

Debating Somali Identity in a British Tribunal: The Case of the BBC Somali Service

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I. Introduction

The Somali Peace Conference sponsored by the Inter-Governmental Authority on Development (IGAD), held in Kenya in 2003–05, was dominated by warlords and partisan mediators.¹ It endorsed a political strategy whose objective has been to recreate Somalia as a clan-based federation. Advocates of this approach claim that such a dispensation will approximate the society’s pre-colonial tradition and therefore has the best chance of restoring peace. An argument put forward in support of this agenda is that Somalia’s former governments, particularly the military junta, misused public power by favoring and rewarding certain genealogical groups.² Proponents contend that formally and openly using genealogical divisions as a basis for distributing public appointments and resources will prevent future clanist favoritism. This approach to political reconstruction mimics Ethiopia’s seemingly novel political project, which divided the country into nine “ethnic provinces” in 1991.³ In the case of Ethiopia, the presumed rationale for this political strategy was to overcome past domination of the state by one ethnic group, rather than to revert to an old tradition. The imposition of Amharic culture and language on Oromos, Somalis, Afars, the people of the southern region, and other groups throughout the state—and the denial of their human rights—rationalized re-engineering the new order. The challenge for Ethiopia post-1991 has been how to undo past subjugation without reifying cultural differences politically.⁴ Dividing each country into administrative units based on ethnic belonging, the

proponents argue, will promote democracy and produce a civic order in which no one ethnic group or clan dominates others.

The Ethiopian and Somali developments depart from the African nationalist project that recognized tribal and ethnic *political* divisions as colonial instruments intended to facilitate imperial rule. These two cases are indicative of a growing and troubling political trend in the continent that turns cultural differences into state-driven political projects. In an ironic historical twist, some African leaders and previously dominated communities have endorsed cultural politics that mimic the colonial era, during which ethnic groups were segmented into political clusters (or tribal reserves). Elsewhere, individuals have been disenfranchised due to their supposed ethnic roots. For example former Zambian president Fredrick Chaluba attempted to deprive Kenneth Kaunda, his predecessor and the leader of the country's national liberation struggle, of his citizenship by claiming that Kaunda was a foreigner. Similarly, the current Ivorian president sought to rob the country's former prime minister of his citizenship in order to ensure that the latter could not challenge him for the presidency. Reinventing past colonial tradition has inspired not only sectarian political entrepreneurs but also an intellectual and development industry centered on "ethnic conflict resolution."⁵ This enterprise, whose major concern is defining ethnic identity in the context of political crisis, draws directly or indirectly on colonial social anthropology.

This essay presents a British court case to illustrate the arguments of two competing schools of thought in Somali Studies: one that defines Somali political conflict as quintessentially traditional clanism and its opposite, which contests the conflation of political discord with genealogical differences. The central bone of contention in this debate is the nature of Somali political identity. One thesis claims that Somalis consist of ethnically distinct groups and that any political, social, or professional association among Somalis should balance its membership, if it is to be legitimate, on the basis of these distinctions. The contrary scenario posits that Somalis are one ethnic group sharing broad, regionally based cultural and social values but differentiated into several genealogical groups. Those who advance this thesis contend that transforming Somalis' genealogical differences into political, social, and professional instruments will destroy values they share and will undermine their sense of civic belonging. Furthermore, they add that accepting genealogical variation as the basis for political intercourse

and public policy is not part of the old Somali tradition but a legacy of the colonial strategy of “divide and rule.”

The essay is divided into four sections. The first briefly sketches an influential recent contribution to the debates regarding the nature and dynamics of African cultural and political identity. This intervention, which builds on an old discourse in anthropology that dealt with the relationship between power and ideas, is vital if one is to productively navigate through the current dialogue on identity and political crisis in Somalia. The second section provides a snapshot of recent debates in Somali Studies that attempt to explain the origins of the country’s political crisis. It identifies the philosophical differences between the two main theses in the debate centered on identity. The dominant theory in Somalist discussions asserts that indifference to the centrality of clan identity in public affairs has been a major factor in Somali political crises. Advocates argue that the current predicament can be resolved by recognizing “traditional” clan identity as the foundation stone for the reconstruction of legitimate political and professional life. Opponents posit that Somalia’s calamity is a product of the politicization of genealogical difference and that the remedy to this crisis is to remove genealogy from state-driven politics. They note that recent experiences indicate that a clan-based strategy will only deepen divisions among Somalis rather than healing the discord. The third section presents a case heard before a British tribunal that demonstrates the critical difference between the two schools, as represented by the expert testimony of British social anthropologist I. M. Lewis and geographer Abdi I. Samatar. Each testimony is reproduced verbatim to avoid misrepresentation and is introduced by a short paragraph highlighting its key points. Finally, the conclusion draws on the significance of the case for studying Somali society, identity, and politics.

II. Culture, Politics, and the Genealogy of Ideas

It is not a matter of dispute that social anthropology emerged as a distinctive discipline at the beginning of the colonial era, that it became a flourishing academic profession towards its close, or that, throughout this period, its efforts were devoted to a description and analysis *carried out by Europeans, for a European audience of non-European societies dominated by European power*. And yet there is a strange reluctance on the part of most anthropologists to consider seriously the power structure within which their discipline has taken shape⁶ (emphasis added).

The social sciences and anthropological analyses of post-colonial societies have gone through a sea change since Talal Asad wrote that seminal essay in 1973. Central to Asad's intervention was the significance of political and economic power in understanding the dynamics of "native societies" and the effects colonialism has had on local traditions and on the ways non-Western anthropologists studied such societies. Mahmood Mamdani, in a landmark study, reignited this debate by accentuating the enduring legacy of European political domination of Africa.⁷ The core of Mamdani's argument is that colonial restructuring of African societies conflated political and cultural identities in the continent by turning Africans into tribal subjects administered through "traditional authority," and Europeans and other non-natives (such as Indians) into races governed by civil law. A major consequence of this schema was that although non-Europeans in Africa were discriminated against, and despite the fact that they had cultures different from the "master" race, nonetheless they were considered part of the civilized community.⁸ By contrast, Africans who shared similar cultures were divided into *separate* tribal traditions:

[E]ven if races were as different culturally as whites, Asians, and Arabs, they were ruled under a single law, imported European law, called civil law. Even if their languages were similar and mutually intelligible, tribes were governed under separate laws, called customary laws, which were in turn administered by ethnically distinct native authorities. With race, the cultural difference was not translated into separate legal systems. Instead, it was contained, even negotiated, within a single legal system, and was enforced by a single administrative authority. But with *ethnics*, the case was the opposite: cultural difference was reinforced, exaggerated, and built up into different legal systems and, indeed, separate administrative and political authorities. In a nutshell, *different races were meant to have a common future; different ethnicities were not.*⁹

The enduring effect of this political strategy was to fragment Africans into separate groups in such a way that each "group" related subordinately to the master race and its state. Opportunistic distribution of favors among the tribes by colonial authorities, combined with uneven peripheral capitalist development, ensured the reproduction of political boundaries between "ethnic groups." Over time, these identities gained a reality and logic of their own, defined in relation to state authority and the distribution of public resources. Mamdani contends that colonial powers sowed the seed of a new politics laced with a

reactionary view of tradition. He insightfully characterizes Western colonialism as the beginning of a new fundamentalist order:

[C]olonial powers were the first fundamentalists of the modern period. They were the first to advance and put into practice two propositions: one, that every colonized group has an original and pure tradition, whether religious or ethnic; and two, that every colonized group must be made to return to that original condition, and that return must be enforced by law. Put together, these two propositions constitute the basic platform of every religious or ethnic fundamentalism in the postcolonial world.¹⁰

Mindful of the risk that his analysis might be misunderstood, he accentuates the crucial difference between non-statist cultural traditions and those centered on state power:

It is not that ethnicity did not exist in African societies prior to colonialism, it did. I want to distinguish between ethnicity as cultural identity—an identity based on shared culture—and ethnicity as political identity. Ethnicity as cultural identity is consensual, but when ethnicity becomes political identity the legal and administrative organs of the state enforce it. After making a distinction between ethnic groups, between those considered indigenous and those not, these organs proceed to discriminate against them...The distinction between cultural and political identities is important for this argument. As a rule cultural identities are noncoercive, consensual, voluntary, and can be multiple...A legal identity is not voluntary nor is it multiple. The law recognizes you as one, and as none other. Once it is enforced legally cultural identity turns into a legal and political identity. Such an identity cannot be considered a vestige of tradition because of its ancient genealogy, nor can it be dismissed as just an invention of the colonial power because of its legal enforcement.¹¹

This rearticulation of the distinction between the old non-statist traditions and their colonial reincarnation is a vital idea to remember in order to grasp the historical origins of the current resurgence of *ethnic politics* in Africa.

Mamdani's intervention, informed by the experience of either settler societies of East and Southern Africa or those societies hosting significant "non-African" immigrant populations with wide cultural differences, does not exhaust the imprint of colonial rule on Africa. Colonial and post-colonial political identity was tribalized even in those African societies that shared common linguistic, religious, economic, and

other social morés. The form such politicization of ethnicity took was different from that described in Mamdani's work, since colonial and post-colonial authorities could not anchor this new identity on distinct language or other cultural differences. Instead, they selected an element of the old culture, such as genealogy, that appeared to differentiate groups from one another. Once genealogy was identified as the basis of colonial political organization, native relations with the state were mediated through community elders transformed into state vassals, the tribal chiefs.¹² Further, uneven commercialization of the pre-colonial economy induced differentiation between regions and, consequently, between genealogical groups. These two processes generated competition between groups for colonial favors, which fostered their perceived ethnic dissimilarity. The colonial project was paradoxical, however, since it not only generated the ethnicization of politics and administration but also instigated changes that undermined it. Both colonial education and the commercialization of the economy became major driving forces in uniting Africans to challenge European domination and discrimination. Entrepreneurs and professionals who were denied access to opportunities for accumulation and advancement, and rural producers who were onerously exploited through taxes and market interventions, joined efforts across "tribal" or genealogical divisions to mount the nationalist project.

Although independence was a critical benchmark for African liberation, many in the movement did not realize that colonialism had changed their traditions in ways that could undermine the nationalist project.¹³ The vital issue for Africans was how to overcome the aforementioned two elements, which reinforced each other: uneven development and ethnic politics. Many post-colonial leaders, despite their commitment to the nationalist project, internalized the logic of uneven development and ethnic politics, overtly or otherwise, and deployed the latter when others challenged them for leadership positions.¹⁴ In other words, their nationalism defined their political identity only if they were secure in their positions of power. Examples of exceptions to this pattern include leaders from Botswana, Somalia, and Tanzania. Many leaders' conditional commitment to the nationalist project instigated two tendencies in post-colonial African politics: one strove to create national belonging anchored in a civic identity, while its converse peddled exclusivist ethnic politics. Even in countries where the civic project has been successful, such as South Africa and Botswana, ethnic politics have not disappeared, and rearguard struggles continue

between the two agendas. Elsewhere on the continent, where ethnic politics became dominant, social and economic disasters have invariably become the legacy of liberation. In extreme cases, the outcome has been catastrophic, as in Rwanda and Somalia.

