

*This is the text (in Somali) of an interview with **Jamhuuriya newspaper** (printed in the daily paper and on the online edition) in early April 2008 before the Guurti announced the extension of the term of the President by a period of one year.*

The title is “Disorder that does not exist in the country will not bring about a constitutional term extension, but an unconstitutional term extension may lead to disorder”. This refers to the only clause in the Constitution which allows the Guurti to extend the term of the president but only on condition that the security situation in the country has made it impossible for the election to be held before the end of the presidential 5 year term. Everyone was aware last year (and the National Electoral Commission, as well as the three parties declared) that the electoral registration will not be completed before the end of the terms of the local councils in December 2007 and the end of the term of the President on 15 May 2008. That was and is still the main reason for the delays in the elections.

The interview examines the constitutional provisions and, as there are no specific provisions addressing this scenario, the options available within the spirit & guiding principles of the Constitution. In such a situation, an agreement reached between all the three parties and the NEC (and endorsed as a on-off short “sunset” law passed by the both Houses and the President before 15 May 2008) can be struck so as to ensure that the elections are held on time and agreed arrangements broadly in line with the Constitution are put in place until the presidential elections are held.

My thanks to Khadar & Jamhuuriya for publishing the interview.

Ibrahim Hashi Jama

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Garyaqaan Ibraahin Xaashi Jamac – “Nabad xumid aan dalka ka jirini ma keeneeyso Muddo kordhin distoori ah, laakin Muddo kordhin aan distoori aheyn ayaa nabad xumi dalka u keeneysa”

Khadar Ali Gaas, Jamhuuriya

London (Jam) - Waxa maalmahanba ka taagan wadanka muran ku saabsan dhamaadka mudada xilka ee madaxweyne Rayaale iyadoo ay hadda cadahay in aanay doorashadii dhacayn dhowaan. Haddaba waxa u suurtagashay weriyaha Jamhuuriya Times Khadar Xasan Cali inuu Distoorka waxa uu arrintan muddo kordhinta ka qabo wax ka weydiyo Garyaqaan Ibraahim Xaashi Jaamac oo ah Tifatiraha mareegtada www.somalilandlaw.com , ahna khabiir darsay Distoorka Somaliland oo uu ku tarjumay Af Ingriisi, fasiraadna ku sameeyey. Ibraahim oo aanu wareysigan ka qaadnay ka hor intii aanu soo bixin go'aanka muddo kordhinta ee Guurtidu soo saartay ayaa waxa uu si aada uga digay in ay tallaabo noocan oo kale ah ku dhaqaaqaan Gollaha guurtidu, iyaga oo aan wada tashi la samayn dhinacyada ay arrintan khuseyso sida xisbiyada siyaasiga ah iyo komishanka qaranka. Ibraahim waxa kale oo uu ku naqdiyay wareysigaasi warsaxaafadeedkii madaxtooyadu dhawaan soo saartay ee odhanayay distoorka ayaa u ogol muddo kordhinta madaxweynaha. Wareysigaasina waxa uu u dhacay sidan:

S: Ibrahim, goorma ayay mudada Xilka Madaweyne Rayaale ku eegtahay?

J: Taas waxay ku cadahay Q. 88aad ee Distoorka. In kastoo la dooraty Madaxweynaha 14kii April 2003, muddada xilkiisa oo ah 5 sanno waxay billaabmatay maalintii la dhaariyey oo ahayd 16kii May 2003. Hadaba marka sharciyan la tirinayo mudooyinka, waxa uu Q.110aad ee Xeerka Habka Madaniga ak (1974) odhanayaa “Muddooyinka ku xaddidan bilaha ama sannooyinka waxa lagu xisaabayaa kaalandarka caadiga ah”. Markaas, muddadiisii 5ta sannadood ahayd waxay dhamaaneysa 15ka May 2008.

