

Somaliland National Referendum
May 31, 2001

**Final Report of the Initiative & Referendum Institute's
Election Monitoring Team**

Issued on
July 27, 2001

Sponsored by

IRI

INITIATIVE & REFERENDUM INSTITUTE

Citizen Lawmaker Press
Washington, D.C.

Table of Contents

I.	Introduction	1
II.	The IRI Delegation	3
III.	Brief overview of Somaliland History and People	7
IV.	Analysis of the Election Procedures	13
V.	Analysis of Efforts to Educate the Citizens of Somaliland about the Referendum and Constitution	17
VI.	Individual Observer Reports from the Regional Polling and Ballot Counting Stations	23
VII.	Conclusion	55
VIII.	Appendix	
	A. The Revised Constitution of the Republic of Somaliland	iii
	B. The Law of the Referendum on the Constitution of the Republic of Somaliland	xlix
	C. Map of Somaliland	lxiv
	D. May 30, 2001 Press Release from IRI	lxvii
	E. June 7, 2001 Statement of the IRI Observation Team	lxix
	F. The Initiative & Referendum Institute	lxxi
	G. Decision of the Somaliland Supreme Court certifying the Election results	lxxiii
	H. Table of Certified Results for May 31, 2001 Referendum	lxxv

Acknowledgements

This report would not have been possible without the selfless support of the wonderful individuals of the Institute's Election Monitoring Team.

The team, comprised of Sasha Bruce, David Byrd, Derek Cressman, Scott Kohlhaas, David McCuan, Alexander Mundt, Allison Puranik, Stacie Rumenap, Adrian Schmid and Dennis Polhill, gave freely of their time in order to participate in this historic election. I would like to additionally thank David Byrd and Stacie Rumenap who spent countless hours helping prepare this final report.

It is the work of people like these who help foster democracy and who make the world a better place to live. I am honored to have these individuals representing the Institute on the world stage and look forward to working with them again on future projects.

I would also like to thank the Somaliland Government and the Somaliland People. Even though we as an organization do not take a position on their efforts to gain international recognition, I do appreciate the hospitality they showed the Institute's team members while in Somaliland.

M. Dane Waters
President
Initiative & Referendum Institute

I. Introduction

The Initiative and Referendum Institute (the Institute), an international non-profit organization based in Washington, D.C., observed the May 31, 2001 referendum in Somaliland, which unilaterally declared independence from Somalia in 1991. The borders of the country are the same as those of the British Protectorate of Somaliland that gained independence in 1960, when it united with the previously Italian Somalia later that same year. The referendum was called by the Parliament of Somaliland to ratify the constitution that was initially adopted in February 1997. At the invitation of the Somaliland government – with assistance from members of the Somaliland Diaspora organization known as the Somaliland Forum – the Institute observed the pre-polling, polling, ballot counting, and related political activities from May 28th to June 7th 2001.

The ten-person Institute delegation consisted of eight delegates from the United States, one from Britain and one from Switzerland. The delegation leader in Washington was Dane Waters, president and founder of the Institute, and the delegation leader in Somaliland was Dennis Polhill, chairman of the board. The Somaliland National Referendum Committee and the Somaliland Forum briefed the Institute delegation about election procedures, the constitution, and the background and history of the referendum. Upon arriving in Somaliland, the Institute delegation met and coordinated observation activities with a group of observers from South Africa. The Institute delegation observed 57 different polling stations in five of Somaliland's six regions.

It is important to note the limitations of this report. With 600 polling stations in Somaliland, the Institute delegation made their best effort to get a truly representative sampling with only ten observers. In addition, the Somaliland government provided all transportation and translators. Although the observers generally agreed that genuine and sincere efforts were made to give us access to the polling stations the Institute wished to observe, and that our guides seemed to be giving us honest and accurate translations and explanations of events, our observations were nonetheless restricted by the circumstances. The Institute chose not to send any observers to the Sool region, which borders the breakaway Puntland region that is attempting to achieve an autonomous status within Somalia (Puntland claims some areas of Sool and Sanaag as part of its territory). The Sool region was considered to be the most volatile region of Somaliland with opposition to the referendum, and the most isolated and farthest away from the safety of the capital of Hargeisa. Similarly, in the Sanaag region where there was also some opposition, the Institute sent only one observer. Because of poor or non-existent transportation options, observers could not be sent to the more remote polling stations, which served many of the country's nomadic and rural people. This report takes no position on Somaliland's constitution, its independence, or its desire for international recognition. The job was simply to witness and view the referendum, and report on the conduct of the referendum, and whether and how it adhered to the legal procedures established for the referendum.

To develop a fuller understanding of the country and people, the Institute delegation met together and individually with scores of government officials, including President Egal, members of the Somaliland National Referendum Committee, the Speaker of the Somaliland House of Representatives, representatives from the Ministry of Information and the Ministry of the Interior, the Foreign Minister, various cabinet

officials, the regional governors, and mayors. The delegation also met with business leaders, health community members, representatives of the local and international press, and members of non-governmental organizations providing international aid to Somaliland. The Institute delegation received an English translation of the constitution as well as primers on the history and economy of Somaliland.

Most people in the central and western districts, which are dominated by the majority Isaaq clan, were passionately in favor of the referendum. A “Yes” vote to the constitution was widely perceived as an endorsement of Somaliland’s independence and a rejection of rule from Mogadishu and Somalia. There was also widespread common sentiment that a “Yes” vote would send a message to the world that Somaliland deserved to be recognized. There was, however, political opposition to the referendum in some areas. This limited opposition appeared to be based more on a rejection of the current administration than on a rejection of the notion of an independent Somaliland. In the Sool and Sanaag regions in the east, which are heavily populated by clans other than Isaaq, some do not recognize the independence of Somaliland from Somalia and continue to consider themselves part of a larger Somalia.

While all members of the Institute delegation volunteered and donated their time for this two-week endeavor without compensation – many using their own vacation time – the Somaliland Forum paid for coach-class airfare from the United States and Europe, and paid for all food and lodging expenses while the delegation was in Somaliland.

Again, it is important to reiterate that this report seeks to give an objective, analytical and critical commentary on the referendum and how it was administered, without supporting or opposing Somaliland’s move for independence, its quest for international recognition, or the content of its proposed constitution.

II. The Institute Delegation

The Institute delegation sent to observe the constitutional referendum in Somaliland consisted of ten individuals with diverse backgrounds in both domestic and international politics, government, African affairs, the initiative and referendum process, human rights, journalism, education, law and economics.

M. Dane Waters is the founder, president and co-chairman of the Initiative and Referendum Institute, a Washington, D.C.-based, non-profit educational and research organization dedicated to educating the people on the initiative and referendum process. An expert on the initiative and referendum process, Mr. Waters has lectured extensively throughout the world on governmental and electoral issues, and has advised foreign governments on the initiative and referendum process. Mr. Waters writes a monthly column on the initiative process for *Campaigns & Elections* magazine, and serves on the board of the Appleseed Foundation's Electoral Reform Project, a joint effort between Harvard Law School and American University to improve American democracy through the reform of its electoral processes. He has a degree in political science from the University of Alabama at Birmingham. Mr. Waters coordinated the Institute delegation, and served as the delegation spokesperson during the referendum from Washington, D.C.

Dennis Polhill is chairman of the board of directors of the Initiative and Referendum Institute. Mr. Polhill, who lives near Denver, Colorado, holds degrees in government administration, mathematics, and civil engineering from the University of Illinois and the University of Pittsburgh. Mr. Polhill has researched, written, and published extensively on the democratic process, elections and representation. He has worked in city government, consulting, commercial real estate, and private finance. Mr. Polhill led the Institute's delegation in Somaliland, and observed polling stations and ballot counting in Hargeisa, Somaliland's capital.

Raised in Great Britain, **Sasha Bruce** is a political consultant in Washington, D.C., where she represents Mammen Pritchard and Associates, a Democratic political consulting firm. After receiving her degree in environmental science from Stetson University, Ms. Bruce worked on the legislative staff of Congressman Baron Hill, a Democrat from Indiana, where she concentrated on environmental issues, energy and health care policy. In addition to her work as a political consultant, Ms. Bruce has also served as a researcher with the Ballot Initiative Strategy Center, an organization that assists progressive initiatives and referenda throughout the United States. Ms. Bruce observed polling stations in the city of Boorame in the Awdal region.

David Byrd is an attorney and journalist living in Washington, D.C. As a trial attorney, Mr. Byrd has defended corporations in state and federal courts, and prosecuted civil rights abuses before the United States Supreme Court. As a journalist, Mr. Byrd has written extensively about legal affairs, the courts and judiciary, politics, and the Department of Justice, and served as a staff correspondent for *National Journal*, a public policy and political magazine in Washington, D.C. Mr. Byrd has a degree in political science and French from the University of Kansas, a law degree from the University of Minnesota, and a master's degree in journalism from Northwestern University. Mr. Byrd observed polling stations and ballot counting in Berbera and throughout the Saaxil

region, and served as the editor for the Institute's *Final Report on the Somaliland Referendum*.

Derek Cressman heads up democracy programs for the Public Interest Research Group in Sacramento, California, where he focuses on reforming campaign finance laws, electoral reform, and the promotion of the initiative process. Mr. Cressman has testified before Congress on campaign finance reform, and has published numerous op-ed articles on electoral reform and ballot initiatives. Mr. Cressman advises clients on crafting state ballot initiatives and legislative strategies for reform, and has been involved in campaigns regarding campaign contribution limits, student rights, and environmental issues. Mr. Cressman received a degree from Williams College, where he studied political science and international relations. Mr. Cressman observed polling stations in Ceerigaabo in the Sanaag region, and observed ballot counting in Hargeisa.

Scott Kohlhaas is the executive director of the Libertarian Party in the state of Illinois and works extensively recruiting candidates and supporting Libertarian issues through advocacy and writing efforts. Mr. Kohlhaas received a degree in political science and history from Westminster College, and studied at the University of Alaska-Anchorage. Mr. Kohlhaas directed a number of statewide campaigns limiting government regulations in Alaska, and ran there as the Libertarian Party's candidate for the U.S. Senate. He lives outside of Chicago, and serves as a trustee on the Dundee Township Library Board. Mr. Kohlhaas observed polling station and ballot counting in Burco.

David McCuan is a professor of public policy and business at the Maritime Academy of the California State University in Vallejo, California. A former visiting scholar at the University of California at Berkeley, Mr. McCuan has written and published extensively on the initiative process in California and on mass political behavior with a focus on direct democracy in the United States. Mr. McCuan will receive his Ph.D. in political science later this year from the University of California at Riverside, where he will publish "Grassroots Democracy and the Initiative Wars: The Professionalization of Direct Democracy in California." He is co-author of "Grass Roots Democracy and California's Political Warriors: Campaign Professionals and the Initiative Process," and wrote "Narrow versus Common Interests? Contending Players, Strategies, and Advantages in Elections," which he published in *Citizens as Legislators: Direct Democracy in the United States*. Mr. McCuan observed polling stations and ballot counting in Boorame in the Awdal region.

Alexander Mundt is a consultant at the Robert F. Kennedy Memorial Center for Human Rights in Washington, D.C., where he focuses on African affairs. Mr. Mundt received a Fulbright Scholarship to study African politics at Makerere University in Kampala, Uganda, where he researched human rights abuses and the democratization process. He has served as an international election observer for the 1996 presidential and parliamentary elections in Uganda, and for the 1995 presidential election in Tanzania. Mr. Mundt received his master's degree in African studies and international economics from the Johns Hopkins School of Advanced International Studies, and a degree in history from Georgetown University.

Allison Puranik is a broadcast journalist in London where she produces programs on international current affairs for domestic radio on the BBC in Britain. Ms. Puranik has an undergraduate degree in English literature from the University of Tennessee, and a master's degree in English literature from Oxford University in England. Ms. Puranik has produced South Asian radio broadcasts for the BBC World Service, and reported on African life and culture. Although raised in the United States, Ms. Puranik has lived in Britain for more than ten years. Ms. Puranik observed polling stations and ballot counting in the Odweine district in the Togdheer region.

Stacie Rumenap is the executive director of U.S. Term Limits, a non-partisan, non-profit issue advocacy organization based in Washington, D.C. that promotes limiting the terms of local, state and national politicians. As executive director, Ms. Rumenap has led state and national campaigns and initiatives, testified about the importance of term limits before state legislatures and city councils across the nation, and written and published op-ed articles on the legal and political issues surrounding term limits. Before joining U.S. Term Limits, Ms. Rumenap served as the executive director for the Political Club for Growth and as a senior aide on Capitol Hill. Ms. Rumenap has a degree in journalism from Shippensburg University in Pennsylvania. Ms. Rumenap observed polling stations and ballot counting in Hargeisa.

Adrian Schmid is the finance director and a member of the board of directors for the European office of the Initiative and Referendum Institute in Amsterdam, Netherlands. He is a co-founder of Eurotopia, a movement for trans-national direct democracy in Europe. Mr. Schmid served as a member of Switzerland's parliament from 1983 through 2000, and he is the former deputy chairman of the Green Party of Switzerland. Mr. Schmid serves as head of the traffic affairs department at VCS Switzerland, the national association for transportation and environment. Mr. Schmid observed polling stations and ballot counting in Hargeisa.

III. Brief Overview of Somaliland History and People

Like other African countries today, Somaliland is a product of a combination of forces at play in Africa over the last two centuries: an underdeveloped vestige of the European colonial system – at times a casualty of despots and superpowers during the Cold War – and a victim of civil wars and autocratic military regimes. Formerly the British Protectorate of Somaliland, today's Somaliland Republic is a nation that unilaterally declared its independence ten years ago, after fighting with rival clan factions from southern Somalia who had bombed and destroyed its main cities and killed thousands of its people. Although it has been peaceful for the past several years – while Somalia, particularly in the capital Mogadishu, continues to erupt in daily fighting between rival clans and warlords – Somaliland has yet to receive international recognition of its withdrawal from its union with Somalia. The United Nations, fellow African countries, and others within the international community have been reluctant to recognize Somaliland's independence.

Similar in geographic size to the American state of Florida, Somaliland is located on the strategic Horn of East Africa just north of Somalia. It's on the eastern border of Ethiopia and to the south of the Gulf of Aden. Its official language is Somali, though English is increasingly spoken among its educated population. Despite regional clan differences, the overwhelming majority of Somaliland's population has Cushitic ethnic origins, and is united by Sunni Islam with its adherence to Sharia Islamic law. Although the ethnic composition of Somaliland is almost entirely indigenous Somali people, the population stretches across several patrilineal clans, including the Isaaq, the largest in Somaliland, and the Gadabuursi, Ciise, Dhulbahante, and Warsangeli clans, all of which have fiercely defended their regional territories and interests over the years. Somaliland is moving away from its long tradition of a hierarchical society of competing clans that were often susceptible to political disharmony. The country is moving towards a more representative – one man one vote system – dominated by national political parties that cut across clan and regional loyalties.

The eastern part of Somaliland consists of a hot, arid coastal salt plain that receives less than four inches of rain annually. Due to its location off of the Indian Ocean, it has remained quite susceptible to the monsoon season in the wetter spring and the contrasting drought devastation that occurs every few years during the summer. With limited precipitation, nomadic pastoralism dominates the central and northern part of Somaliland, with agricultural farming predominant on the southern plateau and foothills where rainfall more regularly averages 20 to 30 inches per year. The capital of Somaliland is Hargeisa, with a population of approximately 400,000. Other major cities include Burco in the country's center, Berbera, the country's main oceanic port, the university town of Boorame, and the cities of Gabiley, Ceerigaabo, and Lass Cannood.

With a population between 3 million and 3.5 million people, the precise population of Somaliland is still unknown. There has never been a census. The best source for generally recognized statistics is "Somaliland in Figures," published by the government's Ministry of National Planning and Coordination in 1997, and revised in 1999. The constantly changing and itinerant nomadic population compounds the lack of an accurate census. About 55 percent of the people are nomad herders who drift freely across unmarked borders. The population estimate in 1997 was approximately 3 million.

Life expectancy is between 45 to 50 years, with a birth rate of 4.46 percent and a death rate of 1.32 percent. With an estimated population growth rate of 3.1 percent, these numbers yield a 2001 population of approximately 3,390,000 people in Somaliland.

Of the 3,390,000 people, any male or female over 18 years of age, and who is not certified as insane or serving time in prison, may vote in Somaliland. However, there are no written birth records, and few know the actual date or year of their birth. The United Nations, in cooperation with the U.S. Centers for Disease Control, estimates that 45 percent of Somaliland's population is under 15 years of age, and approximately 47 percent of the population is over 18. Matt Bryden, a Canadian contracting with the Somaliland Centre for Peace and Development and an acknowledged Somaliland expert, estimates the over-18 population at roughly 60 percent. Giving equal weight to both estimates yields an approximate eligible voting population of 1,814,000. Thus, with 1,187,833 voting in the referendum (according to the certified vote tally approved by the Somaliland Supreme Court on June 14, 2001), the approximate voter turnout of the eligible population was 66 percent, slightly higher than the 60 percent turnout the government expected.

During the European colonial rush to expand their influence in Africa, Somaliland came under British colonial rule in 1886 through a series of British treaties with different ethnic clans giving them protectorate status under the British crown. Britain's primary interest in the area was in big game hunting and the livestock trade to provide meat to their forces stationed in Yemen and throughout the Gulf of Aden. In their 86 years of colonial control, the British fought against internal uprisings in the Dervish Movement from 1899 to 1920, and Italian fascist occupation from Ethiopia upon Britain's retreat from Somaliland during World War II. Hundreds of Somaliland people fought on behalf of the British in the Pacific theater during World War II. Despite decades of British rule, the British left Somaliland with little in the way of administrative, educational and economic structure compared to other British colonies.

As the anti-colonial movement grew after World War II, Britain began to prepare Somaliland for its independence by instituting universal suffrage in 1958 under separate ethnic electorates from different regional clan groups. As a result of the Arabian oil boom in the 1950s, demand for Somali livestock skyrocketed, with the cities of Berbera, Hargeisa and Burco becoming hubs of this unprecedented livestock trade.

Nomadic pastoralism – particularly goat, sheep, cow and camel herding – supports 70 percent of Somaliland's population, but agriculture has proven to be widely unpredictable over time. The country possesses significant mineral deposits, particularly near the salt plains, and is considered by some to rest on developable supplies of oil and natural gas similar in size to those of Yemen. However, because the rights to oil and gas leases were last negotiated during the 1980's under the previous Mogadishu regime, Somaliland has had difficulty convincing oil companies to enter into leases with it, largely as a result of a lack of international recognition and the uncertainty of the legal enforceability of leases with an unrecognized state. Today, Somaliland's oil and gas reserves, if any, remain unexplored.

During the Cold War, Britain proposed the unification of all Somali people under one country from the five different countries that Somali people lived in at the time,

uniting them with Somalis from British Kenya, Italian Somalia, French Djibouti and Ethiopia. Because both the French and Soviets viewed this as amassing a Somali nation under British influence in the strategic Horn of Africa – despite the potential of uniting all Somali people under one flag – they bitterly opposed Britain’s idea of Somali unification.

Instead, on June 26, 1960, British Somaliland gained its independence. Conversely, it lasted for only six days. On July 1, the former British protectorate officially joined with Italian Somalia, under European encouragement, to form the united Republic of Somalia. Although it unified two of the five Somali regions in the area, the union was established much to Somaliland’s detriment. Italian Somalia (in the south) procured most of the senior executive positions in the new government that was centered in the southern capital, Mogadishu, and greatly outweighed British Somaliland in parliamentary seats, 99 to 33. Although more than 60 percent of Somalis in Somaliland voted against the referendum held in 1961 to ratify this proposed union and its constitution, the more populous southern majority carried the vote, muffling Somaliland’s discontent.

What ensued was a 30-year period marked largely by political and economic unrest, much of which occurred during the two decades of brutal rule by Siad Barré’s Mogadishu-based regime. Rising to power via a military coup in 1969, Barré organized a militant administration under his Somali Revolutionary Socialist party that extended its grip over neighboring areas in Djibouti and Ethiopia where related Somali clans lived. With the help of the Soviet Union, Barré built up one of the largest and best-equipped armies in sub-Saharan Africa. Full-scale war with Ethiopia broke out in 1977, but the Soviet Union eventually turned on Barré and sided with Ethiopia, leading to the ultimate rout of the Somali army and forcing Barré to capitulate.

Due to the war with Ethiopia, a massive human influx of refugees poured into Somalia, most of them ethnic Somalis, and by 1981 approximately 400,000 Ogaden Somali refugees had settled in the north, in Somaliland. Related to southern Somali clans, these refugees over-burdened the north’s resources and eventually began to receive most of the choice state patronage positions from their ethnically related Somalis from the south, causing northern Somalis in Somaliland to lose jobs and preferential government contracts and licenses to refugees from Ethiopia. With so many refugees, international aid that would otherwise have benefited natives from Somaliland was diverted to handle the flood of refugees, further straining Somaliland’s limited resources.

Compounding the refugee problem, Barré placed growing restrictions on livestock exports critical to the economic health of northern Somalis. But in 1981, Barré’s government arrested a group of Hargeisa intellectuals on trumped up charges of subversion, pushing separatist groups in the north – led by the influential Isaaq clan – to coalesce into the Somali Nationalist Movement (SNM). Protesting years of death sentences, torture and other serious human rights abuses throughout the 1980s, the SNM eventually launched their first armed opposition against Barré’s regime in 1988, killing several government officials. The Mogadishu-based regime, comprised largely of the Daarood clan, responded brutally with ground and aerial attacks on the north that killed more than 50,000 Somalis and sent another 500,000 fleeing to Ethiopia. Many of the largest northern cities and villages were completely destroyed, famine swept through the

country, and Barré had the north strewn with hundreds of thousands of landmines. The SNM regrouped with guerrilla forces in Ethiopia to recapture northern cities in Somaliland, overthrowing the government and forcing Barré into exile.

With famine sweeping the country and international food aid disrupted by the civil war, President Bush sent American troops to Mogadishu in December 1992 in a military relief effort known as Operation Restore Hope. Along with troops from other United Nations countries, American marines ensured that food reached the starving and helped stabilize parts of southern Somalia, particularly in Mogadishu where rival clans and warlords were openly fighting. Eventually, the American presence included more than 26,000 troops stationed throughout Mogadishu and the southern part of the country, and food distribution was restored and the famine subsided. None of the international troops, however, were stationed in Somaliland. But by the time American troops pulled out of Somalia fifteen months later in March 1994, Somali warlords and their factions had killed 17 American soldiers.

Representatives of the communities of the north convened in Burco in early 1991 in a conference that declared independence from Somalia, and agreed upon the following:

- Reconciliation of the warring parties to the conflict;
- Disbanding the 1960 Act of Union with Somalia;
- Establishment of a transitional two-year rule by the SNM, and accommodation of the non-Isaaq clans into the government structure;
- Initiation of a separate reconciliation process for the Sanaag region.

Despite a promise of peace and reconciliation, clan clashes continued throughout Somaliland and Somalia as a result of the depletion of natural resources, a lack of international aid, and the displacement of hundreds of thousands of refugees. A 1992 cease-fire lasted until tensions erupted into further civil conflict in 1994 in Somaliland. Sporadic fighting lasted until a final peace accord was reached in Hargeisa in February 1997, whereupon a conference achieved the following:

- Cessation of all hostilities and military demobilization;
- An interim constitution to be valid during a three-year transition period;
- Re-election of President Mohamed Ibrahim Egal, with a new vice president, Dahir Riyaale Kahin, for a five-year term;
- An accommodation of Somaliland's minority clans with increased political representation in the House of Parliament.

Since the 1997 national conference in Hargeisa, peace has flourished throughout Somaliland while clan and rival warlord factions continue to destabilize Somalia and Mogadishu. President Egal's administration has fostered economic development of the regional livestock trade and agriculture in Somaliland's southern mesa. Despite internal debt and inflation, reforms have liberalized the economy and reduced state intervention in the growing free-market economy. International oil companies, which explored for oil and gas in the mid-1980s, have renewed their interest in the Somaliland coastal regions and offshore leases, given the topographical similarities with oil-rich Arab nations across the Gulf of Aden.

Because past clashes have been deep-seated in clan controversy, the national conference strove to make changes in the government more accommodating to clan interests including dissolving the national assembly, increasing regional bodies and drafting a new constitution. Despite regional contention in Somaliland, a parliamentary system was agreed upon with a declaration of human rights and a system legalizing the creation of political parties. President Egal restructured his cabinet, continuing the devolution of power to the clan regions and guaranteeing the individual rights of liberty, freedom of the press, and protection against arbitrary search.

