretation and execution of the treaty led to a military intervention in Indonesia by the Netherlands. The most violent episode of this intervention is the mass executions perpetrated in Rawagede on 9 December 1947.

On 14 September 2011, taking an historic decision, the District Court of the Hague required the Dutch State to compensate the survivors and the relatives of the victims killed in summary executions, during the Indonesian war for independence, especially in Rawagede⁴⁶. For the eight widows and one survivor, the

Responsibility for Mistreatment of the Mau Mau in Colonial Kenya, in *Journal of International Criminal Justice*, 2013, pp. 223-245 and, more generally, SCOVAZZI, *Le forme di riparazione non pecuniaria dovute alle vittime di gravi violazioni dei diritti umani*, in *Rivista di storia contemporanea*, 2013, pp. 93-109.

⁴³ High Court of Justice, Queen’s Bench Division, 21 July 2011, [2011] EWHC 1913 (QB), *Ndiku Mutua, Paulo Nzili, Wambugu Claimants Nyingi, Jane Muthoni Mara & Susan Ngondi vs. and The Foreign and Commonwealth Office*.

⁴⁴ High Court of Justice, Queen’s Bench Division, 5 October 2012, [2012] EWHC 2678 (QB), para. 95.

⁴⁵ High Court of Justice, Queen’s Bench Division, 2 August 2018, *Kimathi & Others v. The Foreign and Commonwealth Office* [2018] EWHC 2066 (QB).

⁴⁶ District Court of the Hague, *Wisah Binti Silan et al. v. The State of The Netherlands (Ministry of Foreign Affairs)*, Case no. 354119/HA ZA 09-4171, Judgment, 14 September 2011.

Netherlands paid twenty thousand euros each in compensation. Moreover, as we will see later on, following the decision, the Dutch government formally apologised for the atrocities committed by its military personnel⁴⁷.

Other claims were brought against private corporations before USA courts under the Alien Tort Claims Act. A famous case concerns the Herero People's Reparations Corporation that – through its Paramount Chief Riruako and other members of the tribe – sued the German government and a number of German companies allegedly taking part in the genocide committed at the beginning of the twentieth century in Namibia⁴⁸. In particular, the claimants accused Deutsche Bank of financing almost all the activities of the colonial enterprise and being directly involved in the crimes against humanity committed against the Herero tribe. The Herero people's compensation claims were eventually rejected for lack of evidence, since almost all witnesses were deceased. As we will see, however, the issue of reparation for the genocide is anything but closed.

In conclusion, despite the uncertainty still surrounding the notion of individual right to reparation, individual claims may at times be successful. It remains the case that this is not an easy way to achieve reparation. The outcome of individual claims may be affected not only by complex evidentiary challenges, but also by the economic capacities of the victims and complete awareness of their rights. An important role can also be played by the different sensibilities of jurisdictional institutions called upon to make a decision. Yet, the actual state of political and diplomatic relations among the States involved can influence judicial attitudes. Nevertheless, even in the event of rejection, they can have an important impact on pressing States to reach a diplomatic solution.

4. *Remarks on the Peculiar Position of Italy on State Immunity for International Crimes*

Before dealing with interstate reparation settlements, attention also has to be paid to the peculiar Italian position on the law of State immunity, which could, to a certain extent, have an impact on the issues of reparation for colonial crimes. As is well known, in 2012, the International Court of Justice condemned Italy

⁴⁷ For some interesting reflections on the case, see VAN DEN HERIK, *Addressing "Colonial Crimes" Through Reparation? Adjudicating Dutch Atrocities Committed in Indonesia*, in *Journal of International Criminal Justice*, 2012, pp. 693-705.

⁴⁸ United States Court of Appeals for the Third Circuit, *Herero Peoples' Reparation Corp. v. Deutsche Bank AG*, Civ. no. 01-1868, slip op. (D.C.C. 31 June 2003); *Herero Peoples' Reparations Corp. v. Deutsche Bank AG*, 370 F. 3d 1192 (2004), cert. denied 125 S. Ct. 508 (2004). For an analysis of this case-law, see FAWLER-SARKIN, *Reparations for Historical Human Rights Violations: The International and Historical Dimensions of the Alien Torts Claims Act Genocide Case of the Herero of Namibia*, in *Human Rights Review*, 2008, pp. 331-360.

for not recognizing immunity from jurisdiction to Germany before Italian tribunals⁴⁹. The dispute originated from a number of cases related to the reparation for war crimes committed by the Nazis against the Italian Military Internees (IMIs). In particular, the case arose after the famous *Ferrini* judgment, where the Italian *Corte di Cassazione* denied the possibility for Germany to oppose the law on State immunity from jurisdiction in case of *jus cogens* violations⁵⁰.

