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SSE STATEMENT

Somaliland's Union and Disunion and the Lessons of the Scotland Referendum

Time for the International Community to re-consider its stance on Somaliland's 1991 self-determination in this third decade of disunion

1. Introduction

1.1 As members of the large British and European communities of Somaliland origin, we have witnessed with appreciation, tinged with envy, how the United Kingdom dealt with recently the demand for self-determination of the people of Scotland. Despite the 307 years of union between Scotland and England (& Wales) and their common ethnicity as Britons, the UK Government and the Scottish Government agreed¹ that both governments will accept the outcome of a referendum of the people of Scotland and thereafter will '*continue to work together constructively in the light of the outcome, whatever it is, in the best interests of the people of Scotland and of the rest of the United Kingdom*'. That Referendum took place on 18 September 2014 and the majority (55%) of the people of Scotland opted to continue with a union that, for centuries, was peaceful and was seen as beneficial by the Scots.

1.2 It is not only the way the referendum was agreed upon, but also the underlying principles of self-determination in a union of states that have some parallels with and stark contrasts to Somaliland's union and disunion with Somalia. Sadly, although as recently as 2012, and after 22 years of separation of Somaliland and Somalia, the international community has recognised the need to support any dialogue that Somaliland and the Government of Somalia may agree to establish 'in order to clarify their future relations'², the latter still continues to deny the right of the Somaliland people to decide their own destiny after the failed union of the two states. If a 300 year old peaceful and prosperous union of two states can accept a possible dissolution through self-determination of the people of one of the states, then the dissolution of the 30 year union of the two states of Somaliland and Somalia in May 1991 following the "genocidal" war waged by the government of the union against the majority of the people in one of the states, and at a time when there were no avenues for the exercise of democracy, let alone internal self-

¹ The Agreement between the United Kingdom Government and the Scottish Government on a referendum on independence for Scotland, [Edinburgh, 15 October 2012](#).

² FCO, London Conference on Somalia: [Communique, 23 February 2012](#).

determination, should surely be acceptable to a resurgent Somalia government claiming to be the successor to the pre-1991 government.

1.3 As for the international community, we echo the warning (to the AU) of the then International Crisis Group Chair³ in 2010 that the continuing insistence on an '*increasingly abstract notion of the unity and territorial integrity of the [old pre 1991] Somali Republic with Somalilanders governed again from Mogadishu, is both unrealistic and unsupported*' by more than twenty three years of state practice and the reality on ground since 1991. Any attempt to re-impose on Somaliland re-union with Somalia even under the proposed federal structures, to which Somaliland has never been a party, '*would almost certainly open a new chapter in the Somali civil war(s)*'⁴! We urge, therefore, that the International Community should not miss another opportunity before the planned Somalian 2016 first elections to support a formal and peaceful process of laying to rest the defunct union of Somaliland and Somalia. Somaliland will be holding its sixth nation-wide elections in 2015⁵.

2. Acts of union

2.1 The crowns of Scotland and England and Wales (and Ireland) were 'united' in 1603 by King James VI of Scotland, but it was the 1707 Act(s) of Union that united the two parliaments and created a unitary⁶ state by declaring that –

'the Two Kingdoms of Scotland and England shall upon the first day of May next ensuing the date hereof and forever after be United into One Kingdom by the Name of Great Britain...' (Art. I)

2.2 The Scotland and England Acts of Union were approved, as planned, by both Parliaments⁷. A broadly similar process was planned for the Somaliland and Somalia treaty of union and so the independent Somaliland Legislative Assembly adopted, on 27 June 1960, the Union of Somaliland and Somalia Law (Law No. 1 of 1960)⁸ and submitted it to the Somalia Legislative Assembly to pass it as well so as to form a treaty of union. On 30 June 1960, the Somalia Legislative Assembly met and adopted 'in principle' an Act of Union which was not identical to that passed by the Somaliland Legislature but which instead contained

³ Louise Arbour (2010) Self Determination and Conflict Resolution: From Kosovo to Sudan , available at www.crisisgroup.com

⁴ Ibid.

⁵ These will be the presidential and the parliamentary (House of Representatives) elections.

⁶ Although Scotland retained its own legal system based on Roman (and common) law (and system of local government and education), Lord McNair wrote that 'England and Scotland ceased to exist as international persons and become the unitary State of Great Britain' - McNair AD, *The Law of Treaties: British Practice and Opinions* (1938) 40. The devolution of more powers to Scotland and the creation of a Scotland Parliament came in 1998 after the Referendum in Scotland on 18 September 1997.

⁷ On 16 January 1707, the Scottish Parliament approved the articles of Treaty of Union (drafted by commissioners appointed by both parliaments) in the *Union with England Act 1707* (Scotland). On 28 January 1707, having been presented with the *Treaty of Union* and the *Scottish Act*, the English Parliament passed the *Union with Scotland Act 1706* (England) which approved the terms of the *Scottish Act* without amendment (the two Acts together being the *Acts of Union*). The Kingdom of Great Britain was then constituted on 1 May 1707.

⁸ The Law was also assented to by the Somaliland Council of Ministers in line with s. 21 of the first post-independence Somaliland Constitution.

‘some significant differences’, and then requested that the Government of Somalia should establish with the Government of Somaliland a definitive single text of the Act of Union to be submitted to the new National Assembly for approval⁹. On that same day, at midnight, Somalia also became independent, and although the members of the two Assemblies met on 1 July 1960 to adopt the constitution, no common text of the Acts of Union was agreed. It was in January 1961 when an Act of Union was passed by the new ‘combined’ National Assembly¹⁰. Art. 1(1) of that Act of Union¹¹ stated –

‘Somaliland and Somalia, being united, constitute under the Constitution the SOMALI REPUBLIC, which shall be an independent, democratic and unitary republic.’

2.3 The Somaliland people’s dissatisfaction with the new hastily arranged union was shown in the referendum on the new constitution¹² of the Republic held on 20 June 1961 when in the four of the six Somaliland districts where the majority of the population lived and where many people boycotted the referendum, the no vote ranged from 60% to 72%¹³. In any case even this constitution and the composition of the National Assembly (based on the formula

⁹ Paolo Contini, *The Somali Republic - an Experimenting legal Integration* (Frank Cass and Co. Ltd 1969) 9. See also: Eugene Cotran, ‘Legal Problems Arising out of the Formation of the Somali Republic’, (1963) 12 ICLQ 1010.

¹⁰ The combined Assembly consisted of 123 members of which only 33 were the members of the Somaliland Legislative Assembly and the Acts of Union were planned to be (and should have been) approved separately by each Assembly as there was a disagreement about the texts of the two Acts. Dr Bulhan quotes in his book an account by the then former Prime Minister of the State of Somaliland (Mr M I Egal) stating that ‘the new National Assembly tabled discussion on the union on a holiday without informing the Somaliland representatives’ and that ‘he and other Somaliland members of the assembly planned to enjoy an outing in Afgooye ... when they learned of a parliamentary session scheduled on that holiday without their knowledge’, and had to rush to attend the session which was then conducted in Italian! Hussan A Bulhan *Politics of Cain* (Tayoson International Publishing) 119.