In August 2000, President Egal's government distributed thousands of copies of the proposed constitution throughout Somaliland for consideration and review by the people. One critical clause of the 130 individual articles of the constitution would ratify Somaliland's self-declared independence and final separation from Somalia, restoring the nation's independence for the first time since 1960. In late March 2001, President Egal set the date for the referendum on the Constitution for May 31, 2001.

IV. Analysis of the Election Procedures

The Somaliland National Referendum Committee, charged with planning the country's first national referendum in 40 years, faced – and largely overcame – numerous obstacles. The primary challenge of extending suffrage to all eligible Somaliland people was complicated by a number of factors, among them: widespread illiteracy, a large population of nomadic and semi-nomadic citizens with no voting experience, myriad logistical difficulties, a lack of accurate census data, and the overwhelming costs of holding a national referendum in accordance with generally accepted standards (particularly given that many international organizations the Somaliland government approached for assistance on the referendum refused to provide assistance because Somaliland is not recognized internationally). Despite these obstacles, the government did an admirable job designing procedures that were simple but fair, widely understood by the first-time voters of Somaliland, and easily implemented consistently and uniformly by regional officials in the six regions of the country.

As an indication of its seriousness, the Somaliland Parliament allocated almost five percent of its annual government revenues – more than \$650,000 – to carry out the referendum. The procedures, modeled on national elections elsewhere, were drawn by experts appointed by the government and formally approved by both Houses of Parliament in March 2001. During the debate on the procedures, Parliament voted to change the color of the ballot boxes from red and green to black and white, fearing that red and green, both prominent colors of the Somaliland flag, would confuse voters. Moreover, black and white were the colors of the ballot boxes used in the 1961 referendum uniting Italian Somalia with British Somaliland (that was defeated in the Somaliland region, though passed due to the large Somalia population in the south). The Parliament's decision to reuse these colors seemed appropriate and fair.

Eligibility

Voter eligibility and Somaliland citizenship are determined by paternal lineage according to the pre-independence colonial borders separating Italian Somalia and British Somaliland. The election law gives voting rights to anyone over the age of 18 who descends from people residing in Somaliland prior to June 26, 1960, and who is not certified insane or serving a prison sentence. The Somaliland National Referendum Committee considered providing voters with photo identification cards, but dropped the idea when the expense was determined. Given the lack of voter identification and the absence of prior voter registration, the procedures gave clan elders the authority to determine citizenship through specific questions to ascertain inclusion in one of Somaliland's handful of recognized clans. Unregulated and in the absence of qualified cultural anthropologists, such a system invites the possibility of politically motivated decisions that could unjustly exclude certain citizens from voting. However, the Institute delegation found no evidence or complaints that the provision was misused in any way to exclude potential voters. Many Somalilanders stated that eligibility could be easily determined through accent or dialect alone. Additionally, voters were allowed to present to the polling station chairmen witnesses to attest to their age and citizenship. On the whole, the system seemed to work relatively well, with few problems reported. In the future, it may be wise to create a system of voter registration that would allow voters to

verify their eligibility prior to the election and to cast a provisional ballot subject to verification of their eligibility.

Polling stations

Unsurprisingly, the allocated number and location of polling stations were two of the most contentious issues in the months leading up to the referendum, and served as a rallying cry for disparate groups opposed to the vote. In the 1961 referendum, there were only 150 polling stations in the Somaliland region. For the 2001 referendum, Parliament requested 700 polling stations but the Minister of Finance, citing fiscal constraints, scaled back the number to 600. Most regions requested more stations than the number allocated. The final distribution was decided by having the six members of the Somaliland National Referendum Committee – one from each of the six regions – allocate what they felt was a fair distribution of ballot boxes, and then taking an average of all six. Parliament approved this scheme only on the condition that it not be the basis for future elections, such as the presidential race. From the limited information provided the Institute delegation about the population distribution in Somaliland, the compromise and distribution of stations seems reasonable. However, the Institute agrees with members of the Somaliland National Referendum Committee who feel that, ultimately, 1,000 polling stations would be a more appropriate number if the financial considerations could be addressed in the future. An additional consideration would be to use the turnout from the 2001 referendum as a basis for ballot box distribution in future elections.

Materials

The voting materials and procedures were adequate and simple. Printed ballots from a sequentially numbered pad were stamped with the number of the polling station and distributed to each eligible voter to be deposited in either a white “Yes” box or a black “No” box. The materials arrived at each station in a locked box containing sealed envelopes of ballots and supplies. There were no reports of tampering and few scattered reports of inadequate supplies (including an insufficient number of ballots when more voters showed up than expected).

Voting procedures required each voter’s hand to be marked with indelible ink to prevent multiple voting. In some instances witnessed by the Institute delegation, the ink used washed off somewhat easily. In the future, the Institute recommends that the procedure be changed to mark the voter’s thumbnail which can more easily be stained than the skin on the back of a hand. International observers from South Africa told us that this procedure worked well in South Africa’s election, using the same type of ink.

Staffing

The provisions for polling station workers and security forces at each polling station were well thought out. Polling station workers, consisting of a chairman, an assistant and a secretary at each station, were helpful and well informed. In future elections, it may make sense to have more than one person assigned to logging in registered voters in order to speed the process and shorten the lines. One or two armed security officers at each polling station maintained order in a non-menacing fashion and kept the line moving orderly, and did not create an atmosphere of intimidation. The

procedures clearly spelled out hierarchical decision-making authority and mechanisms, through simple majority voting, for dispute resolution.

However, the Institute delegation noted two problems with the staffing arrangement: the lack of back-up staff and the absence of domestic monitors. The 12- to 16-hour polling day schedule requires either a back-up staff or a system allowing the polling station staff adequate and organized breaks. Also, the Institute delegation felt that future elections would benefit greatly from domestic monitors. The Somaliland National Referendum Committee coordinated the delegations of foreign observers and some women's groups acted on their own behalf as domestic monitors in the Hargeisa region, but a more thorough domestic observation system could help things run more smoothly in the future.

Vote Counting

The procedures did not provide clear steps for the counting of ballots. After arriving at the regional district referendum offices via armed escort, the counting teams were to count all of the "Yes" votes and then all of the "No" votes, polling station by polling station. However, the Institute's delegation reported considerable disagreements over exactly what the Somaliland National Referendum Committee intended. Some regional chairmen argued the votes were to be counted one by one, while others thought all "Yes" votes were to be counted for the entire district and then all "No" votes in the district. In interviews following the referendum with members of the Somaliland National Referendum Committee, there was wide agreement that the procedures should be clarified for future elections. On the whole, the district chairmen improvised acceptable methods for counting, and the Institute delegation found neither gross irregularities with the counting process, nor evidence to suggest that the final results were altered as a result of slight variances in the counting procedures.

V. Analysis of Efforts to Educate the Citizens of Somaliland about the Referendum and Constitution

Despite its limited resources, both financial and technological, the government of Somaliland employed a surprisingly wide array of resources to educate its people on the referendum on the constitution, from simple traditional posters and clan meetings to more modern media, including newspapers, radio, television – even the Internet. However, while the *methods and modes* of information and education on the referendum were impressive, the absence of a politically sophisticated and mature civil society separate and distinct from the government, as well as the absence of organized political parties that could articulate opposition to government policies, prevented the people of Somaliland from receiving much substantive and meaningful analysis of the various articles of the constitution.

One important caveat should be noted: the Institute's understanding of the extent of the government's efforts to educate the people of Somaliland on the referendum and the constitution came largely from information provided by the government itself. Simply put, due to the short stay in Somaliland, the Institute delegation was not in the country early enough to conduct a direct assessment of the educational campaign and the government's message. Furthermore, because this was not a typical partisan election with clearly delineated sides campaigning for or against a particular issue or candidate, the referendum was devoid of traditional stakeholders who could air their supporting or opposing viewpoints.

Educating Through the Traditional Somali Clan System

With an estimated budget of \$650,000, to fund the entire referendum effort, a small portion of that budget was reserved for educating the people on this vote. According to Hassan Horri, the Director General of the Minister of Information, his ministry received \$15,000 to conduct the education campaign.

Compounding the difficulty of the government's education campaign is the fact that the Somaliland people are approximately 55 percent nomadic, making communication with them difficult. There is no national or local mail system in Somaliland, no tax rolls and no census. The government's Ministry of Information printed 12,500 copies of the proposed constitution in August 2000, of which 10,000 copies were printed in Somali and 2,500 in Arabic. Yet, despite historic literacy efforts during the 1970s, there remains an estimated illiteracy rate of 70 percent throughout Somaliland according to the Ministry of Information. Given such illiteracy, the Ministry of Information realized that a sizable portion of the educational effort would need to be conducted through traditional clans, communicated from elders verbally to their clan members.

With the distribution of copies of the proposed constitution in August 2000, the six-person national Somaliland National Referendum Committee recognized that there might have been too much lag time between the distribution of copies of the constitution and the actual election date, not scheduled by President Egal for the May 31, 2001 date until late March. According to Abdulgadir Haji Ismail Jirde, the Speaker of the House of Representatives and a member of the six-person Committee, there was concern that too

much time between the distribution of copies of the constitution and the actual election date might diminish the interest of the people to vote. Copies of the constitution were also made available to Somaliland natives living abroad through postings on the Internet at SomalilandForum.com and at the government-owned radio station's Internet site, RadioHargeisa.com.

To address this, in December 2000, the Ministry of Information held a two-week long seminar in Hargeisa for the mayors and regional governors on how to educate the people. Given the high rate of illiteracy and the nomadic population, their goal was to teach the 33 district mayors, the six regional governors and most schoolteachers about the constitution and the referendum. These trainees then returned to their regions and districts to educate the clan elders. In time-honored Somaliland tradition, clan elders have always met with members of their village or clan to discuss issues affecting the clan, the village or the nation, and it is through this traditional network that the Ministry of Information sought to spread information on the referendum.

The government took efforts to communicate directly with clan leaders in the troubled area of Sool. Given that Sool had the largest number of nomads in the nation, and given the problems that had arisen in the Sool region near the disputed borders with Puntland and Somalia, members of the Somaliland National Referendum Committee traveled to the region on May 29, 2001 to seek support for the referendum from the clan elders there. Abdulgadir Haji Ismail Jirde, the Speaker of the House of Representatives, met with clan leaders of the Dhulbahante clan, which is based in the Sool region. After speaking to the elders, they asked Abdulgadir Haji Ismail Jirde to step outside while they discussed the issue. While some sub-clan leaders wanted to postpone the vote, the elders told Abdulgadir Haji Ismail Jirde that they would agree to support voting in the referendum, but would not advocate for their people to vote "Yes" or "No." (While the referendum was overwhelmingly peaceful, there was one reported incident in Sool, Abdulgadir Haji Ismail Jirde told the Institute, in which someone unsuccessfully tried to steal one of the ballot boxes on election day, only to be wounded in the following minor skirmish.)

Such personal diplomacy on the part of the government reflected their appropriate concern for this troubled region: according to the certified results, the Sool region had the highest percent of negative voting, with 16 percent of the region voting against the constitution, compared with the other five regions which voted an average 98 percent to approve the constitution. In the Las Anode district in Sool, 45 percent voted "No," and in fact, the "No" vote prevailed in nine of the 23 polling stations there.

Modern Electronic Media

The Ministry of Information also sought to employ radio, television and newspapers to spread information on the referendum. The principle medium used to disperse information was Radio Hargeisa, a government-owned station which has a long and rich history in Somaliland. The radio station was the first in all of East Africa, set up by the British in 1942 during World War II. After the station was bombed in 1988 by the Barré regime, the Somaliland National Movement (SNM) built a mobile station in three roving trucks that could evade destruction by Barré's regime. Today, its transmitters are powerful enough to reach all of Somaliland, the Puntland region, and parts of Ethiopia.

The station plays traditional Somali and other African music, features discussion topic “talk” programs, news, and other programming.

Three weeks before the election date on May 31, the government increased the broadcasting capacity of Radio Hargeisa and set aside 80 percent of its programming for coverage of the referendum, incorporating discussions of the various articles of the constitution, debates on independence, plus the views of those who were against independence or the constitution. However, because of language barriers and time constraints, the Institute was unable to determine, even approximately, how much time was allowed on Radio Hargeisa for airing the views of those opposed to the Constitution or independence. (Yet, in a broader effort to provide equal voice to all clans, the Somaliland National Referendum Committee was made up of six members, each representing one of the six major clans in Somaliland; only the Habar Jeelo, a sub-clan of the majority Isaaq clan, was not represented on the Committee).

It was not surprising that the government would use Radio Hargeisa – a government-owned and controlled radio station – to disseminate information on the referendum. However, the government did not make an effort to take advantage of the widespread BBC radio service aired in the Somali language to disseminate information to the people on the referendum. There was a large amount of distrust of the BBC by both government officials and Somaliland people. The Minister of the Environment, who spoke English well and was educated in the United States, said many Somaliland people joke that the BBC’s initials stand for words in the Somali tongue meaning “Lie after Lie Radio,” because of what many view as inaccurate and erroneous reporting by the BBC regarding the referendum and their disputed independence.

Mr. Horri of the Ministry of Information stated that the government did not work with the BBC to educate the people because it did not trust the BBC. (Indeed, there appears to have been a legitimate basis for their distrust: After the referendum, the BBC aired an individual’s comments from Puntland [which opposes Somaliland independence] who stated that there was no voting in the Sool and Sanaag regions that border Puntland. This, however, was demonstrably false, as the Institute delegation had an observer in Ceerigaabo in the Sanaag region, along with three South Africans from another delegation, but the BBC did not verify or attempt to confirm such an easily verifiable fact before they aired such a dubious allegation). Mr. Horri, quoting numbers from the BBC, told us that 73 percent of Somaliland people listen to the BBC’s Somali Service, which is the largest percentage of any country in the world listening to a BBC broadcast, Mr. Horri said. Each day at 5:30 p.m. and repeated at 9:30 p.m., the BBC airs domestic and international news in the Somali language. Abdulgadir Haji Ismail Jirde spoke to the BBC in April, prior to the referendum in May, to confirm that President Egal had chosen the date of May 31 for the referendum. Beyond that, the government did not utilize the BBC to educate the people about the referendum, and perhaps in future elections, it may be helpful to work directly with the BBC to provide voter education information, and to ensure the accuracy of election news.

Despite a dearth of televisions in Somaliland homes, the government utilized “Somaliland TV” to educate voters. A number of restaurants and cafes had one television that would be on during the evening, often carrying CNN or Somaliland TV. Known as “SLTV,” the privately-owned station broadcasts from 6:30 p.m. until 11:00

p.m. SLTV broadcasts can be received only in the capital Hargeisa and in Burco, the only other major city in Somaliland which is often referred to as Somaliland's "second city." The government purchased 20 minutes of airtime on the station for three months before the referendum, at a cost of \$3,000. The government paid the station to read five articles of the constitution each day, and prepared "man on the street" style interviews to discuss the various articles. People were solicited in the streets to voice their views on the articles, the constitution in general, and independence.

According to the Ministry of Information, opposing views were included (though our Institute delegation was unable to confirm this) and there were many heated debates on the referendum aired on SLTV.

The Press and Other Media

As with SLTV, the government purchased space in the three newspapers in Somaliland that are widely distributed throughout the country. There are two privately-owned newspapers in Somaliland: *Jamhuuriya* (The Republican), which is published six days a week in the Somali language and in English on Saturday, has a circulation of between 2,000 to 5,000 and is the largest paper in Somaliland; and *Himilo*, which is published three days a week. Another government-owned newspaper, *Maandeeq*, is published four days a week and has a circulation of approximately 1,000 to 2,000.

One month prior to the referendum, the government spent \$4,000 to purchase editorial and advertising space in *Jamhuuriya*, which is often considered by the government to be opposed to certain official government positions and policies. There was tremendous widespread coverage of the referendum in *Jamhuuriya*, and the paper frequently ran critical or comical editorial cartoons in the months before the referendum. Because several families from different clans jointly own *Jamhuuriya*, it often has a broader perspective on Somaliland politics than the other two newspapers. The government also ran editorials in its own *Maandeeq* newspaper, and many of the articles and editorials from the various newspapers were included on the Somaliland Forum website on the Internet.

The government also employed colorful posters as another tool to educate the people about the referendum. According to Abdulgadir Haji Ismail Jirde, the government printing office printed 13,000 posters with six different messages, distributed throughout the country two weeks before the referendum. Some posters simply encouraged people to turn out and vote, including a poster of men waiting in line at a polling station which read in Somali, "Go out to the referendum and show your feelings." Another poster of men and women standing in line at a polling station underneath the Somaliland flag read: "Make sure you vote. The choice is for the people." Other posters seemed to push for a "Yes" vote on the referendum and independence. One poster, of a dove sitting on eggs in her nest, stated, "The only way we have is the referendum," evoking the desire of many in Somaliland for peace after the bombings and killings of the Barré regime from southern Somalia. Another poster that pictured two ballot boxes asked rhetorically, "Which one will you choose if you have your senses?" – as if the choice should be clear and obvious. One poster stated, "One day for victory. Try to vote in the Right Way," possibly implying "victory" over Mogadishu. The reference to a "right way" of voting

was further indication of the peer pressure – to vote to approve the constitution and independence – that was very evident throughout the country.

Representatives of the Ministry of Information readily acknowledged that the government encouraged people to vote “Yes” to approve the constitution and independence. Frequent references throughout the government’s educational campaign were made to the vast destruction from Siad Barré’s 1988 bombing attacks, as well as the mass graves of Somaliland people killed by the Barré regime and the hundreds of thousands of landmines laid by Barré that still maim and kill Somaliland people today. Radio Hargeisa repeatedly played the national anthem and patriotic songs, and SLTV similarly ran video footage of the massive bombings during the 1988 attack by southern Somalis and mercenaries hired by Barré. On the whole, though, there was little of what one might consider overt and over-the-top propaganda to coerce people to vote “Yes” on the referendum, though this was clearly what the government encouraged and promoted.

The government also used cars and trucks with loud bullhorn-style public address speakers to drive through towns and villages with benign messages and reminders the day before and the day of the referendum. “It’s your day,” one message was repeated over and over again, as well as “Everybody has the right to vote.” They also played patriotic songs and the national anthem on the mobile public speakers.

Voting for the Constitution, or Voting for Independence?

In discussions with Somaliland people at the polling stations throughout the country, there was a wide consensus among the Institute delegation that the referendum was more of a vote on ratifying independence and separation from Somalia, rather than on the various articles of the Constitution itself. It was clear in reports of referendum observers that there was widespread voter support for approving their independence, but little debate or discussion regarding the separate articles of the constitution or the appropriate form and structure of government. The government devoted a limited effort to foster substantive debate or discussion on the separate articles of the Constitution or the ramifications and responsibilities of independence, and largely distilled its educational campaign into short, simple, easily understood platitudes on the importance of voting, self-determination, and patriotism.

To be fair, given that Somaliland is an aspiring democracy with little to no tradition of representative government, and given that it has a largely unsophisticated and under-educated electorate that was formerly governed through traditional clan structures, the government’s methods were understandable, if not entirely appropriate under the circumstances. Moreover, with very scarce resources available to fund a comprehensive educational campaign, the government’s efforts to encourage voting – while also providing easy access for individuals to read or discuss the constitution – proved that, notwithstanding the country’s financial and technological limitations, it was money wisely spent.

Turnout: Proof in the Pudding

The government’s educational efforts seem to have been quite successful at generating a high voter turnout. The government expected turnout to be around 60

percent, but after the referendum, the turnout appeared to be more than 66 percent of the estimated voting-age population (*see* Section II, Brief Overview of Somaliland People and History). This in a country that is largely nomadic and during a very hot part of the year that may have kept some in the cool mountains from coming down to vote in the hotter cities, particularly in Berbera. Indeed, some opposed to the constitution or independence may have expressed their opposition by simply *not* voting at all. But with 97 percent of those voting approving the constitution, this solid turnout of nearly two-thirds of the adult population only reinforces the country's overall support for the constitution and independence. Similarly, threats aired on the BBC by southern Somalis from Somalia and Puntland that the referendum could lead to war seems to have had little or no effect at keeping people away from the polls, even in the Sool and Sanaag regions that border Somalia.

VI. Individual Observer Reports From the Regional Polling and Ballot Counting Stations

With 600 individual polling stations in six regions spread out over 54,000 square miles (or 137,600 square kilometers, about the size of the state of Florida), where only a handful of highways are paved, the ten election observers of the Institute delegation could obviously not observe voting at even a majority of the polling stations. However, because there were seven others from South Africa working independently as election observers, it was decided that the Institute delegation would work with the South Africans to determine where and how to best to allocate the election observers such that there would not be much overlap or duplication between the two groups.

The Institute delegation decided that two people would go to each of five regions. Because of concerns of possible violence in the sixth region, Sool (south and east along the politically tenuous Puntland border), the Institute decided that no one would be sent there. On election day, most of the Institute delegation selected polling stations in their designated region – at the choice of the observer, not at the government’s selection – observing a number of different polling stations, especially the opening and closing of polling stations, to allow for observation of the most critical procedures. Each Institute observer would spend varying amounts of time at each polling station they visited, some spending the entire day fixed at one polling station, while most of the others in the Institute delegation roamed the city or region to observe a number of different polling stations for an hour or longer. The Institute election observers were allocated to the various regions thusly:

- Awdal (northwest) – Sasha Bruce and David McCuan
- Sanaag (northeast) – Derek Cressman
- Togdheer (south central) – Scott Kohlhaas and Allison Puranik
- Saaxil – (north central) – David Byrd and Alexander Mundt
- Woqooyi Galbeed (Hargeisa) – Dennis Polhill, Stacie Rumenap and Adrian Schmid

Instead of sending Mr. Schmid to Sanaag as originally planned, it was ultimately decided he would observe voting in the Woqooyi Galbeed region because the trip to Sanaag required a flight that arrived after the opening of polls there. Furthermore, because Sanaag has comparatively few polling stations (100) compared with over 160 polling stations in the more densely populated Woqooyi Galbeed region, and because three of the seven South African observers were already covering the Sanaag region, the Institute delegation felt comfortable allocating Mr. Schmid to the Woqooyi Galbeed region near the capital of Hargeisa, primarily in the town of Gabiley, to allow for greater coverage of this populous region. The South African delegation also sent one of their team members to the Gabiley area, with another observer sent to Hargeisa and two to the Awdal region. The South Africans did not have election observers in Saaxil or Togdheer, though Institute observers were stationed in these two regions.

While all reports were written in a narrative or anecdotal format by individual observers, each commented on common themes with supporting observations, including their individual overall impressions of the voting and counting, adherence to election

procedures, irregularities in voting or counting, voter understanding, voter identification, opposition to the referendum or constitution, and interviews with or comments from voters or polling station workers.

**1. Report from Sanaag
Mr. Derek Cressman**

On the morning of the Election Day, I flew from Hargeisa to Ceerigaabo in the Sanaag region and then traveled by road to the rural village of Dayaxa. This allowed me to see voting activities in three very different locales. I also observed counting of ballots in both Ceerigaabo and upon return to the capital in Hargeisa. My overall impression from every region I observed was that the people overwhelmingly support an independent Somaliland, although they may not fully understand all of the details of the constitution. While some minor irregularities occurred during the referendum, I witnessed voting taking place in every location I visited, saw no government intimidation of voters, and generally felt that the polling station workers and election officials conducted themselves in an honest fashion.

A. Adherence to Voting Procedures

Overall, the election procedures were followed. All stations I observed (polling station numbers 228, 93, 215, 77, 333) used indelible ink to mark voters, stamped ballots with unique stamps, and wrote names of voters in a registry. Polling stations 228, 215 and 333 had adequate voter privacy. Polling Station 93 had a curtain but you could see through it. Polling Station 77 had a guard behind the privacy screen for part of the time I was observing.

All stations closely matched the number of ballots handed out (as I estimated from the used booklets) with the number of names in the registry, so at the time I observed the station and from what I could establish, each voter was being given only one ballot. All polling stations had adequate materials, although a few did not have enough ballots for the larger-than-expected voter turnout. Three of the four stations in Ceerigaabo ran out of ballots and were re-supplied by the regional central office. I believe that one remote station ran out at 1,500 ballots and could not be re-supplied with additional ballots.

Polling Station 228 failed to keep a running tally of the number of voters registered, and polling station workers instead went back and filled these figures in afterwards. They also had ripped out and pre-stamped a stack of approximately 50 ballots to have ready to give to voters, rather than waiting to stamp each ballot immediately before giving it to a voter. A poll worker could have used these stamped ballots to commit fraud at the end of the day, but none did. Also, these ballot boxes were locked but did not have a seal on them prior to poll closing.