On 22 October 2014, despite the ICJ's judgment, the Italian Constitutional Court declared unconstitutional the implementation in the Italian legal order of the ICJ's judgment (decision no. 238/2014). While recognizing the ICJ's authority in determining the content of customary international law, the Italian Constitutional Court deemed that Art. 2 (on the basic rights of every human beings) and Art. 24 (on the right to a judge) of the Italian Constitution would be unlawfully sacrificed by the application of the customary international rule as spelt out by the ICJ's judgment in the *Germany v. Italy* case. What would be contrary to Italian constitutional principles and values is the part of the customary norm that excludes the existence of an exception to State immunity in case of serious violations of human rights and humanitarian law.

As is often the case with judicial decision, the Italian Constitutional Court's position has been both praised and criticized. Some supported the Constitutional Court's attitude with respect to the importance of balancing a State's prerogatives with individual rights. Others disapproved the Court's strong dualistic approach, the lack of compliance with customary international law and the ICJ's judgment, or criticized the result of the balancing allegedly made by the Court⁵¹.

⁴⁹ Literature on the ICJ judgment is immense, but see, in particular, HIGGINS, *Equality of States and Immunity From Suit: a Complex Relationship*, in *Netherlands Yearbook of International Law*, 2012, pp. 129-149 and TALMON, *Jus Cogens after Germany v. Italy: Substantive and Procedural Rules Distinguished*, in *Leiden Journal of International Law*, 2012, pp. 979-1002.

⁵⁰ See *Cass., Sez. Un.*, 11 March 2004, no. 5044 (It), reprinted in *Rivista di diritto internazionale*, 2004, p. 53 ff., translated in *Ferrini v. Federal Republic of Germany*, 128 I.L.R 658, 659; see, among many others, DE SENA-DE VITTOR, *State Immunity and Human Rights: The Italian Supreme Court Decision on the Ferrini Case*, in *European Journal of International Law*, 2005, pp. 89-112; GATTINI, *War Crimes and State Immunity in the Ferrini Decision*, in *Journal of International Criminal Justice*, 2005, pp. 224-242; GIANELLI, *Crimini internazionali ed immunità degli Stati dalla giurisdizione nella sentenza "Ferrini"*, in *Rivista di diritto internazionale*, 2004, pp. 643-684.

⁵¹ For an extremely interesting debate, see the contributions by KOLB, *The Relationship between the International and the Municipal Legal Order: Reflections on the Decision No. 238/2014 of the Italian Constitutional Court*; DE SENA, *The Judgment of the Italian Constitutional Court on State immunity in Cases of Serious Violations of Human Rights or Humanitarian Law: A Tentative Analysis under International Law*; PINELLI, *Decision No. 238/2014 of the Constitutional Court: Between Undue Fiction and Respect for Constitutional Principles*, and PALCHETTI, *Judgment 238/2014 of the Italian Constitutional Court: In Search of a Way Out, in Colliding Legal Systems or Balancing of Values? International Customary Law on State Immunity vs. Fundamental Constitutional Principles in the Italian Constitutional Court Decision No. 238/2014*, in *Questions of International Law, Zoom-out (II)*, 2014, pp. 5-47.

Be that as it may, the impact of this decision on the Italian attitude towards potential reparation claims for the crimes committed during the colonial era might be very significant. While judgment no. 238/2014 only concerns the application of the customary rule on State immunity in the Italian legal order, coherence would impose upon Italy a block on invoking its jurisdictional immunity when cases involving gross violations of human rights and humanitarian law are brought against it before foreign tribunals. In this respect Somali citizens might feel encouraged to bring their compensation claims before Somali domestic courts or the domestic courts of another State.