¹¹ Law No. 5 of 31 January 1961 titled ‘Act of Union’ – Copy as officially published in 1961 is [available at this link](#).

¹² The 1960 constitution was drafted for Somalia and Somaliland had negligible input into it, which explains why even though it purports to be the constitution of the new state of the Somali Republic, as the (united) state was to be known, it incongruously refers to ‘Somalia’ twice in its first Article, but in the rest of the constitution, the state is referred to either the Somali Republic or simply ‘the Republic’. The 1979 Constitution which replaced the abrogated 1960 constitution and confirmed the change of the name of the state as the ‘Somali Democratic Republic’ referred only once to ‘Somalia’ when describing the emblem of the country in Art. 2(1). Yet throughout the 30 union (and even now), the country was referred to as ‘Somalia’! Incidentally this emblem was first designed for Somalia in 1956 (*Emblama della Somalia*), and so was the flag which was designed in 1954 (*Bandiera della Somalia*). As the 5 pointed star of the flag represented the aspirations for Greater Somalia which drove Somaliland’s desire for union, there was no reason to design another flag for the independent State of Somaliland and so it was flown in Hargeisa on 26 June 1960 with a special anthem composed for the occasion. 30 years later with the rebirth of Somaliland in May 1991, a new flag was adopted which was then modified as the current Somaliland flag.

¹³ The overall no votes for the two Northern (Somaliland) Regions was 54% NO for the Hargeisa Region and 52% for the Burao Region. In contrast, with the exception of Hiran Region where there was a No vote, the No vote in all the other 5 Southern (Somalia) regions was in single digits ranging from 8% to 0.5% (Source: Notes on Table 1 of the [Official Results of the Referendum](#)).

of the numbers of the two assemblies in the Act of Union (and re-confirmed in 1964¹⁴), together with the Act of Union cornerstone of democracy, were abrogated after the military coup in October 1969¹⁵ and was replaced in 1979 by the Dictatorship constitution¹⁶.

3. National identity as distinct from ethnicity

3.1 Somalilanders, continue to share common ethnicity, religion, and in many cases clan affinity with other Somalis across all the country's borders – to the West with the Republic of Djibouti, to the South with the Ethiopian Somali Federal region and to the East/South-east with Somalia. But as in many countries, including the various Arab states across the Gulf of Aden, common ethnicity or religion is not the only glue that keeps a nation state together. The common national origin and links to an existing state in Africa and many other third world states is based on the territories within the boundaries created during the 19th Century that cut across the areas inhabited by the same ethnic group(s). That was also the case in Somaliland and Somalia as there was never a 'state', as we know it, encompassing all of what is now Somaliland or all of Somalia, let alone both countries. These boundaries cut across areas settled by specific Somali clans so that, for example, in Somaliland there is not a single main clan that does not inhabit also areas across one of its international boundaries with Djibouti, Ethiopia or Somalia. It is however the link to 'nationality' of the Somaliland Protectorate, followed by the nationality of the independent State of Somaliland¹⁷ that established the national origin of the Somaliland people. Somalia also had its own nationality laws¹⁸.

3.2 Although, after their union, Scotland and England formed a unitary state and shared the same nationality and ethnicity, their respective peoples have retained different national origins. This was indeed so confirmed by the highest UK court, the then Judicial Committee of the House of Lords (now the Supreme Court) in a case in 1971¹⁹. The concept of 'national origin' identity as distinct from 'nationality' is widely accepted²⁰. It is therefore this differing

¹⁴ Art. 1 and the Appendix Table of the Political Elections Law – Law No. 4 of 22 January 1964 reconfirmed the total number of the National Assembly members as 123 with the two Somaliland Regions retaining the same number of seats (33) as was the case in the Act of Union.

¹⁵ The 1960 Constitution was abrogated initially by the First Charter of the Coup on 21 October 1969.

¹⁶ The dictatorship held a national referendum on the constitution on 25 August 1979, the outcome of which was reported as having been a 'Yes' vote of 99.79% (3,597,592 Yes votes)!

¹⁷ All the Somaliland people acquired a British protected status from 1886 (regardless of whether they belonged to coastal sub clans that entered into treaties of protection with the UK or were members of the many other inland al sub clans that did not) and then acquired a Somaliland nationality, with effect from 26 June 1960, under the [Somaliland Nationality and Citizenship Law](#) (Ordinance No. 15 of 1960).

¹⁸ The last one was [Cittadinanza Somalia](#) (Law No. 9 of 12 February 1960).

¹⁹ *Ealing London Borough Council v Race Relations Board* [1971] UKHL 3 (16 December 1971). In this case Lord Simon of Glaisdale stated that '*Scotland is not a nation in the eye of international law; but Scotsmen constitute a nation by reason of those most powerful elements in the creation of national spirit—tradition, folk memory, a sentiment of community.... By the Act of Union English and Scots lost their separate nationalities, but they retained their separate nationhoods; and their descendants have thereby retained their separate 'national origin'*'. See also the Scotland Court of Sessions case of *BBC Scotland v Souser* [2000] SC 458.

²⁰ For example, a US Courts of Appeal (Ninth Circuit) opined that 'the legislative history and the Supreme Court both recognize that 'national origin' includes the country of one's ancestors. Unless historical reality is ignored, the term 'national origin' must include countries no longer in existence' - *Pejic v Hughes Helicopters*, 840 F.2d

national origin founded on a territory and state that underlines the unit of self-determination and defines the 'people' who are entitled to exercise it when issues of potential or actual disunion of the previous unions of states arise. It is also why this would not apply to a smaller sub-unit of these peoples, so that, for example, the two border (with England) regions of Scotland, Dumfries & Galloway and Scottish Borders (with the lowest 'yes'²¹ votes in the recent referendum), could not have argued that if Scotland voted overall for independence, their 'people' would want to remain within the UK or seek to secede from the rest of Scotland.

3.3 However short it was, Somaliland was an independent sovereign state with its own constitution, nationality, government headed by a Prime Minister²² and parliament as from the date of its independence from the UK on 26 June 1960, when, like all de-colonised states which were internationally recognised on independence, it was welcomed to the community of nations as the sovereign State of Somaliland²³. The Somaliland people had by then acquired their distinct national origin as was the case in all the other African and Asian countries that became independent during the de-colonialisation era, and have retained that national origin even after their acquisition of the Somali Republic nationality, and right through to their 1991 reassertion of Somaliland nationality. 'Somali-layn' or 'the people of the North' were some of the sobriquets used to refer to them and their distinct identity was kept alive by various differences including the differing laws until mid-1970s and the retention of former international boundary as administrative borders, attitudes and cultural influences, and of course, from the 1980s, their common experiences of being targeted for oppressive and 'genocidal' treatment.

4. On being a Somaliland 'people'

4.1 Being defined as a 'people' marks entitlement to self-determination²⁴. The common characteristics that a 'people' may have are not confined to common ethnicity, but also include other factors of territorial connection or national origin or consciousness of being a people, and '*having institutions or other means of expressing its common characteristics and*

667 (9th Cir. 1988) in relation Serbian national origin when by then Serbia had lost its previous separate status as a state and was by was part of Yugoslavia.