None of the stations I saw had the constitution available to read, but most had the election procedures available, though both were required to be displayed by law.

One set of ballot boxes arrived in Ceerigaabo from a remote village at 6:00 p.m. sharp. This station must have closed early, which appeared to be a violation of

procedures, since all polling stations were required to remain open until 6:00 p.m. to ensure that late voters would have the opportunity to vote. A possible greater violation was that the Governor of Sanaag reported to me at 7:25 p.m. on election day that the votes from “Dhaboo” had come in, with 26,100 votes cast “Yes,” and 3,269 “No”, with 29,367 total votes cast. He had evidently heard this on the radio or been called with the information. I was never able to find out where Dhaboo is on a map (perhaps I wrote it down wrong), or verify if indeed this report was correct. But if it did indeed happen, this early tabulation would have been a violation of the procedures prohibiting counting of ballots *before* 8:00 a.m. the day after the election. Indeed, upon review of the certified results from the various districts, no district in Sanaag – or elsewhere in Somaliland – had vote totals nearing those reported for the Dhaboo district.

One polling station in Sanaag did not return its supplies box, although they did return all of the supplies and unused ballots that were in it. The District Chairman was livid and assured me he had ordered the polling station to return the box as well. In general, this District Chairman ran a very tight ship, and hassled all his polling captains over every detail.

I have no reason to believe that these relatively minor violations in procedures significantly altered the outcome of the vote.

B. Voter Identification

The voter identification system worked better than I had imagined it would, and I saw no evidence of unfair discrimination against voters. Polling Station 228 told me they had rejected ten people out of approximately 300 that had voted at that point in the day, mostly for insanity. Polling Station 93 reported they had turned away 18 people out of 1,400 people who had voted as of 12:30 p.m., but had only logged three of them in the incidents book. At Polling Stations 215 and 77, they reported that they had turned away no voters. Clan elders of the town reported they had no trouble with outsiders trying to vote in the election and had not turned anybody away for that reason, and throughout the election day, I never witnessed anyone being turned away for ethnic, tribal, or clan lineage reasons. I saw two women at Polling Station 77 refuse to give their age, but they looked over 18 to me.

In Dayaxa, I saw two people who looked to me to be under the age of 18 attempt to vote. The polling station registrar asked their age. The first said he was 18 and was allowed to vote. The second said he was 16 and was not allowed to vote. I don’t believe that the poll worker had any real way of knowing age for sure, other than trusting the voter. The poll worker there said he had turned about 30 people away for being under 18, out of the 333 voters recorded in the register at that time.

I saw voters lined up at five polling stations in Hargeisa on my way to the airport early on the morning of the election. There were no voters who appeared to be underage in these lines.

C. Opposition

The most vocal opponent to the election I met was a man named Suleiman Ali, who sat next to me on a flight from Hargeisa to Burco on Election Day. He lives in the United Kingdom but was returning to Somaliland to visit. He claimed that there was not enough time to inform voters about the constitution, that 80 percent of the population is nomadic and that they did not know about the election, and that the color of the ballot boxes was biased (however, I learned that the government chose to use white boxes for “Yes” votes and black boxes for the “No” votes because these were the same colors used for the referendum held in 1961 on the issue of forming a nation with Somalia, and because red and green boxes would be confusing, as both are prominent colors on the Somaliland flag). Mr. Ali also complained that too many ballot boxes were sent to the Saaxil region and the city of Berbera, where the government has strong support, and not many ballot boxes were sent to rural areas. He charged that President Egal wrote most of the constitution and that President Egal had handpicked the Somaliland National Referendum Committee to be biased in favor of independence and a “Yes” vote on the referendum.

He told me that he had learned all of this information from listening to the BBC Somali service. Mr. Ali told me that he did not plan to vote because he felt the election was rigged, and he did not think his family would vote either. He said that their means of showing opposition was by staying home rather than voting “No.”

In regard to his charges, there were two months to educate voters about the election and I saw press accounts criticizing President Egal for taking too long to schedule the referendum after the distribution of the proposed Constitution. The Somaliland National Referendum Committee claims to have sent 60 sets of ballot boxes to Saaxil where Berbera is located and 100 boxes to the rural areas in Sanaag and our observations seem to confirm these numbers. The Somaliland Ministry of National Planning and Coordination reports that 55 percent of the population is nomadic. Our overall observations throughout the country confirmed that nomads made up roughly half of the population. Indeed, all of the nomads I encountered knew about the referendum. Mr. Abdulgadir Haji Ismail Jirde, the Speaker of the Parliament and member of the Somaliland National Referendum Committee, stated that President Egal had tried to appoint the leader of the opposition to the Somaliland National Referendum Committee but that he had turned the position down.

Another man I met at the airport in Burco claimed that there had been long lines there that morning and that all but one person he knew had voted “Yes”, so I don’t know how prevalent Mr. Ali’s feelings were in Burco. As an international observer, I have only limited abilities to evaluate Mr. Ali’s claims. I did later learn, however, that the BBC Somali service is available throughout most of Somaliland, and is in fact more widespread than the government radio station. Thus, if Mr. Ali truly did hear all of this on the BBC Somali service, it indicates that there was a certain level of opposition voiced to the election – and not suppressed by the government or the press – and available to the general population. In fact, Mr. Ali conceded he was not opposed to the idea of *holding* the referendum on the constitution, and conceded he firmly believed in Somaliland’s independence from Somalia. However, he merely had concerns about the manner in which the constitution had been drafted and how the referendum was held. In general,

the high turnout rate of 66 percent (*see* Section II, A Brief Overview of Somaliland People and History) that the Institute observed throughout the country would appear to indicate that few people opposed the referendum by staying home like Mr. Ali, but without reliable census and voter registration data it is difficult to adequately quantify this.

The only other source of domestic opposition I personally encountered was a note I found stuffed in a “Yes” ballot box in Hargeisa that was discovered during the counting process (after observing voting and counting in Sanaag, I returned to Hargeisa to observe vote counting there). The author expressed support for the constitution but opposition to President Egal. I got two somewhat different translations, but both made clear that the person supported the idea of the referendum but was conflicted about his support for the administration of President Egal. He signed his name and was not very literate, which is what made translation difficult.

The first translation I received reads: “Thanks a lot. We are very glad to reach progress. The Constitution was expired. Even though we needed a new Constitution because the old one was expired, this Constitution has been made in order to reach his [presumably President Egal’s] aim. He treats the country like his house/property whether there is a Constitution or not. The whole intention is this.”

The second translation reads: “God bless. Today we are voting on our Constitution. After this Constitution, we are wishing to achieve development. Today I will say the whole Somaliland people should not care about anything else, just vote for your independence. It is your duty to put your ballot in the white box. [the note then references a cartoon from the opposition newspaper that features a man with two heads, each holding a conflicting viewpoint, and proceeds to give the counter-argument] False. This is not a Constitution. It’s all collected and copied (by President Egal) from somewhere else.” While I do not have great confidence in either translation, to me the note can be taken as evidence that: A) while there was clearly support for the referendum and constitution, there was vocal opposition to President Egal; B) at least some voters were sophisticated enough to balance two conflicting positions and make a discerning choice; and C) the person had read opposition newspapers and felt comfortable enough to sign his name without fear of retribution.

I also observed opposition to the referendum from sources outside of Somaliland. The Republican Newspaper, an independently owned newspaper known in Somaliland as *Jamhuuriya*, reported that the administration in Puntland, a breakaway region of Somalia bordering Somaliland’s Sool and Sanaag regions to the southeast, had vowed to forcibly disrupt the referendum in the Sanaag and Sool regions. Puntland officials reportedly claimed on the BBC Somali service that no voting took place in Ceerigaabo. As the election observer stationed in this region, I can confirm that this was incorrect. The Transitional National Government of Somalia, based in Mogadishu, also condemned the referendum as “bogus” and was able to get out this message via the BBC Somali service. It is my opinion that this opposition from the south neutered and minimized whatever opposition there might have been within Somaliland to the details of the constitution, and helped transform the referendum into a vote on independence rather than a vote on the details of the constitution. I did not meet a single Somaliland citizen who did not want independence from Somalia. Nonetheless, the political forces in Puntland and

Mogadishu were able to communicate a message of opposition to the voters of Somaliland.

D. Voter Understanding

At three of the four polling stations in Ceerigaabo there were crowds outside the polling station dancing, singing and chanting “Viva Somaliland” and “Yes for the referendum.” The enthusiasm was palpable and while there was no evidence of coercion from the government, it would have been a bit intimidating for an opponent of the referendum to walk through that crowd and openly cast a “No” vote. However, during prayer and meal times, voting was quieter and a dissenter could have cast a vote free from peer pressure at that time. In my opinion, many people thought that they were voting for independence from the Mogadishu regime in Somalia but did not fully understand the details of the constitution.

I stopped three nomadic people on the road to Dayaxa in a very remote region. I did not expect that these people would even have heard of the referendum. Each was more than a two-hour walk from any civilization when I met them walking along the road. One said he was going to vote in Ceerigaabo and that he had started walking the day before. He pointed toward the 8,500-foot mountain where he had come from. Two others said they had voted that morning in Goob. They had faint signs of indelible ink on their hands, proving that they had indeed voted but also that the ink was not difficult to remove or wash off. These three people were strong evidence to me that even in sparsely populated, far-flung regions, people knew about the election and had a sufficient understanding and patriotism to want to go to considerable lengths to cast their vote.

I interviewed a random woman voter in Dayaxa after she cast her ballot. She said that she had been informed about the referendum when somebody came to her village – presumably part of the government outreach program. She said, “We are voting for Somaliland” when I asked what the referendum was about and also said that she was voting to support President Egal.

E. Vote Counting Security

All ballot boxes that I witnessed were well guarded by armed soldiers at all times and seemed physically secure. The first ballot box of “Yes” votes counted in Ceerigaabo contained approximately 125 counterfeit ballots that had been created by ripping blank pages off the register and stamping them with the official stamp. The counters assumed that these ballots were fraudulent, and carefully set them aside without counting them as even spoiled ballots. I believe that they should have been recorded as spoiled ballots according to the procedures. Further, I speculated that these ballots did not represent attempted fraud, but rather that the polling station ran out of ballots and polling station workers improvised rather than turning voters away. In fact, there were exactly 1,500 names in the voter registry, which would have been the exact number of ballots given that polling station. I suspect that after running out, the poll workers simply stopped logging in voters, and gave them a piece of paper with a stamp to put in the ballot box – realizing that while the vote might not be counted, the polling station worker did not want to disappoint a voter who might have come a long way.

In every instance that I witnessed, the most conservative standard was used for deeming a ballot spoiled. I saw some ballots that were simply smudged with the indelible ink (probably from a voter who wanted to rub it off their hands) that were thrown out as spoiled under the rules prohibiting ballots which “have on them signatures, names, or other markings written or made by the voters in their own hands.” I witnessed other ballots discarded because they had been stamped more than once. In short, the vote counters rightfully erred on the side of *not counting* even remotely questionable ballots.

In Ceerigaabo, they counted the number of names in the registry of several polling stations while waiting for all the ballot boxes to arrive. I thought this was a good idea, although it’s not clear that the election law allows this. In Hargeisa, I saw different counting stations use different methods for arriving at the total number of votes cast. Some counted used ballot stubs, some used the figure in the voter registry, and some double-checked the figure in the registry for themselves. Some did all of this, and then tried to reconcile small differences that could have occurred if a voter registered but for some reason (most likely confusion) did not place their ballot in a ballot box.

Still, notwithstanding the above-noted irregularities, I didn’t observe any problems that would have changed more than a hundred or so votes in the ultimate tally.

2. Report from Saaxil Mr. David Byrd

A. Berbera and Surrounding Villages

Upon arriving at the Burcoshikh polling station in central Berbera at 5:45 a.m. on Thursday, May 31, 2001, there was already a lengthy line of voters waiting to enter the polling station. The polling station chairman, an educated accountant from the port authority in Berbera who spoke English well, was present, along with three assistants. Upon my arrival, the chairman opened the sealed box to obtain the register, the ballots, indelible ink, and stamp. I verified that the register was blank, the ballots were unstamped, and the white and black ballot boxes were empty. The chairman opened the polling station promptly at 6:00 a.m., as two lines of male and female voters queued separately. I had already verified that the ballot boxes were empty before the voting began, and that the ballots and other materials were in order. Intermittently throughout the day, I returned to this polling station and ultimately spent approximately two-and-a-half hours there.

The governor of Saaxil provided me with a driver who spoke very limited English, and I did not have a translator while I observed the various polling stations. However, usually one of the polling station workers could speak English, and this helped me with language difficulties. A carload of armed guards traveled behind our car, providing security, when we went from polling station to polling station.

The voting proceeded at Burcoshikh at a slow but regular pace, largely because it took some time to record the names of each voter. The chairman allowed only a small handful of voters into the registration room at a time, so as not to overwhelm the assistants tasked with registering voters. In a separate room next to the registration room, voters placed their ballots into the white and black ballot boxes behind a makeshift

curtain that provided reasonable privacy. However, it was clear that anyone, if so inclined, could observe how an individual voted because the curtain would flap in the strong early morning winds. At this particular polling station, an armed guard sat within a few feet of the curtained ballot box area but he was not at all threatening to the voters, and he did not watch how they voted; another two guards maintained order at the line into the registration room. The guards mainly ensured that people did not enter the polling station from the exit doorway. I never witnessed more than a few military guards at this polling station, and only two were armed. The military presence was clearly there to maintain order and provide protection, and I never witnessed any intimidation, and the voters did not seem to make anything of their presence. There was practically no interaction between the guards and the voters, except for instructing them where to find the ballot boxes or the exit. The voters I witnessed were clearly there on their own free will, and were clearly excited about voting.

B. Voter Identification/Adherence to Voting Procedures

The assistants at the Burcoshikh polling station religiously painted the hands of those voting; I did not witness a single voter come through without his or her hand painted. Tribal and clan leaders stood by the assistants to help verify identification of those voters they knew, and helped with the spelling of their names and ages. Ages were generally rounded off and approximated, such as 30, 45, 55, 60 or 80. Many younger looking voters gave their age as 18, and the chairman of the polling station stated that they made what he called a “physical examination” by looking at each voter for verifying age. In several instances of young boys trying to pass for 18, the chairman dismissed them before voting, telling them to “come back next year.”

It was not easy for me to judge the age of voters, including those much older and the very young, but there were not many voters coming through the polling station who appeared obviously under-aged. In the only questionable incident I witnessed, a short male (around 5 feet tall) came through who appeared to look like a young teenager. When I questioned the chairman about him, the chairman (who spoke English well) told me he was a “midget,” and it was plausible that he was indeed a midget (his age in the registration book was listed as 23). Because the chairmen had turned away some clearly under-aged boys from voting, I was not concerned that this particular individual was voting illegally. In short, while some voters may have looked younger than 18 to me, I was not able to conclusively determine their ages, and there were only a handful of those voting who may have been under 18, if any.

During my presence, no one was turned away for not being from Somaliland or for being insane, and according to the chairman, only those who were clearly underaged were turned away during the entire day. There appeared to be slightly more men than women voting. In two instances, blind voters were voting, and although the polling station assistant directed them to the “Yes” ballot box behind the curtains because they couldn’t see, it appeared to me that this was how they had wanted to vote. I asked one of the blind members how they voted, and he told me, through my interpreter, that he wanted Somaliland “to be free,” so he voted “Yes.”

C. Polling Stations Throughout Berbera

I also traveled to polling stations elsewhere throughout Berbera. At 8:00 a.m., I traveled to the polling station at the Port Authority, where it was almost entirely men voting because they held the vast majority of the dock working jobs at the Port Authority. As with the Burkoshikh polling station, the polling station workers adhered strictly to the procedural rules; the line of voters was quite long and slow moving, because of the timely nature of recording the voters' names and ages. The polling station workers at the Port Authority also religiously painted hands of those who had voted, stamped their ballots and recorded their ages. I did not see one questionable person voting under the age of 18 (largely, I presume, because the workers at the Port Authority are all 18 or older). As with the curtained area at the Burkoshikh polling station, the Port Authority ballot boxes were sufficiently curtained off to provide a decent amount of privacy, but I could still easily observe how the voters cast their ballots (largely, in part, because they didn't try to hide how they were voting), though none of the polling station workers or guards present were watching how voters cast their ballots while I was there. Again, from what I witnessed for more than an hour at the Port Authority polling station, it was overwhelmingly evident that almost everyone was voting "Yes."

By mid-morning, I traveled to the polling station at the Regional Health and Labour Office in Berbera. As with the first two polling stations, all of the procedures were in place at this polling station as well: there were two long separate lines of men and women waiting to vote while the poll workers registered the voters' names and ages (based on the word of a clan elder helping with the voting), stamped their ballots, and painted the backs of voters' hands. It was clear that they had been painting the backs of hands all morning, because the crowds that had gathered outside the polling station after voting all had painted hands. Before moving on to another polling station, I verified that the number of used up ballot books matched the approximate number of people who had registered by that time at this polling station.

I returned to the polling station at Burkoshikh until lunch, but because of the intense heat (it was 110 degrees), voting slowed dramatically during the mid-day hours after lunch. Much of the city of Berbera slows if not shuts down during the intense heat of this part of the day, and voting slowed to a trickle, though polling workers continued to staff the polling stations pursuant to the required procedures. I requested to go to a polling station outside of Berbera, in the remote town of Bulaxaar up the gulf coast about 50 miles north of Berbera. However, the regional governor told me, because there was no highway or paved road to get to this town, the only way to get there would be to drive along the beach's sandy edge. Because it would take so long under those conditions, I remained in Berbera.

D. Opposition

There was no voter opposition voiced at any of the polling stations I observed, and Berbera has long been known as one of the most pro-independence and pro-constitution cities in the country. In fact, I could tell how the voters cast their ballots by watching them enter behind the makeshift curtains, and I never once witnessed someone vote "No" on the referendum. At the Health and Labour polling station, one young man (recognizing that I was American) went to the effort to write out, in English, Thomas

Jefferson's Declaration of Independence on a long sheet of cardboard, fashioning a hand-made poster he wore around his neck while parading in the courtyard of the polling station, to the great fanfare of others. For him, this vote was Somaliland's own "Declaration of Independence." Without me asking, voters would consistently tell me how many sons, brothers, or other family members they lost as a result of the "wars" or "bombings" from the south, and did not hesitate to tell me or show me that they were voting "Yes" for independence and the constitution.

E. Overall Impressions

Those queued for voting were clearly and passionately enthusiastic about this vote. While there was pushing and crowding, the lines of voters were largely patient and people, particularly the women, gathered after they voted outside the Burcoshikh polling station. They formed a large circle of about 40 women and children to celebrate the vote, clapping and dancing and performing traditional songs and cheers, and several women banged a traditional Somali drum. My interpreter told me they were singing, "We love our country. We love Somaliland. We love our referendum." When the governor of the Saaxil region appeared at the polling station to check on the voting, the crowd outside erupted into clapping and cheering for him. Recognizing me as American, a good number of voters would turn to me before or after voting and make political statements, including "No more Mogadishu," "Yes for Somaliland," or "Independence is ours." It was clear from the outset that the vote would be an overwhelmingly "Yes" vote to approve the constitution and independence. Indeed, I never saw a single voter place his or her ballot in the black "No" box, and I could easily watch how people voted.

In random questioning to voters at various polling stations throughout Berbera, every voter I asked said they were voting for Somaliland's independence, and a few added "for the Constitution," though it seemed clear to me from my questioning of voters that they were largely voting for independence. I did not witness a single voter come to the polling station with a copy of the Constitution, but all of the polling stations I traveled to contained a copy of the Constitution, as well as a copy of the election procedures, at the registration table. I never witnessed any voter asking to see the copy of the Constitution kept at the polling station.

3. Sheekh and Surrounding Villages Mr. Alexander Mundt

I was greeted in Sheekh at 5:50 am on May 31, 2001; by then about 20 people had lined up outside the Macahdka polling station, one of three located in this town in the mountains of the Saaxil region of Somaliland. After inspecting the contents of the materials box and verifying the seals on the envelopes containing the ballots and other materials, and verifying that both ballot boxes were empty before being locked, the polling station was opened promptly at 6 a.m. The chairman, his assistant, and a secretary who recorded names were all present and the ballot boxes were adequately screened from view. Copies of the constitution and the referendum procedures were displayed on the table.

A. Adherence to Voting Procedures

The lines outside grew in length and many were chanting “No Mogadishu!” In general, the crowd forming outside was excited but orderly and the line moved at a fairly steady pace, growing to approximately 50 at the time of my departure. The two security guards maintained order and limited the number of persons allowed inside the station. Inside, the poll staff operated efficiently and professionally; all voters were properly logged into the register, received their stamped ballots and had their hands marked with ink. I stayed approximately one hour at the polling station and witnessed 112 people, approximately 25 of who were women, register and vote. Several young people, all listing their ages as 18, registered and voted. A few brought a family member to attest to their ages. Two youths were determined to be underage and refused permission to vote. In general, people seemed to estimate their ages as 18, 25, 50, or 80 in a pattern persisting throughout the day.

At 7:00 a.m., I departed Macahdka for the Malcaamada polling station, a converted school near the marketplace in Sheekh. This crowd, numbering 60 or 70 when I arrived, was considerably more boisterous than the first, erupting in screams and chants of “No Mogadishu” when our cars pulled up. There were considerably more women voters queued at this station than at the first polling station (largely because it was closer to the market, the chairman explained). Like the first station, the poll workers were organized and efficient and the voting moved at a slow but steady pace of approximately 100-120 per hour. The line moved quite slowly for two reasons: there were frequent questions regarding a voter’s age, and many voters questioned the procedures of voting. For many, this was their first vote and a few were confused about exactly how to vote. All questions were resolved in a seemingly orderly manner by the staff. According to the registration log at the Malcaamada polling station, voting started promptly at 6:00 a.m.

A representative of the Sheekh local government accompanied me throughout Sheekh during the morning. At 8:00 a.m., I requested a list of all the rural polling stations in the Sheekh district, in order to randomly select polling stations at my discretion, not at the government’s choosing. I asked the official to cross off any polling stations too far or too inaccessible by car. He crossed off two or three locations and I drew a sample from the revised list.

We traveled about 45 minutes to the first randomly selected polling station, Dupur, which was located in an old schoolhouse built by the British in the 1950s. The station opened at 8:00 a.m. rather than 6:00 a.m. because, according to the chairman, the people had to put their animals out to graze.

Approximately 20 people were in line when we arrived and more than 100 were waiting when I departed at around 9:30 a.m. The polling station officials and security were all in place and voting was steadily proceeding. The constitution was displayed on the counter. Someone had written “No Mogadishu” with the polling station’s indelible ink on the wall of the polling station, and someone hung a map of Africa displaying a crossed-out Somalia near the curtained area providing privacy for voting. Several elderly people came up to me to share their experiences of the war with Somalia, telling of the torture and loss of their homes and families and explaining why they would never rejoin Somalia. When I left this polling station, approximately 100 people were in line. I

passed by a few hours later, and more than 500 were lined up outside. I visited three more polling stations, for approximately 30 to 45 minutes each, in the Sheekh region – Gidheys, Galoley and Sugsade – before returning to Berbera; all were appropriately staffed and there was no evidence of irregularities.

B. Opposition

There was no trace of political opposition at any of the polling stations. Most of the crowds and people in line were loudly in favor of the constitution and Somaliland independence. Although there were no signs of intimidation, the infrequent “No” voters may have experienced some form of intense peer pressure or simply kept silent regarding their intended votes, or otherwise didn’t bother to vote at all. Many voters made clear their intention while registering, explaining to the assembled polling station workers and myself why they were voting for Somaliland independence.

At all of the polling stations, I conducted impromptu exit interviews with voters. The common perception of the vote was that of being “for” or “against” Somaliland independence. No one, including clan elders and local officials, could describe in detail the contents of the proposed constitution. When pressed, few could describe a single article in the constitution, except the provision for independence. Throughout the day, I did not see a single person peruse the copy of the constitution on display at every polling station. Most voters had horror stories of loss, torture and abuse at the hands of Siad Barré’s troops. A gathering of 14 clan elders asked to meet with me outside of the Dupur polling stations and implored me to go back to the United States and explain to my government why Somaliland could not rejoin Somalia, and to ask the U.S. government for international recognition. “We tried greater Somalia,” said one elder, “but we were herded up and killed. We will not try that again.” According to another elder, “they loot all our houses, stole everything. That’s why we are not listening to calls for reunification. We will not be pushed by the international community to reunify.”