III. The Somali Conundrum

In spite of the enormous advances made in Africanist scholarship since the early 1970s, Somali Studies remained locked in traditional social anthropology. I. M. Lewis, one of the defenders of the old school against the onslaught of critical anthropology in the early 1970s (noted in the volume edited by Asad), has been the dominant figure in Somali Studies. In contrast to the advances pertaining to the study of power, politics, culture, and identity, Lewis's conventional ideas of genealogy and tribes (clans) have reigned supreme in Somalist scholarship.¹⁵ Elsewhere on the continent, African scholars became significant contributors to intellectual production, but Somalis had to wait until the late 1980s and early 1990s to engage these debates and write about their own society.¹⁶ In addition to the few Somali writers, a new generation of scholars began to emerge as political/economic calamities engulfed Somalia over the past two decades. They recognized the limited analytical scope of traditional social anthropology to illuminate the Somali challenge, and this predicament compelled them to look into the conceptual toolbox of African and Third World studies. Their search culminated in the discovery of social history and political economy as a new theoretical tradition in Somali Studies. This discovery created the basis for an alternative to social anthropology for grappling with Somali reality, particularly in such matters as politics, development, culture, and identity.¹⁷

The first major Somali contribution to the new theoretical tradition was Ahmed I. Samatar's *Socialist Somalia: Rhetoric and Reality* (1988). Developments in theoretical thinking in social history, political economy, and dependency theory inspired this study. Although the book was a clear and substantial theoretical departure from the social anthropological and modernist tradition, it did not explicitly single out Lewis's framework for criticism. But a year later came an open Somali challenge to that framework.¹⁸ This contribution contested the veracity of Lewis's concepts and its ahistorical interpretations of Somali social and political history:

The principal thrust of his analysis of the (de)composition of precolonial Somali society and the contours of its current social geography...the Lewisan interpretation...assumes that the...evolution of Somali society has been quantitative in nature despite its articulation to and integration into colonial empire...Symptomatic of this view is the unproblematic deployment of such important and theoretically loaded concepts as the state, tribalism, and pastoralism transhistorically.¹⁹

Since these early rumblings, four new analytical threads have emerged. These are regional social historical studies;²⁰ gender and race;²¹ political economy;²² and cultural investigations.²³

The collapse of the Somali state and the disintegration of political and civic order in 1991 challenged both old and new ways of studying Somali society, but very few writers responded imaginatively to the test. Much of the post-1991 production reinforced the old scholarly tradition, maligned nationalism,²⁴ and went further to argue for fragmenting the nation into discrete tribal fiefdoms. Indeed, some authors divided Somalis into warlike tribes and peaceful communities,²⁵ not realizing that their prescriptions reinforced the very divisions that had brought about the misfortune, while some analysts redeployed the tribalist thesis.

In 1994, Ahmed I. Samatar took the lead in casting a schema for comprehending the transformation of the old Somali tradition.²⁶ In a path-breaking essay, he mined Somalia's collective cultural memory and presented an innovative reading of the essence of the kinship tradition without turning it into that anthropological fossil, the clan. Somali identity is thus conceived of as a product of several mutually constitutive forces whose roles are historically and socially contingent. Among these are language, genealogy, Islam, traditional social contract (*Xeer*), and a mode of economic reproduction. Some of these factors were exclusive, such as male genealogy (*tol*), while others were inclusive (*xidid*); some were localized, while others were broader in their reach and scope. Further, new elements were added to the repertoire, while others were re-emphasized and still others declined in significance, as the Somali community's fortunes necessitated. The central point to underscore is that Somali identity and tradition were never determined by any one element but were always a living and ongoing process resulting from multiple interactive forces.²⁷ These complex processes generated the regional variations—for example, dialects and cuisine—that were the hallmark of Somali tradition. For instance, diet

in the cultivated regions of the northwest and the south, and in the coastal settlements, was different from the more pastoral areas of the north and central regions, while poetry, language, religion, and dress were national in scope.

In a parallel vein, Lidwien Kapteijns took up the most neglected aspect of the social structure, namely gender.²⁸ Her ongoing project has opened up fresh and exciting venues for research aimed at better understanding old historical contours as well as the rapidly changing gender landscape the Somali catastrophe has induced, both inside the country and in the diaspora.²⁹ This theme has far-reaching implications for gender identity, which Somalist anthropologists have virtually ignored. A similar research agenda on race, which rarely got scrutiny, was vigorously put on the agenda by Catherine Besteman.³⁰ Besteman's contribution emphasizes the significance of race as an identity marker in the Somali world.

A third theme superseded conventional analysis of the civil war and of clan identity. It examines the struggle over land resources in southern Somalia.³¹ This collection of essays edited by Besteman and Cassanelli does not share an overarching theoretical framework. However, it does emphasize the role resource struggles played in the civil war and how identity issues are implicated in such struggles. Unfortunately, the contributions do not distinguish between the old scarcity-driven local conflicts and more recent state-induced ones. Noting such dissimilarity is vital, as it dovetails with the ways in which identity and access to resources are constructed. The substantive thread that runs through the entire text draws on a regional history whose trademark is the ebb and flow of social processes and whose elucidation is found in the work of Peter Little.³²

A related and final challenge was how to explain the link between Somali politics, Somali culture, and the chaotic civil war. A standard approach has been to think of the civil war as a tussle between clans. The argument has been that the nationalist project undermined traditional clan structure by not anchoring politics and administration in clan identity. The end result of the misplaced ambition of the nationalist movement has been the demise of the ungrounded state order.³³ Building on the literature on resource struggles challenges this essentialist reading of politics and culture. Using a comparative study of Somalia and Botswana, one piece of research has demonstrated that two contradictory tendencies (one inclusive—civic—and the other exclusive—sectarian) competed for dominance in national politics.

Contrary to the clan-centered analysis, the evidence from this work illustrates that when the civic project has prevailed in public affairs, it reinforced legitimacy, national belonging, and democratic culture.³⁴ Abdi I. Samatar (the author of this article) introduces the concept of shared values as a way of underscoring that the crisis was induced not by nationalism but by clanism.³⁵ The argument is that the cultural values Somalis shared were necessary but insufficient to sustain the country unless the authorities reinvested in those values in the form of inclusive and democratic institutions. The Botswana and Somali evidence confirms the claim that national institutions that are inclusive prevent divisive politicization of cultural traditions and the resultant social and political fragmentation. Conversely, when sectarian or clanist politics became the lifeblood of public affairs, the consequences have been ruinous.

Faced with the above developments, Lewis, the doyen of the old school, endeavoured to turn back the intellectual clock by arguing in familiar terms that the marginalization of the clan in national affairs has led to the favoritism that hobbled the nation.³⁶ He advanced the proposition that a Somali's belief in the clan structure defines his fundamental political identity. Consequently, any attempt to rebuild a national political order must reflect clan divisions among Somalis if the new government is to survive and have legitimacy. The creation of a confederation of clan states, therefore, is the best expression of Lewis's political advocacy, which, ironically, dovetails with the demands of sectarian politicians, warlords, and faction leaders. Thus far, Lewis has been unable to explain how politicized genealogical differences will pave the way for a national dispensation whereby all Somalis are citizens with equal rights. This silence is especially peculiar in light of the malice of politicized clan fiefdoms in different parts of the country since the early 1990s.

Lewis not only elevates the saliency of clan identity, but has revised some of his earliest writings on Somali society in order to provide a cultural (ethnic) rationalization for his clan-based political project. His revisionist thesis that Somali genealogical groups are distinct cultural/political clusters echoes colonialist perceptions as described by Mamdani.³⁷ Lewis's attempt to fuse genealogical and political identity collided with political-economy and social-historical approaches in a British employment court in 2001. The case, which involved a claim of employment discrimination at the British Broadcasting Corporation (BBC), took on added meaning because of its broader potential

political ramifications. The question before the tribunal was this: *Are Somali genealogical groups different ethnic and racial communities?* While mindful that the court is not the proper arena in which to resolve the intellectual tussle between the two paradigms, nevertheless, this case highlights an important moment in the debate that has far-reaching implications for public life in Somalia.

IV. The Case

The BBC Somali Service, a branch of that organization's World Service, has been broadcasting programs in the Somali language since 1957. The organization's Somali employees are mainly announcers, while the producers and management were mostly British until recently. The first Somali manager to oversee the section, Mohamed Abdillahi, was appointed in the early 1990s. Somali journalists employed by the BBC had hitherto had one of two types of contracts: long-term and casual. Senior African Service management decided in 2000 to streamline Somali Service staff; they abolished casual contracts and consolidated those positions into three long-term posts.³⁸ Simultaneously, three members of the Somali Service competed for the top job, and the management appointed Yusuf Garaad, the youngest candidate, to head the service.

All former casual employees could reapply and compete with outside applicants for the new full-time appointments. The search/examination process had three parts: application letters and résumé evaluations; written and voice tests; and, finally, formal interviews in person or by telephone. The written test and the interviews took place in several locations in Europe, Africa, and North America. Garaad and the BBC's personnel officer screened 200 application letters and résumés. They short-listed 160 of the applicants, including seven of the eight former casual employees who applied. The next step in the procedure was for those who were short-listed to take the written and voice tests. Candidates' names were removed from the answer sheet and replaced with code numbers. Garaad and Abdillahi Haji, a veteran senior producer in the Somali Service, graded the examinations. The two evaluators divided the test papers into two sets, and each graded one set of the papers. They then agreed to a short-list of 35 candidates.³⁹ Of the 35 candidates who qualified for a final interview, six were former casual employees. Garaad and Kari Blackburn, the manager of the BBC's Africa Service, jointly conducted the interviews and

selected the top four applicants, one of whom they placed on a reserve list. Blackburn and Garaad were in complete agreement on the list of top candidates.⁴⁰

At this time, Garaad expressed concern that former employees who were not successful might lodge complaints. Moreover, he told Blackburn that they could be accused of favoritism as a result of the finalists' common genealogical pedigree. Garaad's remarks did not alarm Blackburn.⁴¹ The BBC announced the examination results soon after Blackburn and Garaad made their decision in Mogadishu. To everyone's surprise, none of the BBC's former casual employees were among the winners. The top-ranked candidates were little-known young journalists who hailed from the same genealogical group in the south of the country as Garaad.

The surprising success of three unknown journalists who shared common ancestry with the Somali Section head created fertile ground for speculation and political machination. Shortly after the BBC announced the results, stunned former casual employees claimed that the search/examination process was rigged. They accused Garaad of nepotism and petitioned the BBC authorities to investigate their claims. The heads of the Africa and Middle East Service and the World Service conducted two separate investigations and announced that the search/examination process was conducted professionally and fairly. Shortly thereafter, former casual employees mobilized their communities in London and organized demonstrations outside Bush House, the site of the BBC World Service. To register their displeasure with the selection results, many demonstrators chanted "Throw out the warlord." The demonstrators' reference to the "warlord" had a double meaning. First, they wanted to highlight the genealogical link between the head of the Somali Service and one of Mogadishu's notorious warlords, General Aideed. Second, they intended to convey to the authorities that Garaad, like his "kinsman" warlord in Mogadishu, arbitrarily used public power to reward his genealogical group. Although this strategy had little traction and failed to convince senior management of the Africa and World Services to reconsider their decision, Garaad was shaken by the comparison.

Former casual employees sought redress in an employment tribunal after they exhausted BBC's internal appeal process. They claimed that Garaad had given undue advantage to the successful candidates by favoring his own genealogical group and that this had resulted in their unfair dismissal because of their clan identity. Further, they contended

that this amounted to racial or ethnic discrimination on the basis of clan affiliation.⁴² Because of the claim of ethnic or racial prejudice, the tribunal instructed each side to engage an expert witness in order to establish whether discrimination on the basis of clan affiliation could come under the purview of the British Race Relations Act of 1976.⁴³ The applicants (petitioners) retained I. M. Lewis, a retired professor of anthropology from the London School of Economics and a renowned expert on Somalia. The BBC engaged Abdi Ismail Samatar, a geography professor at the University of Minnesota with Somali expertise. The two experts produced several reports describing the role of genealogy or “clans” in the constitution of Somali identity. Through their lawyers, Lewis and Samatar exchanged several reports that the tribunal studied to make its final decision. The expert witnesses were also cross-examined before the tribunal.