S: Waa muuqata in aanay dhaceyn doorashadii Madaxweynuhu ka hor 15ka May 2008, Warsaxafdeed Madaxtooyadu soo saartay shalay waxay tidhi Distoorka ayaa u ogol Madaxweynaha in uu xilka sii hayo ilaa mid cusub la doorto. Taas maxaa ka jira?

J: Nasiib daro waxa inoo noqoto in qodbadda distoorkeena oo aan ahayn wax qarsoon ama adag, Af Soomaalina ku qoran, oo ay dawladu ahayd in ay ilaaliso micnihiisa iyo nuxurkiisaba ayay mararna baal maraa, mararna si aan meesha ku jiran u fasirato. Dawladda iyo laamaheeda, waajib ka weyn kan saaran shicibka ayaa ka saaran ilaalinta iyo hirgelinta Distoraka iyo xeerarka. Taasi waa mid. Tan kale markaan u soo noqono weedhan oo ku soo baxaday War saxaafdeed rasmi ah shalay (07/04/08) waxay tidhi “qodobka 83-aad, Farqadiisa 3aad oo si cad u tilmaamaysa in Madaxweynaha iyo Madaxweyne ku xigeenkii hore ay sii wadi doonaan hawlaha ay u xil saaran yihiin ilaa Madaxweyne iyo Madaxweyne ku-xigeen cusub la soo doortaa kala wareegaan xilka.”

Fikradani waa mid lala yaabo oo mindhaa waxaaban is idhi malaha haddi Madaxweynaha iyo cida la talisaa ay sidan u arkaan distoorka, wax ku kalifaya in ay qabtaan doorasho maba jiraan. Arrintan hadday ceynkaas tahay, maxaaba looga haadlaya awooda kordhinta mudada ee Guurtida! Maaha arrintu ceynkaas oo Qodobkan 83(3)aad iyo kuwa ku ladhan waxay ka hadlayaan hababka loo dooranayo Madaxweynaha oo ah sidan:

- “1.Waxa Madaxweynaha iyo Ku-xigeenka Madaxweynaha lagu dooranayaa qaabka doorashada guud oo toos ah; isla markaana qarsoodi ah iyaga oo isku lammaan.
2. Doorashada Madaxweynaha iyo Ku-xigeenka Madaxweynaha, oo isku mar loo codaynayo, kuna salaysan habka u codaynta liistada, waxa la qaban doonaa bil ka hor dhammaadka muddada xilka Madaxweynaha hore.
3. Madaxweynaha iyo Madaxweyne-ku-xigeenka hore ayaa sii wadi doona hawlaha ay u xil-saarnaayeen ilaa Madaxweynaha iyo Ku-xigeenka cusubi kala wareegaan xilka muddo bil ah gudaheed.
- 4 Waxa loo aqoonsanayaa inay doorashada Madaxweyaha iyo Ku-xigeenka Madaxweynahu ku guulaysteen labada qof ee magacyadoodu ku sheegan yihiin liistada hesha codadka ugu tirada badan.”

Faqraddan 3aad waxay ku kooban tahay marka ay dhaco doorashado oo Madaxweynaha xilka haya ayaa sii heynaya muddo cayiman oo bil ah oo uu ku wareejinyo xilka kan cusub ee lasoo doortay. Taasi waxay la mid tahay doorashada Madaxweynaha Mareykan oo sharciyan si haya xilkiisa mudada u dhaxeysa doorashada oo ah Noofambar horaanteedda iyo xil wareejinta oo ah Janaayo dhamaadkeeda.

S: Ibrahim Markaas muddada kordhinto siday ku iman karataa?