5. *Interstate Reparation Settlements*

As already mentioned at the end of the third paragraph, individual claims have, at times, encouraged diplomatic interstate solutions. Regarding the Herero case, for example, in 2004 the German government admitted its moral responsibility for the genocide⁵². However, despite the active role of a political minority⁵³, on that occasion Germany did not recognize having an obligation to pay reparations for the genocide. However, while the Herero's tribe addressed U.S. courts, Namibia and Germany separately sought to come to an agreement on colonial reparation for an amount of twenty million euros over a period of ten years. In November 2005, the Namibian government, at that time opposing the Herero's right to reparation, refused to sign the agreement, asserting the need to consult the affected communities⁵⁴. In 2006, following these consultations, the Namibian government conceived the so-called Namibian-German Special Initiative Programme (NGSIP)⁵⁵. The programme aims at financing a number of borehole rehabilitation projects and agricultural investments. The Special Initiative is more akin to development aid, since the reconciliatory and compensative connotation of the material assistance have disappeared. The debate on the question of reparation is still ongoing. The idea that reparation may take the form of development aid has recently been questioned by some members of the Bundestag. Some argue, in particular, that development assistance and restorative justice have completely different purposes⁵⁶.

According to some scholars, however, the commitment of Western States to

⁵² See, for example, MELDRUM, *German minister says sorry for genocide in Namibia*, available at <https://www.theguardian.com>.

⁵³ See the last motion on the issue by *Die Linke*, available at <http://www.linksfraktion.de>.

⁵⁴ KÖSSLER, *Namibia and Germany: Negotiating the Past*, Windhoek, 2015, pp. 262-263.

⁵⁵ For more details on the programme: <http://www.npc.gov.na>.

⁵⁶ See the positions expressed by Niema Movassat, chairperson of the Left Party in the Committee on Economic Cooperation and Development of the Bundestag, available at <http://www.aljazeera.com>.

ensuring an increase in development aids represents the “most realistic” solution for dealing with the colonial past⁵⁷. This consideration, as true as it might look, should carefully take into account two aspects. On the one hand, the material assistance should be expressly considered as part of a process of reconciliation and a form of compensation for the wrongs of the past. Labeling it as reparation for the violence suffered would help victims to perceive the restorative nature of the economic aid. On the other hand, it is important to pay close attention to the real purpose of these kinds of agreements. It is crucial to assess, in fact, whether the material assistance is truly aimed at compensating the colonial past through the economic support of important national activities or whether it rather conceals other purposes.

In this respect, another, very peculiar, interstate reparation settlement may be illustrative of the pitfalls that this kind of agreement can hide. On 30 August 2008, Silvio Berlusconi, at that time Italian Prime Minister, officially apologised for the crimes committed in Libya during the colonial era and returned to the latter the statue of the Venus of Cyrene⁵⁸. That same day Berlusconi and Gaddafi signed the Treaty on Friendship, Partnership and Cooperation between Italy and Libya. The Agreement envisaged a new important framework of cooperation in many areas, including investments in basic infrastructure and immigration⁵⁹. In particular, Italy agreed to pay Libya five billion dollars over twenty years for infrastructure projects. Apart from a few scholarships for Libyan students, the restitution of the Venus and the (important) apologies of the Italian government, the Agreement seemed to be aimed at favouring the economic interests of Italy, since the projects would have been tax-exempt and carried out exclusively by Italian companies. Moreover, in exchange for this important investment in fundamental infrastructure, Art. 19 of the Agreement provided for the implementation of a system of control of the Libyan coast in order to prevent the arrival of migrants. According to some studies, this part of the Agreement would have favoured the trafficking of human beings and the systematic violation of human rights committed on the Libyan soil, given the conditions of detention and the treatment of migrants in that country⁶⁰.

Individual claims filed against the Netherlands for the massacre of Rawagede also had a significant impact at the interstate level. After the historical decision

⁵⁷ TOURME-JOUANNET, *What is a Fair International Society? International Law between Development and Recognition*, Oxford, 2013, p. 194.

⁵⁸ The restitution of the statue was a consequence of the administrative decision rendered by the *Consiglio di Stato* on 23 June 2008, no. 3154.

