



REF: SSE/FR-017/16

Date: 26 August 2016

STATEMENT

Somalia's Latest Selections Process & Somaliland: Here we go again!

'Lies will never build a house'

1. Since the collapse of the Somali Democratic Republic state in 1991 and the reassertion of the people of Somaliland of their sovereignty in May 1991, there has been a considerable number of conferences (mostly outside Somalia) held to bring back peace and some form of governance to Somalia. It is a matter of public record that the Republic of Somaliland which established peace and democratically elected governance arrangements never participated in any of these numerous conferences¹, four of which have set up governmental structures for Somalia². Yet for most of these 25 years, Somalians have told themselves and the world that everything they decided in all these conference included Somaliland. The saying that *'marna beeni aqal ma dhisto* - lies will never build a house' is apt, and the defunct 1960 union of the independent states of Somaliland and Somalia will not be resurrected by these continual false claims.

2. Somaliland's successive elected governments have repeatedly and unequivocally confirmed that Somaliland was not and will not be a party to any post 1991 Somali political arrangements, and the current on-going selection procedures for Somalia are no different from the numerous previous Somali selections. We endorse that message again, as we have done in the past, for example in this 2012 Statement³.

Co-opting individuals that represent no one

3. Co-opting individuals from Somaliland, who represent no one but themselves, into these Somali conferences and processes (as well as any governing arrangements formed) has become a common feature of Somali politics and is used as a window dressing to cover up the reality of the defunct union of Somaliland and Somalia. It is not surprising, therefore, that someone from Somaliland is invariably appointed as the Somali Foreign Minister! The Somali Government may want the international community and the international media to believe this canard, but this will not fool anyone who knows anything about Somaliland and Somalia.

4. One Somali political commentator⁴ who was recently examining critically the few decision makers of the current plans for Somalia's forthcoming selection process listed them as the various current Presidents of the '5 federal and regional states of Somalia', the Somali Prime Minister (PM), the Assembly Speaker and the *'ex officio* President of the state of Somaliland' or, as he described also, the *'the leader* of Somaliland (Northwest, Awdal, Sol, Sanag, and Togdher regions)! This pretend *'President'* or *'Leader'* of Somaliland is someone hailing from Somaliland who was appointed as a Deputy PM in 2015 by none other than the current Somali PM (and the President). The irony of all this is not lost on the international community that has been actively supporting Somaliland's popular national elections of successive presidents!

Somaliland's absence is acknowledged but the ruse is maintained

5. Although it was specifically acknowledged by the Somali leaders in a communique dated 12 April 2016⁵ relating to their 2016 selections procedures that Somaliland is absent from the

whole process, the pretensions of inclusion of Somaliland are still maintained. The latest ruse is the setting up of what was termed a '*Somaliland 'Regional State' Indirect Electoral Implementation Team*'⁶ which is apparently meant to organise the planned Somalian September/October 2016 selection processes for persons who 'shall be representing Somaliland' in the two Houses of the Somalian Assembly.

6. Apparently it is planned that this '*Indirect Electoral Team*', the candidates and their intended panels of selectors handpicked by some so called 'traditional leaders' will all be gathered somewhere in Somalia (probably Mogadishu) where the selections (presumably for both Houses) will also take place. In contrast, the Indirect Electoral Implementation Teams of the current Somalian five⁷ (or four) 'regional states' (*Dawlad-Goboleedyo*), which shall each consist of eight members appointed by their state and three members by the Federal Government⁸ shall implement the processes, with the selections taking place in each 'regional state' capital. It is even envisaged that the selections of the members of the new upper House will be undertaken by the presidents and assemblies of these Somalian 'regional states', and the relevant lower House selections will be undertaken by panels of selectors of 51 persons for each seat⁹. These persons and the candidates for each House seat will be selected by 'traditional leaders'.

7. These selection procedures for the Somalian regional states were lauded as providing more 'enhanced legitimacy'¹⁰ than the previous selections processes (from 2000 to 2012) which were undertaken by invited persons including former politicians, warlords and traditional leaders in venues which, until 2012, were invariably abroad. How Somalians arrange their selections processes (and any future elections) is entirely up to them, but we find it perplexing how any degree of 'legitimacy' can be claimed for the intrinsically illegitimate planned proposals relating to Somaliland!