J: Albaab kaliya ayaa jira oo ah mid loogu talo galay mudaddii kal guurka ahayd ee aynaan haysan nabadgalyada taabka ah iyo xisbiyo dhisan oo aniga ila ah in ayno si dakhso ah uga saarno distoorkaba. kaasi waxa weeye Qodobka 83 (5) ee distoorka oo dabo socda 4ta faqraddood ee kale ee aan hor ku xusay, waxaanu odhanya:

“5. Haddii ay suurtoobi weydo duruufo la xidhiidha nabadgelyada darteed in la qabto doorashada Madaxweynaha iyo Ku-xigeenka Madaxweynaha marka muddadii xilkoodu dhammaato, waxa Golaha Guurtida waajib ku ah in ay muddada xilka u kordhiyaan Madaxweynaha iyo Ku-xigeenka Madaxweynaha, iyaga oo tixgelinaya muddada dhibaataada lagaga gudbi karo; doorashaduna ku qabsoomi karto”

S: Maxaa lagu tilmaami karo nabadgelyo darri, haddi metalan qas uu ka dhaco metalan magaalo ka mid ah wadanka ma la odhan karaa nabadgelyo darro ayaa wadanka ka jirta oo suurta gal ma aha ina doorashda la qabto?

J: Horta marka hore waa in ay wadanka la soo deristo xaalad nabadgelyo darro ihi (security consideration), tan labaadna waxa weeyi xalaadaasi waa ina aay gaadhay heer aan marnaba la qaban karin doorashada Madaweynaha nabadgelyo darro awgeed. Waxa aynu xasuusanahay wadankii Jamhuuriyada Somaliya la isku odhan jiray in markii uu dagaal la soo darsay 1964kii, ay doorashadii sideedii u dhacaday oo lagu tiraabay gacana qoriga ha lagu heysto gacana halagu codeeyo! Haddaba jawaabta waxa weeyi shil amba qalaanqal aan fidin oo goob qudha ama goobo cayiman ka dhacaa laguma sifeyn karo nabadgelyo darro doorashadiina ka dhigaya waxaan marana suurtoobeyn. Bal aynu xassuusano doorashii 2003kii wadanka waxaa jiray meelo aan xasilloon oo hadana waatii aynu qabsanay

S: Dhowaan waxa la soo sheegay dhowr jeer oo qaraxyo yar yar ay dhaceyn. Kuwaas ma la odhan karaa waa nabadgelyo daro?

J: Alla ha inoo sahlo dhacdooyinkan yar yar e hadda bilaabmay mooye, Somaliland waxya muddo ku faaneysay xasilloni iyo nabad, waana la ogaandoona cida dhacdooyinkan ka dambaysay. Sharciyan laakin, ma aha uun in ay dhacdooyin dhacaan oo addunka oo dhan kuwaaso kale iyo kuwa ka xuniba wey ka dhacaan wadamo nabad ah, ee waa in nabadgelyo xumido ay tahay ta keentay in aan la qaban karin doorasho. Labadaa arrimood waa in ay sidaas isugu xidhnaadaan haddii Qodobkan Distoorka la isticmaalayo. Waxba yeynaan iska indha tirin, sababta ay doorashadu u dhacayn 15-ka May ka hor weynu ognahay oo Kommishanka Doorashooyinka iyo Xisbiyadu waa kuwii kawadatashaday ee isku raacay sanadkii tagay in dib loo dhigo doorashadii Golyaasha Degmooyinka iyo tan Madaxweynaha si loo hirgaliyo diiwangelinta, tiiba maanta weli taagan, wax nabadgelyo xumi oo jirtaana ma aragno ilaa hadda.

S: Sabab kale oo aay Guurtido muddada ku kordhin kartaa ma jirtaa?

J: Jawaabtu waa MAYA. Diiwaangelintu waa arrin hore looga seexday marka dib u dhaceeda waxa keenay qorsha xumi. Haddi la yidhaado taas ayaa keentay muddo kurdhin, wax macquul ah maaha oo waxay la mid tahay qof shaqaala ah oo lagu yidhi hawl hadaad mudaddii ay ku cayimneed ku dhameynweydid, dee iska sii wado ilaa intaad rabtid. Mudda

kordhintu ma aha arrin ay Golaha Guurtidu iyo cid kale toona marka ay doonaanba ay iskaga kacaan, Distoorku sababta qudha ee muddada xilka Madaxaweynaha lagu kordhin karaa waa marka labada arrimood ee aan soo sheegay aay yimaadaan.

