

JAMHUURIYADDA SOMALILAND
XEERKA MAMNUUCAYA KA QAYBGELKA SHIRARKA SOMALIA 2003 & WAX KA BEDELKIISI
2012

Law Prohibiting Participation in Somalian Meetings 2003
Update: Amended by a Joint Resolution of the House on 5 February 2012

Go'aankani wuxuu xeer noqday markii Madaxweyne Daahir Rayaale Kaahin saxeexay dhamaadkii 2003.

Xeerku wuxu ku saabsanyahay oo keliya, sida ku xusan Faqradda kowaad, ka qaybgelka shir kasta ama arrin kasta "oo lagaga hadlayo Hindisayaasha Somalia ama lagu heshiisiinayo dhinac ka mid ah kooxaha Somalia ama iyaqoo isku dhanba".

*This joint Resolution of both Somaliland Houses of Parliament (Ref: JSL/GB/01/10/2003) which was passed on 11 October 2003 became a binding law when President Riyaale signed it shortly after that date. As stated in Clause 1, this Law applies primarily to the "**participation in meetings or any other matters concerning discussions of strategies for Somalia or discussions of settling disputes between various Somalian factions or between all of them**". The inclusion of the word "strategies" signifies that the Law was not just aimed at peace-making meetings but also covers discussions on state building, constitution, government, institutions etc for Somalia. The Law, however, does not cover, in my view, discussions with other countries or with international organisations about issues such as terrorism, piracy, development aid or other matters which are of specific concern to the region and to both Somaliland and Somalia so long as these discussions are also beneficial to Somaliland's interests and are not presented or seen as "strategies" for Somalia to the detriment of the independence and sovereignty of the Republic of Somaliland. Neither does it cover, when we reach that stage, internationally sponsored future formal talks between Somalia and Somaliland on post union mutual arrangements.*

With the planned end of the Somalian "transitional status" in 2012, there will be a considerable number of meetings discussing the "strategies" for implementing the recent Somalian "Kampala Road Map" throughout 2012. Somaliland has already made clear its position (which is underpinned by this Law and by the constitution and wishes of the Somaliland people) but we are likely to see in 2012 more "strategies" by Somalians to perpetuate fictional formulas for claiming "inclusion" of Somaliland into their "post transitional" process. Although it was abandoned at the last Djibouti process, we have seen the Arta and the Mbagathi processes' co-option of few individuals that hail from Somaliland and the creation of the fictional "Dir North" Clan. This time a claim that the draft Constitution has being discussed once at an alleged meeting in Hargeisa that no one can verify has already kick started the same techniques we have seen before and there are already indications that, as Somaliland will never accept the Somalian new Constitution, individual co-option has been replaced by encouraging the formation and co-option of bogus Diaspora based "federal units" in parts of Somaliland territory.

The Somaliland Government and the two Houses of Parliament passed this Law in 2003 when the Arta Process was being slowly superseded by the Mbagathi process in Somalia.

2012 also requires a similar jointly agreed policy and law to meet the new challenges, but also, this time round, to enable the Government to conduct a planned but responsive foreign policy that would allow it to maximise, as they arise, opportunities for promoting Somaliland's interests. Whilst in our presidential system of government and separation of powers, the execution of the foreign policy lies with the President, the need for maintaining a broad consensus in 2012 will be ever more pressing and one hopes that we will see the enhancement of the role of the Foreign Affairs Committee of the House of Representatives.

Finally, it should be noted that although the primary aim of this Law is banning participation in the meetings and affairs of Somalia, there are also provisions which address other related offences such as:

- a) Assisting in the arrangements for such meetings or supporting in any way the participation of such meetings.(c. 2)
- b) The transport used intentionally for ferrying people to any such meetings. (c. 3)
- c) The formation of subversive associations. (c. 4)
- d) Spreading in the media news and information which undermines the existence of Somaliland. (c. 5)
- e) Self appointed groups of people claiming the status of an official "council" or "committee" that are outside the constitutional bodies such as the two House of Parliament and the Council of Ministers. (c. 6).
- f) Any one committing the offences in this Law may be offered a pardon after conviction by a court.(c. 7). In my view this Clause overlooks the President's constitutional power under Article 90(5) to grant a pardon or an amnesty. Amnesty can be, and is often, exercised before any court conviction. No law can limit the constitutional power of the President to grant an amnesty.