Few people I spoke with in Sheekh had a firm opinion of the current regime in Hargeisa. Local sentiment here transcended politics: The war still fresh in their minds and the mass graves still shallow, people appeared to be voting against their past tormentors, and voting for peace and independence.

C. Rural Polling Stations in Saaxil

In the late afternoon, I traveled with Mr. Byrd out to some of the rural polling stations in Saaxil on the main highway between Berbera and Hargeisa. At 5:00 p.m., as the voting was winding down, we pulled into Daragoodle, a small village about an hour outside of Berbera. The registration table was set up correctly, but there was no line of people to vote (though a small one formed after we arrived). We examined the registration books to see that more than 1,000 people had voted earlier in the day. Yet, in talking with people in the village who said they had voted, we saw that there was no paint on the back of their hands. (After the election, we came to learn from others that it was not difficult to wash the paint off the back of the hand, and these voters may have washed the paint off the back of their hands earlier in the day.) There was an open bottle of the ink on the registration table, and there was a paint stick in the inkbottle that appeared to have been in use during the day. The voting area at Daragoodle was well secured for

privacy, the boxes locked and a copy of the constitution and election procedures were present. The chairman of the polling station told us that no one had been denied the right to vote during the day.

Similarly, at Xamaas, the next village after Daragoodle, when we arrived at 5:30 p.m., there was little evidence that they were painting the backs of hands with ink, as only some in the village appeared to have painted hands, though they were admitting they had voted. However, we did not ask why their hands weren't painted. At the same time, there was an open bottle of ink on the registration table, and there were ink drippings all over the table and the ground, indicating that the polling station staffers were painting hands throughout the day. The chairman of the polling station here said that the "No" ballot box was empty (which it seemed to be when I picked it up). At 6:00 p.m., we watched the chairman of the polling station close the polling station, and watched him seal the ballot boxes, sign his name across the taped seal, and stored the unused ballots into envelopes, and watched the boxes be placed on the trucks by armed guards to deliver them to Berbera to the regional counting office.

D. Vote Counting Security

We returned to Berbera and went to the Berbera district counting office at 7:20 p.m. that evening at the Bursade Secondary School. By this time, there was only one polling station that had sent its ballot boxes to the regional office, and it was appropriately locked and sealed, with signatures across the seal. The regional chairman said that some voting was continuing throughout Berbera and Saaxil, in part because some nomads were still expected to vote. Vote counting was to start in the morning, but when we arrived at 8:00 a.m. the following day, there was still one set of ballot boxes outstanding, and the rules prohibited the commencement of counting until all of the ballot boxes were accounted for and present at the regional counting office.

The room at the Bursade Secondary School was full of ballot boxes that day, and there were about 30 men and referendum officials waiting at the school for the voting to begin. There were only a few guards at the school, and only two were armed. We inspected each ballot box, and concluded that they were appropriately locked, sealed, and signed across the seal. Each had their polling station number printed on the boxes as well.

We began counting at 4:00 p.m. Saturday with the boxes from a polling station from Sheekh district. Initially, the counting started with one man counting votes out of the "Yes" ballot box one at a time. Realizing that it would take an inordinate amount of time to count all of the votes one by one, Mr. Byrd and I convinced the regional election officials that the counting should proceed with a handful of referendum committee members counting the ballots from one ballot box, all at the same time. They proceeded to empty one "Yes" ballot box on the table, and each election official helped count out stacks of 50 ballots each. Mr. Byrd and I randomly counted the stacks of ballots and verified there were 50 in each stack, and that the ballots being counted were all stamped without any prohibited marks or tears. We noted that a few of the ballots were not stamped at all, and these were put aside and discarded as spoiled votes. We verified the stacks of votes and the excluded non-votes.

As we observed the counting, we verified that each of the ballot boxes contained the unused ballots along with the other polling station materials, and we examined each registration booklet to verify the number of voters who had been registered as well as the number of ballots counted from the boxes accompanying the registration booklet. As expected from our observations at the polling stations, it was clear that the vote would be overwhelmingly “Yes,” as throughout the evening, there were only a handful of votes in the “No” ballot boxes.

For the vast majority of the votes cast that we watched being counted, there did not appear to be any irregularities in how they were cast. Only a few dozen were not stamped or improperly written on or torn, and these were all discarded and not included in the final totals. However, there were two instances in our observations of the counting where ballots from “Yes” ballot boxes appeared to have been “stuffed” (that is, a handful of stamped ballots were folded in half, all together, and placed in the ballot box as if not one person had cast the vote, but as if one person stuffed the box with 20 or so ballots all at one time). We witnessed this after the votes were emptied onto a table for counting by officials from the regional referendum committee. This was very clear, and we could not think of any explanation – other than “stuffing” – as to how ten or 20 ballots folded all together like this could have been cast so that when emptied out on to the table, they came out folded as if they were placed into the ballot box all at once. Indeed, the other “Yes” ballots from these two ballot boxes were individually folded as if cast individually, one at a time, as one would expect. Nonetheless, while this may have been the case for at most 30 or 40 votes, there were only two instances of this “stuffing,” and it clearly did not come anywhere close to affecting the overall count for these two polling stations.

4. Report from Awdal Ms. Sasha Bruce

A. Boorame - Adherence to Established Procedures

The government authorities did not behave impartially and gave strong support to the referendum. Each polling station was to have two ballot boxes, one in favor and one against, and there was also a supplies box that contained materials for registration and ballots. Each set of boxes was to have numbers on the exterior that were unique to that polling station. Each polling station had the appropriate materials in each supplies box to run the vote properly.

Ballot boxes were not uniformly sealed. Each ballot box was required to be locked and taped with the polling station’s identifying stamp placed across the tape seal before opening. In most instances that I observed, the ballot boxes were only locked without a taped seal.

Generally, ballot papers were validated with the polling station’s stamp in the presence of the voter, immediately prior to voting, as required by the law. However, in some instances that I witnessed, some ballots were stamped well in advance, perhaps to alleviate the long lines and crowding at the polling stations. And while some of the ballots were pre-stamped contrary to the law, I did not observe any of these ballots used improperly.

Each polling station I observed had a private area with the ballot boxes behind a curtain to allow for some privacy in voting. At a few polling stations, privacy was merely an illusion because there was only a small, ineffective curtain draped such that there was little privacy in the area where voters cast their ballots. The rule for privacy was rarely enforced: In many instances, while there was usually a line of voters waiting to register to vote, there was also a line in the voting area to cast their ballots in boxes, where polling station officials should have enforced the rule that only one person at a time could be in the voting area to cast their ballot to ensure the privacy of each vote.

B. Voter Identification

In a few instances, polling station workers assigned to record voter information in the register did not enter the age or gender of some voters. In the case of age, it was curious that the majority of voters' ages were often rounded off to ages such as 25, 30, 40, 45, or 50. Yet, while I do not think there was any voter fraud by some lying about their ages, I attributed this the fact that many in this poor country do not know exactly the date or year of their birth.

An election worker at each polling station was assigned to stamping each person's hand with indelible ink to show that they had voted and could not do so again at a later point in the day. Yet, at several polling stations I observed that, at times, none of the polling station workers were painting the backs of hands to prevent double voting. These instances could be attributed to the reluctance of many voters, particularly women, who did not want to have their hands marked (perhaps, in part, because Muslim culture requires adherents to pray five times a day, with special attention to having impeccably clean hands, feet and face).

C. Opposition

At the polling stations I observed, no voter was refused the right to vote. There was one instance when a male voter, after voting, was forcibly removed from outside of the polling station by the military guard there because the man was protesting about the referendum just outside the polling station. The protester was only ten feet from the entrance of the polling station, and he did not appear to be preventing others from entering the polling station or threatening other voters. This protester seemed to be peaceful and non-violent, though loud and disruptive.

D. Voter Information

Voters I spoke with reported that schools and some government workplaces were closed for the Election Day, lending an appearance of a public holiday. By closing some schools and public offices, this may have encouraged more voters to go to the polling stations. In discussions with government officials and individual voters, many reported that the educational campaign on the referendum and the constitution was primarily taught and led by government officials, at both the municipal and state level, which could leave some to question the impartiality of the government educating voters on the proposed constitution that the government was pushing to be approved.

Although required by law, at the polling stations I observed, the polling station did not always have a copy of the proposed constitution and election procedures, which was in violation of election procedures. However, I did not see any voter request to look at a copy of the constitution or the election procedures.

E. Vote Counting Security

Counting at the district counting office began even though seven sets of ballot boxes had not yet been delivered, violating election procedure. District counting officials claimed that the missing ballot boxes were in the compound where the counting took place, but they were not in the room where the counting was taking place. Of the 23 sets of ballot boxes at the district counting office in Boorame, only 16 were sealed, stamped, and locked according to the election law procedure.

All ballot boxes were forced opened with a crow bar instead of using the keys in the accompanying supply boxes. Ballot boxes should have been opened with the assigned keys to verify that the correct set of keys are still present, and that the lock had not been tampered with or replaced.

The information recorded in the final log for each polling station was the total number of ballots, number in favor, number in opposition and the number of ballots voided. More often than not, the total number of ballots cast differed from the number of people in the polling station register. Theoretically, the total number of ballots cast and the number in the register should be identical, but through common human error often they would be slightly off. The district counting official, however, did not record the difference of these numbers, and only recorded the number of total votes cast. Instead, the counting official recorded the number of voters listed in the polling station register for the first polling station counted, only to return and change the figure to match the total number of ballots cast (though these two figures were only off by five votes). From this point on, the number of people in the register was not entered.

Notwithstanding the irregularities noted above, it was clear from my observations that nearly all of the election procedures were followed, and in the cases when the rule was not followed, the deviation from the rule would have little, if any, impact on the credibility of the final vote total. However, when the election rules are not followed, it creates the potential for an appearance of illegitimacy. In my observations and discussions with voters, though, there was no doubt that nearly everyone supported the Constitution and independence, and this was reflected in the final vote tally.

5. Boorame and surrounding villages Mr. David McCuan

A. Adherence to Established Procedures

With Ms. Bruce, our two-person team visited 15 different polling stations between 6:00 a.m. and 7:00 p.m. on May 31, 2001. All of these stations were located in the city of Boorame or in the surrounding Awdal region. A clan elder who is a professor of life sciences at the University of Hargeisa and his son-in-law accompanied me on my observation trips to the polling stations. Both were natives of the Boorame region.

A driver accompanied us throughout the day, and on occasion, another elections observer joined me, occasionally accompanied by a translator. All of these individuals cooperated closely with the governor of Awdal and the mayor of Boorame.

We did not travel to outlying areas in the Awdal region, including Zeylac, Lughaye or Baki, as the time constraints due to poor road conditions would have been too burdensome. Many of the roads were located in riverbeds or mountainous areas that made travel by automobile difficult. While we are able to report the final vote tallies from these more remote areas, we cannot speak to their ultimate validity.

Throughout the day, we observed the opening procedures at two separate polling stations in the region, and ensured that the required materials were present to begin voting. In each case, the poll workers were well versed in how the process *should* work, but less certain about how to handle problems beyond recording any complaints or problems in the voting register.

These two polling stations were located in two different parts of the city. The first, Polling Station 233, was on the outskirts of the city limits, with the single room divided into separate areas for voter registration and for the actual process of casting ballots into respective boxes. A piece of heavy cloth curtain served as the divider. One person controlled entry and exit into the actual area where the ballot boxes were located. This station opened at 6:25 a.m., though election law required polling stations to open at 6:00 a.m. Approximately 20 voters were waiting to vote at this polling station.

Three polling station officials and several clan elders were present at the opening of this polling station. I confirmed that the ballot boxes were properly sealed, then unlocked and empty. At this polling station, a copy of the constitution was clearly displayed on the table. Candles were available for light in the evening should the polling station remain open. Two armed policemen posted outside the polling station provided security. The governor of the Awdal region was not present with us at this point, but the mayor of Boorame was present and cast the first ballot.

All voting materials appeared to be in order with approximately 1,500 ballots available to potential voters. Voters were marked with blue ink signifying they had voted, and polling station workers properly stamped each ballot paper before giving it to a voter, in accordance with the election procedures.

One irregularity common to this region (and other regions I later learned) was the pre-stamping of ballots by polling station workers in order to anticipate demand. This led to some confusion at closing time, when the number of ballot stubs did not match the number of entries in the register. This seems to be a minor problem that I would attribute to enthusiasm and an effort to help get long lines of voters through more quickly. However, upon returning to this polling station at 10:00 am, the length of voters in line was so long that the pre-stamping did not improve the efficiency of the polling station in processing voters in a timely fashion.

According to regulations governing the conduct of the referendum, polling stations were to open at 6:00 a.m., closing at 6:00 p.m. However, if voters were present

in line to cast ballots, each local polling station was permitted to remain open until 10:00 p.m., as long as there was continued demand.

Staff at both polling stations we observed at opening were well aware of this rule on closing times, but appeared to be taking cues from the regional governor as to how long to remain open throughout the day.

Almost all of the stations we observed in the Boorame region instituted their closing procedures close to 6:00 p.m. including the consolidation and sealing of all materials for transportation the following day to the district counting office in Boorame.

The second polling station, Number 252, was centrally located near the market center of the city of Boorame. This polling station was located in the local office of the chamber of commerce. All requisite materials required for the election (voter registration books, approximately 1,500 ballots, ink stamp and pad, a copy of the constitution, candles, etc.) were present. By 9:00 a.m. local time, this station was sustaining 50 people in line at any given time. According to polling station workers, voting was light early in the morning, but by 10:45 a.m., this polling station witnessed a lighter demand of voters with only a dozen or so voters appearing around the polling station.

At all of the 15 polling stations we observed, voting was clearly a community-sanctioned event. Most voters seemed to take care of their morning chores and errands, and then followed these with a trip to the closest polling station. By noon, it seemed that most of the demand for voting was over. Between 12:30 p.m. and 4:00 p.m., the level of voting activity dropped off markedly.

Requests for additional ballots by polling stations were relayed by cellular phone to the office of the mayor of Boorame, or in some cases directly to the governor of the Awdal region. The mayor was then responsible for providing additional ballots to the polling stations requesting them. We discussed this procedure after the election with the mayor and have accurate records of the number of ballots requested and the number on hand. However, the location of polling stations that received ballots was not well communicated, and there was some confusion in this regard.

B. Voter Identification

Voter identification was handled by poll workers, who asked a potential voter their name, age and residence location. At most polling stations we visited, if there was a dispute about the eligibility of this voter, several clan elders were available to verify the eligibility of potential voters. I observed no potential voters turned away, but did observe what appeared to be young people stepping out of the line at three polling stations upon our arrival. There did not seem to be any real effort made to determine the ages of young-looking voters. The age offered by the potential voter, be it 18 years old or 75 years old, was invariably accepted by the polling station. In a random survey of voter registration rolls at the central district polling station after the election, there were several entries throughout the region for voters under the age of 18.

C. Opposition

I spoke to dozens of individual voters throughout the day. Typically, upon arrival at a polling station, after verifying and noting the demand for ballots by potential voters and the presence of proper polling station materials, I would venture out to speak with voters who were taking a break after casting ballots. I spoke with several dozen voters, all of whom indicated they voted “Yes” for the constitution. One voter in Boorame indicated that he voted “Yes” because he and others were frightened at the sight of the government out among the people in such force.

I did not see any active campaigning for or against the constitution at any of the polling stations I observed. There seemed to be an overwhelming culture of support for independence for Somaliland, as evidenced by those in line to vote, presumably in favor of the constitution.

D. Voter Understanding

According to interviews with voters, the government sent village and clan elders and local government officials (including the mayor and local tax collector) to outlying areas of Boorame to educate the elders in rural areas about the constitution and the referendum itself.

Most voters I spoke with, even those who may have walked 15 to 20 kilometers to vote, were well versed with how voting was to proceed. I witnessed perhaps a dozen people requesting help to cast their ballots. In each case, the votes were cast in the “Yes” ballot box. The overwhelming sentiment in our interviews among voters was that the population believed they were voting for or against independence for Somaliland.

E. Vote Counting Security

We observed counting in Boorame for two days, on June 1st and June 2nd. The vote counting started at 9:30 a.m., but the counting started before all of the ballot boxes had arrived at the district counting office, which was a violation of the election procedure. The vote counting continued until 11:00 p.m. that night. By 9:10 a.m. on June 1, 2001, only 22 of 33 polling stations had delivered their respective ballot boxes. The main reason for the delay in the delivery of all ballot boxes was because some were coming from the north side of Boorame, in the mountainous region, which made transportation and delivery difficult.

Vote counting resumed the following day, with counting completed by 11:00 a.m. Armed military guards were present throughout the day, both outside and inside the counting area of the district counting office. There were eight people present, watching as each box was counted. During the counting of one “Yes” ballot box, I observed that some ballot papers were coming out in clumps, suggesting that they had been torn out of a book together and put into the ballot box all at once, as if stuffed into the ballot box. The counting process itself seemed to be conducted honestly, though slowly and inefficiently. Double counting and miscalculation was a concern of our delegation.

As noted above, requests for additional ballots by polling stations were filtered through the office of the mayor of Boorame. After the election and during the counting process, our election observer team sat down with the mayor to discuss the provision of additional ballots requested by polling stations. According to that conversation, 50,000 ballots were provided to the 33 polling stations in the Boorame region. An additional 47,800 ballots were requested. The additional voters used 35,800 of the 47,800 additional ballots requested, leaving 12,000 of the requested additional ballots unused. Another 2,200 additional ballots remained in the mayor's office for distribution, resulting in a total of 83,600 ballots provided to the polling stations. However, the total number of votes cast in Boorame was listed at 84,972, leaving a discrepancy of 1,372 ballots between the number of ballots *provided* to the polling station, and the number of votes actually *cast*. We could not think of any explanation for this discrepancy.

The observer team attempted to keep records at the polling stations of the ballot boxes, supplies, and ballot stamps in order to provide a chain of evidence of voter preferences. At polling station number 430, we witnessed 6 children in line to vote.

6. Report from Togdheer
Ms. Allison Puranik

A. Burco and Surrounding Villages

I visited five polling stations between 6:00 a.m. and 7:00 p.m., one in the town of Burco, and four in the Odweine district. A translator, a driver and two other gentlemen who were all associated with the governor of Togdheer's district offices accompanied me throughout the day. However, I was not able to randomly select the polling stations I visited because of the logistical difficulty of getting between stations in the time available. Some of the direct roads between towns in the region were still strewn with landmines, so we were forced to take lengthier, more circuitous routes.

B. Adherence to Established Procedures

At Polling Station 13 in Burco, I observed voting from 6:00 a.m. to 7:00 a.m. and from 5:30 p.m. to 7:00 p.m. on Election Day. This polling station was in a fairly quiet area of Burco, located in a vocational training center. I observed the opening procedures, and returned again to observe the closing procedures. The station opened promptly at 6:00 a.m., with three polling staff and one clan elder present. I confirmed that the ballot boxes were empty and properly sealed. There was a curtained voting area that effectively maintained the privacy of voters. A copy of the constitution was clearly displayed on the table. Two armed policemen posted outside provided security.

All the voting materials were in order, and 1,500 paper ballots were available. Voters were marked with ink after they voted, and each paper was properly stamped. The only irregularity that I observed was staff polling station workers pre-stamping and tearing off ballots to anticipate demand. This led to some confusion at closing time, when the number of ballot stubs did not match the number of entries in the register. Polling station workers corrected the situation by spoiling the pre-stamped ballot papers so that they could not be placed into a ballot box. This was a very minor problem that did not affect the performance of this efficient polling station. The station began its closing

procedures at 6:00 p.m., but extended its opening time for an additional 20 minutes when more voters arrived just after 6:00 p.m. The closing procedures were carried out exactly according to instruction, with all the materials labeled, sealed and transported to the district office.

When I arrived at the Elhume Village polling station in the Odweine district at 9:00 a.m., there were hundreds of people queuing to vote. As far as I could see, the procedures regarding entering names in the registry, issuing ballot papers, and marking hands with ink were being followed. There was a curtain between the desk and the ballot boxes, but it was very easy to see the boxes, and how people were casting their ballots. In addition, many people voted in groups of two or three, which violated the procedural law allowing only one person at a time in the balloting area. Voting in this village was clearly a community event. I learned that voting had begun at around 9:00 a.m., although I was told that the station had been open since 6:00 a.m. I was told that most people in the village would have voted by noon. We drove by the polling station again at about 4:30 p.m., and although it was empty, it was still open.

By the time I arrived at two polling stations in Odweine town right before lunchtime, at Polling Stations 147 and 11 more than 1,500 people had already voted, and there was a queue of at least 300 still waiting. The polling station workers said that voters had been queuing since 6:00 a.m. They were slightly concerned that they might run out of paper ballots, but there were more available in the town. For religious reasons, there were separate queues for men and women. This caused some congestion at the ballot boxes, and compromised voter privacy. The ballot boxes were spaced at either end of the tables, and the curtains did not offer complete privacy, so it was easy to see how people were casting their votes. Otherwise, they seemed to adhere to the established procedures.

When I arrived at Hahi Village in the mid-afternoon, voting was just resuming at Polling Station 256 after a lull for lunch. About 1,100 people had already voted, and they were expecting 2,000 more. The poll workers felt they would almost certainly run out of ballots, but were assured by an election commissioner, who was on site, that they would receive more shortly. The polling station was well laid out and in a central location in the village. There was good privacy behind the curtain, and voters were casting their ballots in an organized and orderly fashion. The register entries of voters and the number of ballot stubs matched on a cursory count, suggesting that the polling station was following proper procedures.

C. Voter Identification

The clan elder at the Burco polling station asked each voter whether he or she was from Somaliland. He said that he either knew the people by face, or could tell from their accents whether they were from the region. While I was observing at the Burco polling station, there was only one potential voter turned away, and that was after I asked his age. He was 17. There did not seem to be any real effort made to ascertain the ages of seemingly young voters.

At the polling station at Elhume Village, there was a clan elder who said aloud the names of each person as they approached the register. He knew them all. Several young

men who appeared to be under 18 were voting. I could not ascertain their ages beyond what they were claiming. At the two polling stations in the Odweine town, I saw dozens of young men at both stations who appeared to be under 18 voting. There seemed to be no effort made at all to identify voters while I was observing these two polling stations, although the voters seemed all to live locally and know each other. A clan elder was present at the Hahi Village polling station to identify voters for the polling station register.

D. Opposition

Everyone I spoke to after the voting at the Burco polling station said they had voted “Yes.” There was no campaigning for either side while I was observing this station. Some of the voters said that they had heard opposition arguments on the BBC Somali Service. I understand that there were a significant number of people in Burco who wanted to vote “No” because they disliked the current administration and felt that the city did not receive a fair share of national resources, but I did not meet any of these people.

There were pro-referendum posters inside the polling station at Elhume Village. Many people were shouting “No Mogadishu!” outside of the polling station. People would tell other voters that the black “No” ballot box was for Mogadishu. There was a climate of intense peer pressure from the villagers here to vote “Yes,” especially because the voting took on the appearance of a community event. As such, I did not see any visible signs of opposition, or indeed meet anyone who was voting “No.” At the same time, though, I did not see any signs of intimidation.

When I arrived at each polling station in Odweine Town, the people queuing outside were engaged in passionate rallies in support of the referendum. There were placards everywhere and people shouting “No Mogadishu.” Because of the size of the crowds and the strength of passion at these polling stations, coupled with the lack of privacy behind the curtains, I think that casting a “No” vote would have been difficult at the two Odweine Town polling stations I observed. There was, however, no evidence of any intimidation.

There seemed to be little evidence of campaigning of any kind at the polling station at Hahi Village. I did not see any evidence of anyone here opposing the referendum, but when I asked, voters said they were aware of the opposition arguments from the BBC Somali Service.

E. Voter Understanding

Most people seemed to understand the voting procedure. I only saw one woman who asked for help in casting her ballot. She said she wanted to vote “Yes” and the staff showed her which box to place her ballot in. Almost everyone I spoke with at each polling station believed they were voting for or against independence for Somaliland, rather than for or against the constitution. Several older men in Odweine Town stopped me to tell me about the history of Somaliland, and spoke passionately in favor of the referendum.

F. Vote Counting

We observed counting in Burco District for one day, on June 1st. The counting started at about 1:00 p.m. and continued until 10:00 p.m. It was resumed the following day, but we were not there to observe the conclusion of the vote count. There seemed to be adequate security provided for the counting activities. There were eight people present, and watching as each box was counted. During the counting of one "Yes" box, I observed that some ballots were coming out in clumps, suggesting that they had been torn out of a book together and put into the ballot box all at one time. The counting process itself seemed to be conducted honestly, if a little inefficiently.