S: Guurtidu hadda shireysa maxaad ku odhan lahayd?

J: Odayaasha (in kastoo aan maqalay badankooda anaaba ka weyn oo niman badan dhaxal meesha kusoo galay aya hadda xubinno ka ah) waxaan ku odhan laha hadal gaaban. Korodhsiimooyinkii hore ee iyagubu kasoo horjeeday distoorka, ayaa sumcadiina iyo tan dalkaba dhaawacay mid kale yey idiin raacin. Nabadgalyo xumid aan dalka ka jirin ma keeneyso muddo kordhin distoori ah, laakin muddo koordhin aan distoori aheyn ayaa nabad xumidda keyneysaa.

S: Ibraahim, Miyanay Guurtidu mar hore Madaxweynaha muddo u kordhin?

J: Haa oo markii ugu horeysay intii aynu Distoorka 1997kii lasoo baxanay, waxay ahayd 12/1/2002 markii ay soo sareen Go'aan ((GG/JSL/Kal-fadhi 16/Go'aan-3/1/2002) ay mudada xilka Madaxweyne Cigaal oo ku ekeyd 23/2/2002 oo ay ugu kordhiyeen hal sanad, iyagoo cuskanayey Q.83(5) ee aan hore ka soo hadlay. Ra'yigeyga iyo kan Gudidii Distoorka ee Somaliland Forum markaas sidan uunbuu ahaa oo qoraal dheer oo Guurtidu in yar ka soo xigatay ayaanu u qornay oo aanu ku nidhi Qodabakani idiinma ogala kordhin ee wada tashi iyo dawlad loo dhanyahay waa in laga xaajoodaa. Waqtigaas ururada siyaasadu way bilaabmen, laakin meynaan weli gaadhin heer ay kusoo baxaan 3da Xisbi ee distoorka ku cayiman. Bal markaas Guurtidu waxaabay isku dayeen in ay dhageystaan tallooyinka ay soo jeediyaan ururadu oo waxay u saareen Guddi ay ku magaaceeben "Gudida La-tashi & Xog-waraysiyo". In kasto aan qabo go'aanka ay gaadheen oo ku saleysan Q.83(5) uu khalad ahaa, dee barigaa kumay deg degin, oo may baran kali tashiga ka muuqatay korodhsiimaddii mudadooda iyo kuwii kale.

S: Sideebaad u aragtaa dhawaaqa aay Guurtidu ku dhawaaqday ina aay Golayaasha Dawladaha hoose muddadii u kordhiyeen bishii December 2007kii?

J: Heerka ay maroorsiga awoodo aanay lahayn ka gaadheen Guurtidu, waxa ka mid ah korodhsiimada ay muddodoodii ay iyagu ku sameysteen 2006kii iyo korodhsiimada muddada Golyaasha Degmooyinka. Meel allaale meel Distoorka iyo Xeerarka Somaliland ay kaga qorontahay awoodahaasi ma jiraan. Awoodaha aan sharcigo laamaha dawladda siinin waxa leh oo ay u yaaliin ummada oo sida Q.2aad ee Distoorka uu dhigayo, "awoodda iyo karaamada Qaranimada waxa leh shacbiga", shacbigaana awoodaha qaar cayimin siiya dawladda iyo laamaheeda. Markaas, maroorsiga ay wax dawladu si sharci daro ula wareegto awood aan la siin waxay la mid tahay nin inta uu dhul aad leedahay iska boobay, maalin welba soo korodhsadda oo ku yidhaada intan kalena anaa leh, waatan intii horeyba qaate. Hay'ada dawladu haddii aay maroorsato sharci aanu Distoorku awood u siinin wa waxba kama jiraan; arrimahaase oo kalana maaha kuwa "qiyaas ahaan" (analogy) lagu fasiran karo, waayo distoorka saldhigiiso waa kala xadeynta iyo dheelitirka awoodaha laamaha dawladda (separation and balance of powers). Haddi laan dawladu ay iska marroorsato awood aan distoorka iyo xeerarku siin dee waa fawdo. Taasina waa ta ka dhex dhalisay in 3-da Gole ay

madaxa isla wada galaan, xukumadiina u soorta gelisay in aanay Baarlamaanku si cad ula xisaabtami karin.