Editor,

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15/12/2011

UPDATE: 07/12/2012

In a joint Resolution passed on 5 February 2012 (on a vote of 101 for, 3 against and 4 abstaining), the two House of Parliament amended, on the recommendation of the President, their previous Resolution and have added the following two Clauses:

- 1. The Somaliland Government may attend any meetings which are considered as being of interest (benefit) to Somaliland and which do not conflict with the existing sovereignty and constitution of Somaliland.**
- 2. The two House support the participation of the Government in the London Conference (to be held on 23 February 2012).**

Comment: Other than the overwhelming endorsement of the Government's decision to attend the London Conference, the Amendments to the Law give a discretion to the

Somaliland Government to decide which Somalian meetings prohibited under the Law it may attend subject to two overriding conditions that the participation in the meetings should:

- a) be considered as being of interest or benefit to Somaliland, AND*
- b) not raise any matters that might conflict with the sovereignty (and independence) and the Constitution of the Republic (which includes, the immutable principles of the independence, sovereignty, unity and territorial integrity of the Somaliland Republic).*

In view of these two pronged overriding conditions of benefit and no-harm and for the sake of transparency, it is likely that the Government will follow the practice of wide consultation exercises that it has undertaken recently in respect of any future Somalian meetings that are may raise wide concerns similar to those raised by the 2012 London Conference and the 2011 Wilton Park Centre Conference. In contrast, other conferences relating to piracy, terrorism and regional security issues are, from now onwards, unlikely to require consultation or further explanations from the Government and the amendments will lessen the criticisms about the Government's participation that we have seen previously. As stated above, it was my view that this Law did not ban participation in these latter types of initiatives and meetings which are of particular benefit to Somaliland, so long as they did not affect the independence and sovereignty of Somaliland, but the amendments should, hopefully, lessen anxieties and criticisms of such participation.

Finally, it should be noted that the amendments apply only to the Government and not to non-governmental organisations, members of the civil society or individuals unless they are part of an official governmental delegation. The discretion to decide what is of interest or benefit to the nation is rightfully given to the elected President and his Government only and it is of course open to the Government to set up a system of assessing such prospective meetings against the overriding conditions and, when satisfied that the conditions are met, to approve participation under governmental scrutiny and guidance.

Editor

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07/02/2011

GO'AANKA LABADA GOLE GUURTIDA IYO WAKIILADA EE MADAXWEYNUHUNA SAXEEXAY 2003 IYO WAX KA BEDELKIISII 2012

JSL/GB/O1/10/2003 ee 11/10/2003

JAMHUURIYADDA SOMALILAND

Ku: Madaxweynaha Somaliland

Ujeedo: Soo gudbin go'aan Baarlamaan

Fadhi wada jir ah oo ay yeesheen labada gole baarlamaan ee Guurtida iyo Wakiilada oo ay kaga doodayeen xaaladaha siyaasadeed, saamaynta hindisayaasha salaadiintu ay ku yeelan karaan Somaliland iyo siyaabaha looga hor tagi karo dhibaato kasta oo ka iman karta.

Fadhiyada Wada Jirka Ah oo socday mudadii u dhaxaysay 8 ilaa 11-kii bishii 10aad 2003, waxay golayaasha Baarlamaanku ka soo saareen go'aankan halkan ku lifaaqan

Golaha Baarlamaanka Somaliland:-

Wuxuu go'aamiyey

1. In cid alaale iyo cidii ku abtirsata Somaliland, dawladd, shicib, Afraad, Ururo, Axaab, NGO-yada, Aqoon ayahanada, Madaxdhaqameedyada, Suugaan yahanada iyo dhamaanba noocyada ururada Bulshada aanay sinaba uga qayb gali Karin shir kasta iyo arin kasta oo lagaga hadlayo Hindisayaasha Somalia ama lagu heshiisiinayo dhinac ka mid ah kooxaha Somalia ama iyagoo isku dhanba.
2. In cid alaale iyo cidii ku abtirsada Somaliland ee ka qayb gasha shirarkaas ama abaabusha ama ku taageerta sifo kasta Qawl, Ficil iyo Qoraalba kaga qaybgasha wada hadalada Somalia ee qodobkaa 1aad tilmaamayo loo aqoonsado dambiile khiyaamo qaran¹, taas oo waajib ay ku tahay dhamaanba hay'adaha ku shaqada leh inay hor keenaan Maxkamadaha awooda u leh iyadoo la raacayo xeerarka uu tilmaamay dastuurku ee qodobka 130aad farqdiisa 5aad².
3. Gaadiidka cir, dhul iyo badba ee loo adeegsado ama qaada hawlgalkaas waxa laga qaadayaa ruqsadaha sharciga ee ganacsiga ama tan gaar ahaaneedba³.
4. Waxa lagula dhaqmayaa Xeerkan cid alaale iyo cidii isku dayda inay abuurto urur bulsho ama nooc kasta oo ururada rayidka ah oo u shaqaynaya sidii ay Somaliland u minjo xaabin lahaayeen⁴.