7. Report from Burco Mr. Scott Kohlhaas

I remained at one polling station in Burco for the entire day and did not leave to visit other polling stations, like many of the other Institute delegation. I observed at Polling Station 2, which otherwise was a local office for teaching women home economics. On the whole, at this polling station, the referendum was clearly popular, open and honest. In terms of adherence to established procedures, voter identification, opposition and voter understanding, the polling station was not perfect in following the election rules, but it was a good faith effort. If we were employing a rating system to judge polling stations, I would give this polling station a four rating out of a possible five.

A. Adherence to Established Procedures/Voter Identification

I remained at my polling station from 6:03 a.m. to beyond closing time at 7:11 p.m., and then escorted the ballot boxes to the district counting office. The boxes arrived at 8:30 p.m. In general, established procedures were followed. At first, people under 18 were allowed to vote. (I think two or three under 18 were actually registered and voted.) But after I asked the age of the voters, my interpreter told me that malnutrition in the refugee camps has caused some to look younger than their ages. But from that point on, a diligent effort was made to determine the age of the voter.

More than a dozen voters were turned away for being underage, including a woman who (perhaps because of the culture or lack of education), said she was 11 years old. She was clearly older than 18, but polling station workers refused to allow her to vote because the age she gave was too young.

At this polling station, voters were marked with ink *after they voted* and had left the polling station, instead of being marked *before receiving their ballot*, as prescribed by law. Only two men refused to be marked after voting, perhaps because it was a woman doing the marking. At about 2:30 p.m. I saw a voter going into the voting booth with ink on his hand. I pointed this out to polling station workers, and from that point on polling station workers checked each person's hands as they came into the polling station.

The rule limiting one person at a time in the voting booth was followed very well. Only about 20 times did someone go in when there was another person in the booth. In some instances, a cameraman came into the polling station to capture on film people casting ballots. Because several people would go into the voting booth at one time

(thereby denying privacy to the others), the mayor of Burco came in before noon and instructed the polling station to start using an additional registration book, which created two lines for the two separate registration books (each polling station was to receive only one registration book, so this was a deviation from the election procedures). This additional registration book was a small, unofficial notebook that registered more than 450 voters, and was ultimately taped into the official registration book for this polling station. While it sped up the voting process and ensured that everyone could vote in a timely manner, allowing this polling station in Burco to deviate from the rules in this fashion could have led to the appearance of letting more “Yes” voters into the polling station so that they could deliver more overall “Yes” votes to impact the national total. Indeed, Burco is a city that is solidly in support of independence for Somaliland, and the Togdheer region delivered more “Yes” votes (222,319) than any other region. At the same time, though, it may simply have been that the polling station director didn’t want to make voters wait so long to get in to vote.

The referendum law required polling stations to remain open until 6:00 p.m., or until 10:00 p.m. if there were people waiting to vote. But at six different times between 6:00 p.m. and 7:00 p.m., there was no queue of voters and the polling station nevertheless remained open well past 7 p.m. The polling station staff wanted to stay open even longer, but the governor came by and told them to close the polling station.

Of 1,800 voters, only 23 complaints were registered. The breakdown of grievances include the following:

- Six complained that the slot at the top of the box was too thin.
- One woman was denied the vote because she was from the south.
- Nine complained about the south (including two who showed that they had been afflicted with wounds).
- Three complained because they couldn’t vote twice.
- Four complained because they spoiled their own ballot by writing on it or accidentally tearing it.

B. Opposition

From what I could tell, the “No” votes came from young men who had no fear of peer pressure, while others came from Islamic fundamentalists. (I could tell they voted “No” because the curtain was often open and did not provide much privacy.) I never saw any woman vote “No.” Other than watching some individuals vote “No,” I never observed any opposition or protest to the referendum or the Constitution.

C. Voter Understanding

A copy of the constitution was not immediately displayed at my voting station until about an hour into the voting, after I inquired about its absence. But there is no doubt about voters’ understanding of the issue. While voters told me they saw this as a vote on the referendum on the proposed constitution, it was also understood by the voters that this was a vote for independence. Here are some of the comments I recorded from voters:

- *“No more Mogadishu!”* (Said dozens of times.)
- *“Somaliland, Somaliland.”* (Chanted by women.)
- *“Mogadishu, out!”*
- *“No black (box).”*
- *“Somaliland, Yes, Hamar, no.”*
- *“I want to vote for my own soil – Somaliland Haa!”*
- *“I won’t vote for the black (box).”*
- *“I want Somaliland.”*
- *“Somaliland lives.”*
- *“Yes! Yes!”*
- *“Goodbye Italians.”*
- *“Recognition – please give favorable report.”*

I should reiterate that the “Yes” vote was by far the overwhelming winner. It was the popular vote, and I did not witness or hear of incidents when someone was forced to vote. I did not observe or hear about eligible voters being prevented from voting. Men and women came in a steady stream all day long, and it is clear from their comments that they knew what they were voting for independence.

8. Woqooyi Galbeed Region and Hargeisa

Mr. Dennis Polhill

A. Hargeisa - Adherence to Voting Procedures

I observed polling stations in the Maxamuud Haybe District in Hargeisa, the capital of Somaliland. The district had 12 polling stations. After getting in the car at 5:30 a.m, I announced that I wished to go to Polling Station 11, the Burco Duurey polling station. The driver and the translator were unable to find this polling station even after stopping to ask directions three times. Finally, we arrived at polling station Madarasadda Burco Duurey at 5:50 a.m. Voting had already begun (although election procedures required polling stations to not open until 6:00 a.m.) so inspection of the empty ballot boxes and supplies was not possible. This polling station, a school, was Number 527. The polling station stamp was Number 544. This station was staffed with people who seemed to know what they were doing and who seemed committed to following procedures and doing things correctly. Voters in a single line were met first by an elder, who questioned them to confirm their eligibility. Voters’ names were entered into the register, and their ballots were stamped before they entered the voting area. After voting (usually), the left hand was marked with red paint. The curtain provided privacy from those standing in line, but there were windows on either side of the room that compromised the privacy. The poll workers rotated regularly to avoid fatigue.

At 5:50 a.m., the queue was about a dozen people. By 7:00 a.m., the queue had grown to at least 50 and was still growing at 9:00 a.m. There was no break in voting until noon. Slowness in confirming eligibility by the elder made some of those waiting in line impatient, leading to some pushing as they crowded inside the small polling station. To keep order the guards began to block the doorway and to let only one in as another left. There were about three times as many women voting as men at this polling station. At lunchtime, with the queue gone, the poll workers decided to shut down the polling station

and go to lunch, but held off on closing the polling station for lunch until 2:00 p.m. With the queue gone, this worked well.

Several people were not allowed to vote on the basis of being under age. One older man required assistance voting. A woman was allowed to take a basket into the ballot box area. She could have taken several hundred counterfeit ballots with her, but she did not. I was present when this ballot box was opened for counting on Friday. Even if she had stuffed the box with counterfeit ballots, she would have had to know that the polling station stamp number was 544 (this was inside a sealed envelope inside a locked box) and devised a way to counterfeit the stamp. This system of checks seemed to work well and the entire process seemed to move with a sense of integrity.

Only the sign announcing the polling station location was posted. The proposed constitution and the voting procedures poster were not posted, in violation of the election procedures.

At 8:50 a.m., two men (20 to 25 years old) asked whether they could speak openly with me. They said they supported Somalia, not Somaliland. I said that they could express their views by voting. One had voted; the other said he would not vote. The two were immediately confronted by two others who said, "All people support Somaliland." I interrupted by saying, "In democracy everyone has his own opinion and we measure opinion by voting." That was the end of the incident. At 9:40 a.m., a pick-up truck mounted with large bullhorn speakers arrived playing music. I expected it to announce a message, but it only played music.

At 10:00 a.m., 2,000 additional ballots arrived. Each polling station started with a supply of 1,500. The chairman signed for the extra ballots and the receipt was stamped with the polling station's Number 544. The original 1,500 were used up before lunch. Another 2,000 ballots arrived in the afternoon, but voting had lessened by then so the polling station chairman declined to accept them. At 10:51 a.m., I finally saw a woman put a ballot in the "No" box. She did it without apprehension or fear of reprisal.

At 10:37 a.m., an important looking man showed up to vote. He demanded, and was given, 10 to 20 extra ballots, evidently on the claim that other family members were unable to get to the polling station. This violated an important election rule: Each voter had to be present at the polling station to cast a vote.

Several people were observed removing the red paint from their hands but it is unknown whether any of them voted again after removing the paint. A few people refused to allow their hands to be painted. A British citizen with Somaliland parents returned to Somaliland to cast his vote. Because he owns a gem business, he returns to Somaliland frequently.

Although the queue was short by 6:00 p.m. (the time that they were allowed to close if no one was waiting in line), one of the polling station workers said they would remain open until 8 p.m. They closed at 7:40 p.m. and all of the 3,500 ballots had been used, and there were 3,515 names recorded in the registry. It seems that they stayed open accepting stragglers until 7:40 p.m. in order to use up the available ballots. A closing checklist might be helpful in the future. The supply box had to be re-opened to retrieve

the masking tape and stamp to seal the ballot boxes. The three boxes were transported to the district counting location, and the boxes from this polling station were the first to arrive.

B. Counting Day Observations

The counting day was the day after Election Day, June 1, 2001. Counting was to begin at 8:00 a.m., but could not begin until all ballot boxes from all polling stations had arrived and all counting personnel were present. I observed the counting at the Maxamuud Haybe district counting station in Hargeisa. All ballot boxes had arrived, and the counting room with the ballot boxes was guarded. At 10:30 a.m., the room was opened, and all of the ballot boxes appeared to be secured and in order. Because they were to be counted in the same order that they arrived at the counting station, Number 544 was opened and counted first.

The polling station supply box was opened first to check the registry and stamp. There were 3,526 names recorded in the registry. In the beginning, ballots were removed one at a time from the ballot box and were counted and subsequently counted by each person on the regional referendum committee. Proving to be awkward and time-consuming, the process soon lapsed into taking hands full of papers onto the desk and each person counting them into stacks of 100 and wrapped with rubber bands. When all of the ballots were in groups of 100, they were then counted and a total number determined and announced. Polling Station 544 had 3,143 “Yes” votes, 362 “No” votes, and two spoiled ballots for a total of 3,507 ballots cast for a final vote of 89.6 percent voting “Yes.” It took two hours to count these ballots. By the close of counting, six polling stations were counted. In every case, the ballot boxes were properly sealed and locked.

At Polling Station 559, someone decided to accommodate the long queue by opening a second registry to record names. They used a notebook, giving it the same data columns as the official registry. When the notebook was filled, a second notebook was used.

A fair number of ballots from one polling station did not have the polling station stamp and were ruled spoiled. Only one box from one polling station was open at a time, and each polling station count was completed before the next was begun. No ballots were ruled “spoiled” due to marks, signatures, writing of names or counterfeiting. Counting continued on Saturday, June 2, 2001.

C. Adherence to Procedures

It seemed that polling station workers had received extensive training. They generally knew what to do and generally did their best to do things correctly and to maintain the integrity of the election process. In the numerous meetings with Abdulgadir Haji Ismail Jirde, Deputy Chairman of the Somaliland National Referendum Committee, the committee’s intense attention to detail and control of the process was evident. The few departures from procedures were neither significant nor detrimental to the election process, and did not undermine the overall integrity of the vote.

D. Voter Identification

The voter identification procedure is weak compared to western, developed nations that have the benefit of birth records, census, tax roles and voter registration data. Lacking such information, the Somaliland approach to voter identification was not unreasonable. It is difficult, under Somaliland's circumstances, to suggest a more effective, while practical, approach.

E. Opposition

I observed many cast "No" votes without apprehension, and the "No" votes were duly counted and recorded. One opponent had tried to steal a ballot box in the Sool region several days before the election, and a guard wounded him. The "No" votes were highest, and voter turnout lowest, in the Sool region where opposition was strongest. I observed some speak out against the constitution. While there was real and palpable opposition voiced, the overwhelming community consensus on Election Day was evident that the constitution and independence would be easily approved.

F. Voter Understanding

Voters understood that they were voting to ratify a constitution that had been in operation for the last four years. But their primary understanding was that a "Yes" vote meant independence from Somalia and Mogadishu. Of the six or so people that I questioned about the contents of the constitution, only a 15-year old boy had read and understood portions of it. The others seemed to have no knowledge of what was in the proposed constitution. Perhaps, the fact that they were ratifying a constitution they have lived under for four years was sufficient for them, and they did not feel the need to learn the various articles of the constitution.

G. Counting Security

The counting security was good. Had there been an organized opposition, I would recommend that it be allowed to be present and represented at every polling station and counting office. Their presence would have ensured that zealous pro-constitution officials did not open the "Yes" and "No" box simultaneously and shovel all but a few votes from the "No" to the "Yes." With only ten observers we cannot be entirely certain that this did not happen, except that there were several observers who followed the ballot boxes from their polling station through the sealing, unsealing and counting process.

9. Hargeisa Polling Stations **Ms. Stacie Rumenap**

Beginning the day at 5:30 a.m. on Election Day, I covered 14 polling stations in the capital city of Hargeisa, and continued observing until a voter cast the last vote at 8:15 p.m. With a driver who also served as my translator, we arrived at Aerolite ka, the first polling station I observed. At Aerolite ka, I learned that each polling station I observed followed essentially the same basic guidelines – each included armed guards outside of polling stations, ballot workers and necessary materials, as well as ballot boxes behind curtained areas to provide privacy. Generally, lines moved efficiently through the

polling station doors and into the voter booths where, after a person had cast their vote, their hand would be stamped with a red line preventing them from voting more than once.

Upon arriving at Aerolite ka, two lines had already formed outside, one line for women voters and one for men. Inside the polling station, after verifying that the ballot boxes were empty and that the registration book was blank, five ballot workers feverishly worked to take down voter information, including voters' names and ages in hopes of establishing voter registration rolls for future elections. Looking around the polling station, campaign literature and posters in the Somali language covered the walls that read, "You have the right to vote" and "One day for victory. Try to vote in the Right Way." The constitution was not available, contrary to the election procedures. After observing for nearly an hour, 34 men and 32 women cast their votes, many for the very first time. During this time, I witnessed the mayor turn away two young women for being under age 18 and thus ineligible to vote. There was tremendous enthusiasm at the polling station, and it was clear that voters were energized by the possibility of freedom, independence and stability. One 20-year-old man told me he cast his vote for Somaliland's independence and that the vote represented recognition after ten years of suffering.

A. Adherence to Voting Procedures/Voter Identification

From primary schools to meeting places, buildings were converted to voting booths where, in most cases, hundreds of people lined the streets waiting to cast their vote. In general, standard procedures were followed: All of the polling stations contained the necessary materials and staff (including many women workers). When one polling station ran out of ballots, a request was made for more and they were then properly signed for upon delivery.

Clan elders identified potential voters and regularly turned away underage ones, as well as refugees from Ethiopia. At the polling station at Dugsiga Macalin Da'ud – directly next to an orphanage – it appeared some of the voters were under-aged. The process of marking red ink on the hand of voters to distinguish them from non-voters was successfully followed. Of the hundreds of people I watched stand in line and eventually cast their ballots, I saw only one man vote twice.

Poll workers recorded names and ages in the registration books, although often they would start multiple books (in an attempt to speed the process along). With only a few exceptions, campaign literature lined the walls of the individual polling stations. I did not see the constitution posted at any of the polling stations I visited.

With respect to privacy, ballot boxes were hidden behind curtains, or in some instances chalkboards. While constant efforts were made to ensure only one person voted at a time, as the voting became more and more crowded, often people grabbed a neighbor or friend and voted simultaneously. However, I did not witness any government official or poll worker monitor how a person voted.

While I observed at many different polling stations, I observed only one district counting office known as Ibrahim Kodbuur. After the doors closed to the Aerolite ka polling station, workers began sealing the ballot boxes and returning remaining materials

to the materials storage box. Then, led by several of Hargeisa's police officers, we traveled to the assigned drop-off location where armed guards looked after the locked boxes overnight. Beginning with ballot box Number 504, the eight official counters (all men) sorted the ballots in stacks of 100 and dismissed any spoiled or unmarked ballots. Records were kept in a journal and counted ballots were returned to their original boxes and locked for safekeeping. As a group, the counters decided against comparing the voting count to the registration lists as they went through each box and, ultimately, returned to these boxes on a separate day to review the numbers. Overall, the registration books looked largely completed (with an occasional age missing from the age column). In total, for this particular district station, 35,555 people registered to vote, of which 35,231 ballots were cast, including 34,905 in support of the constitution, and 205 against. There were 121 spoiled ballots. Human error was probably the best explanation for the discrepancy in the number of registered votes and the total votes cast.

B. Voter Understanding

While I saw one man carry a copy of the constitution into the polling station with him, the majority of voters believed they were voting for their freedom from Mogadishu. Below are three quotes from voters on Election Day:

- *“We need to stand alone in Somaliland. Free. Don't want to go back to Somalia and Mogadishu.”*
- *“We broke away 1991. We support our government every time and will do so every year. This is support for our government and our Constitution. Recognize our country. U.N. and everyone to help us from our suffering. In ten years, we've built a strong government.”*
- *“After this vote, we can choose our President and Parliament without blood. I want someone who can work for my opinion. People who are 30 or 35 and younger are curious to see how life will be different after voting.”*

C. Opposition

While visiting three Hargeisa polling districts, I saw no organized opposition of any kind to the referendum or the constitution.

10. Gabiley Mr. Adrian Schmid

I was responsible for monitoring the election in the Gabiley district outside of Hargeisa. The Gabiley district is in the Woqooyi Galbeed region of northwestern Somaliland. The main town, Gabiley, has an estimated population of 33,000, with an estimated eligible voter population between 15,000 and 20,000. During my stay in Somaliland, I crossed the border into Ethiopia on two occasions without any border check. The border is open, with many nomads and semi-nomads moving between the two countries. The conditions are very peaceful and relaxed.

At 6:00 a.m. on the morning of the election, the district office had a reserve supply of 39,000 unstamped voting slips. I checked these in the presence of the district officials. After the referendum, I learned that due to the high level of interest, all of these extra ballots had been used. The extra ballots were distributed to the individual polling stations, and there was a detailed accounting with receipts for these ballots.

I visited five polling stations during the day of the referendum, and visited and observed at the Gabiley II polling station on three separate occasions during the day. The Gabiley district is extensive, and there are few paved roads. After just one hour, our all-terrain vehicle got stuck in a mud-hole and needed a tractor to pull it out.

Given the conditions of the country and the limited finances, the organization and management of the voting I observed was excellent. When there were irregularities or deviations from the election procedures, these failings were minor and insignificant.

I first arrived at the polling station Gabiley II at 6:50 a.m., and noted that according to the registration book, 209 people had voted within that first hour. This figure corresponded exactly with the numbers of used ballot slips. The mood on voting day was relaxed and lively. I was told that dozens of people were at the polling station by 5:00 a.m. Because of this, the station opened ten minutes before the official time, at 5.50 a.m., and this occurred at other polling stations as well. There were difficulties in recording the waves of voters. The polling station registrar often wrote too slowly to keep pace with the large number of voters. As a result, the consecutive numbering system broke down on occasions, and because of the high voting demand, the registration book was divided up among two polling station workers, or, in some places, an additional register had to be brought into use.

It is clear that it will be very difficult to reach a precisely accurate figure of the total numbers of voters from the registration books. However, a second check on the ballot slips used during voting, and again at the counting stage, produced roughly similar figures. The discrepancies amounted to relatively few votes and it is possible that some of the ballots had not been placed in the ballot boxes.

The problems of registration became clear during the vote counting: The numbering of the ballot slips was often incorrect and inconsistent. However, a check of both the used and unused slips showed that the actual discrepancies were very slight. Afterwards, I checked the total number of votes cast in the 34 polling stations.

As a final assessment, I can restate my conviction that, under the circumstances, the organization and the voting procedure were excellent. Minor faults can be remedied. Voting was carried out under conditions of secrecy. The overall mood in the Gabiley district was clearly in favor of the constitution and independence, as there was much singing, dancing and loud calls for a free Somaliland. I did not observe any direct attempt to improperly influence voting, nor did I see any form of violence or intimidation during the days of voting and vote counting.

VII. Conclusion

Overall, it is the opinion of the Initiative and Referendum Institute that the constitutional referendum held on May 31, 2001, in Somaliland was conducted openly, fairly, honestly, and largely in accordance with internationally recognized election procedures. However, it must be noted that no national election, no matter where in the world, is conducted without allegations and instances of irregularities, mismanagement, human error or fraud. The referendum in Somaliland is no exception to this rule, but from our observations, the Institute cannot see any basis for questioning the final results of the referendum, or any reason to cast doubt on the integrity of its outcome.

Given the financial and logistical limitations challenging the Somaliland government – particularly because there have not been any elections in the country for more than 40 years – the Institute’s delegation commends the Somaliland government on the great lengths it went to ensuring a peaceful referendum, free from violence and widespread abuses or fraud. Based on our observations, the Institute finds that the Somaliland constitutional referendum was conducted in a legitimate and open manner, and in most instances, followed the pre-established election procedures mandated by Somaliland law.

While finding the referendum to have been conducted fairly, the Institute’s delegation stresses that it takes no position – directly or indirectly, explicitly or implicitly – supporting or opposing the contents of the Somaliland constitution or Somaliland independence and its quest for international recognition.

Though it is the Institute’s official position that the referendum, overall, was conducted fairly, election irregularities and instances of possible fraud should not be overlooked.

As stated earlier in this report, due to the small size of the Institute’s delegation, the team was limited in its ability to observe a large number of polling stations and ballot counting locations. In the locations that were observed, the Institute did see instances of deviations from election procedures, unexplained irregularities, and to a much lesser extent, minor instances of what could be perceived as fraud. However, irregularities and procedural deviations were *de minimus*, and the occurrences of fraud were insignificant and very rare. Although there is ample room for improvement, the Institute strongly believes that based on observations, these negligible deviations and irregularities did not undermine the integrity or legitimacy of the referendum, and in no way would have changed the overall outcome of the vote.

Most of the irregularities and procedural deviations that were observed are items that could easily be corrected prior to the next national election. Specifically, polling station workers frequently would pre-stamp ballots, a deviation from the election procedure. Because of the long lines of voters waiting to vote in the hot sun, there was an understandable effort by polling station workers to hasten the voting registration process, including pre-stamping ballots. The ballots, however, should have been stamped one at a time, and handed to a voter right before entering the voting booth.

In observing the ballot counting, there were perhaps three or four instances where observers found what appeared to be dozens of ballots “stuffed” into a “Yes” ballot box as if entered all in one instance, instead of votes cast individually. These instances can be attributed to an over-zealous polling station worker, or an individual swiping a pile of pre-stamped ballots while the polling station worker was not watching. At most, it is our opinion that this may have affected no more than 50 to 100 votes, and that the pre-stamping of ballots may have contributed to this.

Another irregularity suggested both by the team’s first-hand observations and by our analysis of the results is an inconsistent poll closing time. Observers witnessed first-hand polling places that stayed open after the designated closing time even when lines had dissipated as well as ballot boxes arriving at counting stations at times that meant they must have left the polling place before 4:00 p.m. – well before polling should have closed. Further, perusal of the results shows a number of polling places used the number of ballots the polling place was allocated. We suspect that a significant number of polling places simply stayed open until they ran out of ballots, whether that was earlier or later than the official poll closing time. Although we have no reason to believe that this significantly impacted the results of the referendum, we would recommend that this problem be avoided in the future by providing all polling places with ample ballots to stay open all day and ensuring that they close according to regulations so as to provide all regions an equal opportunity to vote.

Another problem the team observed was the process of discerning a voter’s age. Several members of the team noted a number of questionable instances in which some underage Somalilanders may have been allowed to vote. By speaking with some underage Somalilanders, observers learned that some had illegally voted in the referendum, though this seemed to have occurred without any regularity. Without birth records or identification, this was not unexpected. Indeed, there were many instances when polling station workers turned away underage voters. More importantly, no eligible voters were observed being turned away from voting because of their opposition to the constitution, Somaliland independence, or the administration of President Egal. There did not appear to be significant numbers of ineligible people voting, and those eligible to vote could do so freely.

Additionally, the team observed only two or three instances of people attempting to vote more than once. In a few instances, the polling stations were not diligent at painting the backs of hands of people who had voted, due in part to inattention to the procedures and the confusion resulting from long lines of people waiting to vote. Indeed, the indelible ink was not difficult to wash off. Still, we do not believe that multiple voting was a problem, and when it occurred, it seems to have been very rare, and in our opinion would not have impacted the results in any significant way.