8. Since 2000, Somaliland held a national referendum on its constitution, and set up its own statutory National Electoral Commission which has already organised successfully 5 nation-wide one person/one vote elections and two nation-wide voter registration schemes, one of which (based on ground breaking iris recognition) is about to be completed soon. In our view, had the 5 July 2003 Somalian Embagathi (Kenya) Conference plenary resolution¹¹ which adopted, by acclamation, a policy of building a new government (and parliament) for Somalia which would then enter into discussions with Somaliland not been countermanded by the then Somalian Transitional President, Mr Abdiqasim S Hassan (a former Interior Minister in the late 1980s), talks between the Somaliland and Somalia might have been started well over decade ago.

Two countries and not two regions united in 1960

9. At a time when Somalia is again following a constitutional federal arrangement of its own design and based on the pre-1991 regions, we emphasise (again) that Somaliland has never been a party to any of these post 1991 constitutional arrangements and is not concerned at all about how Somalia wishes to govern itself. We should, however, remind everyone (and in particular the vast majority of the young population of Somalia) that two independent states, Somaliland and Somalia, and not two regions¹², united in 1960 to form the now defunct Somali Republic. Indeed both versions of the Acts of Union quiet clearly refer to the independence as states of Somaliland and Somalia. The Somaliland 1960 version¹³ starts with 'the State of Somaliland and the State of Somalia' after referring in the preamble to the independence dates of both states, and the 1961 Act of Union¹⁴ version starts with 'Somaliland and Somalia' and both refer also to the existing rights and liabilities of the two independent governments/states¹⁵.

10. Secondly, the 1960 independent State of Somaliland consisted of six (6) 'Principal Districts' and at the time of union with Somalia, the latter consisted of six (6) regions divided into numerous districts in each region.¹⁶ The Somaliland principal districts were grouped into two regions (Hargeisa and Burao regions) in the early 1960s and it was only in the dictatorship era

when the 8 regions were increased by Decrees¹⁷ to 18 of which only 3 of the new additions were in the territory of Somaliland. It is up to Somalia whether or not it wishes to revert to its 13 pre-1991 regions, but neither the pre-1991 regions nor the proposed Somalian federal arrangements has any relevance to Somaliland which has already established functioning elected governance institutions at both national and local levels¹⁸.

The defunct union of Somaliland and Somalia

11. It is again worth reminding that however tenuous the legal foundations of the union were, there was one common agreement in both Acts of Union, which was that the two countries shall 'form an independent, democratic and unitary republic' which shall be known as THE SOMALI REPUBLIC¹⁹. The Constitution of the Somali Republic which was drafted for Somalia (hence the reference to Somalia in some of its provisions) also re-emphasised democracy and rights. Both Acts of Union also confirmed the initial composition of the first National Assembly, and the Assembly seats division between Somaliland and Somalia, which was later re-confirmed in the Electoral Laws of 1964²⁰ and 1968²¹. Furthermore, on the proposal of Somalia, the constitution itself was also made an integral part of the 1961 Act of Union²².

12. All these principles and the constitution, which were central to the formation of the union, were swept away by the military dictatorship in 1969 when the constitution was initially abrogated and then annulled²³. With the abolition of the political parties and associations, democratically elected parliaments and local authorities, and the restrictions of liberties and freedoms, the central planks of the union were immediately demolished by the military dictatorship. In 1979, a new constitution was promulgated and put to a nationwide referendum, thereby finally obliterating the last vestiges of the 1960 Constitution²⁴.

13. In our view, even before the dictatorship regime started bombing the main Somaliland towns in the late 1980s, the legal foundations of the union have already been demolished, and the final nail in its coffin was when, after the overthrow of the dictatorship regime, a Mogadishu Somalian politician crowned himself as President in January 1991, thereby throwing away the 1979 constitution. The people of Somaliland, who voluntarily entered into the union in 1960, then decided to reassert their sovereignty in May 1991 – this marked the end of any shared constitutional arrangements.

Concluding comments

14. The Somalian government and its people are fully aware of the reality that the union of Somaliland and Somalia no longer exists and that the issue is whether Somaliland and Somalia can live side by side in peace as two sisterly independent states of populations of Somali ethnic origin²⁵. We would urge, therefore, that they should continue building peace and governance in their Somalian country and as called for in their 2004 conference resolution (see para 8 above) concentrate on these endeavours and then enter into meaningful talks with Somaliland on the future relationship of the two countries.