V. The British Race Relations Act of 1976

The British Race Relations Act of 1976 establishes the legal understanding of ethnic and racial discrimination in the United Kingdom. This Act legally defines what constitutes an ethnic or racial group. According to the Act, an ethnic group must regard itself, and be regarded by others, as a distinct group because of certain fundamental characteristics. Two of the key features a group must possess to be considered an ethnic group are (1) a long shared history, of which the group is conscious as distinguishing it from other groups, and the memory of which keeps it alive, and (2) a cultural tradition of its own, including family and social customs and manners, often but not necessarily associated with religious observance. The Act also identifies a number of other relevant features of an ethnic or racial group. One or more of these characteristics will commonly be found and will help to distinguish the group from the secondary community. They include:

- either a common geographical origin or descent from a small number of common ancestors;
- a common language, not necessarily peculiar to the group;
- a common literature peculiar to the group;
- a common religion different from that of neighboring groups or from the general community surrounding it; and/or
- a history of being an oppressed minority or a dominant group within a larger community.⁴⁴

The applicants and respondents asked their expert witnesses to answer the following question: Do Somali clans constitute different ethnic groups or races? Lewis's and Samatar's briefs were to explain whether Somali genealogical groups form distinct ethnic/racial groups in accordance with the British Race Relations Act, *not* to judge whether the BBC Somali Service had engaged in discriminatory practices in its hiring process. What follows reproduces the two expert witnesses' written submissions.⁴⁵ The materials appear in the order in which they were delivered. Lewis wrote the first submission, Samatar responded, and then a series of responses and rebuttals followed.⁴⁶ Lewis and Samatar were not in direct contact and exchanged their pieces via the respective attorneys. In order to avoid any possibility of misrepresentation, each submission is presented here verbatim. The only insertions are footnote numbers and italicized words to highlight a point.

VI. The Experts' Arguments

Lewis fired the first shot by stressing that clan affiliation has singularly defined Somali identity, irrespective of historical era. His written testimonies did not *directly* confront the question the tribunal posed in reference to the British Race Relations Act by providing clear examples of how the four "major" genealogical groups (Hawiye, Darod, Dir, and Rahan Weyn) satisfy the Act's tenets. Instead he contended, in his first submission, that Somali clans constitute distinct ethnic and racial groups, contrary to his early scholarship (1961, 1988, 1993).⁴⁷ Four broad ideas guide Lewis's first submission. First, he conflates genealogy with clanist politics and the associated recasting of Somali identity. This enables him to claim a changeless nature for Somali identity. Second, the submission indicates that the Somali nationalist project was misplaced, since it attempted to deny the centrality of clan identity. Third, Somalis trained in the West are Westernized unless they conform to his idea of the "native." Accordingly, Westernized Somalis deny their clan identity, just like the nationalists, and fail to comprehend the traditional rootedness of Somali character. (He does not quite explain how Lewis "the Westerner" is able to discern this culture.) Fourth, each clan or "descent group" has unique features that naturally predispose its members to look down on non-members. Thus, Lewis is able to deny critical regional commonalities shared by different genealogical groups, such as dialect and mode of life. Further, he attempts to play down the significance of intermarriage.⁴⁸

VII. Lewis's First Submission

Dear Mr. Hanley:

You asked me for information about Somali clans, how they operate, their Somali context to identity based on "ethnicity" or race. I am happy to provide this since this is a form of social and political organisation on which, as a professional Social Anthropologist, I have been specialising for almost fifty years. I have published a great deal on this type of kinship organisation in technical anthropological books and journals including my paperback textbook, *Social Anthropology in Perspective*. It is also described and analysed in its Somali context in detail in my *A Pastoral Democracy* which has recently been republished. I have in fact written numerous books (the most recent *Saints and Somalis*) and over a hundred articles in learned journals on various aspects of Somali society.

I find that I am generally regarded internationally as the leading academic authority on Somali issues, and am frequently consulted by governments and the media on Somali matters. My academic position is Emeritus Professor of Anthropology at the London School of Economics (London University) and I am a Fellow of the British Academy (for fuller information, see *Who's Who* entry).

I shall now try to answer your questions about Somali "clans." Somalis receive their fundamental social and *political identity at birth*⁴⁹ [emphasis added] through membership of their father's clan. Clan identity is traced exclusively in the male line through their father's paternal genealogy (*abtirsiinyo*: literally "counting ancestors," in Somali). Children, at an early age, are taught to recite all their paternal ancestors up to the clan ancestor and beyond that the ancestor of their "clan-family." This is a technical term, which I use to designate the largest clan groupings in the Somali nation, viz. Dir, Isaaq, Darod, Hawiye, and Digil and Rahanweyn. These are the largest and most widely distributed units within the nation. Traditionally, and still to a large extent, the Dir, Isaaq, Hawiye and Darod clans are nomadic pastoralists, whereas the Digil and Rahanweyn are agropastoralists who live with a mixed farming economy in the Bay Region of south-west Somalia between the Juba and Shebelle rivers.

Despite changes associated with the growth of towns and modernisation generally, clan (and clan-family) identity remains of fundamental importance today both inside Somalia and in Somali refugee

communities scattered around the world: Somali clans even have their own web-sites on the internet! The Somali Republic which fell apart in 1990/91 after the overthrow of the dictator, Mohamed Siyad Barre, fractured basically along clan lines. This was despite the fact that clan identity had been officially outlawed under the banner of "Scientific Socialism" and clan behaviour made a criminal offence (not, of course, when graced by Siyad and his clan coterie).

In the course of the collapse of Siyad's regime and the invasion of the capital, Mogadishu, by Habar Ghadir (*Hawiye*) clan militiamen, all the rival clan groups practised vicious "clan-cleansing," as Somalis called it by analogy with Bosnia. And at the height of the conflict in the city, people whose clan identity was not known were challenged at gun-point to recite their genealogies. If they came up with the wrong pedigree, they were summarily executed, or worse.

In the 1960s earlier Somali nationalists, genuinely seeking to establish a viable national solidarity transcending clan loyalties, had hit on the idea of treating clan identity as a thing of the past and consigning it to history under the label "ex-clan." This was also associated with the totally unjustified view that clans were "primitive" and implied that Somalis were unable to operate in the modern world. The word "ex" was even adopted into Somali as an alternative to the Somali term for clan. This form of what psychiatrists call "denial" did not, of course, solve the problem in a clan-riddled society. It simply perpetuated it under another name. *Still today, some Westernized Somalis who often call themselves "Somali intellectuals" pretend that clan is a thing of the past.*

More generally, Somalis have had no difficulty in coming to terms with the modern world materially and technologically. But there is continuing problem in finding forms of political organisation which are readily compatible with these traditional clan loyalties and their extremely decentralised methods of decision-making, through long-drawn out debate in which all adult males have a right to participate directly. *Such extreme local democracy does not combine easily with central authority.*⁵⁰

Thus clan loyalties remain fundamental and pervasive. People rely on their clansmen, for support at all times and especially in contexts of clan competition for resources, power, and material well-being. They are expected to be equally loyal in return, which can translate into clan nepotism where those in positions of authority favour their own clansmen. These allegiances often have a formal legal basis in Somali customary law. The security of the individual's person and property is guaranteed by collective compensation arrangements,

*within each clan. Accidental or violent death and injury are thus clan matters and kinship provides insurance cover [emphasis added].*⁵¹

In addition to being what anthropologists call a “descent group” in virtue of its members’ collective descent from a common ancestor, what then is a clan? Clan genealogies are a source of pride, and members of the clan have a lively sense of clan superiority and distinctiveness and potential hostility towards those who do not share their descent. Members of other clans are regarded as outsiders and viewed with suspicion, although these feelings may be muted in the case of clans which, through common descent, belong to the same “clan-family” (as defined above). Clan loyalties are also regularly supplemented by ties based on marriage—with the wife’s clansmen and those of the mother.

Obviously each clan has its own independent history and traditions, its own saints and shrines and their cult, and sometimes speaks a different dialect of Somali [Italics added]. Language difference is most acute in the case of that between the speech of the Digil/Rahanweyn clans and so-called “standard Somali” spoken by the other clan-families. Here the difference is roughly similar to that between Spanish and Portuguese. The names of individuals also vary somewhat on a clan basis: it is sometimes possible to guess a person’s clan from his name,⁵² although this is by no means always possible.

I do not think that it is generally possible, as some Somalis say it is, to distinguish visually between members of different clans. I would prefer to say that clans represent invisible lines of distinction within the Somali “nation” and since they are based on genealogies and descent, *have a biological basis comparable to racial distinctions* [Italics added]. Somalis certainly see them in this light. It may seem paradoxical, but invisibility does not detract from their many-stranded and compelling importance in economic, social and political life. I have never encountered any Somali organisation where the clan identity of members was not well-known and considered of crucial significance.⁵³

To avoid misunderstanding, it should be added that Somalis are not automatons. Clan and other kinship ties are manipulated by ambitious individuals whose goal is personal success in material gain of power, and as elsewhere, money is a very important lubricant in transactions of every kind. Some successful entrepreneurs and politicians are probably quite cynical (privately) about their clan heritage which they seek to use for their own ends, and a few exceptional individuals transcend their clan identity. There are certainly some genuine Somali nationalists, and a few thoroughly Westernised, highly sophisticated, Somali

academics and writers who reject their clan background.⁵⁴ Ironically, however, even such unusual figures are nevertheless assumed to be motivated by the same clan interests as ordinary Somalis.

Given that the Somali world is fractured into clan-families and component clans, any organisation which aspires to representative credibility must patiently display a balance of clan-family members which roughly corresponds to that of its public. It must also be firmly administered, with powerful constraints, which eliminate clan bias. This is well understood by Somalis who assume that every Somali is a clan partisan and that there are in principle no neutral Somalis.⁵⁵ These considerations regarding clan partiality apply particularly strongly in times of clan conflict and political uncertainty, when people are especially sensitive to their clan identities, as in the present state of affairs in Somalia.

I hope these comments on the nature of Somali clanship, as I see it as a professional Social Anthropologist, are of assistance to you.

Yours sincerely,
Ioan M. Lewis FBA
Professor of Anthropology

VIII. Samatar's Response to Lewis's First Submission

Samatar argues that Somali genealogical groups are the same ethnic and racial group. His thesis is that Somali identity is more complex than genealogy. The key distinction he makes is between genealogical heritage and clan politics. He accepts the importance of genealogy but argues that if it were the only item needed to define a Somali's identity, then other constituent elements of Somalis' social and cultural repertoire would not have developed. Thus, he maintains that the key ingredients that defined traditional Somali identity was shared language, culture, religion, and means of livelihood, in addition to genealogy. Genealogy was one of these ingredients, and its role was dependent on context. Furthermore, he notes that social and cultural variation among Somalis is regional rather than genealogical.

June 30, 2001

Dear Ms. Youngson:

I am responding to your questions regarding the racial and ethnic nature of Somali clans. Given my first-hand knowledge of Somali soci-

ety and my academic credentials, I believe I am qualified to answer your questions.

Currently, I am a Professor at the University of Minnesota's Department of Geography in the United States. I have taught Human Geography and Somali issues since 1985. A Somali by birth, I grew up in northern Somalia, and thus am a native speaker of the Somali language and have known intimately Somali culture. I have also done comparative work on similar traditional societies, such as Botswana. I also worked as a senior researcher at the Human Sciences Research Council in Pretoria, South Africa. One of my recent books, *An African Miracle* was a finalist for the 1999 African Studies Association's Herskovits Award, which is given to the most important Africanist book published in English. At this moment, I am working on a book examining leadership and political fragmentation in Somalia and serve as an elected director for North America's premier scholarly association on Africa, the African Studies Association.

With regard to offering expert testimony, I have acted as an expert witness in numerous United States immigration court cases dealing with Somalis and one recent Federal court case. I was a consultant to the Canadian Immigration service as well. It should be noted that my first book, published by the University of Wisconsin press in 1989, predicted the collapse of Somali political order two years before that became a reality. This was the only prediction of its kind made by any scholar of Somali society.