¹ Dembiyada ku xusan [Xeerka Cigaabta Guud XCG](#) (1962) (oo ku dhaqankiisa uu ogolyahay [Qod. 130\(5\) ee Distoorka Qaranka](#)) waxaaa ka mid ah [Article 212](#) (falalka ka soo horjeedka Qaranka ee uu ku kaco muwaadin dibedda joogaa oo ciqaabtoodu tahay xadhig aan ka yareen 5 sanno); [Qod. 217](#) (isku dayidda wax ka bedelka aan nidaamka distooriga ah ee sharci ahayn oo oo ciqaabtiiso ay tahay xabsi daa'im ah) iyo [Qod 184](#) (waxyaalaha ku lid ah madaxbanaanida ama miidnimdama Qaranka Somaliland – Khiyamo Qaran oo ciqaabtiiso dil noqon karto). Ku guugaabista dembiyadan waxaa loo cuskanayaa Qodobada 230 ama 231 ee XCG kolba kii ku haboon. Ciddii si caam ah oo dadku ogaankaraan amaana ama guubaabisaa denbiyadaas, Qod. 231 ee CCG wuxu cayimayaa ciqaab ah 3 ilaa 12 sanadood oo xadhig ah.

² Qodobka 130(5) ee DISTOOTKU waxa uu qorayaa:

“Dalka Jamhuuriyadda Somaliland waxa lagaga dhaqamayaa xeerarkii hore loogaga dhaqmi jiray ee aan ka hor imanayn Shareecadda Islaamaka, xuquuqda qofka iyo xorriyaadka asaasiga ah, inta laga soo saarayo xeerar waafaqsan Dastuurka Jamhuuriyadda Somaliland; isla markaas waa in la diyaariyaa xeerarka Dastuurka waafaqsan, waxaana lagu keenayaa xeer walba ugu yaraan muddada uu u xaddido Golaha Wakiiladu.”

³ Haddii uu [si kas ah](#) gaadiidluhu ku qaado dadkan, waa ficil taageero ah oo Faqradda 2aad ee Xeerkan hoos imanaya. Kolkay taasi cadaato, ciqaabata Faqradda 2aad waxa raacyaa waayida liisamada oo ku xusan Qod. 103 ee Xeerka Guud ee Cigaabta. Haddiise aanu kas ahaan arrintan u gelin, laakin uu iska indhatiray amar ka soo baxay dawladda oo ay ku cadaato ku xadgudub amar sida ku qoran Qod. 505 ee XCG, waxaa uu waayayaa liisanka muddo cayiman oo u dhaxeysaa 15 cisho ilaa 2 sano – Qod. 107 ee XCG.

⁴ Qod. 23(4) Distoorka Qaranka ayaa mamnuucaya “urur kasta oo leh ujeedooyin lid ku ah danaha ummadda ama qarsoodi ah ama leh qaab ciidan ama hubeysan amaba kuwa kale ee khilaafsan xeerka weji kasta ha lahaadeene”. Ciqaabta uu muteeysanayo qofkii abuurta ama isku daya abuurista urur lagu minjaxaabinayo

5. Waxa dhamaan warbaahinta Somaliland tan xukuumada iyo tan madaxa banaanka ka reeban inay baahiyaan wararka iyo macluumaadka lidiga ku ah waxna loogu dhibayo ama lagu wiiqayo jiritaanka Somaliland⁵.
6. Dalka waxa sharci ahaan ka jira saddex gole qaran oo kaliya sida ku tilmaaman distoorka, waxa reeban in cidina sheegato gole kale oo aan ahayn kuwa distoorku tilmaamay, waxa lagu fulin doonaa talaabooyinka sharci ee u yaala sheegasho wax aanay ahayn⁶.
7. Qofkii loo qabto inuu ku kacay qodobadan kor ku xusan waxa la cagin karaa xukun maxkamadeed ka dib⁷.

Go'aankan waxa lagu meelmariyey cod u qaadis Baarlamaan oo ay ogolaadeen 84 mudane halka ay ka diideen 2, laba mudanena ka aamuseen, kooramkana ay fadhiyeen 88 mudane⁸.

Dhaqan galka qodobadan waxa loo adeegsanayaa sida ku cad distoorka qodobka 130aad farqadiisa 5aad.

Go'aankaasi oo ay ku saxeexnaayeen shirguddoonada labada aqal ee Baarlamaanku

1: Guddoomiyaha Golaha Guurtida
Sheekh Ibraahim Sheekh Yuusuf Sheekh Madar

jiritaanka Somaliland waa ugu yaraan xadhig ah lix bilood ilaa laba sanadood oo ku xusan Qod. 214 ee XCG (ururada ku lid ah qaranka).