15. This means giving up the senseless claims and ruses of co-opting individuals from Somaliland who represent no one. As the Somaliland President announced recently, any of these individuals who decide not to be involved any longer in these matters, which are criminal offences under Somaliland law, may receive a pardon and return to his/her country.

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¹ The number of these conferences from 1991 to date could be 20 or considerably more if the various conference of the various selected Somalian leaders (with international community representatives) before the 2012 selection process and before the current 2016 planned selections are added. Besides the many meetings held abroad for reconciling factional Somalian groupings, perhaps the major conferences were held in: June - August 1991 Djibouti meetings; March 1993 Addis Ababa; December 1997 Cairo;

May – June 2000 Arta (Djibouti); October 2002 – October 2004 Mbagathi (Kenya); May – July 2009 Djibouti; the numerous meetings that lead to 2012 Somalian selections process and now the numerous conferences relating to the planned 2016 Somalian selections process.

² The last four listed above that took place in 2000 (Djibouti), 2004 (Kenya), 2009 (Djibouti) and 2012 (Mogadishu) led to the formation of Somalian governments and legislative assemblies where none existed before (since 1990). In contrast, Somaliland set up a functioning government immediately on reasserting its sovereignty in May 1991, followed by the setting up of two Houses of Parliament and an indirect election of a President in 1993; a similar process in 1996; and then, with the adoption of the final constitution in a public referendum in 2001, proceeded to hold direct popular elections of the President, House of Representatives and local district councils from 2002.

³ Somaliland Diaspora Groups August 2012 Statement: *Somaliland: We have our own Constitution and Elected Representatives*. http://www.somalilandlaw.com/Somaliland_Aug_2012_Statement_Final.pdf

⁴ M M Uluso (2016) Members of Somalia's Leadership Forum Disagree on their Official Communiqué http://www.hiiraan.com/op4/2016/aug/117032/members_of_somalia_s_leadership_forum_disagree_on_their_official_communique.aspx#sthash.IVZQQBhK.dpuf (Accessed 13 /08/2016).

⁵ The *Somalian National Forum (NLF) Communiqué* dated 12 April 2016, section headed 'Lower House', para (f).

⁶ This was set out in the recent (17 August 2016) Press Release by the Federal Indirect Implementation Team (FIEIT).

⁷ Ibid. Listed as Puntland, Jubaland, South West, Galmudug and the (yet to be finalised) Hiran/Central Shebelle. In contrast, the International Community Joint Press Release on 4 June 2016 mentions the planned formation of only four State-Level Indirect Electoral Implementation Teams (SIEITs) to be formed by 10 June 2016.

⁸ As set out in NLF Communiqué dated 12 April 2016.

⁹ As set out in para (b) of the section headed 'Lower House' of the *NLF Communiqué* dated 12 April 2016, which was amended slightly in para 8 of the *NLF Communiqué* dated 3 June 2016 which raised the number of the final selectors per seat from 50 to 51.

¹⁰ This phrase was often used to highlight the difference between the 2002 to 2012 processes and the proposed 2016 process.

¹¹ *Report of the Secretary-General on the Situation in Somalia*, S/2003/987 of 13 October 2003, at paras 6 -7. The UNSG report is available at this link: <http://reliefweb.int/report/somalia/report-secretary-general-situation-somalia-s2003987> (last accessed 19/08/2016).

¹² It has become all too common from the 1960s onwards for Somalians to refer to the two countries that united on 1 July 1960 as the "Goboladda – regions" as if there was a Somali State consisting of various administrative regions before the European and Ethiopian colonisers separated them in the 19th century, when there was never ever such a state covering the areas in the Horn inhabited by the people of Somali ethnic origin which did end up, on colonisation, as 3 separate countries and two areas which became parts of Ethiopia and Kenya. Colonial boundaries divided up the areas inhabited by many ethnic groups in Africa, Arabia and Asia and continue to do so to date, and are still respected in international law.