²¹ The overall 'yes' vote was 44.7%, but the 'yes' votes in these two border regions were the lowest – 34.3% and 33.4% respectively.

²² Under s. 3(1) of the [Somaliland 1960 Constitution](#), the Prime Minister and 3 other ministers formed the Council of Ministers.

²³ Somaliland planned to join a union with Somalia, so there was no time or necessity for exchange of diplomatic relations. Nonetheless, the treaties that State of Somaliland entered with the United Kingdom after independence were registered by the UN under Art. 102 of the UN Charter which relates to 'international treaties or international agreements'. Even Art. 4(1) of the belated 1961 Somaliland/Somalia Act of Union states that '*[a]ll rights lawfully vested in or obligations lawfully incurred by the independent Governments of Somaliland and Somalia or by any person on their behalf, shall be deemed to have been transferred to and accepted by the Somali Republic upon the establishment of the Union*'.

²⁴ As set out, for example, in various UN Convention, such as the ICCPR (Art.1) and ICESCR (Art.1), and the African Charter on Human and Peoples' Rights (Art. 20). Article 1(1) of both these two UN Covenants state: '*All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development*'.

*will for identity*²⁵. Increasingly, in the context of Art. 20(1) (the Right of peoples to self Determination) of the African Charter on Human and Peoples' Rights (which was incidentally ratified by the Somali Democratic Republic in July 1985²⁶), the African Commission has gone further than confining the term 'people' to the whole population of one state. In a 2009 'communication'²⁷ concerning the people of 'Southern Cameroons' (which was the southern part of the former British Cameroons that decided to join²⁸ in 1961 the (former) French Cameroons), the Commission stated that, after thorough analysis of the arguments and literature, *'it finds that the people of Southern Cameroon can legitimately claim to be a "people". Besides the individual rights due to Southern Cameroon[ians], they have a distinct identity which attracts certain collective rights'*²⁹. It opined that 'ethno-anthropological' roots cannot be used as 'the only determinant factor' and that the people of Southern Cameroon qualify to be referred to as 'people' –

'because they manifest numerous characteristics and affinities, which include a common history, linguistic tradition, territorial connection and political outlook. More importantly they identify themselves as a people with a separate and distinct identity. Identity is an innate characteristic within a people. It is up to other external people to recognise such existence, but not to deny it.'³⁰

4.2 It should also be noted that whilst the African Commission repeatedly advanced internal self-determination because of the emphasis on territorial integrity in the OAU/AU Charters, it has also posited situations where 'concrete evidence of violations of human rights' may reach a point that the territorial integrity of a state 'should be called to question'³¹ which implies the right to independence³² (or external self-determination). This echoes the Supreme Court of Canada which whilst accepting that a people who may include 'only a portion of the population of an existing state', also mentioned the situation where a people are blocked from meaningful exercise of their right to internal self-determination³³.

²⁵ UNESCO commissioned panel of experts opinion on the concept of 'people' – Final Report [Final Report and Recommendations of the Meeting of Experts on extending of the debate on the concept of "peoples' rights" held in Paris, France, from 27 to 30 November 1989](#), (SHS-89/CONF.602/COL.1).

²⁶ Instrument of Ratification – Decree No. 30 of 31 July 1985. Art. 2 of the Decree states that the African Charter of Human and People's Rights *'shall have the force of law in territory of the Somali Democratic Republic'*.

²⁷ This refers to the African Charter Commission protective ambit which is conducted through a 'communications procedure' from states or individuals/groups. Since the Protocol establishing it has finally been ratified by more than 15 countries recently, the African Court on Human and Peoples' Rights complements and reinforces the functions of the African Commission on Human and Peoples' Rights.

²⁸ The mainly muslim Northern part decided to join Nigeria, at the same time. Although Cameroon started out in 1961 as the Federal Republic of Cameroon, it became a unitary state, after a referendum, in 1972.

²⁹ *Kevin Mgwanga Gunme et al v Cameroon* 266/03 (2009), para 178, available at: <http://www.achpr.org/communications/decision/266.03/> (accessed 25/09/2014)

³⁰ *Ibid*, para 179

³¹ African Commission in *Katangese Peoples' Congress v Zaire* (2000) AHRLR 72 (ACHPR 1995), para 6.

³² Malcolm Evans and Rachel Murray (eds) *The African Charter on Human and Peoples' Rights – The System in Practice, 1986-2006* (Cambridge University Press 2nd ed. 2008) p.259.

³³ *Reference re Secession of Quebec* 2 SCR [1998] 217 paras 124 and 134-135.

4.3 We mention this because, firstly at the time in 1991 (and since then, as well), the Somaliland people were indeed ‘a people’ in the sense described above (and more so in the sense of having a separate national origin based on their previous nationality and independent state before the 1960 union and hence within a clearly defined territorial unit) when they exercised their right to external self-determination at a time when, as we explore below, there were no avenues of internal self-determination within the then union for decades and neither were there any such avenues in sight at that time, as history has since confirmed. The majority of the population had also by then suffered systematic human rights and ‘genocidal’ treatment (see below) perpetrated by the existing state and their decision ought to be viewed within that context.

4.4 In this unique case, therefore, the principles of self-determination and territorial integrity come together in the re-assertion of the claim to a formerly internationally defined territory by the whole people of Somaliland in 1991 i.e the former State of Somaliland which entered into a union with the former state of Somalia. This, therefore, did not involve any changes to the existing boundaries at the time of the independence of Somaliland on 26 June 1960 and is consistent with the principle of *uti possidetis*³⁴. The 2005 (unpublished) Report of the AU Mission³⁵ to Somaliland in 2005 confirmed that respect for the principle of *uti posseditis* favours Somaliland’s claim to sovereignty within its borders of the Somaliland Protectorate and would set no precedent for secession elsewhere and also follows the practice of former states reclaiming their sovereign status. The Report added that ‘Somaliland’s international recognition would also be consistent with Article 4(b) of the AU Constitutive Act, since it preserves the ‘borders existing on achievement of independence’’. In 2011, an independent report reached similar conclusions and stated that ‘[f]or Africa, Somaliland’s recognition should not threaten a ‘Pandora’s box’ of secessionist claims in other states. Instead it offers a means to positively change the incentives for better governance, not only for Somaliland, but also in south-central Somalia’³⁶.

5. Union blown asunder by aerial and artillery bombardment

5.1 Imagine Air Force bombers flying from Scotland bases and bombing the cities of Edinburgh and Glasgow and the ceremonial artillery at Edinburgh Castle and other guns placed at the high vantage points in the city destroying systematically the city below! That was precisely what happened in the late 1980s to the Somaliland towns of Hargeisa and Burao which were razed to the ground by the Somali Democratic Republic Air force and Army and the thousands of people fleeing the towns were strafed from the air. An estimated 60,000 people³⁷ were killed and considerably more were maimed, injured and

³⁴ *Uti possidetis juris*: Maintenance of frontiers existing at the time of independence of a state.