⁵⁹ For an assessment and an initial comment on the agreement, see RONZITTI, *The Treaty on Friendship, Partnership and Cooperation between Italy and Libya: New Prospects for Cooperation in the Mediterranean?*, in *Bulletin of Italian Politics*, 2009, pp. 125-133.

⁶⁰ DE CESARI, *The Paradoxes of Colonial Reparation: Foreclosing Memory and the 2008 Italy-Libya Friendship Treaty*, in *Memory Studies*, 2012, pp. 316-326.

of September 2011, in fact, the Dutch government did something it has always refused to do: offering its apology for the atrocities committed. On 9 December 2011, the Dutch Ambassador to Indonesia, attending a ceremony in Rawagede before hundreds of villagers, apologised in English and Indonesian for the killing of more than 431 young men. A more formal and comprehensive public apology was expressed in 2013 by the same Ambassador for all the “excesses committed by Dutch forces” in the four years preceding Indonesian independence in 1949, when thousands of people were killed⁶¹. With regards to economic compensation, in addition to the individual compensation granted to the claimants before Dutch tribunals, the Netherlands provided assurances that all widows could now claim compensation for their husbands’ deaths.

These cases show that individual claims can sometime lead to and influence a diplomatic solution. However, what seems to emerge from the relevant practice is States’ reticence to cope with reparation for the wrongs of the past. Namibia, for example, due to some internal issues related to the relations with the Herero minority, did not always take steps to achieve prompt and effective reparations. Gaddafi’s Libya was certainly engaged in searching for an Italian apology, but perhaps more to please a nationalist rhetoric, more useful for the regime propaganda, than for achieving true reparation in the interest of the victims (or their relatives). In some cases, a crucial role was eventually played by non-governmental organizations or political parties of the responsible State, as shown by the activism of the Foundation *Komite Utang Kehormatan Belanda* (Committee of Dutch Honorary Debt) in the Netherlands and *Die Linke* in Germany.