The two fundamental questions you asked me to answer are:

1. Do Somali clans belong to different races?
2. Do they constitute different ethnic groups?

The short answer to both questions is no. Let me elaborate. I start with two quotes, one from a poet and one from a farmer, who lived in different regions of the country. Farmers, pastoralists and poets are doyens of Somali culture, and their understandings of their tradition and identity mark the historical basis of my answer to your questions. With characteristic prescience, the late Abdillahi Sultan Timaade, the most analytical poet in post-colonial Somali history, underscored the elevation of innocuous social difference and the social cost of fraudulent ambitions:

Members of parliament when we assembled them in one place,
Presidents and ministers when they were elected,
Healthy minds and people we were facing the same direction,
Then came those who confused us only to milk everything for their sole
benefit,
Never to lose an electoral seat whose only intention it was,
In our rural areas they put a knife in every hand,
Those hacks who bombarded us with fake wailings of sectarian solidar-
ity [read clanism],
The poison they injected in us killed nobility of character,
Lies and lies they garland us with, Beware. (1968)

A farmer from the southern town of Jowhar reinvoked Timaade's poetic explications nearly two decades later: "Son, the tribalism business is the work of the urban people. They cook it there and then serve it to us." (Issa, Spring 1990)

These poetic and pedestrian renderings show that the "*clanist*" *politics* that bedevil Somalia is not rooted in the society's culture and traditions. These two views dovetail with my own formal and informal education about the nature of Somali culture and genealogy. As a schoolboy, I was taught (using British textbooks) that Somalis are members of the Cushitic race in the Horn of Africa. I also learned from those same textbooks that Somalis are a homogenous ethnic group that speak the same language, and practice the same culture and religion. Some scholars have referred to Somalia as Africa's only nation-state due to the above characteristics. Nearly all of these scholars exaggerated Somali's homogeneity by overlooking the existence of significant communities in the south of the country who have different histories and social organizations. Despite such variations, the vast majority of the people in the country share the same fundamental social, cultural and religious values that defined the nature of traditional Somali identity: Islam, Somali language, genealogy, oral and poetic literature, *Xeer* (customary law), and sharing material risks. Collectively, these traits bounded Somali identity.

Genealogical "groups" (clans) range in size from an extended family to a collection of these at the regional and national levels. Thus, the numbers of genealogical groups and sub-groups are contingently defined and not determined a priori. Genealogically speaking, Somalis can be divided into several "major" and "minor" groups. The designation "major-minor" is not based on any accurate national census. Somali genealogical groups share Somali identity and origin. Given

the high level of inter-marriage within and among different groups—a characteristic feature of this culture—there are no visible and invisible biological differences among Somalis.

Somali genealogies embedded in that old tradition, which was grounded in inclusive shared values, *must not* be conflated with the instrumentally induced recent political practice and concept—*clanism*. This practice was invented by competing elite factions in their struggle to illegitimately privatise public resources, including political power. *Clanism* therefore is bereft of tradition. What seems to give *clanism* an authentic hue is its organisational structure that mirrors genealogical patterns. However, *clanism* is genealogy expunged from its cultural moorings and hitched onto an opportunistic and divisive political game.

According to the British Race Relations Act of 1976, two essential characteristics define an ethnic group: i) It had to have a long shared history, of which the group was conscious as distinguishing it from other groups, and the memory of which it kept alive, and ii) It had to have a cultural tradition of its own, including family and social customs and manners, often but not necessarily associated with religious observances.

Other characteristics that could be relevant are: i) either a common geographical origin or descent from a smaller number of common ancestors; ii) a common language, which did not have to be peculiar to the group, iii) a common literature peculiar to the group, iv) a common religion different from that of neighbouring groups or from the general community surrounding it, and v) the characteristic of being a minority or being an oppressed or a dominant group within a larger community. Having considered the essential and possibly relevant features of the Act, I conclude the following about the social nature of Somali genealogical groups: i) Each Somali genealogical group *does not* have distinct history that distinguishes it from other Somalis. There has been unsuccessful recent attempts to manufacture such history in the context of instrumentalist and sectarian elite politics; ii) Each Somali genealogical family lacks its unique cultural tradition, customs, manners, etc. For example, the town of Gabileh where I grew up is home to several communities of differing “male” genealogies, but none has a unique history. It is possible to write the history for the town and its vicinity but not a unique cultural and distinct tradition of each genealogical group. This equally applies to all Somali groups with the exception of two groups, one in the south, and a minority group in the

entire country; and iii) finally, *there is no scientific and biological basis to demarcate genealogical groups as a race*. There are of course localized and family histories among Somalis, just like all other human communities. However, none of the so-called major genealogical groups have the unique characteristics so defined by the Race Relations Act of 1976. Furthermore, Somali genealogical groups, large or small, do not satisfy four of the five secondary but relevant features noted in the Race Relations Act. There is a Somali-wide language, literature, religious and cultural practices. Some analysts who have superficial knowledge or understanding of Somali culture and politics fail to grasp the material and ideological make-up of that society's current political problems. They confound genealogy with elite driven sectarian politics that pit one group against others. If genealogy was the lethal (patriarchal blood driven) impulse then my mother should have rejected my father and my siblings since, according to the said custom, we are members of the potential enemy. This type of superficial analysis imputes causality to genealogy and tradition. Clanism, as the political mechanism for manipulating community sentiment along sectarian lines, is the force behind the Somali calamity. Genealogical differences have been one of the elements of Somali tradition, but it never induced the kind of mayhem that mars this society. I have recently written about this in two British Journals (1997, 2001). The clan centered misrepresentation of the dynamics of Somali culture and politics leads to the invention of racial and ethnic categories that have no bearing on Somali social history. Such concocted categories best serve sectarian entrepreneurs that profit from un-civic manipulations of normal but benign human differences. The features which the British Race Relations Act prescribes are those which separate the Somali from their neighbours, such as the Oromo and Afar (groups found in Djibouti and Ethiopia). *The 1976 Act's definition of race and ethnic groups does not apply to the vast majority of Somalis.*

I hope these remarks directly answer the questions. Please let me know if you need more information on the subject.

Sincerely,
Abdi I. Samatar
Professor of Geography

IX. Lewis's Rebuttal

Lewis's and Samatar's second and third submissions include discussion of contributions made by some of the applicants and the respondent (Garaad). Lewis's response to Samatar's criticism of his first submission and Garaad's contribution has these points. First, Lewis tries to undermine Samatar's academic credibility by pointing out that geographers are not experts on identity and genealogical systems. He is able to dismiss geographers' contributions by reducing identity to clan and depriving Somalis of their multi-faceted and dynamic history. He adds that Samatar has not conducted research in rural Somalia that is relevant to issues of identity and polity as he has defined them. Second, Lewis reiterates his claim that Somalis like Samatar are Westernized and therefore do not understand their society and culture. Third, he introduces his accusation that the BBC Somali Service's news and programs are strongly biased against certain regions and groups. He claims that recent hires have upset clan balance in the Somali Service. Lewis intends to implicate Garaad, the head of the service, as someone who was already guilty of professional malfeasance and lacked any integrity. Fourth, Lewis explicitly accuses Garaad of supporting Abdiqasim S. Hassan, the president of the Transitional National Government, without producing any evidence other than the fact that the two belong to the same genealogical group. Here again Lewis implies the inability of Somalis to behave professionally when such behavior affects any member of their genealogical group.⁵⁶

22/07/01

Dear Mr. Hanley:

Following the draft version sent by fax yesterday, I now write to give you my comments on the contributions of Prof. Samatar and Mr. Yusuf Gerad in the BBC Somali case. I don't think they are very impressive for the reasons indicated. In fact, they appear surprisingly hastily written and superficial. It is not surprising that Prof. Samatar should have been approached (although he is not, in my opinion, particularly well qualified). *He is a friend of Mr. Yusuf Gerad and like him a protagonist for the "Arta faction," or "national transitional government" as it calls itself. I think you are aware that Mr. Yusuf Gerad and "President" Abdulqasim belong to the same section of the Habar Ghedir clan.* As you also know, I think, the BBC has been inundated with complaints from Somalis throughout the world on the obvious bias which its news reports, particularly on

the Somali Service, display in their treatment of events in Somalia. I think these complaints are fully justified and (as I have conveyed to the BBC management and FCO) I share the view that the BBC no longer provides impartial reporting on Somali issues. Other Somali specialists who share my concern for the well-being of the Somali Service have similarly made representations to the BBC—without much effect. The obvious conclusion seems to be that the BBC management relies unquestioningly on Mr. Yusuf Gerad to form their views on Somalia. In view of his obvious lack of impartiality, this seems rather unwise.

1. Prof Samatar

Prof. Samatar describes himself as a Geographer. Geography is, of course, a broad subject, but in my fifty years of university research and teaching I have never encountered a Geographer who was expert in the complexities of African systems of kinship and clanship which are, as it were, bread and butter to the professional Social Anthropologist.⁵⁷ Having reviewed, either in their manuscript or published versions, most of Professor Samatar's Somali writings, I know of nothing to suggest that he has the technical expertise to master this highly specialised field. Nor, as far as I know, has Prof. Samatar carried out the extensive, systematic field research in rural Somali society on this topic which would provide the necessary raw data for such an analysis. Thus, for example, while he asserts that modern Somali clan behaviour, which he calls "clanism," is a new untraditional development he has offered no satisfactory empirical evidence to sustain this argument. Nevertheless, clan loyalties in the modern context *may* indeed be more outrageously exploited by the westernised political elite than by the clan elders in earlier times. If so, this increases rather than diminishes the similarity of contemporary Somali clanship with more familiar examples of manufactured ethnic and "racial" identity in, for example, the Balkans.

*As a Somali, however, Professor Samatar naturally has direct personal experience of Somali culture and social organisation which informs his writing. His position in this respect is similar to that of any other member of the westernised Somali elite,*⁵⁸ as for example, Mr. Yusuf Gerad or the BBC Applicants (one of whom, Mr. M.H. Sheikh, is as it happens, a professionally trained social anthropologist and therefore possesses specialised knowledge of Somali clanship). It should perhaps be emphasised, here, that while being a Somali necessarily gives one direct, personal experience of Somali kinship and clanship, this is not

the same as an objective analytical understanding based on systematic anthropological (or sociological) research.

Coming from a non-Somali, this may sound rather arrogant. But the point I seek to make can perhaps be made clearer if I say that, as a British citizen, I have inevitably some direct experience of the British class system. This, however, does not constitute a sound basis for claiming that I am in any sense *an expert* on the subject. And, in fact, I would be the first to acknowledge that I know little in a technical sense about this topic. The fact of being British here is, in itself, thus scarcely a basis for speaking authoritatively on "class."

Having said all that, I agree with Prof. Samatar when he says that Somali clans do not belong to different *races*. This is true in a scientific, biological sense. However, it is actually irrelevant, and misses the whole point of the issues in racial (and inter-ethnic) relations generally. Race and inter-ethnic relations are not based on the actual genetic make-up of those concerned. They are a matter of *subjective* ideas that the protagonists involved hold about their identity, and their difference from others. They are based on ideas in the mind, implanted by culture, and do not run in the blood whatever those who hold them may think. For conduct to qualify as "racist" or informed by ethnicity, it has to be based on *ideas* and *theories* about the nature and significance of social differences which, although they have no basis in scientific reality, nevertheless powerfully motivate individual loyalty. The presumption, which Somalis manifestly hold, that those who share the same genealogy and belong to the same "clan" (or "sub-clan") should support each other at all times, and resort to nepotism utilising every possible connection for the benefit of their own clansmen at the expense of members of other clans, is on a par with racism and ethnicity elsewhere. The guiding principle here is "*my clansmen right or wrong.*" This I take it, is the allegation being advanced in this case against Mr. Yusuf Gerad by the Applicants. That in their cultural universe this is how they conceptualise it, this does not mean, of course, that Somalis are actually *genetically programmed* to operate in this way. In other contexts, prominent differences in physical features assist group stereotyping in an obvious way, but they are not its essential basis. The basis always lies in the feelings and assumptions which we hold about our own identity and that of others, about our cultural theory of social relationships and political allegiances. Culture is here dominant, not biology, even if as they are among the Somali, biological models (or idioms) of

identity and behaviour (such as “clans”) are utilised to organise social and political relations.

At some unknown point in history, the ancestors of the present Somali people evidently decided to organise their social and political life on a basis of family trees tracing descent in the male line. The earliest written accounts of the Somalis we possess refer to this form of organisation. What in other cultures is often simply a matter of family history is here much more important since it constitutes the basis of social and political identity. These Somali genealogies do not simply tell you where I come from; much more significantly, they tell you who I am and how I relate to others.

As I have tried to explain in my submission and reiterate above, Somalis treat these genealogical distinctions like species or genus distinctions in nature, and regard them in short as natural divisions with the biological basis expressed in their genealogies.