³⁵ African Union Commission, Resume: AU fact-finding mission to Somaliland (30 April to 4 May 2005), (African Union 2005). The main observations of the Report are quoted in Iqbal D Jazbhay *Somaliland – An African Struggle for Nationhood and International Recognition* (Institute of Global Dialogue 2009) 202-204.

³⁶ Brenhurst Foundation, *African Game Changer? The Consequences of Somaliland’s International (Non-)Recognition*, [Discussion Paper 2011/05](#), June 2011, page 25.

³⁷ Africa Watch, *Somalia, A Government at War with its own People: Testimonies about the Killings and The Conflict in the North*, Africa Watch Report 1990, at pages 8 -10.

displaced. Gersony reported that in the eight months between May 1988 and January 1989 alone, an estimated 300,00 to 500,000 refugees³⁸ arrived in eastern Ethiopia from northern Somalia, sometimes at the rate of 4000 a day³⁹. He added that the Somali armed forces appeared to have 'engaged in widespread, systematic and extremely violent assault on the unarmed civilian' population 'in places where and at times when neither resistance to these actions nor danger to the Somali Armed Forces was present'.⁴⁰

5.2 Human Rights Watch's testimony before the US Congress Africa Subcommittee on 14 July 1988 stated that it believed the actions of the Somalia government 'have created a level of violence unprecedented in scope and duration in Somalia'⁴¹. The fact that it was a long standing campaign was also confirmed, for example, in the joint submission by the Human Rights Watch and Lawyers Committee for Human Rights (June 1988)⁴² in which they stated that the Somalia government has pursued, since, at least 1986, a deliberate policy of economic sanctions against businessmen and traders from the North (and principally the majority clan) with the aim of destroying their economic power. The infamous '*Letter of Death*' dated 23rd of January 1987 written by Major General Mohammed S Hirsi (Morgan), the then Commander of the Somalia Armed Forces in the then North West Region (Somaliland), to Siyad Barre and his Defence and Interior Ministers is a testament to the regime's deliberate targetting of the Northern community which was described in the letter as the '*virus in the[body of the] the Somali State*' that should be subjected to a long list of state persecution⁴³.

5.3 These widespread and systematic crimes against humanity⁴⁴ and the 'genocidal'⁴⁵ treatment⁴⁶ meted out by the armed forces of the state to the majority population of

³⁸ Others (tens of thousands) fled to neighbouring Djibouti and further afield.

³⁹ Robert Gersony, *Why Somalis flee: Synthesis of Accounts of Conflict Experience in Northern Somali refugees, Displaced Persons and Others* (Bureau for Refugee Programs, Department of State, 1990).

⁴⁰ For example, he reported, in Berbera which was not a scene of conflict, at least 500 and perhaps many more Isak men were systematically rounded up and murdered, mainly by having their throats cut, and then buried in mass graves. Ibid 61.

⁴¹ Human Rights Watch, Testimony of Aryeh Neier, Vice-Chairman, before the Africa sub-committee on human rights in Somalia, 14 July 1988, page 14.

⁴² Critique – Review of the Department of State's Country Reports on Human Rights Practices for 1987, June 1987, Human Rights Watch and Lawyers Committee for Human Rights, 136 -137.

⁴³ Listed in the Letter as: elimination of the concentration of their wealth; dilution of the school population with an infusion of children from the refugee camps; rendering uninhabitable the territory by destroying the water tanks and the villages; removing them from the Civil Service and the Armed Forces; and organising the other northern communities against them. Plans also included '*economic strangulation*' and the '*strengthening of the economic positions of non-northerners*'. (Letter reference TQ 826/XKT/28 – 56/87 of 23/01/87, translated into English and 27 April 1987 by former president of the Somali Republic Supreme Court, Mohamoud Sheikh Ahmed Musa, and notarised). The Letter was published widely in Europe.

⁴⁴ Crimes against humanity have since been codified in the ICC Statute 1998 (Art. 7) and include acts of, for example, murder, extermination, imprisonment, torture, rape, persecution of an identifiable political or national group etc. when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack.

⁴⁵ Article II of the Convention on the Prevention and Punishment of the Crime of Genocide 1948 states that 'genocide' means *any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group*, as such :

(a) *Killing members of the group;*

Somaliland (which also involved the indiscriminate killing of other civilian population living with them in the main central towns of Somaliland) were the final chapters of the years of neglect of Somaliland regions and interests, the end of the democracy (a central plank of the Act of Union in 1960) and the death of the dream of the wider union of all the five Somali inhabited territories which was the *raison d'etre* of the hasty 1960 Somaliland/Somalia union. Ironically the government's aggressive policy to cut off completely 'the land and its people from the other regions of the country ... imposed a kind of de facto disunion orchestrated by Mogadishu itself'⁴⁷. When the then Somalian government was finally toppled in January 1991, a faction in Mogadishu promptly installed itself as a new government⁴⁸ in an attempt to continue to rule in the same way without any involvement of the Somaliland people. It was clear then that for the Somaliland people, there was certainly 'no meaningful access to government to pursue their political, economic, social and cultural development'⁴⁹ before or after the fall of the regime in January 1991, and they had no choice but to end the union on 18 May 1991 and regain their sovereignty peacefully.

5.4 On no account, therefore, can it be said that in early 1991 (or before) the Somali Democratic Republic was a state conducting itself in compliance with the principles of equal rights and self-determination of peoples or had a government representing the whole people *without distinction of any kind*⁵⁰ for the international community to justify the total disregard of the decisions made by the Somaliland people in May 1991.

6. Self-Determination through dissolution of a union

6.1 The final 18 May 1991 declaration of the decisions of the representatives of the Somaliland people to dissolve the 1960 union was not arrived at lightly. The review of the union was discussed in the February 1991 Berbera Conference which was followed by a

(b) *Causing serious bodily or mental harm to members of the group;*

(c) *Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;*

(d) *Imposing measures intended to prevent births within the group;*

(e) *Forcibly transferring children of the group to another group. (Underling and italics added)*

⁴⁶ In his thoughtful article on 'genocide and atrocity crimes', David Scheffer lists the following as what he viewed as indicators of unfolding genocide, within the context of on-going crimes against humanity, in Kosovo in 1999: 1. The forced expulsion of large segments of the ethnic Albanian population, on a scale not seen in Europe since World War II; 2. The detention and summary execution of military-aged men and mass executions; and 3. the burning and destruction of civilian homes and villages. David Scheffer, *Genocide and Atrocity Crimes, Genocide Studies and Prevention: An International Journal*: Vol. 1: Iss. 3, Article 3. Available at: <http://scholarcommons.usf.edu/gsp/vol1/iss3/3>.

⁴⁷ Abdirahamn Yusuf Duale, *Less and more than the sum of its parts: the failed merger and the tragic quest for 'Greater Somalia'* in R. Berekteab (ed.) *Self-Determination and Secession in Africa* (Routledge 2014) 112

⁴⁸ John Drysdale, *Anatomy of Secession* (Haan Publishing 1992) 21; Mark Bradbury, *Becoming Somaliland* (Progressio 2008) 46 – 47.