Another area that should be addressed in future elections is voter privacy. The degree of privacy for voters in the voting booth varied from polling station to polling station, with some polling stations not having, in our opinion, effective privacy. In many instances, there was limited privacy because the ballot boxes were not securely shielded from the view of others. Indeed, on several occasions, it wasn’t that difficult for the observers – and Somalilanders themselves – to see how a voter cast his or her ballot. Given the overwhelming support for the constitution and independence, a lack of privacy

could possibly have prevented someone opposed to the constitution or independence from feeling free to cast a “No” vote for fear of pressure or reprisal. However, at most of the polling stations, the voting booths were sufficiently curtained or designed to allow for privacy.

In summation, the irregularities discussed in this report, however benign, can sometimes cast doubt on an election, and allow for an appearance of illegitimacy. However, given that no election has been held in Somaliland in four decades, such irregularities are to be expected and should not, in our opinion, cast doubt on the legitimacy of this election.

More importantly, the referendum was conducted peacefully and without violence. Except for one instance, observers did not see the government, or individual Somalilanders, pressuring others on how to vote or whether to vote, nor did anyone suppress the opinions and speech of those opposed to the constitution or independence. In fact, *every* observer noted that there was an overwhelming sense of joy, passion and excitement for the opportunity to vote and the prospects of independence. Observers witnessed impromptu singing and dancing outside the polling stations, underscoring that for the vast majority of voters in Somaliland, the referendum – in and of itself – was cause for celebration.

Not only can election irregularities cast doubt on an election, in some cases the actual vote outcome itself can raise questions of the legitimacy of an election. It is unfortunate, but the reality is that throughout the world, when a candidate for office or a ballot question receives near-unanimous approval, the legitimacy of the election is often questioned and in this election where 97 percent approved the constitution and only three percent opposed it that point is proven. However, Institute observations and understanding of the election can help place this overwhelming vote in context. Approximately two-thirds (66 percent) of those eligible voted, while a third did not vote. With only 600 polling stations in a country the size of Florida, getting to a polling station on a hot day may not have been easy, particularly for nomads who make up a large part of the voting population, and therefore could help account for the 34 percent that did not vote.

More importantly, the 97 percent approval was attributable in part to, in our opinion, to a highly emotional desire for a free and independent Somaliland. After years of civil war, famine, bombardment and destruction by the south, the voters’ passion for separating from Somalia was distinctly palpable. Rather than an endorsement of the various provisions of the constitution, this was a clarion call for independence based on Institute observations. Every observer was struck by the voters’ passion and enthusiasm for this referendum.

Furthermore, it is possible that those who did not vote were showing their opposition by exercising their right *not* to vote or go to the polls at all, and there were some anecdotal reports to support this “culture of abstention.” For example, in the Las Anode district in Sool, a region where, according the election results, there was the most opposition, voter turnout was 31 percent lower than the national average. In fact, one counting district in Sool recorded that not a single “No” vote was cast, while another station recorded a total of merely 105 votes cast, a fraction of what most other polling

stations around the country reported. Of the 14 polling stations in Las Anode, there were only 7,261 votes cast altogether, further indicating slight voter turnout in this region. Indeed, in the last election held in Somaliland 40 years ago to ratify the union between Somaliland and Somalia, there was little support for such unification in Somaliland, and only about 100,000 people in Somaliland cast votes in that election, as most boycotted that referendum altogether. It is possible that many of those who didn't vote this time were likewise boycotting this referendum.

The opposition, however, was not unified around one issue. Some were opposed to Somaliland breaking away from Somalia, while others supported Somaliland independence, but were opposed to the current administration of President Egal. In short, even if one assumes that the 34 percent of the Somaliland eligible voters that did not vote in the referendum were opposed to the Constitution, independence, or the current administration, nonetheless, there was nearly 66 percent of the eligible voters who clearly supported the constitution and independence.

Given the limitations of a ten-person delegation, it cannot be said unequivocally that no other instances of fraud or irregularities occurred. As noted earlier, no election is conducted without a certain degree of irregularities. However, based on these observations, the Institute concludes that, on the whole, the constitutional referendum held on May 31, 2001, was conducted fairly, freely, and openly, and largely adhered to the election procedures set down by the Somaliland parliament and in accordance with internationally accepted standards.

Accordingly, this final report of the Initiative and Referendum Institute is respectfully submitted as of this date.

Dennis Polhill
Chairman of the Board
Initiative and Referendum Institute

M. Dane Waters
President and Founder
Initiative and Referendum Institute

Date

Date

List of Election Observers

Sasha Bruce
David Byrd
Derek Cressman
Scott Kohlhaas
Dennis Polhill

Alexander Mundt
Allison Puranik
Stacie Rumenap
Adrian Schmid
David McCuan

VIII. Appendix

- A. The Revised Constitution of the Republic of Somaliland**
- B. The Law of the Referendum on the Constitution of the Republic of Somaliland**
- C. Map of Somaliland**
- D. May 30, 2001 Press Release from IRI**
- E. June 7, 2001 Statement of the IRI Observation Team**
- F. The Initiative & Referendum Institute**
- G. Decision of the Somaliland Supreme Court certifying the Election results**
- H. Table of Certified Results for Somaliland Referendum on May 31, 2001**

THE REVISED CONSTITUTION OF THE REPUBLIC OF SOMALILAND

UNOFFICIAL ENGLISH TRANSLATION

This is an unofficial English Language translation of the REVISED Constitution of the Republic of Somaliland, which was prepared by Ibrahim Hashi Jama LL.B, LL.M.

Ibrahim is a Somali lawyer who has worked in the mid-1970's at the Legislation & Legal Advice Department of the Somali Ministry of Justice and was a member of the national Legislation Drafting Committee (Gudiga Xeerdejinta) and the Editorial Board of the Somali Law Review.

Introduction

The revisions to the Somaliland Constitution were adopted by the Houses of Parliament on 30th April 2000. The Constitution, which has now been re-published, consists of a Preamble (Arar) and five main Chapters (Qaybo) each of which is sub-divided into Parts (Xubno). There is now a total of 130 Articles (Qodobo) as compared to the previous 156 Articles.

Translating a Constitution (or any other law) requires precision of language. Where additional words, which are not in the original Somali language version of the Constitution, are required to express more accurately the meaning of the phrases and legal concepts, these are put in italics and in brackets. Clearly, for interpretation purposes, the Somali version is the official source document, and will remain so even if the Somaliland Government issues an official English Language version. However, to enable a better understanding of the Constitution, I have added, sparingly, footnotes to explain some of the concepts.

Somaliland has had other Constitutional documents, which are all of historical significance to the nation. These range from the international treaties signed by the various Somaliland communities with the British government, and the various constitutional arrangements prior to independence in 1960 to the Declaration of Re-assertion of Sovereignty in 1991 (in Burao) at one of the earliest grand conferences of the Somaliland communities. Although the Republic stood as an independent country for a short period in June 1960, it was pre-occupied with pursuing the chimera of Greater Somalia prior to its voluntary unification with Somalia and no comprehensive constitution was adopted during that short period.

The first main Constitutional document of the independent Somaliland was the National Charter (Axdii Qaran) which was signed by the Conference of the Somaliland Communities in 1993 in Boorame. This was followed by the first Somaliland Constitution which was adopted at the conference of the Somaliland Communities in Hargeysa in February 1997. Under article 151 of this Constitution, it was laid down that the Constitution shall be implemented for a period of three years from its approval in February 1997, and shall come into force fully once a referendum has been held. There was a provision for this interim period to be increased by the two Houses of Parliament,

and in early 2000, the two Houses voted that the period be increased by one year. This was primarily to give more time for the completion of the revision of the Constitution (before its submission to the nation at a Referendum) and for putting in place the laws and mechanisms for changing the current “representative” democracy in Somaliland to a popular democracy based on the direct elections of the President and the Parliament.

Although initially the Somaliland Government proposed fairly extensive amendments to the Constitution in 1999, the final revised Constitution is not very different from the last one and the reduction of the number of articles from 156 to 130 has been largely achieved by the amalgamation of some articles, rather than by extensive repeals. Unlike the earlier draft proposals, the parts of the Constitution relating to directive principles and to human rights have all been retained. On the whole, the revisions tidied up the Constitution and no fundamental changes have been made.

As this translation is still very largely based on my earlier translation of the last Constitution, I must express again my gratitude to Abdullahi Awad Egeh for his invaluable comments; and to Mohamed Hassan Nur and Jama Muse Jama, for their comments and for making it possible for the translation to be posted on the internet. It still remains to be said, however, that all errors and omissions are mine, and I would be grateful for any comments or criticisms at ihhjama@hotmail.com

Ibrahim Hashi Jama
© June 2000

**THE CONSTITUTION OF THE REPUBLIC OF SOMALILAND
(AS AMENDED)**

**ARRANGEMENTS OF THE CHAPTERS
(This is now part of the Revised Constitution)**

PREAMBLE

CHAPTER ONE

**Part One
General Provisions**

- Article 1: The State of the Republic of Somaliland
- Article 2: The Territory of the Republic of Somaliland
- Article 3: The Capital
- Article 4: Citizenship
- Article 5: Religion
- Article 6: Language
- Article 7: The Flag, the Emblem and the National Anthem

**Part Two
General Principles**

- Article 8: Equality of Citizens
- Article 9: The Political System
- Article 10: Foreign Relations
- Article 11: The National Economy
- Article 12: Public Assets, Natural Resources and Indigenous Production
- Article 13: Banks
- Article 14: Taxes and Duties
- Article 15: Education, Youth and Sports
- Article 16: Promotion of Knowledge and Literature, Arts and Culture
- Article 17: Health
- Article 18: Environment and Disaster Relief
- Article 19: Care of the Venerable in Society
- Article 20: Work, Trade, and the Welfare of Employees

**Part Three
The Rights of the Individual, Fundamental Freedoms and the Duties of the Citizen**

- Article 21: Implementation and Interpretation
- Article 22: Political, Economic, Social and electoral Rights
- Article 23: Freedom of Movement and Association
- Article 24: The Right to Life, Security of the Person, Respect for Reputations, and Crimes against Human Rights
- Article 25: The Right to Liberty, Guarantees and the Conditions of Rights and Freedoms
- Article 26: Crime and Punishment
- Article 27: The Rights of Persons Deprived of their Liberty

Article 28: The Right to Sue and Defend
Article 29: The Sanctity of the Home
Article 30: Freedom of Communication
Article 31: The Right to Own Private Property
Article 32: Freedom of Public Demonstration and Expression of Opinion, Freedom of the Press and other Media
Article 33: Freedom of Belief
Article 34: The Duties of the Citizen and Punishment for Failure to fulfill them
Article 35: Extradition of Accused or Convicted Persons and Political Asylum
Article 36: The Rights of Women

CHAPTER TWO THE STRUCTURE OF THE STATE

Article 37: The Powers and the Sovereignty of the State

Part One The Legislative Branch

Article 38: The Parliament and Joint Sitings

The House of Representatives

Article 39: General Provisions of the House
Article 40: The Total Membership of the House and Elections
Article 41: Eligibility for Candidacy
Article 42: Period of Office and Election Term
Article 43: The Seat of the House
Article 44: The Convening of the New House
Article 45: The Meetings of the House of Representatives
Article 46: Sessions and the Procedures of the House of Representatives
Article 47: The Pay and Remuneration of the House of Representatives
Article 48: Prohibition of Holding other Responsibilities
Article 49: The Privileges of the Members of the House of Representatives
Article 50: Loss of Membership of the House of Representatives
Article 51: Filling Vacant Seats in the House of Representatives
Article 52: Staff of the House of Representatives
Article 53: The Powers and Duties of the House of Representatives
Article 54: The Legislative Powers of the House of Representatives
Article 55: The Budget
Article 56: Dissolution of the House of Representatives

The House of Elders

Article 57: General Provisions of the House
Article 58: The Election of the Members of the House and their Period of Office
Article 59: Eligibility for Election to Membership of the House of Elders
Article 60: The Total Membership of the House of Elders
Article 61: The Powers and Duties of the House of Elders

Article 62: The Inaugural Meeting of the House of Elders
Article 63: The Secretary of the House and Advisers
Article 64: The Rules of the House
Article 65: The Pay and Remuneration of the House of Elders
Article 66: The Privileges of the Members of the House of Elders
Article 67: Resignation of Members of the House of Elders
Article 68: Loss of the Membership of the House of Elders
Article 69: The Dissolution of the House
Article 70: Prohibition of Holding other Responsibilities and of Private Gain
Article 71: Meetings and Sessions
Article 72: Vacant Seats in the House of Elders and Procedures for Filling them
Article 73: The Seat of the House of Elders
Article 74: The Introduction of Bills
Article 75: The Enactment, Promulgation and Implementation of Legislation
Article 76: Bills
Article 77: Procedures for Legislation
Article 78: Non-Financial Bills
Article 79: Accusations against the Members of the Houses

CHAPTER THREE

THE EXECUTIVE

Part One

Article 80: The President and the Vice-President
Article 81: The Executive Branch
Article 82: The Conditions of Eligibility for Election as President or Vice-President
Article 83: Election Procedures
Article 84: The President and the Vice-President
Article 85: Matters which the President and the Vice-President are not Allowed
Article 86: Vacancy of Office and the Procedure for the President and the Vice-President to Vacate their Office
Article 87: Salary and Emoluments
Article 88: Term of Office
Article 89: Procedure for Filling the Vacancy

Part Two

Article 90: The Powers of the President
Article 91: Powers of the Vice-President
Article 92: Other Powers of the President Relating to Emergency Laws
Article 93: The Protocol of the Senior Leaders of the State
Article 94: The Council of Ministers
Article 95: The Continuation of Responsibilities
Article 96: Accusation against and Impeachment of the President, the Vice-President and the Ministers

CHAPTER FOUR

Part One The Judiciary

- Article 97: The Judicial Branch
- Article 98: The Exclusive Powers of the Judiciary
- Article 99: The Structure of the Judiciary
- Article 100: The Courts
- Article 101: The Supreme Court
- Article 102: The Lower Courts
- Article 103: The Procuracy
- Article 104: The Courts and Procuracy of the armed Forces
- Article 105: The Appointment of the Chairman and Judges of the Supreme Court
- Article 106: The Relationship of the Judicial Bodies and the Ministry of Justice

CHAPTER FIVE MISCELLANEOUS PROVISIONS

Part One

- Article 107: The Judicial Commission
- Article 108: The Functions of the Judicial Commission

Part Two

- Article 109: The Structure of the Country
- Article 110: The Administration of the Regions and the Districts
- Article 111: The Regional and District Councils
- Article 112: The De-centralisation of Administrative Powers

Part Three

- Article 113: Special Organs of State
- Article 114: The Appointment of and Removal from Office of Heads of the (State) Organs
- Article 115: The Ulema Council and their Responsibilities
- Article 116: The Total Membership of the Council and Term of Office
- Article 117: The Conditions of Membership
- Article 118: Matters which Members are not Allowed
- Article 119: The Appointment of the Members of the Ulema Council
- Article 120: Vacancies in the Membership of the Ulema Council
- Article 121: Salaries and Remuneration
- Article 122: The Law of the Organs of State

Part Four

- Article 123: The Principles of the National Armed Forces
- Article 124: The Police and the Corrections Forces

Article 125: The Preparation of the Referendum Law and the Appointment of the Referendum Committee

Article 126: Amendments or Corrections of the Constitution

Article 127: The Limits of Amendments or corrections of the Constitution

Article 128: The Basis of and the Supremacy of the Constitution

Article 129: The Constitutional Oath

Article 130: The Implementation of the Constitution and Interim Provisions

**THE CONSTITUTION OF THE REPUBLIC OF SOMALILAND
(As Amended)**

IN THE NAME OF ALLAH, THE COMPASSIONATE AND THE MERCIFUL

PREAMBLE

IN PURSUANCE of the resolutions of the Conference of the Somaliland Communities held in Burao on 27th April to 5th May 1991, which reaffirmed (our) independence with effect from 18th May 1991;

NOTING that the Conference of the Elders of the Somaliland Communities held in Boorame from 24th January to 25th May 1993 adopted a National Charter which:

- laid down that a national constitution which will replace the national charter be prepared and consulted upon within a year; (*and*)
- set out clearly the constitutional principles and the governmental structures, confident in their communities' inalienable right to decide their destiny;

HAVING experienced the dire consequences of the application of a constitution not grounded on the nation's beliefs, culture and aspirations, as was the case for a period of thirty years;

HAVING experienced the devastation wrought by a regime based on dictatorship and a policy of divide and rule to which the country was subjected for over twenty years, and ever vigilant of the return of such a regime;

REMEMBERING the series of struggles waged by the people, such as that of the "Darawiish"¹, religious leaders and political parties;

MINDFUL of the vigorous campaign led by the patriotic organisation, the SNM², which culminated in the reassertion of (our) independence which was achieved through sacrifice of life and property so that the nation can enjoy a governmental system which meets its needs;

DESIROUS of a state which fulfils the aspirations of the nation, and is thereby appreciated by all, and which is founded on equality and justice;

RECOGNISING that lasting stability and peace can be achieved through a synergy between the economic system and the aspirations of the nation;

CONFIDENT that the Somaliland nation is a family that has everything in common, such religion, culture, customs and language; and whose members are no different from each other and are ready to build together a state in which everyone has equal status;

¹ Known in English as "Dervishes", this phrase refers to the struggles waged by the followers of Mohammad Abdille Hassan against the British in Somaliland from 1900 - 1921.

² The Somali National Movement

AWARE that the preparation of the Constitution has gone through various stages and committees, such as the Constitution Working Party which was enjoined by the third General Conference on 26th November 1996³ to sift through the two draft versions of the Constitution; and more recently, the corrections and amendments made by the two Houses of Parliament on 30th April 2000; and that the Constitution was based on the following issues:

- a. The Islamic Sharia.
- b. Conclusions from the various consultations.
- c. The separation of powers of the state as between the legislative, the executive and the judiciary.
- d. The decentralisation of the administration of the government.
- e. Guarantees of private property rights and the protection of the free market.
- f. Sanctity of human life through the entrenchment of fundamental rights and individual freedoms.
- g. Peaceful and proper co-existence with the states in the region and world wide;

HAVING thoroughly considered the spirit and words of the preamble and the rest of the Constitution;

The people of Somaliland hereby approve and proclaim to the whole world on this day of, that this constitution has been adopted as the nation's Constitution.

³ This refers to the Hargeisa Conference of the Somaliland Communities, which, as stated in the beginning of the Preamble was preceded by the Burao and the Borama Conferences.

CHAPTER ONE

Description of the State, General Principles & Fundamental Rights

Part One

General Description

Article 1: The State of the Republic of Somaliland

1. The country which gained its independence from the United Kingdom of Great Britain and Northern Ireland on 26th June 1960 and was known as the Somaliland Protectorate and which joined Somalia on 1st July 1960 so as to form the Somali Republic and then regained its independence by the Declaration of the Conference of the Somaliland communities held in Burao between 27th April 1991 and 15th May 1991 shall hereby and in accordance with this Constitution become a sovereign and independent country known as “**The Republic of Somaliland**”.
2. Sovereignty resides in the people who shall exercise it in accordance with the Constitution and other laws.

Article 2: The Territory of the Republic of Somaliland

1. The territory of the Republic of Somaliland covers the same area as that of the former Somaliland Protectorate and is located between Latitude 8’ to 11’ 30’ north of the equator and Longitude 42’ 45 to 49’ East; and consists of the land, islands, and territorial waters, above and below the surface, the airspace and the continental shelf.
2. The Republic of Somaliland is bordered by the Gulf of Aden to the north; Somalia to the east; the Federal Republic of Ethiopia to the south and the west; and the Republic of Djibouti to the north west.
3. The territory of the nation is inviolable, and shall not be trespassed upon.

Article 3: The Capital

The capital of the Republic of Somaliland is Hargeysa.

Article 4: Citizenship

1. Any person who is a patrial⁴ of Somaliland, who is the descendant of a person residing in Somaliland on 26th June 1960 or earlier, shall be recognised as a citizen of Somaliland.
2. The law shall determine the acquisition or loss of the citizenship of Somaliland.

Article 5: Religion

1. Islam is the religion of the nation, and the promotion of any religion in the territory of Somaliland, other than Islam, is prohibited.
2. The laws of the nation shall be grounded on, and shall not be valid if they are contrary to Islamic Sharia.

⁴ This is not the same as someone born in Somaliland, and patriality is defined in the rest of the clause.

3. The state shall promote religious tenets (religious affairs), and shall fulfill Sharia principles and discourage immoral acts and reprehensible behaviour.
4. The calendar shall be the Islamic Calendar based on the hijra⁵ and the Gregorian Calendar.

Article 6: Language

1. The official language of the Republic of Somaliland is Somali, and the second language is Arabic.
2. Other languages shall be used when necessary.

Article 7: The Flag, the Emblem and the National Anthem

1. The flag of the Republic of Somaliland shall consist of three horizontal, parallel and equal sections, the top section of which is coloured green and has inscribed in its midst in white in Arabic language (*the phrase*) La Ilaaho Ila-Allaah Muhammad Rasuulah-Allaah (*There is no God, but Allah and Mohammad was his Prophet*); the middle section is white and has inscribed in its midst an equally sided five pointed black star; and the bottom section is coloured clear red.⁶
2. The emblem⁷ of the nation shall consist of a coffee coloured falcon with (the words), in Arabic language, “ALLAHU AKBAR” (*God is great*) inscribed on its breast. Below the eagle are two hands shaking, and a set of scales hang above it and come down on both of its sides. The falcon and (and the scales and hands) are in turn surrounded on both sides and below by two strands of green leaves intertwined at the base, and with the Arabic words *Bismillahi Rahmani Rahim*⁸ inscribed at the top gap between the two leaves.
3. *The National Anthem shall be determined by law and shall reflect the principles of the Constitution, the national aspirations, and co-operative social order; and shall have its own unique music which is different from those of other countries.*
4. Any partial or total changes to the flag, the emblem and the national anthem shall be approved by a resolution of the House of Representatives.

Part Two General Principles

Article 8: Equality of Citizens

1. All citizens of Somaliland shall enjoy equal rights and obligations before the law, and shall not be accorded precedence⁹ on grounds of colour, clan, birth, language, gender, property, status, opinion etc.¹⁰

⁵ The flight of Muhammed (Moxammad, in Somali script) for Mecca to Medina in 620 AD.



⁶ The Flag of the Republic of Somaliland:



⁷ The emblem of the Republic of Somaliland.

⁸ In the name of Allah, the compassionate and the merciful.

⁹ I have chosen the word “precedence” to “preference” to indicated more aptly the meaning of the Somali phrase “kala saarayn” which refers literally to someone claiming a higher position than another.

2. Precedence and discrimination on grounds of ethnicity, clan affiliation, birth and residence is prohibited; and at the same time programmes aimed at eradicating long lasting bad practices shall be a national obligation.¹¹
3. Except for the political rights reserved for citizens, foreigners lawfully resident in Somaliland shall enjoy rights and obligations before the law equal to those enjoyed by citizens.

Article 9: Political System

1. The political system of the Republic of Somaliland shall be based on peace, co-operation, democracy and plurality of political parties.
2. The number of political parties in the Republic of Somaliland shall not exceed three (3).
3. A special law shall determine the procedures for the formation of a political party, but it is unlawful for any political party to be based on regionalism or clanism .

Article 10: Foreign Relations

1. The Republic of Somaliland shall observe all treaties and agreements entered into by the former state of Somalia with foreign countries or corporations provided that these do not conflict with the interests and concerns of the Republic of Somaliland.
2. The Republic of Somaliland recognises and shall act in conformity with the United Nations Charter and with international law, and shall respect the Universal Declaration of Human Rights.
3. The Republic of Somaliland accepts the principles of the self-determination of the nations of the world.
4. It accepts that political disputes which arise shall be settled through dialogue and peaceful means, and shall respect the territorial integrity of other countries.
5. It shall endeavour to replace the long standing hostility between the countries in the Horn of Africa with better understanding and closer relations.
6. The state of the Republic of Somaliland is an independent republic which has its place among the Arab nations, and the peoples of Africa and the Islamic World, and shall accordingly endeavour to join the United Nations, the Organisation of African Unity, the Arab League and organisation of Islamic states.
7. The state of the Republic of Somaliland shall oppose terrorism etc.¹² (*and similar acts*), regardless of the motives for such acts.