S: Marka ma waxa aad leedahey muddadii aay Guurtidu u kordhisay doorashada dawlada hoose bishii December 2007 waxa aay aheyd mid aan sharciga waafqsaneyn

J: HAA, oo waxa ay ahayd mar haddi ay isku raaceen xisbayada iyo Kommishanka Doorashooyinka, Baarlamaankuna aqbalsanayahay, ay Golaha Wakiilado halkay ka aamuseen oo maraakaas ay soo siibtay Guurtidu, ay iyagu sharciyenta arrintan bilaabaan. Mudada Golayaasho oo dhami waxay ku cayimantahay Distoorka oo tan Golaha Degmooyinka waa Q.111(7) ee Distoorka. Bedellaad kooban ayey Goluhu soo jeedin lahaayeen iyagoo raacaya habka ku qoran Q.126aad ee Distoorka, laba bilood dabadeedna iyaga iyo Guurtida aya sidaas ku dhameynaya bedellaada kooban. Tani laakin waa in ay ahaata mid laysku wada raacsanyahay oo wada tashi ku timid.

S: Markaas wixii aan distoorka ku jirin sida Korodhsiimadan hadda, sidee go'aan looga gaadhayaa?

J: Waxaa arrimahaas lagu dhameynkara iyadoo dib lagu noqdo mabaadi'da distoorka. Horta distoorkeenu wuxu ku saleysan yahay mabaadi'da ku xusan Araarta iyo qodobdo gudahiisa ah oo fasiraadiisa iyo buuxinta dalooladiisa loo maro, kuwa aaraarta ku jira waa:

1. Shareecada Islaamka.
2. Go'aan qaadasho ku timaadda talo-wadaag.
3. Isu-dheellitirnaanta awoodda dawladnimo oo u qaybsanta; Sharci-dejinta, Fulinta iyo Garsoorka.
4. Baahinta iyo hoos-u-daadejinta maamulka Xukuumadda (Decentralisation).
5. Damaanad-qaadista lahaanshaha gaar ahaaneed iyo xaq dhowrida suuqa xorta ah.
6. Qiimo-weynida nololaha qofka oo la imanaysa sugidda xuquuqda asaasiga ah iyo xorriyadaha qofka.
7. Nabadgelyo iyo habsami kula dhaqanka dawlada gobolka iyo adduunweynaha. Waxa raacsan intaas arrimaha saldhigga u ah distoorka ee ku xusan Qoddoba 127-aad ee Distoorka, kuwaas oo ah:
8. Midnimada dalka (Israacsanaanta dhul-ahaaneed).
9. Mabaadi'da talo-wadaagga iyo hannaanka xisbiyada badan.

Markaas waa in la raaca himilooyinka saldhigga u ah Distoorka oo lagu xallilaa wixii inagu soo kordha wadatashi iyo talo-wadaag. Wixii sidaas laysku raaco, ayaa sharci lagu soo saarayaa ama lagu bedellayaa distoorka oo markaas lagaga gudbayaa dhibaato kasta oo timaada. Xukuumadana waa in sidaas lagu qanciya. Haddii aan taa la raacin oo markasta Guurtidu iyo Madaxweynuhu ay isugu celceliyaan muddo kordhinta, dee diimuqraadiyadi ma jiri karto.

S: Haddii Madaxweynuhu diido soo jeedinta Baarlamaanka iyo xisbiyadda maxaa la yeelayaa?