⁴⁹ These are the words used by the Canadian Supreme Court in the case of *Reference re Secession of Quebec*, [1998] 2 S.C.R. 217, at 121, that may justify unilateral secession or equally unilateral dissolution of a union.

⁵⁰ The wording of the *Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations* (A/RES/25/2625 1971) in relation to territorial integrity, read with the [Vienna Declaration and Programme of Action](#) Adopted by the World Conference on Human Rights in Vienna on 25 June 1993, para I – 2.

resolution of the Elders⁵¹ representing all the Somaliland communities on 5 May 1991 at the Burao Grand Conference. This decision was then followed and strengthened further by a total of 30 to 39 major grassroots, indigenous peace-making conferences⁵² of the various communities throughout Somaliland during the following 5 years, which included two further National Grand Conferences in 1993 and 1997 that advanced the state building and constitutional initiatives. The 1993 Conference adopted a National Charter which was superseded by the 1997 Interim Constitution, and both conferences saw elections of Presidents/vice-Presidents and the selection of the members of the two Houses of Parliament. In May 2001, the final Constitution was adopted in a national referendum⁵³. It worth noting that all the three national conferences (attended by representatives of all the Somaliland communities from all the regions, without any exception) and the national referendum have all re-emphasized the Somaliland peoples' May 1991 decision to end the union and to determine their own future. There can be no clearer assertion of their voice than this decade long process.

6.2 As confirmed by the International Court of Justice's opinion in the 2010 Kosovo case⁵⁴, there was nothing unlawful, under international law, about the Somaliland's peoples' dissolution of the 1960 union, which had all the hallmarks of a necessary remedial step that helped insulate them from much of the chaos and war that has been raging in parts of Somalia at the time of the decision and, sadly, ever since then. Furthermore, the constitutional order of the Somali Republic based on the Act of Union was illegally torn up by the military coup in October 1969. In turn, when the military regime was ousted in January 1991, a leader of a small faction in Mogadishu, Mr Mahdi, crowned himself as President, thereby tearing up, as well, the 1979 constitution, which soon lead to the new wars in Mogadishu. The 1991 Somaliland decision to withdraw from the 1960 union with Somalia should therefore be understood within that context.

7. Rewards without responsibility

7.1 Emboldened by the position taken by the international community on the '*territorial integrity*' of the defunct Somali Republic (a failed state *par excellence* and the poster child for non-existent or bad governance), the various interim governments created for Somalia from 2001/2 (as there was none for a decade⁵⁵ before then), continue to claim Somaliland over which they have no control, whatsoever. They appear to be always hasty in claiming

⁵¹ Academy of Peace and Development, *Peace in Somaliland: an Indigenous Approach to State Building* (Interpeace 2008) 90 - Annex 1 - Resolution from Burao Elders Meeting. The first point of the 6 point resolution was that 'The North (*Somaliland*) shall stand on its own and shall not join the South (Somalia)'.

⁵² The Academy for Peace and Development (APD) War-Torn Societies Project Study lists 29 such major conferences between 1991 and 1996, but their later 2008 Report identified 39 conferences and meetings – Academy Peace and Development, *Peace in Somaliland: an indigenous approach to state building* (Interpeace 2008) 8.

⁵³ See the [Independent international observer's report](#) on the Somaliland Referendum

⁵⁴ *Accordance with International Law of the Unilateral Declaration of Independence in respect of Kosovo*, Advisory Opinion, 22 July 2010 (Kosovo AO), ICJ Reports 2010.

⁵⁵ See, for example, the *Report of the Secretary General on the Situation in Somalia*, 11 October 2001, UN-Doc. S/2001/963, para 58.

from the international community the rewards of funding and access to the international forums that follow from the status hastily accorded to them but have no regard for many of the responsibilities that arise from it. Unlike the Somalian people who naturally expect more from their own government, the two issues that are of particular concern to the Somaliland people, in this respect, are the continuing denial by these successive post 2001 Somalian governments of Somaliland's self-determination and their obliviousness to their responsibilities, as governments claiming to be the nominal successors to the pre-1991 government, for the crimes committed by that government against the Somaliland people.

7.2 On self-determination, the Declaration on Principles of International Law Concerning Friendly Relations and Co-operation Among States in accordance with the Charter of the United Nations⁵⁶ makes the protection of 'territorial integrity' conditional on '*States conducting themselves in compliance with the principle of equal rights and self-determination of peoples*'. On the crimes, if these governments are the successors to the pre-1991 government, they are responsible also for the 'genocidal' treatment that government meted out to the people in Somaliland in the name of the state. Yet in both these matters the Somalian governments since 2001/2 abroad or in Mogadishu, including the current one, deny not only the right to self-determination of the Somaliland people but also, on occasions, their very identity when we noted above the African Commission on Human and Peoples' Rights Communication that an identity is an innate characteristic and that it is up to others to recognise its existence and not to deny it. Even recently, a former Somalian Prime Minister, referring to Somaliland, stated that he does not like what he termed 'land-lands' and stated that claims of 'atrocities' (*xasuuq*) are only 'political lies'⁵⁷. Similar comments to the effect that everyone suffered in the past; that it should all be forgotten as we are all Somalis; and that they do not care about past colonial boundaries have been made by other very senior Somalian politicians. These not uncommon utterances of Somalia's politicians also undermine the half-hearted grudging inclusion in the Declaration of Principles of the 5th Round of the on-going talks between the Somalia and Somaliland governments of clause 9 to the effect that the parties '*share the pain inflicted upon the Somali people by the military regime in Somalia before the year 1991...[and] condemn all the atrocities committed by that regime throughout [sic] all Somali people, particularly the people in Somaliland*'.⁵⁸

7.3 To rub salt on the unhealed wounds, one of the first actions this current Somalian government took after the US recognised it on 17 January 2013 was to seek promptly to extend its protection to the former (pre-1991) Prime Minister (and Defence Minister), Mr Samantar, who was being sued in the US courts⁵⁹ for his complicity in the atrocities

⁵⁶ General Assembly Res. 2625 (XXV), U.N. Doc. A/Res/2625 (Oct. 24, 1970).

⁵⁷ Comments by Mr Gedi available on U Tube:

http://www.youtube.com/watch?feature=player_embedded&v=bq9wwGPhZ7o

⁵⁸ In Somali: '9. Waxa aynu wadaagaynaa xanuunka iyo dhibta ay dadka Soomaalida ah u geysteen keli-teliskii militarigu guud ahaan Soomaalida, gaar ahaanna dadka Somaliland'.