That they are not actually all biologically different in a scientific sense is irrelevant, since their society is organised on the assumption that this is the case. In the comparative sociological study of race and ethnic relations, we always have to remember that actual genetics do not matter, what matters is how people conceive of themselves and others. Social (i.e. ideological) biology (rather than actual scientific biology) is the issue here as elsewhere in race relations. From what he writes, it would appear that Prof. Samatar does not understand this distinction between cultural theory and scientific fact.

Interestingly, Prof. Samatar also cites the fact that his mother and father belonged to different genealogical groups as evidence that clan and lineage identity is neutral. This is a puzzling observation. Those who study Somali and other similar clan systems professionally, know that intermarriage (marital alliance) between distinct, *and potentially hostile*, groups is one of the oldest strategies utilised in kinship systems of this type to generate important compensating alliances. These marital connections are relied upon to facilitate inter-clan and inter-sub-clan relations. This is old hat in the anthropological study of Somali kinship. And, as has been well-documented by Somali social anthropological research, these affinal ties have been widely used in this familiar fashion in recent peace-making moves in Somaliland. In some cultures, although I have not myself heard this said by Somalis, reflecting this practice people even say explicitly “We marry our enemies.”

X. Samatar's Final Response to Lewis

Samatar's final written response systematically takes on Lewis's accusations and contentions. First, Samatar challenges Lewis to produce evidence substantiating the allegation that he is a friend of Garaad.⁵⁹ Lewis's intention was to impress upon the judges that Somalis are unable to conduct themselves professionally, as they lie to unjustly support not only their "clansmen" but also their friends (note the equation between clansmen and friends). Thus, Samatar is Westernized, in Lewis's view, but still behaves like Lewis's Somali prototype—to support his presumed friend, Mr. Garaad. Second, Samatar attempts to show how outdated Lewis's reading of identity is by referring to developments in social sciences and humanities over the past three decades. Third, the response underscores Lewis's bias in writing about phases of Somali history and culture, intending to show that Lewis is indeed the Westerner who has studied Somali culture and identity through Western and colonial lenses. Samatar and the BBC legal team decided not to expose the serious contradictions between Lewis's earlier writings about Somalis and his more recent ones until the court cross-examination; this strategy would prove very effective when the BBC's lawyer cross-examined Lewis during court proceedings.

September 5, 2001

Dear Ms. Youngson:

It is not the first time that Professor Lewis has resorted to name-calling rather than engaging scholars who disagree with his ideas. For example, he calls me a "westernized Somali, a friend of Yusuuf Garaad, and supporter of TNG." Such remarks add nothing, particularly when they are false, to the expert discussion of Somali issues.

Professor Lewis's tendency to use superficial analysis invariably results in the wrong conclusions and observations. A wonderful example of this is his characterization of Muhammad Abdullah Hassan. While most Somalis and scholars of Africa would consider him to be Somalia's premier freedom fighter against colonialism,⁶⁰ Professor Lewis exposes his historical blinders by writing:

Nearly 80 years ago, *a brave servant of the empire* called Richard Corfield tried to bring order to the Somalis, when they were in rebellion *under a religious leader dubbed the Mad Mullah by the British*. All Corfield got of his pains was a bullet in the head in battle and a place in the epic poetry

of Somalia—a *bloodthirsty hymn to victory* that has lived on in a *society steeped in antagonism to outsiders*.⁶¹ [Italics added.]

(*Ironically, Lewis contradicts himself about the attitude of Somalis to outsiders, as he observed in an earlier writing that, “Although the republic [Somalia] can as yet boast no counterpart to the excellent Institute of Ethiopian Studies at Addis Ababa, there can be few countries where the *foreign researcher is more welcome or given greater freedom to carry out his work without let or hindrance*.”⁶²)

Is Somalia really a society that became “steeped in antagonism to outsiders?” If so, how did this qualitative transformation occur? Such a stereotypical statement cannot be a substitute for a careful and historically grounded analysis. Unfortunately, such unsubstantiated statements have been the trademark of some of Professor Lewis’s work.

Let me turn to Professor Lewis’s six major assertions in his third submission:

1. He claims that I am a friend of Mr. Yusuf Garaad. Professor Lewis has no knowledge of my private life and I would like him to provide the evidence necessary to substantiate this declaration. As Lewis provides no other corollary to this assertion and its supposed value, I can only assume he is making this reference to friendship to discredit my professional credibility.
2. Professor Lewis indicates that he knows of no geographer who is an expert on African kinship and clanship. Lewis’s difficulty, as always, is that he confuses and equates politics and identity formation with genealogical structures. His genealogy-based thesis is mechanically deterministic and permits little leeway for human agency and social change. In other words, his stance implies that one does not need to study the dynamics of a society and its larger context to better understand the shifting nature of politics. For Lewis, genealogy alone is enough.

Scholarly literature in the last three decades has convincingly shown the bankruptcy of this approach.⁶³ The issue at hand is the politics of identity formation, and this has been the epicenter of debates in the social sciences and humanities for the last two

decades. Geographers have contributed to this subject in no small way (see various issues of the journal *Political Geography*). Lewis's submission indicates that he is not aware of these developments or by his silence refuses to give them credence. The first possibility offers the unsettling picture of a scholar no longer engaged with ideas. The second possibility is just as unpalatable.

Out-dated anthropological literature on "traditional" genealogy no longer provides the appropriate framework for understanding identity politics in contemporary Somalia and Africa. Historians, political scientists, geographers and even anthropologists use a variety of theoretical tools to explain the dynamics of identity formation. Political economy and social theory are two of the conceptual tools scholars have used in recent decades. Events in the last decade have sustained the validity of my approach to Somali Studies. My first major publication (1989) predicted the watershed EVENT in contemporary Somali political history: the disintegration of the Somali state. Professor Lewis failed to anticipate this historic benchmark due to the serious limitations of his approach to Somali Studies.

3. Professor Lewis asserts that I have not done extensive systematic field research in rural Somali society on this topic. It is true that I did not focus my attention on genealogy and clans in my fieldwork. However, I have done more extensive fieldwork on Somalia's rural economy and national political economy than Lewis did in his entire career (see his CV for field visits). Lewis's last significant fieldwork (3 months) took place nearly thirty years ago. Studying rural society in the context of a vastly changing world is substantially more complex than choreographing the structure of genealogy.
4. Professor Lewis indicates that although I have direct personal experience of Somali culture, I lack the expertise. He then goes on to accuse me of being westernized—the implication of which he does not make explicit. Extrapolating from his stance, given the fact that Professor Lewis hails from the Western world, would it not also be appropriate to say that his perspective is "westernized?" Whatever Lewis's intentions are in such name-calling, the reality is that he cannot match my grasp of Somali culture, poetry, and politics.

Despite the years Professor Lewis has spent studying Somali society, *this effort has been conducted indirectly, through translators and English-speaking Somalis* [Italics added]. I believe that fluency in the Somali language is an important indicator of Lewis' capacity to be a

seasoned analyst of Somali culture, identity and politics. Moreover, Professor Lewis also argues that my understanding of Somali culture and identity is akin to his lay person's knowledge of the British class system. This is the height of arrogance. I have been a student of Somali political economy for nearly 17 years. In contrast, Lewis has not studied British society and hence the comparison is at best irrelevant. Finally, no competent scholar of the British class system will take seriously someone who has not engaged in serious fieldwork on the subject for nearly three decades.

In the end, the tragedy of Professor Lewis's submission and his current stance is that it exposes him as a scholar on Somalia that has lived off the contribution of a small endowment to the knowledge base of Somali Studies made at a time when there was a paucity of highly trained social scientists. The conditions have changed in the last two decades, as more Somali and non-Somali scholars on Somalia have emerged. Consequently, the knowledge base of Somali Studies and African Studies has expanded. It is inevitable, then, as understanding and greater insight emerged, Lewis's words would no longer be the ruling ideas. It is also not surprising that this turn of events would result in Professor Lewis demonstrating great discomfort with the growing challenge younger scholars pose, as I believe his submission reflects.

5. Professor Lewis's first and third submissions are contradictory. He argued in the first submission that "I would prefer to say that clans represent invisible lines of distinction within the Somali 'nation' and, since they are based on genealogies and descent, *have a biological basis comparable to racial distinctions* (emphasis added)." Professor Lewis changes his view in the third submission and reverts to a social constructionist approach to race and ethnic issues—a position I made clear in my second testimony and before I had access to Professor Lewis's third submission.

Finally, my brief is to provide a scholarly comment on "whether Somali genealogy and identity forms fall within the purview of the British Race Relations Act of 1976" and not on the validity of the court case. Professor Lewis's comments indicate that he is a partisan in the case. He seems eager to render judgment without the benefit of due process. While Professor Lewis's understanding of Somali politics and identity may pass as an expert opinion in the eyes of those who are unfamiliar with Somali society, rigorous and objec-

tive analysis would show that his understanding of this society is quite rudimentary for someone who was in the field for so long. His assertion that I do not understand the distinction between cultural theory and scientific fact is nonsense. The source of confusion is his notion that genealogy is the constant in Somali culture and politics, and by association Somali identity.

6. Professor Lewis is unable to grasp the significance of inter-marriage relations between individuals of various Somali genealogical groups as a social strategy that is a central part of the complex process of identity formation in the Somali society, e.g., the example of my mother and father, who hail from different genealogical groups. Contrary to Lewis's claim, I never heard of the notion that my mother was "marrying the enemy." I asked my 80-year-old mother about this notion last week (late August 2001) when I was in Somalia and she ridiculed the idea.

Inter-marriage between different genealogical groups has been a characteristic feature of Somali communities and where I grew up. Members of these communities did not see such unions as a way of containing latent and inherent animosities, but as a means of developing wide ranging social networks that they could tap on for different occasions. Professor Lewis confuses a small number of high profile cases, where marriages were consummated to reduce conflict. These cases are more the exception rather than the rule. Most inter-marriages are products of the mundane demands of everyday life and the desires of individuals. Professor Lewis's misreading is the consequence of his approach that is akin to an equation with a single variable: genealogy.

In conclusion, I believe it is important to remember that a scholar is someone who analytically examines the information and data collected, constantly questioning the validity of the assumptions made in the analysis and testing the credibility of existing and new theories that have been offered as explanation for a particular reality or result. This basic tenet of scholarship has eluded Professor Lewis's work on Somali politics and identity. It is why he continues to use the outmoded theory of genealogy to explain current realities and why his conclusions, therefore, are superficial and erroneous.

Sincerely,
Abdi I. Samatar

XI. The Lawyers' Final Representations

At the tribunal proceedings, the applicants' and respondents' lawyers adopted the same strategy: to undermine the credibility of each expert witness's testimony. The BBC's attorney, Mr. Gerard Clarke, focused on two major areas of Lewis's presentation. First, he attempted to show that Lewis's earlier scholarship diametrically contradicted his court testimony and his recent polemical works. He cited Lewis's 1981 (1993) publication dealing with the ethnic character of Somalis: "With a total population of some five million, the *Somali form a single ethnic unit in the Horn of Africa...*"⁶⁴ He also quoted from Lewis's 1988 re-publication of *A Modern History of Somalia*:

While the Somali draw many of their distinctive characteristics, especially their strong egalitarianism, their political acumen and opportunism, and their fierce traditional pride and contempt for other nations from their own traditional culture, they also owe much to Islam. And it is typical of their mutual dependence upon those two founts of their culture that the highly pragmatic view of life which nomadism seems to foster...Above all, Islam adds depth and coherence to these common elements of traditional culture which, over and above their many sectional divisions, unite Somalis and provide the basis for their national consciousness. Although the Somali did not traditionally form a unitary state, it is this heritage of cultural nationalism which, strengthened by Islam, lies behind Somali nationalism today.⁶⁵

Mr. Clarke was able, through cross-examination, to force Lewis to admit that stark contradictions existed between his most recent claims and the work he produced for most of his academic career prior to the mid-1980s. Clarke's second strategy was to show the court that Lewis was not just an expert on the Somali clan system but an active partisan in the BBC case. Lewis's petitions to BBC authorities, accusing Garaad of favoring reports from the south and marginalizing the north in the Somali Section's news, were made available to the court. Clarke's extensive and aggressive cross-examination exposed the great pains Lewis had taken to cover up his partisan involvement in the case. Third, the respondents' lawyer used Lewis's own early works to show that Somalis are a single ethnic group. At the end, Lewis's last refuge was to argue that Somali genealogical groups belong to different races. The BBC's lawyers felt so confident after the first three hours of cross-

examination that they privately suggested to the applicants' attorneys that they withdraw the case, which the applicants' lawyers rejected.