J: Horta tan ugu horeysaa, waxa weeye in Madaxweynuhu iyo xukuumadiisa ay fahmaan oo aqbalaan in xilkii ummadu u dhiibatay markii la dhaariyey 16kii May 2003 uu ku egyahay 15-ka May 2008, oo maalintaas wixii ka dambeeyaa haddi aan inta ka horeysa aanay dhicin doorasho, ay muddadi Ummadu xilka igmatay ama siisay ay dhamaatay. Haddii uu Distorkeynu ahaan lahaa mid Madaxweynaha lagaga dooranayo Baarlamaanka, hadal kuba taas ayuu ku dhamaan lahaa, laakiin habka aynu qaadaney waa in uu Shacibigu soo doortaa. Haddaba, iyadoo habka wada-tashiga ah ee aan hore u sheegay loo maro maahee, xilkii wuxu dib ugu noqonayaa shacbiga iyo ciddii ay doorteen ama iyaga matalaya, laakin si dhibaato looga hortagu, waa in iminka wada hadal la bilaaba oo iyadoo danta wadanka laga fakiraayo arrintan la soo afajaro oo hadaf laysku raacsan yahay meel la wada dhigo. Madaxweynuhu iskama indhatirikaro in mudadiisii dhamaatay oo haddii uu sii joogayo muddo caymin, intay tahay iyo dawladda la dhisayao waa in ay la tashi ku timaada. Haddii laakiinse uu ku adkeystu in siddii hore uu wax usii xukumo, oo aanay xisbayadii iyo Golayaashu ka ogalaan, waa keli-talisnimo. Tanina cashar bay u noqoneysa dawlad kasta in ay 5-ta sannadood gudaheed ay ku qabato doorasho xalaal ah.

S: Ra'yiga odhanaaya haddi doorashado wakhtigeedi dib uga dhacdo waa in dawlad ku meel gaadh ah la dhiso sideebuu kuula eeg yahey?

J: Waxaa aan qabaa wa ra'yi meesha ku jira oo haddii lasyku raaco uun u baahan sida aan soo sheegay bedellaad distoor oo kooban oo labadda Gole sameyn karaan, xitaa haday sharciyenyeedu u baahan tahay muddo. Madaxweynuhu wuu ogaa oo waa loo sheegay sannadkii hore dhamaadkiisi in aanay doorashado qabsoomeyn Bisha May ka hore, wax allaale wuxuu arrintan ka qabtayna ma jirin. Ma wuxuu isku haleynayay muddo kordhis Guurtidu u keento?....

S: Muddu kordhinta miyaan markii hore loogu tallo gelin mudaddi kal guurka (transitional provisions) maxaa weli ina daba dhigay haddii aaynu distoor sameysanay?

J: Waa runta oo mudda kordhinta waxa loogu tala galey wakhtigii kala guurka ahaa (transitional) ee wadanka laga dhisaayay Golayaal la soo doortay oo hadda inuu soo dhamaatay. Markaa taas maanta waa la soo dhaafay. Sida awgeed qoddobada mudda kordhinta waa in Distoorka laga saaraa sida ugu dhakhso badan. Dib dembe waa in aan "muddo kordhin" la maqlin haddii aynu rabno in aaynu dhisano bulsho ku waarta nabad iyo horumar. Muddo kordhin ay Madaxweyne iyo Gole aan la soo dooran [Guurtidu] marba isla barbar ordaan, ceeb ayay ku tahay nidaamka diimoqraadiyadda ah iyo mabaad'iida Distoorka.

S: Ugu denbeyn Ibrahim waxa aan ku weydiiyay arrimahan xil kordhintaa hore ma uga hadashay?

J: HAA, oo arrintan xil korodhsiimada hore waan uga hadlay, khaasatan 2002kii, 2003kii, iyo ugu danbeyntii 2006kii markii ay Guurtidu ku dhawaaqeen in ay muddadii isu kordhiyeen. Weligeen doorasho waqtigeedii dhacda ma gaadhayno haddii aynaan caddeyn in dib danbe aan loo aqbalayn muddo korodhsiimo.