⁵⁹ [Samantar v. Yousuf](#), 130 S.Ct. 2278 (2010).

committed against the Somaliland people⁶⁰. In his letter dated 26 February 2013 to the US Department of State, the then Somalian Prime Minister Abdi Farah Shirdon stated that the case was *'injurious to the historic, on-going process of peace and reconciliation among the clans and political factions'* and claimed that it *'hearkens (sic) to the era of inter-clan conflict and strife, which has devastated Somalia in recent decades and poses a real threat to the progress that has been made'*⁶¹. It beggars belief that a case concerning the atrocities committed by a government (and in the name of that government, as seemingly confirmed again by this letter and by Samantar's claim of immunity) against the majority population of the Somaliland regions in the 1980s could be likened to *"an inter-clan conflict and strife"*. The aircraft and artillery bombing of civilian areas by, as described by Africa Watch, a *"government at war with its own people"*⁶² was clearly not undertaken by Mr Samantar's clan but by the state's armed forces. Indeed, the current Somalian Prime Minister, in a similar letter dated 16 March 2014 to the US Secretary of State⁶³, re-asserts that -

'... the Federal Republic of Somalia affirms and ratifies Mr Samantar's plea of common law immunity from suit, finding that his acts in question were all undertaken in his official capacity with [sic] the Government of Somalia and were not contrary to the law of Somalia or the law of nations'.

7.4 The pre-1991 regime has, of course, also committed crimes against humanity against many individuals or groups of people or sub-clans, but the extent of the mass atrocities and their duration in Somaliland had, as confirmed by outside observers⁶⁴, no parallels. Furthermore, what happened since 1991 in Mogadishu and other parts in Somalia was fighting between clans or sub clans or between different warlords or horrific violence by factions for clan, religious, competition for resources, or other reasons, but clearly was not perpetrated by the machinery of a state and its armed forces.

8. Somaliland from 1991 to date

8.1 Since 1991, Somaliland has been busy aiming to build a peaceful democratic state that can take its rightful place in the international arena and its elected representatives have no reason, therefore, to get involved in the numerous conferences held to build a government for Somalia. Somaliland, therefore, had no hand, whatsoever, in all the various political dispensations for Somalia ranging from the Somalian transitional governance structures in 2000/1 and 2004 to the Somalia transition roadmap⁶⁵ in 2011/12 and the 2012 Provisional

⁶⁰ Its predecessor government which was formed in Nairobi in 2004, also sought to claim immunity for Mr Samantar at a time when that government could not even set foot on any part of Somalia, let alone in Mogadishu.

⁶¹ Letter from FG Prime Minister Abdi Farah Shirdon to the US Secretary of State, dated 26 February 2013, Ref: OPM/00128/13.

⁶² Africa Watch Report 1990, *supra*.

⁶³ Letter from Mr Abdiweli Sheikh Ahmed to the US Secretary of State, Ref: SPM/00017/03/2014, dated 16 March 2014.

⁶⁴ Human Rights Watch, *supra*, fn41.

⁶⁵ Roadmap for Ending the Transition in Somalia was agreed between Somalia TFG, the Somalian Administrations of Puntland and Galmudug, and the Ahlu Sunna wal Jamaa movement, and facilitated by the

Constitution which simply replaced the 2004 (and the earlier 2001) Charters, none of which has any application to Somaliland. Everyone is aware that the co-option of individuals from Somaliland acting for no one but themselves into the conferences for Somalia was simply a 'legal fiction' built on the creation in 2001 of a mythical clan called 'Dir' (North) which, as Somaliland Diaspora Groups, we have addressed in our Statement dated 25 August 2012 titled 'Somaliland: We have our own Constitution and Elected Representatives'⁶⁶. These individuals, some of whom are often handed 'foreign minister' portfolios for Somalia to sustain this myth, fools no one. Had the 5 July 2003 Somalian Embagathi Conference plenary resolution which adopted a policy of building a new government (and parliament) for Somalia which would then enter into discussions with Somaliland) not been countermanded (see 9.3 below), perhaps genuine discussions about the defunct union could have been started a decade ago!

8.2 The case of Somaliland is a good illustration of how political considerations and pursuit of OAU/AU led collective action about the collapsed state of the Somali Republic and consequent emphasis on the re-constitution of the same, without any regard to the fact that the 1960 Republic was formed as a union of two independent states, have so far acted to deny it international recognition for the last 23 years. But despite its lack of international recognition, Somaliland, has after 23 years of 'effectiveness' gained a status with both rights and obligations and continues to enter relations directly with various states. The terms that are used to describe Somaliland in its current status, such as 'unrecognised state', 'quasi-state', 'de facto state' etc. include 'state' and in Somaliland's case, it is widely accepted that it does indeed meet the classical tests of statehood⁶⁷. Schoiswohl, in his detailed study, concluded (at the time of his writing in 2002) that '*Somaliland has established such as sufficient level of peace, stability and effective governance to qualify as a State under the international law*'⁶⁸ and would meet the declaratory theory requirements of recognition. More than a decade has now passed since then and Somaliland's effective democratic governance of its territory has strengthened and, over the years, more 'functional relationships' with many more countries⁶⁹ have been established. As an unrecognised state, and leaving aside its relationship with Somalia, Somaliland has, therefore, acquired a standing in dealing with other entities and can, for example, expect a measure of protection

UN Special Representative of the Secretary General for Somalia was adopted on September 6th 2011. UNPOS, *Annex 1, Somalia End of Transition Roadmap*, 6 September 2011.

⁶⁶ Somaliland Diaspora Groups "August 2012 statement": SOMALILAND: We have our own Constitution and Elected Representatives. [English](#) & [Somali](#)

⁶⁷ Based on Art. 1 of the Montevideo Convention on the Rights and Duties of States

⁶⁸ Michael Schoiswohl, *Status and (Human rights) Obligations of Non-recognised De facto Regimes in International Law: The Case of Somaliland* (Martinus Nijhoff Publishers)

⁶⁹ Nina Caspersen, *Unrecognised States* (Polity Press 2012) 43

against external aggression⁷⁰ and respect for its territorial integrity (including air space and territorial waters) from other non-recognising states⁷¹.

8.3 We welcome the many countries that, whilst not extending international recognition to Somaliland, are still willing to enter into co-operative relationship with Somaliland on many issues, including development and security. Although it still under the EU 'Somalia Compact', we appreciate the *Special Somaliland Special Arrangement 2013/16*, which, based on the Somaliland Vision 2030, '*lays out a way forward for institutionalising on-going Somaliland processes and initiatives within an overarching and equal partnership between the Somaliland government, its people and the international community*'⁷². The high profile UK-Somaliland Trade and Investment Conference held recently in London on 14th October 2014 which was jointly organised by Somaliland Government and UK Government was also a welcome step in the right direction. Nevertheless 'non-recognition means that Somaliland to a large extent stands outside the mechanisms established by the international system for regulating the flows of people, money and goods across national frontiers'⁷³ and is unable to contribute more through membership of the relevant international treaties and organisations. Lack of international recognition also acts a block on the rights of the Somaliland people to advancement and development.

8.4 Unlike the case of Scotland and England, however, the reality is that Somaliland and Somalia have, since 1991, totally different and separate governance, laws, currency, defence, security, law and order, public finances, citizenship etc. (all critical issues that the majority of the Scots considered as important links to be retained). Such long separation and previous independent statehood was never present in either Eritrea or South Sudan by the time they had their negotiated exit, and so, other than the clan based border claims made by Somalia's Puntland region (arising from their 1998 conference), there are fewer deeply contentious issues to finalise in any amiable final settlement between Somaliland and Somalia. In our view, if the principles of self-determination and respect for human rights are observed, an internationally sponsored formal end of union process is far more likely to lead to a peaceful co-existence of the states of Somaliland and Somalia than either the prolongation of the status quo or attempts by an internationally re-armed Somalia to try to impose a re-union.