The applicants' attorney, Ms. Catrin Lewis (no relation to Professor Lewis) sought to show that Samatar was not an expert on Somali identity (read "clan system") and that his testimony was dependent on his personal experience as a native Somali and on his political orientation. Ms. Lewis noted that Samatar was not a "typical Somali" and that "by refusing to use the word 'clan,' he was trying to deny it. This was something no Somali could do." This was of course the classic colonial approach: to delegitimize independent-minded local people who do not accept terminology imposed by others. Neither of the two Lewises tried to locate contradictions in Samatar's scholarship during the cross-examination. More critically, the judges noted the illogic of their claims that Samatar's testimony was simultaneously based on native/personal experience and that, at the same time, he is too Westernized to assess the clan system appropriately.

What follows is an abbreviated verbatim reproduction of the two lawyers' final submissions. That of Ms. Lewis, the applicants' lawyer, follows Mr. Clarke's presentation. Both lawyers begin their presentations by reviewing the pertinent section 3(1) of the British Race Relations Act (RRA).

XII. Mr. Clarke's Submission

MOHAMMED SHEIKH and others
and BBC SUBMISSIONS FOR THE RESPONDENT

1. Discrimination on "racial grounds" means discrimination on grounds of colour, race, nationality or ethnic or national origin: RRA section 3(1).
2. In the present case we can discount colour, nationality and national origin as possible bases for discrimination claims. The Applicants must show that each clan (and each sub-clan and each sub-sub clan, and so on) is a separate *race* or a separate *ethnic group*. The concept of an ethnic group is explained in *Mandla v. Dowell Lee* [1983] IRLR 209.
3. For a group to constitute an ethnic group for the purposes of the Race Relations Act, it must regard itself, and be regarded by others, as a distinct community by virtue of certain characteristics. It is essential that there is (1) a long shared history, of which the

group is conscious as distinguishing it from other groups, and the memory of which keeps it alive; (2) a cultural tradition of its own, including family and social customs and manners, often but not necessarily associated with religious observance. In addition, there are other relevant characteristics, one or more of which will commonly be found and will help to distinguish the group from the secondary community; (3) either a common geographical origin or descent from a small number of common ancestors; (4) a common language, not necessarily peculiar to the group; (5) a common literature peculiar to the group; (6) a common religion different from that of neighbouring groups or from the general community surrounding it; (7) being a minority or being an oppressed or a dominant group within a larger community.

4. In the light of the evidence, it is not at all clear how the Applicants can even attempt to bring themselves within any applicable category under section 3(1). When the case began it looked as though the Applicants were contending that the clans are distinct ethnic groups, on the basis of diverse cultural identities, but their own expert disavowed this proposition. That he did so is perhaps unsurprising in the light of his own writings, which emphasise the homogeneous nature of Somali culture and the strong sense of a distinct Somali nationality and cultural tradition
5. The evidence given by Professor Lewis was in many ways unsatisfactory: His reports for the purposes of this case are contradictory to his earlier writings. The contradiction may be explained by Professor Lewis having taken a partisan position on the underlying subject matter of this litigation. He accepts the Applicants' contention that appointments to BBC positions have been made on a clan basis. That alone ought to disqualify him from acting as an *independent* expert in this case, and substantially devalues his evidence.
6. Most strikingly, Professor Lewis said that "outsiders cannot see clans." The Applicants confirmed this: A Somali person cannot tell what clan another Somali person belongs to without asking directly or indirectly or making enquiries of others.
7. This evidence is fatal to a case based on ethnic grouping. *Mandla v. Dowell Lee* requires that an ethnic group regard itself *and be regarded by others* as a distinct community.

8. The Applicants' own evidence was remarkable in that it confirmed the absence of the cultural upon distinctiveness which they had appeared to base their case. They confirmed that variations in, for example, language, were regional, that stories varied regionally, that camel brands varied from region to region, and even from family to family.
9. It was also apparent that an individual can choose to identify him or herself by reference to a clan, sub-clan, sub-sub clan, and so on, depending upon the context for which he or she is identifying himself. The sub divisions extend, as one of the Applicants said, to the "thirtieth generation."
10. It is plain from the Applicants' own evidence that a Somali clan, sub clan etc is no more an distinct ethnic group than is a particular Highland Scottish clan, or Sept. Ultimately, clans are extended family groups. Doubtless they have their traditions, but they all operate within the broad and generally homogenous Somali culture.
11. Applying the *Mandla v. Dowell Lee* criteria:
 - (1) clans have shared histories, but these are not distinct to each clan: a sub clan or sub-sub clan of, say, the Darod, will have part of its history in common with other Darod clans. A sub-sub clan will share part of its history with a sub-clan, and so on. The sub or sub-sub clans' distinct history is no more than extended family history or genealogy.
 - (2) The evidence shows that clans do not have *cultural traditions of their own*. At best, they have family based or regional based variations upon wider cultural traditions.
 - (3) The clans all come from the geographical region of Somalia. They do not come from precisely defined parts of that region. Professor Lewis' maps are conjectural and have no statistical basis. Each "top level" clan claims descent from a single common ancestor, but beyond that, according to Professor Lewis, they all claim descent from Arabian ancestors closely associated with the Prophet Mohammed. Sub clans and sub-sub clans share common ancestors with others sub-sets of their main clan groupings.
 - (4) They all speak the same language, with regional and dialectical variations.

- (5) Until recently there was no written literature, but a strong oral tradition. The oral tradition is common to Somalis, not clan specific.
- (6) The clans all have the same religion: Islam, which has traditionally operated as a cohesive force in Somali society. No clan claims a religion distinct from that of other clans.
- (7) None of the clans is an oppressed minority or a dominant group. Clan members may oppose one another in political debate or political violence, but cross-clan disputes are also common. Contemporary Somali politics features members of the same clans on opposing factions.
12. If the Applicants cannot make their case on the basis of *ethnic origin*, they are forced to argue that the clans, sub clans etc are separate *races*. This argument is hopeless: the experts agree that there is no biological basis for claims by different clans to exist as different races.
 13. Professor Lewis attempted to make a case that, despite the absence of an objective biological basis for claimed racial identity, it is enough that people believe themselves to be racially distinct from one another. This is really an argument for a form of culturally based ethnicity, in the *Mandla v. Dowell Lee* sense, but, as set out above, the clans fail the *Mandla v. Dowell Lee* test.
 14. Also, on the basis of this variant of the case, each family which claims descent from a particular ancestor belongs to a race distinct from that of any other family. The absurdity of this proposition is self evident.
 15. Lastly, the Applicants' own evidence indicated that "clanism" is something which has become a prominent force in Somali society since the collapse of the Somali state in the early 1990s. Even if, therefore, it is thought that clans have become more distinctive and important in recent history, this is not a basis for a finding that they are races or ethnic groups. On this, see *Crown Suppliers v. Dawkins* [1993] ICR 517, in which the recency of the emergence of Rastafarianism was one of the factors leading to the conclusion that Rastafarians did not constitute a distinct ethnic (as opposed to religious) group.
 16. The Applicants claims under the RRA should be dismissed.

Gerard Clarke
Blackstone Chambers
Blackstone House
Temple, London

XIII. Ms. Lewis's Submission

MOHAMED HAMUD SHEIKH and other Applicants
AND THE BRITISH BROADCASTING CORPORATION
Respondent

3.⁶⁶ The situation of these applicants clearly falls within the mischief that the Act is intended to prevent full square. It is a situation where it is alleged that one Somali will discriminate against another on the grounds of clan membership. This would not however lead to a situation where an unsuspecting employer with no knowledge of Somali society would fall foul of the Act as it is necessary to have the understanding of clan culture or to be from a clan to be able to discriminate for your clan or against another. The complaint in these applications being that none of the applicants were from the Hawiye clan but that all the successful candidates were from that clan and that these applicants were not selected because they had been discriminated against on the grounds of their clan membership by a member of the Hawiye clan.

Are Somali clans ethnic groups for the purposes of the RRA 1976?

4. The test under the RRA of whether a group constitutes an ethnic group is set out in the case of *Mandla v. Dowell Lee* [1983] IRLR 209, at 211 paragraph 11.
5. Somali clans satisfy the first test (1) set out above: each clan has its own history in the form of its lineage and with stories relating to its own ancestors; each clan member is taught this at his or her mother's knee and the consciousness of being distinct from other clans stems from this. There is some overlap between this and having a cultural tradition of its own but there is further evidence that they satisfy the second test as well, each clan has its own saints which are peculiar to that clan and are venerated only by members of that clan, with clan members making pilgrimages to their clan saints' shrines and holding ceremonies at which songs of veneration to that particular saint are performed.

6. There is also evidence to satisfy some of the other “optional” tests, for example (3) and (4), (5) and (7). The clans have their own geographical regions from which they originate and they descend from a particular named common ancestor. The clans have a common language in that each member of the clan speaks the same language, Somali, although this is not a language peculiar to the clan. Lord Fraser’s test does not require it to be so.
7. The clans have their own common oral literature with a body of stories, poems and songs celebrating the clan ancestors which is peculiar to that clan. All the clans follow Islam and to that extent each clan is not different to the other clans around it. The different clans may be a minority group or a dominant group depending on where a clan member is within the country.
8. These differences are so obvious and inherent to Somalis that it is difficult to describe—but clan identity is all pervasive. It is impossible to understand or analyse Somali society without reference to and understanding of Somali clans and their key role unique to that society.
13. In *Commission for Racial Equality v. Dutton* [1989] IQB 783 the nature of the evidence relevant to the question of ethnic group was considered and it was accepted that gypsies were an ethnic group even though some members had given up the distinctive lifestyle.

The Experts

14. Professor Lewis’s expertise is in the field of anthropology. He is a renowned scholar of Somali society and culture, anthropology being “the study of mankind, especially of its societies and customs” (the Concise Oxford Dictionary). Whereas Professor Samatar is a professor of geography, “the science of the earth’s surface, from, physical features, natural and political divisions, climate, productions, population, etc.” (Concise Oxford Dictionary).
15. Professor Samatar’s observations are purely anecdotal and are clearly influenced by his own political perspective. His experience of schooling in Somalia is from a time when clans had been buried in the name of scientific socialism and also from a time when the Somali language had a written form and clan stories were written down and disseminated to other clans in schools. This does not

mean that those stories do not belong to the particular clans or come from that clan's particular culture and form part of it.⁶⁷

16. Professor Lewis has studied the customs and literature of the different clans and his work pre and post dates the burial of clans and the concept of clannism; he was clear that each clan has its own stories and poets and its own saints that were venerated. Professor Lewis was also able to point to the earliest written reference to the different Somali clans as dating back to the 16th century. Clan identity and its role in Somali society cannot therefore be called a modern invention.
17. Professor Lewis's deep understanding of Somali society and the nature of Somali clans and how they operate within Somali society does not mean that he has an axe to grind. In fact he expressed himself to be a long standing supporter of the BBC World Service and to have campaigned on its behalf. The fact that he has expressed his genuine concern at the perceived lack of balance in the Somali service does not undermine his independence, but rather shows that he has a genuine and independently held view as to the nature and role of clans and their importance in Somali society.
18. I would ask you to read the whole of Professor Lewis's report found at pages 14–30 at the bundle and his further report at pages 56–60 and to accept their contents. In particular at page 20, Appendix 1 to his first report at paragraph 2, sets out key factors that address and satisfy the test (1) and (2) identified by Lord Fraser. These elements of differentiation are present on a closer examination of an apparently homogenous society; the term ethnic group is not used in a scientific sense in the legislation nor is it a term of art. A person can belong to more than one racial group under the legislation. The fact that each clan has similar structures and organises itself in a way that is similar to other clans (giving an overall impression of homogeneity) does not prevent each being a different ethnic group under the Act, the question is can the group show that it is a separate and distinct community by virtue of characteristics which are commonly associated with common racial origin (*Mandla v. Dowell Lee*). Professor Lewis's description of Somali clans being based on their belief or perception of descent from a single common ancestor led him to the view that they were in fact closer to the definition of race than anything else. This does

not mean they do not have the necessary characteristics for an ethnic group under the Act but, rather, points strongly to clans falling under that definition.