Article 11: The National Economy

1. The state shall lay down the national economic policy based on the principles of free enterprise and the joint working of private property, public property, the national wealth and foreign investment so as to realise the growth of productivity, the raising of

¹⁰ The abbreviation “etc” is used to reflect the Somali abbreviation “iwm” which is in the Somali text and is short for “iyo waxyaalaha la mid ah”, meaning, “and other similar matters”.

¹¹ This last part of the clause relating to bad practices is a new addition. It is submitted that this relates traditional practices that lead to discrimination and or precedence on the prohibited grounds listed in the clause.

¹² See footnote 7 above.

the standard of living, the creation of jobs, and, in general, the advancement of the economy of the nation.

2. In order to ensure that the economic system does not lead to the exclusive enrichment of a group or a small section of the public, and to avoid (*both*) the creation of economic classes consisting of those who are prosperous and those who are not, and the widening of the economic gulf between the urban and rural communities, the state shall ensure that social benefits and economic opportunities are provided in a just and equitable manner.
3. The state shall ensure the security¹³ of foreign investment in the country; and such investment shall be regulated by law.

Article 12: Public Assets, Natural Resources and Indigenous Production

1. The land¹⁴ is a public property commonly owned by the nation, and the state is responsible for it.
2. The care and safeguarding of property (*public*), endowments and public assets is the responsibility of the state and all citizens; and shall be determined by law.
3. The Government shall have the power to own and possess movable and immovable property; and to purchase, sell, rent, lease, exchange on equivalent value, or otherwise expend that property in any way which is in accordance with the law
4. The central state is responsible for the natural resources of the country, and shall take all possible steps to explore and exploit all these resources which are available in the nation's land or sea. The protection and the best means of the exploitation of these resources shall be determined by law.
5. Where it is necessary to transfer the ownership or the benefits of a public asset, the transfer shall be effected in accordance with the law.
6. The state shall encourage indigenous economic production such as agriculture, livestock, fisheries, minerals, production of frankincense and myrrh and gum etc., and manufacture based on indigenous products.
7. The payment of Zakat¹⁵ is a cornerstone of Islam, and its administration shall be determined by law.

Article 13: Banks

The state shall establish a Central Bank which shall direct the monetary system and the currency of the nation. The opening of commercial and development banks shall be made possible and private banks shall be accorded preferential status.

Article 14: Taxes and Duties

¹³ The Somali phrase describing the State's obligation in respect of foreign investment, "*dammaanad qaad*" literally means "standing surety for". But, in the light of this article's emphasis on private enterprise, it is respectfully submitted that ensuring the security of such investment, which may include underwriting in certain circumstances, is more likely to be the accurate reflection of this obligation. The proposed law on foreign investment should clarify this point.

¹⁴ In view of the various guarantees of private property rights (see the preamble, for example), the phrase "land" here is likely to refer to "common" land.

¹⁵ Zakat is the payment of alms by individual muslims according to formulas based on their income.

1. The imposition of taxes and other duties shall be based on the interests and well being of the society. Therefore, no taxes or duties which have not been determined by law shall be collected
2. The levying, non-payment and changes in taxes and other duties shall be determined by law.
3. Usury and commercial practices which are against the interests of the society and unlawful enrichment are prohibited.

Article 15: Education, Youth and Sports

1. The state shall pay particular attention to the advancement, extension and dissemination of knowledge and education as it recognises that education is the most appropriate investment that can play a major role in political, economic and social development.
2. Education is in the public interest, and is rooted in the experience and the special environment of the Somaliland society.
3. The learning of and training in the Islamic religion is a fundamental path and shall be compulsory at all levels of education. At the same time, the promotion of Koranic schools is the responsibility of the state.
4. Citizens and resident foreigners may open schools and educational or training projects of all levels in accordance with the Education law.
5. The state shall accord a first priority to primary education, and shall endeavour to spread primary education to the regions and the districts.
6. The eradication of illiteracy and the *(provision)* of adult education is a national obligation, and the efforts of the public and the state shall be combined to fulfill this obligation.
7. The national policy is that primary education shall be free¹⁶.
8. In order to ensure a healthy physical and mental growth of the young, and to improve their well being and maturity, the state shall give special attention to the promotion and encouragement of physical education and sports which will be recognised as one of the basic subjects in the educational curriculum of both state and other schools.

Article 16: Promotion of Knowledge, Literature, Arts and Culture

1. The state shall promote knowledge and literature, and shall encourage creativity and research.
2. The law shall determine the rights to authoring, creating and inventing.
3. The state shall promote the Arts and the modest culture of the society whilst at the same time benefiting from the knowledge of other world societies. Literature, the arts, and indigenous sports shall be specially encouraged whilst Islamic behaviour is observed.
4. The state shall promote the Arts and the modest culture of the society,¹⁷ and shall eradicate customs which damage religion, development, culture and the health of the society. The manufacture of alcohol and the cultivation or the sale or use of intoxicants (*drugs*) in the territory of Somaliland is prohibited.

¹⁶ This clear commitment to free primary education is a new amendment, but it replaces a general provision that it was the aim of the state that education should, as soon as practicable, be free.

¹⁷ In this revised Constitution, the first line of this clause appears to be a repetition of the first line of the preceding clause.

Article 17: Health

1. In order to fulfill a policy of promoting public health, the state shall have the duty to meet the country's needs for equipment to combat communicable diseases, the provision of free medicine, and the care of the public welfare.
2. The state shall be responsible for the promotion and the extension of healthcare and private health centres

Article 18: The Environment and the Relief of Disaster

1. The state shall give a special priority to the protection and safeguarding of the environment which is essential for the well being of the society and the care of the natural resources. Therefore, the care of and the damage to the environment shall be determined by law.
2. The state shall undertake relief in disasters such as famine, storms, epidemics, earthquakes, and war.

Article 19: The Care of the Venerable of Society

The state shall be responsible for the health, care, development and education of the mother, the child, the disabled who have no one to care for them, and the mentally handicapped persons who are not able and have no one to care for them

Article 20: Work, Trade, and the Welfare of Employees

1. All able citizens have a right and a duty to work. The state shall, therefore, be responsible for the creation of work and the facilitating of the skills training of employees.
2. The conditions of work of the young and women, night working and working establishments shall be regulated by the Labour Law.
3. All employees have a right to payment appropriate to the work they undertake, and are free to enter into agreements with their employers on an individual or collective basis. Forced labour is prohibited.
4. The state shall endeavour to create understanding and clear rights between employees and employers and shall accordingly introduce a law (*in this respect*).
5. State employees and members of the armed forces shall be entitled remuneration for their duties and to payments for sickness, injury, or disability in accordance with the law.
6. The state shall promote the support systems, insurance and safety of employees and shall strengthen the relevant responsible bodies.

Part Three

The Rights of the Individual, Fundamental Freedoms and the Duties of the Citizen

Article 21: Implementation and Interpretation

1. The legislative, executive and judicial branches of the state and the local government of the regions and the districts of the Republic of Somaliland, of all levels, shall be bound by the provisions of this Part.

2. The articles which relate to fundamental rights and freedoms shall be interpreted in a manner consistent with the international conventions on human rights and international laws referred to in this Constitution.

Article 22: Political, Economic, Social and Electoral Rights

1. *Every citizen shall have the right to participate in the political, economic, social and cultural affairs in accordance with the laws and the Constitution.*
2. *Every citizen who fulfils the requirements of the law shall have the right to be elected (to an office) and to vote.*

Article 23: Freedom of Movement and Association

1. Every person who is a citizen or lawfully resident in the country shall be free to move to or settle at any place of his choice, or leave or return to the country at will.
2. The matters (*rights*) set out in Clause 1 of this Article are subject to any law which forbids the movement to or settlement at specific places or during specific times.
3. All citizens shall have the right to form, in accordance with the law, political, educational, cultural, social, occupational or employees' associations.
4. Associations with objectives which are contrary to the public interest or are secret or are military in nature or armed or are otherwise against the law, whatever their outward appearance might be, are prohibited.

Article 24: The Right to Life, Security of the Person, Respect for Reputations and Crimes against Human Rights

1. *Human life is the gift of Allah and is beyond price. Every person has the right to life, and shall only be deprived of life if convicted in a court of an offence in which the sentence laid down by law is death.*
2. Every person shall have the right to security of his person. Physical punishment and any other injury to the person is prohibited.
3. Every person shall have the right to have his dignity, reputation and private life respected.
4. Crimes against human rights such as torture, extra-judicial killings, mutilation and other similar acts shall have no limitation periods.

Article 25: The Right to Liberty, Guarantees and the Conditions of Rights and Freedoms

1. No person shall be deprived of his liberty except in accordance with the law.
2. No person may be arrested, searched, or detained, except in the case of *flagrante delicto*, or on the issue of a reasoned arrest warrant by a competent judge.
3. The state shall guarantee to all citizens the rights and freedoms and the punishment for any of their infringements shall be determined by law.
4. The freedoms of the person shall not override the laws protecting the national interest, the security of the country or the rights of other individuals.

Article 26: Crime and Punishment

1. Crimes and (*their*) punishment shall be laid down by the law, and no punishment shall be administered in a manner which is contrary to the law.
2. The liability for the punishment of any crime shall be confined to the offender only.
3. An accused person is innocent until proven guilty in a court.

Article 27: The Rights of Persons Deprived of their Liberty

1. Any person who is deprived of his liberty has a right to meet as soon as possible his legal representative, relatives or any other persons he asks for.
2. Any person who is deprived of his liberty because of alleged criminal offences shall have the right to be brought before a court within 48 (forty eight) hours of his arrest.
3. No person shall be compelled to proffer a confession, a witness statement or testimony under oath. Any such matters (*evidence*) obtained under duress shall be void.
4. No person shall be detained in a place which is not determined by law.
5. The law shall lay down the maximum period in which a person can be detained in custody pending investigations.
6. Any accused person who is convicted by a court shall have the right to appeal to a higher court.
7. When a person is detained in custody or his detention is extended, he shall have the right to have his status communicated to any person he so chooses.
8. Prisons are for reform and correction. The state is responsible for the rehabilitation and skills training of prisoners so that they can return to society with reformed characters.
9. The punishment for the infringement of Clauses 1 to 7 of this Article shall be determined by law.

Article 28: Right to Sue and Defend

1. Every person shall have the right to institute proceedings in a competent court in accordance with the law.
2. Every person shall have the right to defend himself in a court.
3. The state shall provide free legal defence in matters which are determined by the law, and court fees may be waived for the indigent.

Article 29: The Sanctity of the Home

The home and other dwellings shall be inviolable, and their surveillance, search and entry shall not be allowed without a reasoned order from a judge. Any such order must be read properly to the proprietor or occupier before entry is effected. It is prohibited for any person carrying out a search to contravene the order of the judge.

Article 30: Freedom of Communication

No person's private written communication, postal letters, or telecommunications shall be interfered with except in matters in which the law allows their investigation, tracing or listening in and a reasoned order from a judge has been obtained.

Article 31: The Right to Own Private Property

1. Every person shall have the right to own private property, provided that it is acquired lawfully.
2. Private property acquired lawfully shall not be expropriated except for reasons of public interest and provided that proper compensation is paid.
3. The law shall determine matters that are within the public interest, which may bring about the expropriation of private property.

Article 32: Freedom of Public Demonstration, Expression of Opinion, Press and other Media

1. Every citizen shall have the freedom, in accordance with the law, to express his opinions orally, visually, artistically or in writing or in any other way.
2. Every citizen shall have the freedom, in accordance with the law, to organise or participate in any peaceful assembly or demonstration.
3. The press and other media are part of the fundamental freedoms of expression and are independent. All acts to subjugate them are prohibited, and a law shall determine their regulation.

Article 33: Freedom of Belief

1. Every person shall have the right to freedom of belief, and shall not be compelled to adopt another belief. Islamic Sharia does not accept that a Muslim person can renounce his beliefs.
2. The Mosque is a blessed place and deserves veneration. It is the place for preaching religion and for providing the nation guidance in spiritual and temporal matters, and the preaching therein of matters which would divide the nation (*sedition*) is prohibited. The state shall be responsible for its general protection and any practicable support.

Article 34: The Duties of the Citizen

1. Every citizen shall have the duty, in accordance with the law, to strengthen the unity of the nation, the protection of the sovereignty of the state, and the defence of the country and the religion.
2. Every person has the duty to respect the Constitution and the laws of the country.
3. Every person has the duty to pay promptly his taxes and other duties as imposed under the law.
4. Every person shall have the duty to care for, protect and save the environment.
5. The law shall determine the punishment for failure to fulfil the duties imposed in Clauses 1 to 4 (*of this Article*).

Article 35: Extradition of Accused and Convicted Persons and Political Asylum

1. Any foreigner who enters the country lawfully or is lawfully resident in the country and who requests political asylum may be accorded asylum if he fulfils the conditions set out in the law governing asylum.
2. The extradition of a Somaliland citizen to another country is prohibited.
3. The Republic of Somaliland may extradite to their countries convicted or accused foreigners if there is a treaty between the Republic of Somaliland and the country requesting their extradition.

Article 36: The Rights of Women

1. *The rights, freedoms and duties laid down in the Constitution are to be enjoyed equally by men and women save for matters which are specifically ordained in Islamic Sharia.*
2. The Government shall encourage, and shall legislate for¹⁸, the right of women to be free of practices which are contrary to Sharia and which are injurious to their person and dignity.
3. Women have the right to own, manage, oversee, trade in, or pass on property in accordance with the law.
4. In order to raise the level of education and income of women, and also the welfare of the family, women shall have the right to have extended to them education in home economics and to have opened for them vocational, special skills and adult education schools.

CHAPTER 2 THE STRUCTURE OF THE STATE

Article 37: The Sovereignty and Powers of the State,

1. Allah who created the Somaliland nation in this land has endowed it with sovereign status and powers. The people of the Republic of Somaliland have vested their sovereign powers, as set out in this Constitution, in a state founded on, and acting in accordance with, the Constitution.
2. The structure of the state shall consist of three branches which are: the legislative, the executive and the judiciary. The separation of the powers of these branches shall be as set out in the Constitution. Each branch shall exercise independently the exclusive powers accorded to it under the Constitution.

Part One The Legislative Branch

Article 38: The Parliament and Joint Sittings

1. The legislative powers of the Republic of Somaliland are vested exclusively in the Parliament which shall consist of two Houses - the House of Representatives and the House of the Elders. The power to legislate cannot transferred to anyone outside the Parliament.
2. All bills passed by the Parliament shall come into force when the President publishes¹⁹ them in accordance with the Constitution.
3. The Parliament shall fulfil its duties in accordance with the Constitution and its Rules.
4. The most important objectives and duties of the Parliament are as follows:
 - a. The protection of the peace and security of the Republic and Republic's sovereign rule over its land, sea and air.
 - b. The adoption by the Republic of Somaliland of all the laws necessary in a Muslim state.

¹⁸ This commitment to issue a law on the rights of women is a new addition.

¹⁹ See Articles 77 and 78.

- c. The implementation of the laws of the Republic and the genuine achievement of justice which is the foundation of the Republic's general stability and the confidence that the members of the Somaliland public have in each other and their reliance on each other.
5. The two Houses of the Parliament shall hold joint and separate sittings.
 6. The two Houses of the Parliament shall sit jointly when considering matters such as the following:
 - a. the receipt of the Report of the President on the opening of the two Houses;
 - b. the debates on the Republic of Somaliland joining international or cross regional organisations, or the ratification of international or regional treaties;
 - c. the Resolution on and declaration of a state of war when the Republic of Somaliland is faced with war;
 - d. the debates on natural disasters;
 - e. the debates relating to emergency laws;
 - f. the confirmation of the appointment of the Chairman of the Supreme Court; *(and)*
 - g. any other matters considered by the two Houses as meriting joint sittings.

The House of Representatives

Article 39: General Provisions of the House

The House of Representatives consists of members who represent the public, and forms the first part of the country's legislative, passing laws and approving and overseeing the general political situation and the direction of the country.

Article 40: Membership and Election of the House

The House of Representatives shall consist of 82 members who shall be directly elected by secret ballot in a free general election.

Article 41: Eligibility for Candidacy

Any person who is standing for election to the House of Representatives must fulfil the following conditions:

1. He must be a Muslim and must behave in accordance with the Islamic religion.
2. He must be a citizen who is not younger than 35 (thirty five) years.
3. He must be physically and mentally able to fulfil his duties.
4. He must be educated to, at least, secondary school level or equivalent.
5. He must not have been subject of a final sentence for a criminal offence by a court within the preceding five years.
6. He must be a responsible person with appropriate character and behaviour.
7. No employee of the state shall be eligible for candidacy unless he has tendered his resignation from office prior to a period determined by law. Such resignation shall be accepted.

Article 42: Period of Office and Election Term

1. The period of office of the House of Representatives is 5 (five) years beginning from the date when the Supreme Court declares the electoral results.

2. The President shall announce the election of the new House a month before the expiry of the period of office of the outgoing House.
3. If the election of the House of Representatives cannot be conducted because of dire circumstances, the outgoing House shall continue in office until the end of these circumstances and a new House is elected. Dire circumstances are: a wide war, internal instability, serious natural disasters, such as earthquakes, epidemic diseases, (*and*) serious famines; and shall be determined and resolved by the House of Elders on the proposal of the Council of Government²⁰.

Article 43: The Seat of the House of Representatives

The seat of the House of Representatives is the Capital City²¹.

Article 44: The Convening of the New House

1. The new House shall hold its inaugural meeting within 30 (thirty) days from the date when the electoral results are declared, and shall be convened by the President of the Republic.
2. If the President fails to convene the inaugural meeting, the House shall meet on its own initiative on the 45th (forty fifth) day beginning from the date when the electoral declaration is made.
3. The new House shall be opened by the Chairman of the Supreme Court who shall administer the oath of office to the members. The meeting of the House shall then be chaired by the oldest member (*in age*), and the House shall then elect, from amongst its members, a Speaker and a Deputy Speaker.

Article 45: The Meetings of the House of Representatives

1. The meetings of the House shall be open, but can also be closed; and their procedures shall be set out in Rules.
2. The quorum of the meetings of the House is the presence of over half of its total membership, excluding the seats that have been declared vacant.
3. Except for constitutional issues or matters which the Rules of the House state otherwise, resolutions of the House shall be passed by a simple majority of the members present at a meeting,.
4. The (*motion for*) postponement of a meeting shall be approved by a simple majority of those present, and the meeting may then be postponed for a maximum of period of seven (7) days.
5. Ministers and Deputy Ministers have a duty to attend the meetings of the House of Representatives if requested, in writing, to do so; and they shall have the right to participate in the debate, but cannot vote. In the same way, the President may ask the Vice-President or any Minister to attend, on his behalf, the meetings of the House.

Article 46: Sessions and the Procedures of the House of Representatives

²⁰ This is the first reference to the “Council of Government”, or as I prefer, the Cabinet. There is no definition of the Council of Government in the Constitution, but Article 94 sets out the “Council of Ministers” whose meetings shall be chaired by the President (or the Vice-President). It is submitted that the reference to the “Council of Government” relates to this body.

²¹ See also Article 3 for the Capital City.

1. The House shall hold every year 3 (three) ordinary sessions which shall last 28 (twenty eight) weeks in total. The sessions shall be separated by a period of no less than 4 (four) weeks and no more than 8 (eight) weeks.
2. An extra-ordinary session of the House of Representatives may be held:
 - a) on request of the President;
 - b) on convening by the Speaker of the House of Representatives; (*or*)
 - c) on request, in writing, of 1/3 (one third) of the members of the House.
3. The House shall adopt its Rules at its first session, and shall establish such committees, as it deems necessary.
4. The President shall deliver the State of the Nation speech at the start of the first session of each year. The speech shall cover the political situation, the Government's programme, the economy, and the financial and security situations.

Article 47: The Pay and Remuneration of the House of Representatives

The members of the House of Representatives shall be entitled to pay and remuneration as determined by law.

Article 48: Prohibition of Holding other Office and of Private Gain

A member of the House of Representatives shall not hold any other public office whilst serving as a Representative, and shall not use his office for private gain.

Article 49: The Privileges of the Members of the House of Representatives

1. No member of the House may be detained, and no action may be taken against him for any matter which he learnt or raised at the House or on which he expressed his opinion.
2. Clause 1 does not extend to insults or slander committed by a member.
3. No member of the House of Representatives shall be investigated, questioned, arrested, imprisoned or otherwise subjected to any other acts relating to punishment without the consent of the House of Representatives.
4. Action may be taken against the member if he is caught *in flagrante delicto*, in which case, the House shall be informed promptly.
5. The House shall consider whether the action taken against the member is proper.
6. If the House is not in session, consent for the action taken against the member must be sought from the Standing Committee of the House of Representatives, and the House shall be informed at the following session.
7. Civil suits against a member of the House of Representatives may be instituted, and no consent is required²².

Article 50: Loss of Membership of the House of Representatives

The membership of the House of Representatives shall be lost on:

1. the death of the member or incapacity which makes it impossible for him to fulfil his duties;

²² This is, presumably, subject to Clauses 1 and 2 of the same article.

2. the voluntary resignation by the member, which has been accepted by the House;
3. one of the pre-requisite conditions²³ of his election being broken; or on the member's failure to fulfil his duties;
4. the passing of a final sentence for a crime which has been proven in a court; (*and*)
5. the absence, without a valid excuse, from 20 (twenty) consecutive sittings.

Article 51: Filling Vacant Seats in the House of Representatives

If a seat of the House of Representatives becomes vacant during any period prior to the final six months of the term of office of the House, it shall be filled as determined by law, and the new member shall serve for the remainder of the term of office.

Article 52: Staff of the House of Representatives

1. The House of Representatives shall have a Secretariat headed by a General Secretary who is not a member of the House. He shall assist the Speaker of the House in administrative matters, and in all financial and management issues; and shall have a deputy.
2. The House of Representatives shall have Advisers²⁴, such as a Legal Adviser, and advisers on the economy, politics etc., who shall all be chosen for their expertise and knowledge.
3. The other employees of the Secretariat shall be appointed by the Secretary General after he receives the approval to do so from the Speaker. The appointment, dismissal, remuneration and rights of the Secretary General, his deputy, the Advisers and other employees of the House shall be determined by the Rules of the House.

Article 53: The Powers and Duties of the House of Representatives

1. All appointments of Ministers, Deputy Ministers or Heads of the organs of the state shall be subject to confirmation by the House of Representatives in accordance with the Constitution.
2. The House of Representatives shall also have power to debate, comment on, refer back with reasons or approve the programme of the Government.
3. The House of Representatives shall ratify international agreements (*treaties*) such as political, economic and security agreements or those agreements which impose new financial burdens which have not been covered in the Budget, or which will involve the promulgation or amendment of legislation.
4. The House of Representatives shall submit to the Council of Government (*the Cabinet*) advice and recommendations about the direction of the general political situation.
5. The Council of Government (*the Cabinet*) shall seek the approval of both Houses (the House of Representatives and the House of Elders) for the imposition of a state of emergency in either the whole of the country or parts of it.
6. The House of Representatives shall have the power to summon the Government or its organs or agencies in order to question them about the fulfillment of their responsibilities.

²³ These are set out in Article 41 above.

²⁴ This is a new addition as the previous Constitution mentioned a Legal Adviser only.

7. The Committees of the House of Representatives shall have the power to question Ministers, Heads of the state organs or agencies or other senior national officers, whose duties are relevant to them, about the fulfillment of their duties

Article 54: The Legislative Powers of the House of Representatives

The legislative powers of the House shall extend to the following financial matters:

1. The imposition of taxes, duties and other schemes for raising revenue.
2. The establishment of a Somaliland Income Fund or other Funds which are earmarked for specific issues. The management, collection and disbursement of these Funds shall be determined by law.
3. The printing of currency, and the issue of bonds, other certificates and securities.
4. The regulation of the economic and the financial systems.

Article 55: The Budget

1. The House of Representatives may debate and amend the Budget, and approve it by a resolution of the House.
2. If the new Budget is not approved before the start of the new financial year, the old Budget shall continue to be in force until such time the new one is approved.
3. The House of Representatives shall approve any expenditure which was not included in the Budget.
4. The procedures for the preparation of the general Budget and the financial year shall be determined by law.
5. The budgets and the annual accounts of the state organs, agencies, companies and other partly owned entities of the state and their presentation to the House of Representatives shall be determined by law.
6. The annual accounts shall be presented to the House of Representatives within six months of the end of the financial year to which they relate, and the House shall debate them and reach a resolution thereof.
7. The Auditor General shall have responsibility for the presentation of the annual accounts.