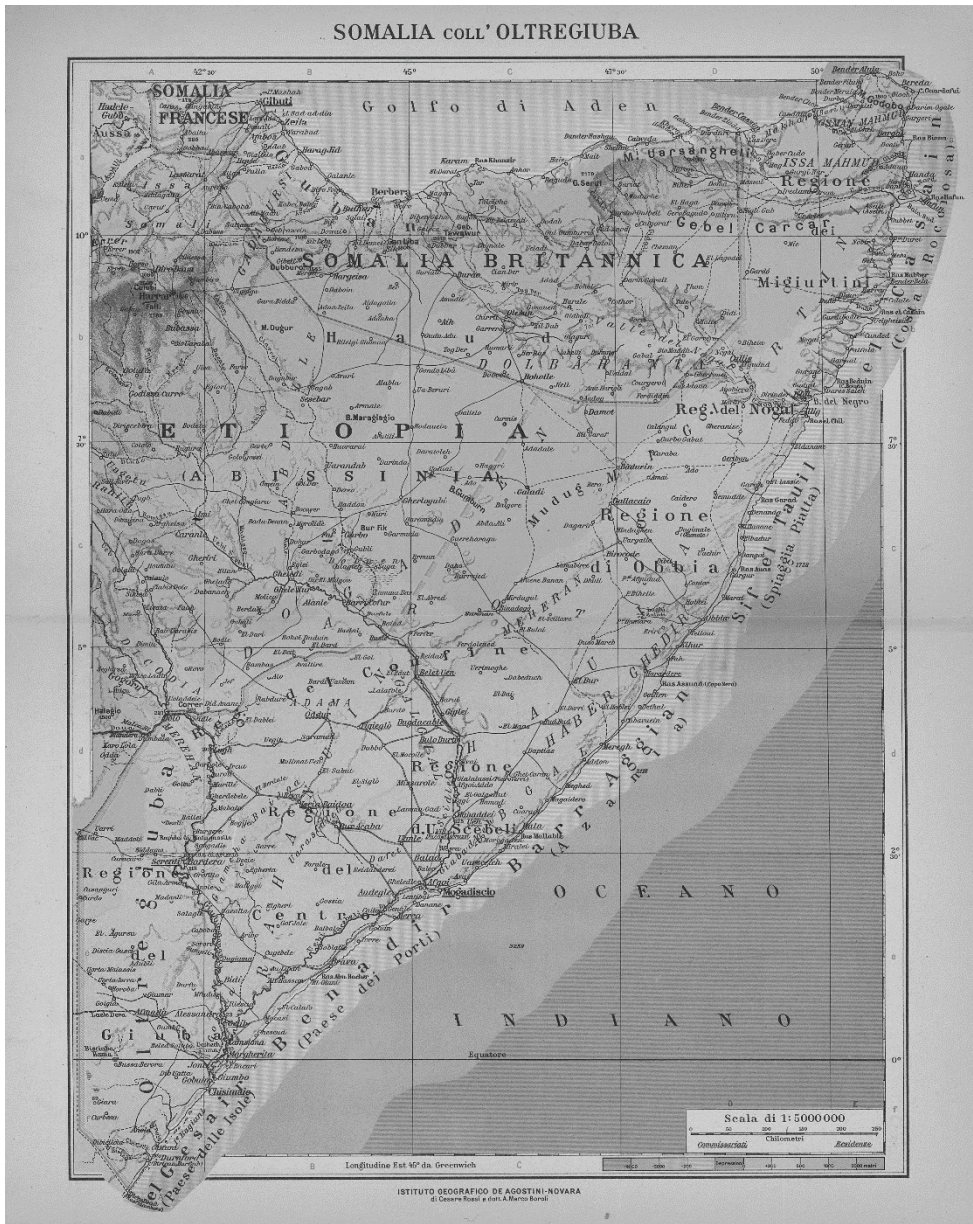
With regards to the possibility of achieving a diplomatic settlement on reparation for crimes committed by Italy in Somalia, some critical elements seem to render such an option particularly unlikely. On the one hand, Somalia is a country long driven by violence and political instability. Famine, never-ending inter-clan rivalries, endemic corruption and (in the last few years) radical Islamist groups make Somalia, often defined as an “outlaw State”, one of the most precarious countries in the world. Given these conditions, and a lack of a stable and strong political authority, it is hard to foresee a convincing diplomatic action aimed at seeking reparation for crimes committed in colonial times. On the other hand, issues of reparation for colonial crimes do not seem to be a topic at the centre of the political debate in Italy. The abovementioned myth of “good” colonialism and an historical inability to deal with its own past render difficult the formation of a mature civic consciousness on the damages caused by colonial domination. As a consequence, one could hardly imagine a political initiative of the Italian government aimed at apologising and making good the wrongs of the past committed in Somalia.

⁶¹ For a summary of the ceremony, see <http://www.bbc.com/news/world-asia>.

APPENDIX



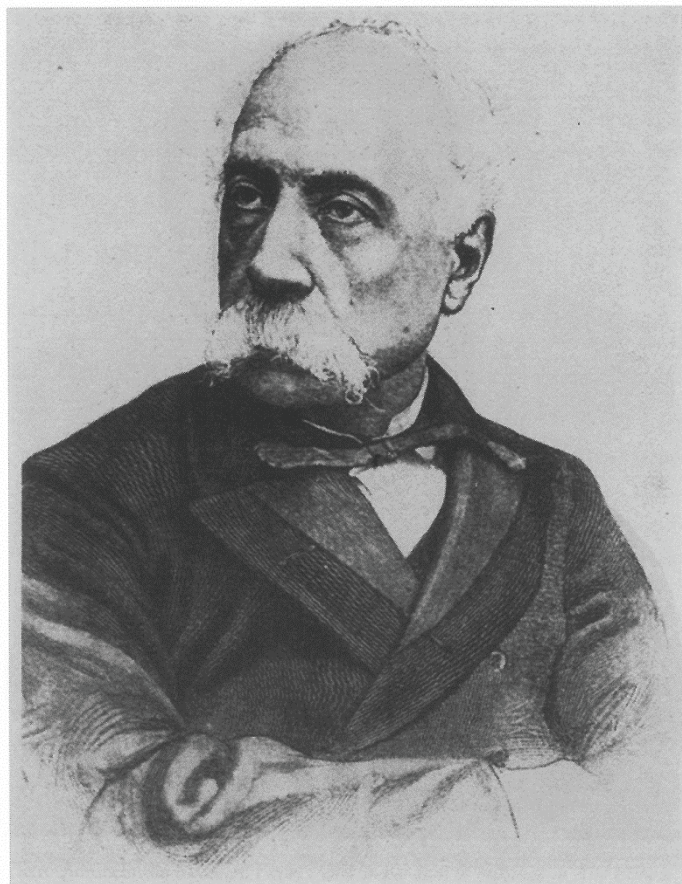
1. On 12 October 1903 Italy issued a series of seven stamps for “Benadir”. The currency was the Indian rupee (64 besas = 16 annas = 1 rupee). The subjects were two wild animals (elephant or lion).