⁷⁰ When assessing, the UN General Assembly declared that 'the term 'state' is 'used without prejudice to questions of recognition'- [GA Resolution 3314\(XXX\). 14 December 1974 on the Definition of Agression](#).

⁷¹ See Michael Schoiswohl (*supra*) pp. 206-214 and footnote 793 (page 211). He quoted various references to the effect that in cases where entities which claim to be states have succeeded in establishing effective governmental systems and proved to be of some stability, 'other states are normally found fully to respect their territorial territorial integrity – air space, territorial waters etc. – even when they refuse to extend recognition'.

⁷² The New Deal Somaliland Special Arrangement 2013/16 available at the [Somaliland Ministry of Planning](#).

⁷³ Brenhurst Foundation, *African Game Changer? The Consequences of Somaliland's International (Non-Recognition)*, Discussion Paper 2011/5, June 2011, page 18 -19.

9. Will the end of the third decade of Somaliland-Somalia disunion see an amiable settlement or another costly war?

9.1 The first UN Secretary General Representative in Somalia and first head of the (first) United Nations Operation in Somalia (UNOSOM I)⁷⁴, Ambassador Mohamed Sahnoun, observed in one of his first visits to Somaliland in early 1992 that ‘the leaders of the SNM in the North West and the elders in Somaliland’ expressed an interest in exploring ‘divorce by consent’⁷⁵. After Sahnoun’s resignation in October 1992, however, his successors set on a different and confrontational course that then Somaliland Government had to take action against the UNOSOM office in Somaliland⁷⁶. For decades, there was no one in Somalia ‘who had attained the same level of stability and legality’⁷⁷ of Somaliland that the elected leaders of Somaliland could talk to about the amicable formalities of dissolution of the defunct union, and in the face of the disparate Somalian groups agreeing on hardly anything other than the sanctity⁷⁸ of the defunct union, the Somaliland Government made it clear in 2000⁷⁹ that it -

‘shall not tolerate the cult of political superiority towards Somaliland which is prevalent in Mogadishu, nor the preposterous claim, evidently shared by the United Nations, that Somaliland and all its assets are by some mythical right legitimately vested in an authority in Mogadishu’.

9.2 Nonetheless the Somaliland Government made its position clear, for example in a 2002 Foreign Ministry Memorandum⁸⁰, which stated, among other things, that –

‘when a legitimate, representative government is established in Somalia, the Government of Somaliland is prepared to enter into talks with that government concerning the nature of relationship between the two states. The Government of Somaliland seeks to establish peaceful coexistence and fraternal relations with a future government in Somalia.’

This was reiterated on 7 July 2004 by President Rayale when the long (2003/4) Eldoret/Mbagathi (Kenya) Conference for the Somalians was being held in which he stated that –

⁷⁴ The United Nations Operation in Somalia (UNOSOM) was established under Security Council resolution 751 (1992) of 24 April 1992 initially to monitor the ceasefire between the warring factions in Mogadishu.

⁷⁵ Mohamed Sahnoun, *Somalia: the Missed Opportunities* (USIP Press 1994) 26.

⁷⁶ Somaliland Government *Somaliland: Demand for International Recognition* (Ministry of Information 2001) 31 – 40.

⁷⁷ *ibid* 43

⁷⁸ In a riposte, the late President commented, on 23 April 1997, that ‘*they cling to one slogan, which they repeat like a parrot, unaware of its emptiness and insignificance. They have never stopped to ask whether the sacred unity involves the Republic of Djibouti, the 5th Region of Ethiopia, and the Northern Frontier District of Kenya. There is nothing sacred about something that does not exist ..*’. – *ibid* 18.

⁷⁹ *ibid* 43.

⁸⁰ Memorandum on the Government of Somaliland’s Position on IGAD Peace Process for Somalia, dated 10 April 2002.

'The government of Somaliland noted with satisfaction numerous pronouncements from the international community, stating that the current conference, which is being held in Kenya solely to reconcile the Southern warring factions, is to be followed by the formation of a government for Somalia that would then enter into dialogue with the government of Somaliland.'⁸¹

9.3 By then, in all the many international conferences held abroad for Somalians, the only conference plenary resolution which agreed (on 5 July 2003) that when a new parliament is chosen for Somalia at that conference, the new Transitional Government '*would immediately initiate a dialogue on national unity with Somaliland*' was rejected by the then TNG President, Mr A S Hassan, who '*disowned the signatures [on the resolution] of the Prime Minister of the TNG and the Speaker of the Transitional National Assembly, whom he had designated as leaders of the delegation of the TNG to the Conference*'⁸². Mr Hassan, a former Siyad Barre Minister of Interior in the late 1980s, claimed that this '*would implicitly recognise Somaliland*'⁸³, thus perpetuating the denial of the Somaliland identity.

9.4. Sadly not much had changed since UN Ambassador Sahnoun's time and two decades later, Somaliland had to declare again that it shall not accept UNSOM's latest 2013 incarnation UNSOM's⁸⁴ political presence in Somaliland. During all that period, the situation has been allowed to continue in which a small group of selected people in Mogadishu have been handed the right to keep on pronouncing repeatedly that the cadaver of the dead asymmetrical union of the two states of Somaliland (with currently an estimated population of 4.4 million⁸⁵) and Somalia (with an estimated population of nearly twice that number) remains still warm! In sharp contrast, Scotland and England have shown us a glimpse of how in a democratic world governed by the rule of law and principles of self-determination, even a live and working union might be ended peacefully, let alone, one that does not even exist in reality.

9.5 Although there was (and still is) no popularly elected representative government in Somalia, in the light of the 2012 International London Conference's recognition of the need for the international community to support any dialogue between the governments of Somalia and Somaliland 'to clarify their future relations', Somaliland agreed to participate in talks which have so far taken place six times, mostly under the auspices of the Turkish Government. It is, however, increasingly becoming clear that the current Somalia government is neither willing to implement the only substantive agreement (on the joint

⁸¹ This was quoted in the *Report of the Secretary-General on the Situation in Somalia*, S/2004/804 of 8 October 2004 at para 17.

⁸² *Report of the Secretary-General on the Situation in Somalia*, S/2003/987 of 13 October 2003, at paras 6 -7.

⁸³ *Ibid* para 7.

⁸⁴ The Security Council decided on 2 May 2013 to establish the United Nations Assistance Mission in Somalia (UNSOM) whose principal function is to '*to support the Federal Government of Somalia, and AMISOM as appropriate, by providing strategic policy advice on peacebuilding and statebuilding ...*' -Resolution 2102 (2013)

⁸⁵ Ministry of Planning Somaliland in *Figures 2012*, p. 4.

control and management of civil aviation⁸⁶) reached so far in the talks, nor prepared to countenance that the talks will lead to anything other than a 're-union' of Somaliland and Somalia, as repeatedly stated by its leaders. It is also clear that Somaliland will never accept anything other than an amiable agreement to lay to rest the defunct union as has been repeatedly stated by the successive nationally elected leaders of Somaliland⁸⁷.