19. Each individual applicant is conscious of him or herself as belonging to their own individual clan and subclan and retains the clan history in respect of their own lineage. Professor Lewis, who has studied the different clans and their oral traditions, was clear that each had their own historical tradition and own specific saints particular to that clan as well as there being some free floating saints common to all clans. The cult of the clan saint was kept alive by veneration and pilgrimage to a shrine of the particular clan's saint. This was supported by the evidence of Mohamed Sheikh, Mohamed Dualeh and Mustafa Hussein, who each referred to having their own clan saint, and Jawahir Elmi who referred to her own clan's stories and poems. Shamsa Ahmed is from the Shiqal clan, which has its own particular tradition due to being considered to have a special religious role and so is again distinguished from other tribes. Each applicant was clear to which ancestor they traced their founding line back.
20. The Somali clans, or clan-families, are identified as Darod, Dir, Isaq, Hawiye, Rahanweyn and Digil and each is recognised by each other as separate and distinct. A Darod clan member considers him or herself to be Darod and not Dir and would be recognised by a Dir member as Darod. Within Somali society each person is placed by reference to his or her clan membership by their own clan and members of other clans and is recognised to belong to the community of that particular clan family. That they can also trace their line down to more immediate ancestors does not detract from this identity as the key clan families are recognisable and recognised as such within Somali society.
21. In my submission the applicants' have shown that they satisfy the relevant requirements of an ethnic group on the balance of probabilities and I would ask the tribunal to find in their favour on the preliminary issue.

Catrin Lewis
2 Garden Court
Temple

XIV. The Tribunal's Decision

The court made its ruling, and two factors informed the tribunal's decision. First, Lewis's lack of objectivity and his partisan involvement in the case troubled the judges. In its decision, the tribunal quotes Lewis's own testimony to underscore his prejudice:

As you can readily imagine, with the best will in the world, such connections, in the Somali perception, would make it very difficult for the Somali Service to present current Somali news in a completely neutral fashion. The situation is compounded by recently reported appointments to the Somali Section which appear to have altered its clan balance in favor of this grouping (Employment Tribunals, London, Case No. 6000066/02 & others, p. 5).⁶⁸

The judges underscored their skepticism about Lewis's impartiality by noting that, "we accept Lewis is an eminent authority in the field, but the above-quoted remarks do cause us some concern when considering the objectivity of the evidence." Second, the tribunal accepted Lewis's tactical agreement, under the pressure of cross-examination, that Somali clans do not constitute distinct ethnic groups. However, the court found wanting Lewis's other claim, that Somali genealogical groups constitute different racial groups. After carefully examining the evidence, the tribunal concluded that Somali clans do not meet the requirements of the RRA. The court commented, "in both the two essential characteristics we conclude that the applicants fail Lord Fraser's test. However for the sake of completeness we shall consider the other relevant characteristics which he identified." The tribunal's ultimate conclusion, after examining the Act's remaining features, was this:

[B]ecause of the disparate nature of the Somali clan system, the fact that it is constantly watered down by the facility of intermarriage between clans, and the failure to satisfy most of the tests laid down by Lord Fraser, we are led to the inevitable conclusion that the Somali clan system is not of a sufficient racial flavour to bring it within the express provisions or indeed the mischief of the Race Relations Act 1976. The claims of race discrimination brought against the respondents are therefore dismissed (p. 9).

After considering all the Act's features, the arguments, and the evidence presented pertaining to Somali genealogical groups' ethnic and racial nature in the context of the British Race Relations Act 1976, the tribunal unambiguously resolved as follows:

The unanimous decision of the Tribunal was that 'the membership of clans in Somali society does not amount to membership of a racial or ethnic group within the meaning of section 1 and 3 of the Race Relations Act 1976. The claims of race discrimination are therefore dismissed in respect of all the applicants' (p. 1).

Once the tribunal rendered its judgment pertaining to the racial and ethnic basis of Somali "clans," it then set a date to examine the remainder of the applicants' claims that their dismissal amounted to "unfair and a breach of contract." Several months later, and after some consideration, the applicants withdrew their case; in exchange, the BBC did not demand that the applicants cover its court costs.⁶⁹

XV. Conclusion: Implications of the Decision

Two major threads run through critiques of certain Western writings on the non-Western world. First, in recent years, that literature has been accused of being Eurocentric, but others noted as much decades ago, as Asad's epigraph above indicates. Second, revisionist political economists have established that the qualities Eurocentric literature identified with "traditional societies" are of recent origin. For instance, three decades ago Samir Amin's insightful article established that the so-called traditional societies under colonialism were anything but traditional.⁷⁰ Amin made his case by showing how colonial regimes restructured and reoriented economies to serve European interests and how such transformations distorted those societies' internal dynamics and logic. In a parallel fashion, Mamdani's recent work has exposed how colonialism distorted African cultural traditions and produced political identities that nominally mimic the old culture but have essentially turned it inside out. Traditional social anthropological studies of Somali society avoided engaging these Africanist ideas, pretending that Somalis were a unique breed. As Lewis puts it, "the first thing to underscore about the Somalis is that they are not as other men."⁷¹ Some perceptive colonial administrators of the former British Somaliland doubted some of the main tenets of Lewisian anthropology long before

Lewis came to Somalia with the advent of the Colonial Development and Welfare Funds. In 1946, Brigadier General T. Fisher, then military governor of Shiekh, pointed out the importance of careful analysis and warned against imposing “standard” assumptions about tribal societies on Somalia:

A form of tribal administration would be particularly convenient in British Somaliland; but unfortunately, there are no indigenous institutions here, nor are there any recognized leaders through whom authority can be exercised. The unit may be said to be the family—if not the individual...*If a tribal system ever existed in the Protectorate, which is not certain, it was destroyed by the Egyptians who preferred direct control communicated through Aqils who were government servants rather than tribal representatives, to indirect control exercised through native chiefs...*What the present government has been trying to do is to establish...some form of organized responsibility, within the existing tribal or sectional structures...Parallel with this, we have started some native courts, and town committees, which are thought to be showing some promise, but they cannot be said to be tribal in their composition; while the laws and regulations which they administer are *our* laws and regulations—not indigenous ones...Our type of administration requires trained and literate personnel...Somalis, though at present illiterate, are extremely quick to learn; and when educated, show signs of being able to exercise authority; and it is perhaps, be safe to say that that the most influential people in the country today are clerks and traders... . It is therefore thought that the natural leaders will be found as a product of our schools, rather than as elected or self-appointed members of our tribes...*We shall therefore be well-advised not to try to impose on the Somalis a bogus system of native authority, or delude ourselves that such a system can be artificially devised.*⁷²

Fisher, despite his patronizing and racist attitude, was sufficiently perceptive to capture the distinctions between genealogy and “tribal politics,” although the colonial government retained its commitment to the latter. He recognized that colonial engineering of tribal politics could not work in Somalia, as “traditional” tribal authority did not exist in this society. The distinction between genealogy and tribalized political authority, which Fisher recognized sixty years ago, has eluded the leading Western anthropologist and many others writing on Somali society.

Somali cultural and literary analysts have, at least since independence, warned about the human and social costs of fraudulent tribal politics. Abdillahi Sultan Timaade’s insightful premonition and those

of many other Somali cultural leaders, such as Hadrawi, have been borne out. Here is an extract from Timaade's prescient 1968 forecast:

Darajada Ilaahay ninkii doonaya helae
[Those who labour for Allah's blessing earn it]
Nin ka duday distoorkiyo waxyiga diinti ka carrowye
[Those who stray from the constitution and the divine revelation remain
outside the faith]
Dugsi male qabyaaled waxay dumiso mooyaane
[Clanist politics provide no solace, it only destroys]
Hadayaan xumaanta iyo dilka daynin kala qaadka
[If we do not terminate this savagery and mend our ways]
Dibaddan ka joogna sharciga dacadda Illahe
[We are beyond Allah's grace]
Danbarkeedu waa jahanamiyo dogobki naareede
[And its reward is Jahanama, the cruelest purgatory of all]

Rather than engage the wisdom of Somalia's leading cultural practitioners or Africanist academic analysts by challenging the sectarian political tide that engulfed the Somali people, Lewis saw the crisis as an opportunity to secure his legacy by imposing his theory on Somalia. As a result, he has tirelessly campaigned to convince international donors, particularly the European Union, that his clan-based vision for Somalia is the most suitable and realistic plan for reconstructing *political* authority in this society.⁷³ The BBC case seemed a heaven-sent opportunity for Lewis to ground his theory in British law, with the hope the rest of the world, and particularly Europe, would follow suit. His tactics in the case vindicate Asad's description of anthropology as an enterprise "*carried out by Europeans, for a European audience of non-European societies dominated by European power.*"⁷⁴ Lewis's impudence in dismissing Somali scholars and their reading of this society as atavistic, lacking in the objectivity of a European, or as too assimilated and Westernized to understand traditional Somali cultural values, confirms earlier critiques of social anthropology. The only "real" Somalis are those who adhere to Lewis's master narrative.

What might have been the effects on Somali life if the tribunal's verdict had been for the applicants and thus sanctioned Lewis's argument? At least four major potential impacts can be discerned. Conceptually, the ruling would have reinforced the notion, present in much of the literature, that *genealogy is politics* and that a Somali's political identity is fixed from the day of his or her birth. Second, an affirmative deci-

sion would have set a critical legal precedent in the United Kingdom, and ultimately in the European Union, that Somalis consist of distinct ethnic and racial groups. This would have enhanced the credibility of sectarian assertions that Somalia should be divided into clan fiefdoms, which would institutionalize ethnic politics.

Third, a verdict in favor of the applicants would have established clan representation as the foundational criterion for allocating employment opportunities in the Somali world. This would relegate merit to the professional dustbin and would have unimaginable consequences for public life. A genealogy-based standard would reinforce current staffing patterns in public enterprises that privilege clan identity over calibre and citizenship. The current deployment of a clanist yardstick to allocate opportunities has already created new fault lines between and within communities, as donors succumb to sectarian political activists' wishes. Non-governmental organizations, U.N. agencies, European Union representatives, and many other donors use clan identity as a litmus test in employing Somali staff inside and outside of the country. The first question they ask a candidate is, "What your clan identity?" Only those who are deemed to "belong" are employed, thus reinforcing social fragmentation. This practice is not limited to employment; it also extends to the provision of social and humanitarian services. Galkayo, a town in northeastern Somalia, provides a telling example of the problems created by using a genealogy-based standard to allocate public goods. The civil war has torn Galkayo into two parts, each ruled by a sectarian leader. When a Swedish NGO approached the town about constructing a health clinic in the community, each group demanded a separate health facility. The NGO yielded to the ultimatum and established two clinics where one would have sufficed.⁷⁵ Ironically, enhancing genealogical division and locking people into clan ghettos was at the centre of the colonialists' divide-and-conquer strategy. Today, international humanitarian and development agencies in Somalia indulge in this practice with impunity. In so doing, these agencies fuel a sectarian rather than a civic agenda, despite their claims to the contrary.