2. Map of Italian Somalia, from *Atlante delle colonie italiane*, Novara, 1928, table 27.



3. PASQUALE STANISLAO MANCINI, from *Discorsi parlamentari di Pasquale Stanislao Mancini*, Vol. I, Roma, 1893.



4. FRANCESCO CRISPI, from *Zaghi, Crispi e Menelich nel diario inedito del conte Augusto Salimbeni*, Torino, 1956.



5. SAYYID BARGHASH, *Sultan of Zanzibar*, from *La formazione de l'impero coloniale italiano*, Vol. I, Milano, 1938, p. 256.



6. YUSUF ALI, *Sultan of Hobyo*, *ibidem*, p. 262.



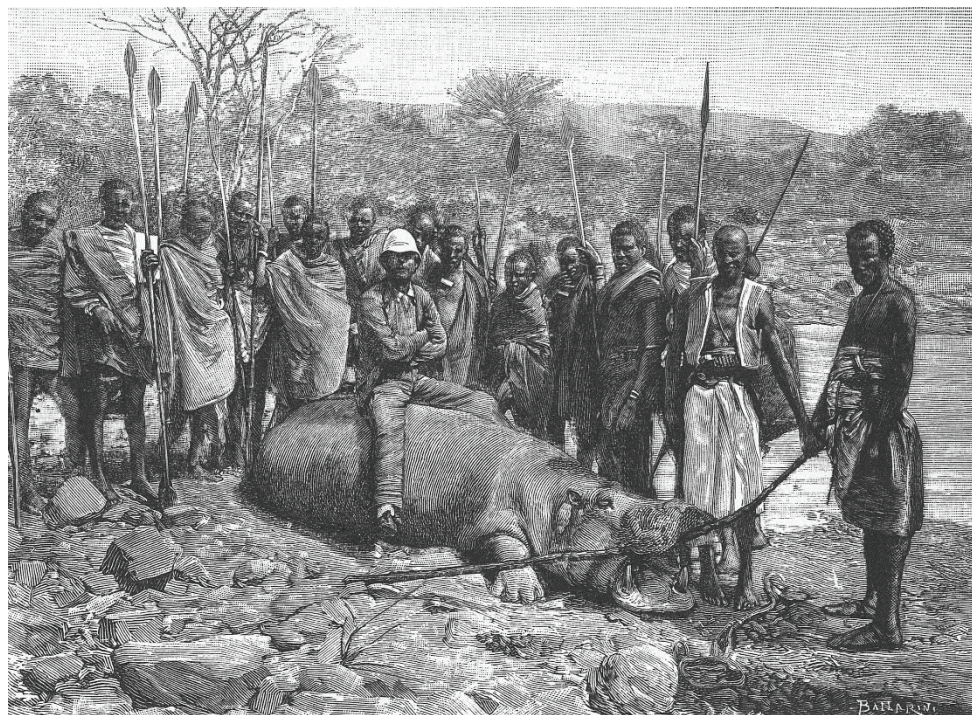
7. OSMAN MAHAMUD, *Sultan of the Majeerteen*, *ibidem*, p. 262.



8. ANTONIO CECCHI, from MINISTERO DELLA GUERRA, *Italica virtus – Antologia del valore militare italiano*, Milano, 1939, p. 329.



9. VITTORIO BOTTEGO, from BOTTEGO, *Il Giuba esplorato*, Roma, 1895, p. 325.



10. The hunting of a hippopotamus during the first Bottego expedition to Somalia, *ibidem*, p. 157.



11. Vincenzo Filonardi, from *Vedere i pionieri dell'A.O.*, Milano, 1936, p. 70.

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