9.6 There are also real increasing concerns that Somalians are undermining the peace in Somaliland by supporting some groups from Somaliland along clan lines. The recent reported utterances⁸⁸ to the effect that the two Somaliland eastern regions of Sool and Sanag which are both populated by a mix of Somaliland communities can form a 'state' to come under, presumably, the 'federal government' in Mogadishu is extremely damaging to the on-going Somaliland/Somalia talks. The reality is that, as we have discussed above, these regions are part of and parcel of the territory of Somaliland and their eastern boundaries were (and are still) the eastern international boundary of the State of Somaliland before the union and remained as internal administrative borders throughout the union. The people of these regions, through their representatives have been involved in all the Somaliland conferences in the 1990s and have therefore participated in both the exercise of external self-determination of the whole people of Somaliland and in the internal self-determination to which they are entitled to exercise within the Somaliland state. All the Somaliland people have strived for last 23 years to build democratic governance and popular elections open to all who wish to participate in them. There are, of course, genuine grievances and failings which need to be addressed by the Somaliland Government and people together, but clan divisions and attempts to dismember Somaliland along clan lines are unacceptable and will not serve the genuine interests of the neighbouring Somalian people, either. There were two states that united in 1960 and not 18 regions!⁸⁹

10. Concluding comments

10.1 Our first appeal is, of course, to urge the current **Government of Somalia** and the people of Somalia to accept that the Somaliland people who willingly entered into an unconditional union with them have also, in the same way, exercised their right to end that union in May 1991, and have since consistently confirmed their stance about the union and

⁸⁶ The joint (Somalia-Somaliland) management of the civil aviation control (which was to be repatriated from Nairobi based Civil Aviation Caretaker Authority - CACAS- that managed it since 1996) was agreed on 9 July 2013 in Istanbul and has, at yet, to be implemented.

⁸⁷ For example, in his speech on 18 May 2013 the current Somaliland President stated:

'Whatever the independence and sovereignty of Somaliland costs us, it is sacrosanct. It was brought about by the will of the people; gained through the bullets of the fighters, and built with the help of the Almighty'. *'Wax kasta oo nagu kalifto Madaxbanaanida iyo Qaranimida Somaliland waa lama taabtaan. Go'aanka bulshaday ku timi, gummaca mjujaahidkay ku dhalatay, gargaarka Eebey ku dhisan tahay'*.

⁸⁸ This was apparently at a public question and answer session of President Hassan of Somalia on 13 September 2014 and reported on Somalia's State Television and U-tube.

⁸⁹ This reference to two pre-1991 regions is a provocative attempt to apply the Somalia Provisional Constitution to the two regions that have always been part of Somaliland and, as stated in para 9.1, Somaliland has never been a party to either this Constitution or to its preceding Charters.

their commitment to see two fraternal states working together in meeting the enormous challenges facing both of them and the other countries in the Horn.

10.2 **The international community** has kept Somaliland in limbo in its attempts to build a government for Somalia and rid it of terrorists. Somaliland hopes that a peaceful Somalia will come soon, but can no longer afford to be left tied to a defunct union. Piling recognition and funds on a Somalia which only sees the benefits of this largesse and not the responsibility for reaching a lasting peaceful settlement with Somaliland before 2016 will simply lead to another confrontation and war, as warned by the International Crisis Group⁹⁰, as far back as 2006. Somaliland has already suffered a long costly war for its self-determination. It is clear to everyone that Somaliland will never re-unite with Somalia and the sooner the current flagging talks between Somaliland and Somalia are turned into an international roundtable process for laying the defunct union to rest, the better for the whole region. Somalia can then concentrate on completing its constitutional dispensation and an internationally recognised Somaliland can then assist it in the same way that the Somali President of the Republic of Djibouti is already assisting Somalia.

10.3 Unlike the Scotland people who formed part of the oldest democracy in the world, which correctly recognises fully their entitlement to not only internal but also, should they choose, external self-determination, the Somaliland people have to grapple with twenty years of dictatorship involving directed widespread and systematic human rights abuses as well as 'genocidal' treatment and another 23 years of the international community declining, despite the people's clearly expressed wishes, to untether them formally from the worst empty husk of a state in modern history that they have already left behind in 1991. **The United Kingdom** has shown how concerns about a 300 year old union (let alone a 30 year old one) can be dealt with peacefully and we earnestly hope that it can also pass its wisdom and experience of self-determination to Somalia. As European citizens and residents, we also call on other **European countries** to follow suit as they have already dealt with similar union/disunion issues in Europe during the last 23 years, and would, no doubt, not want to see another repetition of the previous 1980s war between Somaliland and a rearmed, resurgent Somalia unwilling to accept the end of the defunct union.

10.4 Finally we direct a similar appeal to **the countries of the African Union**. We remind them of the conclusions of the AU mission to Somaliland⁹¹ in 2005 which highlighted the unique circumstances of Somaliland and the fact that the OAU had no problems in the past in accepting states that retrieved their sovereignty following unsuccessful unions⁹². It is time, therefore, for the African countries (individually) and the AU to look again at Somaliland's unique dissolution of a failed union and show the African leadership on the

⁹⁰ International Crisis Group *Somaliland: Time for African Union Leadership*, [Africa Report No. 10](#) (ICG 2006).

⁹¹ African Commission, Resume: AU Fact-finding Mission to Somaliland (30 April to 4 May 2005), (African Union 2005).

⁹² Examples of Egypt, Gambia and Senegal are cited in a South African Legal Opinion quoted in Iqbal D Jazbhay *Somaliland – An African Struggle for Nationhood and International Recognition* (Institute of Global Dialogue 2009) 155 -156.

Somaliland/Somalia issue that was called for by the International Crisis Group⁹³ in 2006. This will not, in our view, be inconsistent at all with the AU's continuing programmes for bringing peace and governance to Somalia, but is addressing, at last, the status of Somaliland which has been left aside for 23 years. The question is will this third decade of Somaliland's 'disunion' end in a peaceful co-existence of two sisterly states of Somaliland and Somalia or will it be more like the third (and last) decade of the benighted union which was marked by war?

Somaliland Societies of Europe

30 October 2014

Somaliland Societies in Europe (SSE is an umbrella network of organizations representing about 45 Somaliland community organizations from 11 European countries. SSE has been a voice for Somaliland organizations in Europe since 2001.

Web: <http://www.sseuro.com> Email: info@sseuro.com

This PR and Statement is also endorsed by the following Somaliland Diaspora Organisations: SSUK; ASLF(France), Ilays (The Netherlands); Somaliland National Association in Sweden; NOMAD (The Netherlands); Somaliland Seura; West London Somaliland Community; East London Somaliland Community, SIRAG; Somalilandlaw.com; Somaliland Overseas and Somaliland Solidarity Group. Somaliland Community Belgium, Somaliland asso(Italy), Norway, Community Somaliland in Germany.

⁹³ International Crisis Group *Somaliland: Time for African Union Leadership*, [Africa Report No. 10](#) (ICG 2006).