Fourth, an affirmative ruling for the applicants would have sanctioned the notion that Somalis cannot assess one another professionally, even in British institutions such as the BBC, and will always favor individuals from their own genealogical group even when they are unqualified. Lewis refers to this idea in his presentation when he writes, "Recently reported appointments to the Somali Section...

appear to have *altered its clan balance in favour of this grouping*" (emphasis added). It is germane to note that Lewis had never criticized the BBC Somali Service for the clan imbalance of its Somali employees prior to this case, despite the existence of such an imbalance. If this advice were accepted, it would undo the progress made by the BBC World Service in giving skilled speakers of native languages opportunities to head various language departments. Had Lewis's arguments prevailed, only non-Somalis would be able to evaluate Somalis' qualifications, and "native" Somalis would never be able to overcome their ingrained "malady." This assessment may seem harsh, but the record demands such a judgment. For example, the EU-sponsored study that Lewis directed contains not a single Somali-authored chapter. None of the eight contributors, apart from Lewis, had done any prior work in Somalia. The implicit message of Lewis's report is that Somalis are *analytically* incapable of contributing to a report of such national import because of their clanist tendencies; this perhaps is unsurprising, given his claim that a Somali's guiding principle is "my clansmen right or wrong." Alternatively, Lewis may also be suggesting that Somalis of this caliber do not exist. The obvious conclusion, since it is known that the latter suggestion is erroneous, is that only non-Somalis of British or European extraction have the knowledge, wisdom, and analytical sagacity to discern the Somali people's future. Accepting Lewis's proposal by genealogizing political identity will deepen the political and institutional legacy of colonialism and push Somalia further down the slippery slope, which Timaade warned against nearly forty years ago, and whose ultimate manifestation is the likes of the Rwandan genocide.

Notes

1. Samatar and Samatar 2003.
2. Heinrich 1997; Svensson 2004.
3. It seems that the new ethnic divisions are similar to the old colonial indirect rule. I thank Dr. Luckman of the University of Sussex for pointing this out. Aalen 2002.
4. A. I. Samatar 2004; Turton 2006.
5. Giley 2004; Welsh 1996; Yeros 1999.
6. Asad 1973.
7. Mamdani 1996.
8. Mamdani 2004.
9. Mamdani 2004, p. 5.
10. *Ibid.*, p. 6.

11. *Ibid.*, pp. 7–8.
12. Vail 1989; Abdi I. Samatar 1989.
13. Mkandawire 1999.
14. Odhiambo 2004.
15. Early exceptions include Swift (1977), Aronson (1980), Gesheckter (1982), and Cassanelli (1982).
16. The exception here is Abdi Shiekh Abdis (1977).
17. Ahmed I. Samatar 2002.
18. A. I. Samatar 1989.
19. Abdi I. Samatar 1989, p. xiii.
20. Cassanelli 1982; Besteman and Cassanelli 1996; Little 2003; and Menkhaus 1989.
21. Kapteijns 1995; Kapteijns and Ali 1999; Besteman 1999; and Abdi 2006.
22. Abdi I. Samatar 1989; Abdi I. Samatar 1992.
23. Afrax 1994; Ahmed I. Samatar 1995; Abdi I. Samatar 1997.
24. Ahmed 1995.
25. Mukhtar 1995.
26. Ahmed I. Samatar 1994.
27. Afrax 1994.
28. Kapteijns 1994, 1995.
29. Abdi 2006.
30. Besteman 1998, 1999.
31. Besteman and Cassanelli 1996.
32. Peter Little 2003.
33. Heinrich 1997; Abdi I. Samatar 1997, 2001.
34. The late Somali lawyer and journalist, Yusuf Duhul, who was the most articulate critic of the Somali government in the 1960s, pointed to the importance of keeping ethnic politics out of public affairs. “One thing is indisputably certain,” he wrote. “It had never even occurred to the Aden/Abdirazak team to look into the possibilities of applying the norms of Somali tribalism to the state, or its institutions and functions. One reason for such disregard of any thought is that the applying of tribal norms and criteria to the state and its institutions would have been then a flagrant violation of the Somali constitution...Paradoxically, the principal target of the Dalka’s verbal violence were the governmental team of the first president...and his choice of Prime Minister...whose government is now accepted by all to have been the best Somalis ever had. Dalka itself was not oblivious, even then, of the fact. Stating it openly, however, would have been as despicable and venal...Dalka then noted [that]...the basic distinguishing feature of the...team was the fundamental factor underlying the political framework...[it was] consensual...One of the results of such consensual approach was the removal of the need to resort to political violence. Hence, [neither] the government nor its opponents considered intimidation as an instrument to use in the political arena...The advantage of this system of mutual tolerance...included...freedom from physical intimidation and the resulting worry about their personal safety. Consequently, one of the common sights [in Mogadishu] of the period was to see the PM...sitting in Juba Hotel, sipping a cup of tea

while dueling verbally with the critics of his government. He would, at the end, calmly walk, usually alone, to his house...An equally familiar sight of the period was to find the President of the Republic...performing his Maqreb prayers, beside his small Fiat, alone or with an ad hoc prayer gathering on the roadside. There just were no reasons then for either of them to worry about his personal safety" (Duhul 1996, pp. 2-4).

35. Abdi I. Samatar 2001.

36. Lewis 1992, 1994.

37. Mamdani 1996.

38. The BBC staff union disliked long-running casual contracts and asked the head of the Somali Section to terminate this practice. The latter did not like the idea of terminating casual staff; instead they simply rearranged the contract by reducing the number of casual contracts. Yusuf Garaad became head of the Service and inherited the decision to terminate the casual contracts. Abdillahi told Garaad to terminate all the casual staff, but the latter declined to do so (Haji 2005).

39. Abdillahi Haji indicated that there were no disagreements between him and Garaad over the short-list of candidates (Haji 2005).

40. Blackburn 2002; Garaad 2002.

41. Blackburn 2002.

42. In September 1999, two applicants told me that Lewis had encouraged them to do this.

43. *Race Relations Act 1976* (U.K.), c. 74.

44. *Ibid.*, s2 Q91.

45. Lewis rewrote his first submission after Samatar responded to his original version. The second version is much longer than the first but does not differ in any substantive way. This second version is not included in the paper; for the sake of fairness, Samatar's response to the second draft is not included either.

46. Samatar and the respondent's lawyers decided not to forward Samatar's last word until the court hearing began.

47. As late as 1993, Lewis wrote that, "Somali form a single ethnic unit in the Horn of Africa stretching from the Awash Valley...to beyond the Tana river" (Lewis 1993, p. 9).

48. Lewis revised his first submission only after Samatar responded to it. The resubmission is not included, as nearly all of its substance is redundant.

49. Here Lewis clearly equates genealogy with politics and turns Somali history into a tomb. Lewis's strategy seems similar to what Mamdani described as ethnic politics.

50. Lewis is unable to describe how the warlord- and big-men-driven ethnic politics is democratic and why the majority of adults are disenfranchised in such operations. Again, Lewis confuses past practices in pre-colonial times with contemporary operations without attending to the qualitative transformation of these practices.

51. Given these claims, the author has no way of explaining the incredible number of conflicts within genealogical groups in each region of the country.

52. Only in a few circumstances is this possible. For instance, it is in no way possible to distinguish between Dulbahante and Habar Yonis names in northern Somalia.

53. Lewis apparently missed the Somali Youth League (SYL), the most important political organization in Somali history. Many other political and social organizations have had similar qualities.

54. Lewis is unable to fathom the fact that members of such a group, and most other Somalis, do not deny their genealogy but reject political ethnicity as a method of conducting public affairs.

55. Again, this ahistorical interpretation of the Somali fails to see that under the aegis of *Xeer*, Somalis did not twist justice to favour their closest genealogical kin. If the latter were standard practice, then *Xeer* would have been a farce.

56. Lewis's response to Garaad's written testimony is not included in the text, but is presented here for the sake of completeness. This passage from Lewis responds to Garaad's remarks: "Mr. Yusuf Gerad, of course, writes as a journalist specialising in Somali issues. Nevertheless, his statement contains a few errors and omissions, which, at the risk of sounding censorious, it seems worth pointing out. Mogadishu is alas no longer an 'extremely multi-cultural city.' Prior to the recent conquest of the city by Mr. Yusuf Gerad's Habar Ghedir clansmen, and even under the regime of the dictator Mohamed Siad Barre, it was indeed so. But not now: it has become a predominantly Hawiye town (or more accurately, ghost town). [On the] population [issue], there was actually a census, although its findings were much disputed, during the Siad era.

"Hargeisa does not accept that it any longer forms part of Somalia, having recently held a national referendum (overwhelmingly supporting independence). Mr. Yusuf Gerad is well aware of this as it was reported by the BBC (including his own service) among other media.

"[On] Abdulqasim Salad Hassan's 'transitional government': This organisation, which has not been elected by the national Somali electorate, and is of debatable constitutional legality, owes its existence to a UN sponsored conference held over many months at the town of Arta in the neighbouring mini-state of Djibouti. It has no mandate outside the small part of Mogadishu it might be said to precariously 'control,' and while vigorously promoted by the UN secretariat, has failed to gain diplomatic recognition beyond a section of the Arab League. Of the neighbouring east African states, Mr. Abdulqasim's regime has been officially recognised only by its patron Djibouti (whose President is widely reported as sharing his business interests).

"The governments of Ethiopia, Kenya and Uganda who take a keen interest are evidently waiting to see what happens, and have not recognised the 'Arta' faction as its Somali opponents call it. This is also the position of the European Union whose member states have so far not accorded Mr. Abdulqasim diplomatic recognition.

"[On] powerful warlords: it is not quite true that the two most powerful warlords in Mogadishu belong to the same 'subset' as Mr. Abdulqasim (and Mr. Yusuf Gerad). They actually belong to a different Habar Ghedir 'sub-set,' the Sa'ad lineage. Moreover, the person who is generally regarded currently as the most powerful warlord is Muse Sudi Yalahow who belongs not to Mr. Yusuf Gerad's Hawiye sub-clan (the Habar Ghedir) but to the Abgal sub-clan.

"[On the] definition of clans and their number: as indicated in my submission, I would contest this assertion which seems poorly informed, and I find it interesting that he only lists the majority clan in Somaliland (the Isaq) marginally. This is, I believe, quite a common Hawiye (mis)perception.

"[On] language: Mr. Yusuf Gerad is not a professional linguist and his remarks about the 'dialect' spoken by the Digil-Mirifleh, as they call themselves, are somewhat inaccurate. The speech of this large and important Somali clan group (known as 'Af Maymay') is about as different from 'standard' Somali as Portuguese is from Spanish. It and standard Somali are not actually mutually intelligible.

"[On] the Somali term for 'clan'-qabail': this Arabic loan-word is indeed used by Somalis. But the commonest and more authentic Somali term is 'tol.'

"[On] clan-based history: here Mr. Yusuf Gerad objects to my statements about the clan-based organisation of saints' cults. I think the facts are otherwise and more complex than he appears to suppose and would refer him to my recent book *Saints and Somalis*."

57. Lewis is apparently oblivious to the revolution in geographic thinking since the early 1970s and has not read much literature in other social sciences dealing with politics and identity.

58. Note the contradiction between the italicized sentences.

59. For the record, Samatar met Garaad only once (in a coffee shop) before the BBC approached him to join its team in the case.

60. Shiekh Abdi, 1991.

61. Lewis, 30 August 1992.

62. Lewis 1969.

63. Said 1978, 1981; Vail 1991; and Mamdani 1996.

64. Lewis 1981 [1993], p. 9.

65. Lewis 1988, p. 4.

66. I have eliminated Ms. Lewis's discussion of the RRA section that identifies the key yardsticks of the Act, as this information is included in Mr. Clarke's submission (paragraphs 1 and 2).

67. This is an inaccurate statement, since Samatar did most of his primary and secondary education before the establishment of Somali script, as well as before the so-called burial of "clan politics."

68. Note that Lewis assumed that employment of Somalis in the BBC should reflect "clan balance." Strangely enough, before the recent hires, the majority of the BBC's Somali employees were Northern Somalis; however, Lewis had never noticed this "imbalance" before. I may also add that of the current employees, four were in Samatar's cohort from Amoud Secondary School.

69. Correspondence from BBC legal team to the author. The applicants confirmed this information.

70. Amin 1972.

71. Lewis, 30 August 1992.

72. Brigadier General T. Fisher, Military Governor, Shiekh, to Foreign Office, 31 January 1946. (PRO, FO 1015/132.)

73. Lewis 1995, 2002.

74. Asad 1973.

75. Forum SYD 2002.

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