⁵ Qod. 328 ee XCG ee ku saabsan fidinta wararka beenta ah ama la buuniyey si xasilloonida wax loogu dhimo ciqaabtoodu waa ilaa lix bilood oo xadhig ah iyo gananaax. Danbigani fidinta uun maahe waa in la cadeeyaa qofka galey in uu uga jeeday in uu xasilloonida wax u dhimo. Fidinta warar ama macluumaad si kas ah wax loogu dhimayo ama lau wiiqanayo jiritaanka Somaliland waa faal kan hore ka weyn oo hadduu ka dhaco dalka dibediisa noqon kara dembiga ku xusan Qod. 212 ee XCG (5 sanadood oo xadhig ah), dalka gudhiisana haddu ka dhaco wuxuu noqon karaa dembiga ku xusan Qod. 215 (xadhig 6 bilood ilaa 5 sano). Suxifiga hawshiisa caadiga qabsanayaa, oo warka iyo faalada si miisan ah u tabinyaa, qodabadani dhib kuma aha, laakin suxifigii si kas ah danbiyadan u galaa kama duwana dadka kale ee danbiyadan gala. Sua'alaha uu dhamaan dambigan Xeerkan ku xusani ku iman karo waxa weeye: 1. Warka iyo macluumaadku ma yihiin qaar ku lid ah jiritaanka Somaliland? 2. Ma loogu talo galey si kas ah in lagu dhibayo ama lagu wiiqay jiritaanka Somaliland? 3. Qofka baahinayaana isna sidaas oo kale oo kas ah ma ugu talo galey in uu ku dhibo ama ku wiiqo jiritaankan Somaliland?

⁶ Qod. 273 ee XCG – Ciddii iska maroorsata xil dawladeed waxey mutesaneysaa xadhi ilaa 2 sano ah.

⁷ Faqradani waxay ka hadleysa cafis oo kaliya cafis (pardon) oo caadiyan yimaada marka xukun maxkamadi dhaco. Hase yeeshe Qod. 90(5) ee Distoorka Qaranku wuxu Madaxweynaha JSL siinayaa awood uu ku bixin karo cafis (pardon) iyo saamaxaad (amnesty). Saamaxaadu waxay hirgeshaa xitaa haddii aan qof xukun ku dhicin oo wax kama jiraan bey falka la saamaxey ka dhigtaa. Xeer Distoorka ma bedelli karo, markaa Madaxweynuhu awoodbuu weli u leeyahay in cid kasta oo dambiyada Xeerkan ku cayiman gala ama lagu tuhmo in uu ama cafis u fidiyo marka ay maxkamadi xukunto, ama saamaxaad u fiidiyo ka hor inta aan maxkamad la geynin. Sida Qpd. 144(1) ee XCG ku sharaxan, saamaxaadu waxey baabi'saa falka dembiga ah gabigiisaba, cafiskuna, sida ku xusan Qod. 149(1), wuxu, caadiyan baabi'ya ciqaabta la xukumay.

⁸ Go'aanada labada Goleba ay soo saareen waxay xeer lagu dhaqmo noqon karaan haddii sida xeer u dajisanyihiin oo Madaxweynuhu saxeexo. Madaxweyne Rayaale ayaa Go'aankan saxeexay oo hirgeliyey, waana xeer ah cid kastaa ay ku dhaqto ilaa wax laga bedello.

2: Guddoomiye ku xigeenka 1aad ee Guurtida
Sheekh Axmed Sheekh Nuux Fure
3: Guddoomiye ku xigeenka labad ee Guurtida
Siciid Jaamac Cali

1: Guddoomiye ku xigeen 2aad ee Wakiilada ahaana ku simaha Guddoomiyaha
Cilmi Xirsi Cali
2: Xoghayaha Guud ee Wakiilada
Maxamed Xuseen Cismaan

(Waxaan ka soo xiganey nuqulkan jariidada Haatuf iyo ilo kale – www.somalilandlaw.com)

Go'aankan⁹ waxa labada Gole wax ka bedelleyn 5 Febraayo 2012 oyago ku daray labadan Qodob:

- 1. In Xukuumadu ka qayb gasho shirarka loo arko in dani ku jirto, kana hor imanaynin jiritaanka qaranimada iyo Dastuurka Somaliland.**
- 2. Maadaama Xukuumaddu codsatay in labada Gole ku taageeraan in shirka London laga qayb galo in labada golle ay ku taageeraan**

⁹ Go'aankan waxa uu isna noqanyaa xeer lagu dhaqmo marka Madaxweynuhu saxeexo.