¹³ [The Union of Somaliland and Somalia Law](#) – Law No. 1 of 1960, sections 1(a) and 11(1). This Law was expressly repealed by the 1961 Act after months of disagreement between the assembly members of Somaliland and those of Somalia. The disagreement was not only based on the different wording of the two laws but was also based on the fact that, as planned under the previously agreed arrangements still recorded in the [1960 Constitution](#) (Transitional Article I(2)), one Act of Union should have signed before the joint Assemblies can proceed to elect a provisional President. This was also emphasised in section 8(1) of Somaliland Union Law that only after the passing of the union law (i.e the agreed common Law/Act of union) will the two Assemblies cease to subsist and merge as the first National Assembly of the Somali Republic. This was not done as planned because of the Somalian Assembly's refusal to agree to an identical union law. The union law was to a treaty and identical copies should have been approved separately by each Assembly.

¹⁴ [Act of Union – Law No. 5 of 31 January 1961](#), Article 1(1) and Article 4(1). This belated Act which did not contain important provisions of the Somaliland Law of Union was not considered, as initially planned, by each assembly but was voted upon by the combined assemblies consisting of 33 Somaliland members and 90 Somalian members. (*These issues will be discussed in more detail in a forthcoming study of the tenuous legal foundations of the union*).

¹⁵ Article 4(1) of the 1961 Act of Union and section 11(1) of the 1960 Union Law.

¹⁶ Indeed section 2(1) of the Somaliland Union Law mentioned that the first component administrative units of the (new) Somali Republic shall be 'the region comprising the territories contained in the boundaries of the existing State of Somaliland (hereafter referred as the "the Northern Region" and,

secondly those presently existing territories which comprise the six regions ... all in Somalia (hereinafter collectively referred to as “the second named regions”). This section did not appear in the 1961 Act of Union, which did not address this point.

¹⁷ In fact in 1973 alone, the President of the military Supreme Revolutionary Council (SRC) issued 3 decrees which established a total 7(seven) new regions in the former Somalia territory - Galguduud (out of Mudug); Central Shebele and Lower Shebele (out of Benadir); Nugal (out of former Mijertenia); Bay, Gedo and Bakool (in place of Upper Juba) – and 1 new region in the former Somaliland territory, Sanaag (out of former Burao Region). Later in the early 1980s, similar decrees established 2 new regions, Awdal and Sool in the former Somaliland territories. This increased the pre-1969 eight regions to eighteen.

¹⁸ Indeed, Somaliland reverted to Its 1960 six ‘Principal Districts’ (now termed regions) which, despite the establishment of other new regions, still serve as the core six ‘Electoral Regions’ of the country.

¹⁹ Article 1(1) of the 1961 Act of Union and section 1(a) of the 1960 Union Law.

²⁰ See, for example, the [Annex Table of Deputies in the Political Elections Law](#) – Law No. 4 of 22 January 1964. Even then, the 33/90 split was not based on any estimated population figures and was simply the total number of members in each of the Legislative Assemblies elected in Somaliland and in Somalia. Having reviewed the available population estimates of Somaliland and Somalia in the 1950s, Jama M Ghalib posited that the population ratio of the two populations was 33.4% to 66.6% i.e one third and so an equitable distribution would have been 45/90 or 41/82 (J M Ghalib (1995) *The Cost of Dictatorship-The Somali Experience* Lilian Baber Press Inc., 31 – 33.

²¹ Political Elections and Local Councils Elections – Law No. 13 of 6 June 1968.

²² Like other treaties of union of states, Somaliland’s Law of Union considered the treaty of union as being a separate binding agreement – c.f section 7 of the Somaliland Law of Union and Article 1(1) of the 1961 Act of Union.

²³ The 1960 Constitution was abrogated initially by the First Charter of the Coup on 21 October 1969 and expressly annulled by the Decree of the Supreme Revolutionary Council No. 38 of 24 February 1970. In 1979 a new Constitution was introduced which was endorsed by a national referendum was held by the Dictatorship on 25 August 1979 - the outcome was reported as being a Yes vote of 99.79% (3,597,592 Yes votes).

²⁴ In 1979 a new Constitution was introduced which was endorsed by a national referendum was held by the Dictatorship on 25 August 1979 - the outcome was reported as being a ‘Yes’ vote of 99.79% (3,597,592 Yes votes). This replaced the 1960 Constitution which was, in any case, previously expressly abrogated and then annulled (see preceding endnote).

²⁵ Examples of ethnic Arab states that shared previously governmental arrangements at one time and are now separate sisterly states can be seen not far away in the Arabian Gulf.

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