Article 56: Dissolution of the House of Representatives

The House of Representatives may be dissolved:

1. When the House does not sit for two consecutive ordinary sessions without the existence of any circumstances beyond their control.
2. When dissolution is proposed by a 1/3 (one third) of the members²⁵ of the House; and is approved by 2/3s (two thirds) of the total members of the House.
3. The Constitutional Court shall issue a ruling in respect of the matters referred to in Clauses 1 and 2 of this Article, and shall submit the ruling relating to Clause 1 to the President and that relating to Clause 2 to the House of Representatives.
4. The House of Representatives may also be dissolved by the President after the public has agreed, in a national referendum organised by the Constitutional Court, to the reasons for the dissolution.

²⁵ This must refer to a third of the total membership of the House, as this part of the Clause does not refer to the members present and voting at a sitting, and the following part of the Clause refers expressly to the approval of the Dissolution by two thirds of the total membership (tirada guud).

5. When the President considers the ruling of the Constitutional Court issued in respect of the matters referred to in Clauses 1 or 2 of this Article, or the result of the national referendum under Clause 4 of this Article, he shall promulgate a Presidential Decree dissolving the House of Representatives and at the same time setting out the date of the election of the new House, which shall take place within 60 (sixty) days.
6. If the national referendum does not approve of the dissolution of the House of Representatives or the new elections cannot be held, the term of office of the House shall continue.
7. The House of Representatives shall not be dissolved during the first year of its term of office, or during the last year of the President's term of office.

Part Two

The House of Elders

Article 57: General Provisions of the House

The House of Elders²⁶ of the Republic of Somaliland is the second part of the legislative, and shall review the legislation passed by the House of Representatives before it is forwarded to the President; and shall have special responsibility for passing laws relating to religion, traditions (*culture*) and security.

Article 58: The Election of the Members of the House and their Period of Office

1. The members of the House of Elders shall be elected in a manner to be determined by law.
2. The period of office of the House of Elders is six (6) years beginning from the date of its first meeting.

Article 59: Eligibility for Candidacy

Without prejudice to the requisite age and level of knowledge as set out below, any person who is standing for election to the House of Elders must fulfil the same conditions²⁷ which are needed for eligibility for election to the House of Representatives:

1. He must not be aged less than 45 (forty five years).
2. He must be a person who has a good knowledge of the religion or an elder who is versed in the traditions.

Article 60: The Membership of the House of Elders

1. The House of Elders shall have 82 (eighty two) members, and shall elect from amongst its members a Speaker, two deputy Speakers and such committees as it deems necessary. The House shall have a Standing Committee of 25 (twenty five) members.

²⁶ This Article starts with the statement that the “Golaha Guurtida” (which I have translated as the House of Elders) is the House of “Odayaaasha”, which literally also means “elders”. The word “Guurti” is a term applied to traditional leaders, who were invariably elders, but not necessarily chosen simply because of their age. As you can see in Article 59, members of this House must not only be aged 45 years or over, but must also have a good knowledge of religion or be well-versed in tradition.

²⁷ These conditions are set out in Article 41.

2. The following shall always become honorary members:
 - a) five members to be selected by the President on the basis of their special significance to the nation, whose term of office shall coincide with that of the House;
 - b) any person who has served as a Speaker of the House of Elders or the House of Representatives; (*and*)
 - c) any person who has served as a President or Vice-President of the Republic of Somaliland.
 - d) Honorary members do not have the right to vote in the House and cannot serve in the Standing Committee.

Article 61: The Powers and Duties of the House of Elders

1. The passing of legislation relating to religion, traditions (*culture*) and security.
2. With the exception of financial legislation, the review of legislation approved by the House of Representatives. It may refer back, with written reasons of its views, any such legislation to the House of Representatives only once within 30 (thirty) days beginning from the date when the relevant legislation was forwarded to the office of the Speaker of the House of Elders.
3. Advice on the shortcomings of the administration of the Government and the presentation of such advice to the House of Representatives.
4. Assistance to the Government in matters relating to religion, security, defence, traditions (*culture*), economy and society, whilst consulting the traditional heads of the communities.
5. The summoning of the members of the Government and putting questions to them about the fulfillment of their duties.
6. The House of Elders shall also have the power to put to the House of Representatives proposals for projects²⁸ so that the House of Representatives can debate and reach resolutions thereof.

Article 62: The Inaugural Meeting of the House of Elders

The inaugural meeting of the House of Elders shall take place within 30 (thirty) days of the date when their selection²⁹ is completed. The meeting shall be opened by the Chairman of the Supreme Court who shall administer the oath of office, and shall then be chaired by the oldest member of the House (*in age*) until the election of the official Speaker of the House and his two Deputies.

Article 63: The Secretary of the House and Advisers

The House of Elders shall have a secretary, who is not a member of the House. The House may also have advisers, including a legal adviser. The structure of the Secretariat of the House shall be the same as that of the House of Representatives.

²⁸ The word “mashruuc” which means a project is used in this Clause, but the Government’s draft amendments to the Constitution on the identical Article referred to “Mashruuc- Sharci”(i.e Bill – draft legislation). As this word has survived the revision of the Constitution, it must be assumed that it relates to any project that the House wishes to propose.

²⁹ Note that Article 58 states that elections to the House shall be laid down by law.

Article 64: The Rules of the House

At its first session, the House of Elders shall pass the Rules of the House.

Article 65: The Pay and Remuneration of the House of Elders

The members of the House of Elders shall be entitled to pay and remuneration as determined by law.

Article 66: The Privileges of the Members of the House of Elders

The privileges of the members of the House of Elders shall be the same as those of the House of Representatives³⁰. Such privileges may be removed by the House of Elders.

Article 67: Resignation of Members of the House of Elders

Any member of the House of Elders may forward his resignation to the House of Elders which shall accept it.

Article 68: Loss of the Membership of the House of Elders

A person may lose his membership of the House of Elders³¹:

1. if one of the conditions³² under which he was selected is no longer valid, or he cannot fulfil his duties in accordance with the Rules of the House of Elders;
1. if a member received a final sentence for a crime which has been proved in a court;
(*and*)
2. if the House accepts his resignation.

Article 69: The Dissolution of the House

The House of Elders may be dissolved in the same manner³³ as the House of Representatives.

Article 70: Prohibition of Holding other Office and of Private Gain

A member of the House of Elders shall not hold any other public office whilst serving as a member of the House, and shall not use his office for private gain.

Article 71: Meetings and Sessions

The meetings of the House of Elders shall be open, and may be closed as provided in the Constitution. The quorum for meetings, the majority by which resolutions can be passed

³⁰ See Article 49.

³¹ I have re-arranged the beginning of this Article so that the first line is set out separately and applies to all the three Clauses, instead of being part of Clause 1 as it is in the original Constitution in Somali.

³² See Articles 59 and 41 for the conditions.

³³ See Article 56.

and the convening of extra-ordinary sessions shall be the same as the procedures applicable to the House of Representatives³⁴.

Article 72: Vacant Seats in the House of Elders and Procedures for Filling them

1. A seat at the House of Elders may become vacant on the realisation of one of the conditions set out in Article 50³⁵.
2. If a seat of the House of Elders becomes vacant during any period prior to the final six months of the term of office of the House, it shall be filled as determined by law, and the new member shall serve for the remainder of the term of office of the House.

Article 73: The Seat of the House of Elders

The seat of the House of Elders is the Capital City³⁶.

Article 74: Introduction of Draft Legislation

Bills³⁷ (*draft legislation*) may be introduced at the House of Representatives by:

1. The Council of Government (*the Cabinet*).
2. The requisite number of members of the House of Representatives as laid down in Rules passed by the House.
3. Except for financial bills, at least 5000 (five thousand) citizens who are eligible to vote.

Article 75: The Promulgation, Publishing and Implementation of Legislation

All laws shall be promulgated and published in the Official Journal by the President within three weeks (21 days) beginning from the date when the two Houses have forwarded them, and shall come into force within thirty (30) days beginning from the date of their publication, but a longer or shorter period for coming into force may be set out in each law.

Article 76:

A bill shall become law on approval by the House of Representatives, and shall come into force after its signature by the President in accordance with Article 38³⁸.

Article 77: The Procedures for Legislation

1. Each House of Parliament shall forward any bills that it passes to other House for review and advice.

³⁴ See Articles 45 and 46.

³⁵ Article 50 refers to loss of membership of the House of Representatives, but Article 68 relates to the loss of membership of the House of Elders. The former is wider than the latter, and it is submitted that it applies to the loss of membership of the House of Elders by virtue of this Article, but without prejudice to the conditions set out in Article 68.

³⁶ See Article 3.

³⁷ I have used the word “bill” for “Mashruuc sharci”, which means more aptly draft legislation, as a generic term for all draft primary legislation.

³⁸ See also Articles 77 and 78 for the procedures for legislation.

2. Each House may refer a bill back to the other only once.
3. The Rules of the Parliament shall lay down the procedures for the progress of bills, and shall make clear the special status of bills relating to finance and those that the Government considers to be urgent, which shall (*both*) be given priority.
4. Any bill passed or approved by both Houses of Parliament on a 2/3s (two thirds) majority or more shall not be referred back (*to the Parliament*) by the President who shall thereby sign it. If the President considers that the bill is in conflict with an Article or Articles of the Constitution, he shall inform the Speakers and the Attorney General, who shall refer it to the Constitutional Court³⁹.
5. The President shall sign any bill forwarded to him by Parliament within three weeks (21 days) beginning from the date when the bill was received at the Office of the President, providing that he has not referred it back to Parliament.
6. If the President fails to sign a bill forwarded to him by Parliament within the requisite period, and has not referred it back to Parliament, then the bill shall henceforth become law, and shall be promulgated by the House which forwarded it (*to the President*).

Article 78:

1. All bills, other than those relating to finance, passed by the House of Representatives by a majority shall be forwarded to the House of Elders which shall:
 - a) Approve them or propose amendments.
 - b) If the House of Elders does not approve the bill, or its proposed amendments are not accepted by the House of Representatives, the latter has the right to return the bill to the House of Elders during its next session. If the House of Elders (*still*) does not approve the bill, nor submit a response within a month, the bill shall pass and shall accordingly be forwarded to the President.
2. All bills passed by the House of Elders by a majority shall be forwarded to the House of Representatives, which shall:
 - a) Approve it or propose amendments.
 - b) If the House of Representatives do not approve the bill, it shall not be referred back⁴⁰.
3. If the President accepts a bill passed by both Houses and forwarded to him, he shall issue it in the Official Journal within (21) days. If, however, the President does not accept the bill or proposes amendments, he shall inform the Speaker of the House of Representatives his reasons for such action within (21) days.
4. If the House (*of Representatives*) is not satisfied with the reasons given by the President, and the bill is passed again on a 2/3s (two thirds) majority of the members of the House, the President shall accept the bill. If there is no such majority (*in the House*), the bill shall lapse.
5. Except for financial bills, if the House of Elders refuses to accept on a point of principle and by a 2/3s (two-thirds) majority of its membership any bill passed by the House of Representatives, and the House of Representatives is not satisfied with that rejection, but fails to pass the bill again by a majority of less than 2/3s (two-thirds) of its membership, then the bill shall lapse.

³⁹ Presumably, the decision of the Constitutional Court in this matter will be final.

⁴⁰ The bill will thereby lapse.

Article 79: Accusations against the Members of the Houses

1. The members of the Houses (Representative or Elders) may be indicted for a criminal offence if they are caught *in flagrante delicto* for an offence which carries a punishment no less than (3) three years imprisonment.
They cannot, however, be brought before a court, nor imprisoned until they are stripped of their privileges for the responsibilities that they hold for the nation.
2. The criminal prosecution brought against the accused members of the Houses, shall be conducted by the Attorney General after the appropriate House to which the members belong has stripped them of their privileges on a majority vote of two thirds of the total membership of the House.
Such cases shall be heard by the High Court of Justice⁴¹.

CHAPTER THREE THE EXECUTIVE

Part One

Article 80: The President and the Vice-President

The state shall have an executive branch, which is separate and independent of the legislative and the judicial branches.

Article 81: The Executive Branch

The Executive Branch (sometimes referred to as “the Government”), shall be headed by the President and shall consist of:

- The President;
- The Vice-President;
- The Council of Ministers⁴² appointed by the President.

Article 82: The Conditions for Eligibility for Election as President or Vice-President

To be elected as President or Vice-President, a person must fulfil the following conditions:

1. *He must be a citizen of Somaliland by birth, and, notwithstanding residence as a refugee in another country, must not hold any other citizenship,*
2. *He must be a Muslim, and must be behave in accordance with Islamic religion.*
3. He must not be aged less than 40 years.
4. He must be physically and mentally fit to fulfil his duties.
5. He must be posses knowledge of and experience in management (public and otherwise).
6. He must not have been convicted by a court for an offence against the Somaliland nation.
7. His spouse must be Muslim.

⁴¹ The other reference to this special court is in Article 96(5) which sets out its composition and gives it the jurisdiction to try impeachment cases against Ministers and Deputy Ministers.

⁴² For more details of the Council of Ministers, see Article 94.

8. He must be fully apprised of the realities of the country, having been resident in the country for a period of at least two years before the date when the election is scheduled to take place.
9. He must register his private property.

Article 83: Election Procedures

1. The President and the Vice-President shall be elected jointly through a direct general election by means of a secret ballot.
2. The joint election of the President and the Vice-President shall be based on the list system and shall take place a month before the end of the term of office of the outgoing President.
3. The outgoing President and Vice-President shall continue in office until the new President and the Vice-President assume their offices within a month (*of the election*).
4. The two candidates in the list which obtains the highest number of votes cast in the Presidential and Vice-Presidential election shall be recognised as the successful candidates.
5. If on the expiry of the term of office of the President and the Vice-President, it is not possible, because of security considerations, to hold the election of the President and the Vice-President, the House of Elders shall extend their term of office whilst taking into consideration the period in which the problems can be overcome and the election can be held.

Article 84: Oath of Office of the President and the Vice-President⁴³

Before the President and the Vice-President can assume office, they shall be sworn at a ceremony attended by the Speakers of the House of Representatives and the House of Elders and the Chairman of the Supreme Court.

Article 85: Matters in which the President and the Vice-President are not Allowed

1. The President and the Vice-President and their spouses⁴⁴ shall not engage in any business⁴⁵ activities during their term of office.
2. The President shall not be absent from the country for a period exceeding 45 (*forty five*)⁴⁶ consecutive days unless the absence is for reasons of health.
3. All presents given, as a mark of respect for their office, to the President, the Vice-President, their spouses and the senior officers of the nation, who have a national standing, shall be the property of the nation.

Article 86: Vacancy of Office and the Procedure for the President and the Vice-President to Vacate their Office

⁴³ In the Arrangements, this Article is titled “The President and the Vice-President”.

⁴⁴ The phrase used to describe the spouse is literally “lady wives”, but as Article 82 of the Constitution does not disqualify women from being eligible for election to the office of President/Vice-President, the word “spouse” is more apt.

⁴⁵ The phrase used can also be translated as “commercial” which denotes a narrower range of activities.

⁴⁶ The period in the previous Constitution was 30 days.

The office of President or Vice president may become vacant in the event of the one of the following:

1. Conviction of a criminal offence which leads to loss of office.
2. Inability to fulfil the duties of the office because of ill health.
3. Death.
4. The President or the Vice-President may forward his written resignation from office to the Speaker of the House of Representatives and the Speaker of the House of Elders, and the two Houses may, in a joint sitting, accept it or reject it by a (*simple*) majority of their total membership.
5. If the two Houses reject the resignation referred to in Clause 4 of this Article, the President or the Vice-President shall have the right to submit again his resignation within three months of the initial resignation request, whereupon the two Houses shall be obliged to accept it.

Article 87: Salary and Emoluments

The salary, emoluments and the public property to which the President and the Vice-President are entitled to shall be determined by law.

Article 88: Term of Office

1. The term of office of the President and the Vice-President is 5 years beginning from the date that they are sworn into office.
2. No person may hold the office of President for more than two terms.

Article 89: Procedure for Filling the Vacancy

1. In the event of the one of the circumstances set out in Article 86 happening to the President within the first three years of his 5-year term of office, the Vice-President shall act as a temporary President, and the election of the President shall be held within six months.⁴⁷
2. In the event of one of the circumstances set out in Article 86 happening to the President within the last two years of his 5 year term of office, the Vice-President shall assume the office of President for *the remainder of the term*⁴⁸, and shall then nominate a Vice-President from among the members of the House of Representatives subject to the approval of the two Houses. If the two Houses refuse to confirm the nomination, he shall nominate another member (*of the House of Representatives*) within 30 days beginning from the date of the refusal of confirmation⁴⁹. The person so appointed shall serve (*as Vice-President*) for the remainder of the constitutional term of office and shall, at the same time, relinquish his membership of the House of Representatives.
3. Similarly, in the event of the one of the circumstances set out in Article 86 happening to the Vice-President, the President shall nominate a member of the House of

⁴⁷ This is a new addition. In the old Constitution, the Vice-President assumed the office of Preesident until the end of the presidential term.

⁴⁸ The Constitution says here “for the remaining two years”, but clearly the period could be, and is likely, to be less than 2 years.

⁴⁹ The need for the confirmation of the nomination of Vice-President by the two Houses in these circumstances was made clearer in this Clause in the revision of the Constitution.

Representatives as Vice-President, subject to the approval of the two Houses. The honourable appointee shall hold office for the remainder of the term of office, and his seat at the House of Representatives shall then become vacant. If the two Houses refuse to confirm the appointment, the President shall nominate another member within 30 days beginning from the date of refusal of confirmation by the two Houses.

4. In the event of the one of the circumstances set out in Article 86 happening to both the President and the Vice-President at the same time, the office of President shall be assumed temporarily by the Speaker of the House of Elders. The election of the President and the Vice-President shall then be held within 60 days beginning from the date of the occurrence of the circumstance.

Part Two

Article 90: The Powers of the President

The President is the Head of the nation and the state, and is the symbol of the unity of the citizens of the Republic of Somaliland. He is responsible for the care of the nation's resources, the protection of the peace, the advancement of the society and the proper conduct of the administration of the state. In order to fulfil these responsibilities, the President shall have following powers:

1. The leadership of the general policy of the Government.
2. The appointment and removal from office of the members of the Council of Ministers.
3. Having consulted the appropriate Ministers and in accordance with the Constitution and other relevant special laws, the appointment and removal from office of the senior officers of the state. Such senior officers of the state are:
 - a) the Auditor-General;
 - b) the Chairman of the Central Bank;
 - c) the Chairman and the Committee members of the Civil Service Agency;
 - d) the Chief Accountant;
 - e) the Director Generals of the Ministries and the state organs and agencies;
 - f) the Commanders of the Armed Forces and their deputies;
 - g) Ambassadors;
 - h) the Attorney General; and
 - i) any other senior officers (*heads*) whose appointment or dismissal has been assigned to the President in accordance with any law passed by legislative bodies.
4. The leadership of the national Armed Forces as he is the Commander-in-Chief.
5. Without prejudice to the principles of just retaliation (Qisaas) and the limits under Islamic Sharia, the exercise of pardon and amnesty, and the grant of political asylum after consultation with the appropriate bodies.
6. The signing of international agreements (*and treaties*).
7. The participation in international conferences as representative of the Republic of Somaliland.
8. Holding audience for foreign diplomats and receiving their credentials.
9. The appointment of Ambassadors representing the Republic of Somaliland in foreign countries, international and regional organisations.
10. The granting of awards and honours such as medals.
11. Leadership in conditions of war, and at the same time, the proclamation of state of emergency.

12. The implementation of laws which do not fall within the jurisdiction of the Judicial branch.
13. Any other powers set out in the Constitution or any other laws.
14. The President shall fulfil his duties in accordance with the Constitution and other laws of the land.

Article 91: Powers of the Vice-President

The Vice-President of the nation shall have the power:

1. To act as President in the absence or illness of the President.
2. To undertake such duties as delegated to him by the President.
3. To act⁵⁰ as President in the event of the office of President becoming vacant because of the following reasons:
 - a) The resignation of the President;
 - b) the conviction of the President for a crime which resulted in his loss of office;
 - c) inability of the President to undertake the duties to which he was elected because of ill health; and
 - d) death.

Article 92: Other Powers of the President Relating to Emergency Laws

1. In the event of the emergence of special circumstances which endanger the security of the country, jeopardise law and order, create upsets in the general stability or in the confidence in the economy, the President shall issue emergency laws which are aimed at combating such special circumstances as set out above.⁵¹ If the two Houses are in session when the emergency laws are issued by the President, he shall present the laws to them within seven (7) days so that they can make their own resolutions. If, on other hand, the two Houses are not in session, the Speakers shall call an extra-ordinary meeting within 14 days.⁵² The Government shall implement the emergency laws until such time the two Houses have made their own resolutions.
2. Emergency laws shall have the same effect as legislation passed by the House of Representatives or the House of Elders, and shall come into force on their signature by the President.
3. Emergency laws shall be reviewed once every three (3) months⁵³ by the two Houses whose resolutions shall be passed by a simple majority vote.

Article 93: Protocol of Senior Leaders of the State

1. The President and the Vice-President shall hold first position in the protocol of the nation.

⁵⁰ Article 86 and 89 deal adequately with the vacancy of the office of President and the role of the Vice-President.

⁵¹ In the previous Constitution, there was that the additional requirement that the House of representatives must not be in session or even if in session could not, in the view of the President, be able to reach a resolution urgently before the President could issue emergency decrees.

⁵² In the previous Constitution initial oversight of emergency legislation was the responsibility of the Standing Committees of the two Houses.

⁵³ The periodic review of emergency legislation has been reduced from six to three months in the revision of the Constitution.

2. The Speaker of the House of Elders shall hold the next position.
3. The Speaker of the House of Representatives shall hold the third position in the protocol of the nation.

Part Three

Article 94: The Council of Ministers

1. The Council of Ministers shall assist the President in the fulfilment of his duties and shall resolve collectively the general policies, planning and programmes of the state.
2. Ministers and Deputy Ministers shall be appointed or dismissed by the President. Their appointments shall be presented to the House of Representatives whose quorum shall be half of their total membership plus one, and the House shall confirm or reject the appointment, on a show of hands, by a simple majority vote.
3. The Minister or Deputy Minister so appointed shall be sworn into office, within thirty (30) days of the appointment being confirmed by the House of Representatives, by the Chairman of the Supreme Court, in the presence of the President or, in the latter's absence from the country or illness, the Vice-President.
4. Ministers and Deputy Ministers shall not hold any occupation other than that accorded to them by the nation.
5. No person who can not fulfil the conditions necessary for eligibility for election to the House of Representatives⁵⁴ shall be appointed as a Minister or a Deputy Minister.⁵⁵
6. A Minister may be responsible for one or more Ministries.
7. The President shall preside over the ordinary and extra-ordinary meetings of the Council of Ministers.
8. No Minister or Deputy Minister may be detained unless caught *in flagrante delicto* in respect of an offence punishable by imprisonment for three years or more, or the President has removed his privileges after having been satisfied by proposals put to him by the Attorney General.

Article 95: Continuation of Responsibilities

1. Any Minister or Deputy Minister who resigns or is dismissed shall remain in office until such time his successor takes over the responsibilities of the office.
2. A Minister or Deputy Minister who is awaiting the handing over of the responsibilities of office to his successor shall neither make any appointments nor enter into any agreements on behalf of his Ministry.

Article 96: Accusation against and Impeachment of the President, the Vice-President and the Ministers

1. If the President and the Vice-President are accused of following crimes:
 - a) high treason, or
 - b) contravention of the Constitution,

⁵⁴ See Article 41 above.

⁵⁵ In the last Constitution, this Clause also included a bar on members of the House of Representatives or the House of Elders being appointed as Ministers or Deputy Ministers. This has now been removed in the revision, but no one can hold a ministerial post and a be a member of parliament, at the same time (see Articles 48 and 70).

the charges against the President or the Vice-President in respect of the crimes in this Clause shall be laid by at least one third of the members of the House of Representatives, who shall forward their charges to the Speaker of the House of Representatives. The House may approve of the charges on a majority vote of half of its total membership, plus one (absolute majority).

2. *The House of Representatives shall empanel a committee of ten members who shall prosecute the charges against the President or the Vice-President in front of the House of Elders, and may also engage independent counsel who can assist the House in the prosecution.*
3. The House of Elders shall consider the charges at a sitting chaired by the Chairman of the Supreme Court, and shall hear the prosecution brought by the committee on behalf of the House of Representatives. The President and the Vice-President shall have their own defence counsel. The House of Elders shall approve of the charges on a majority vote of two thirds of its total membership.⁵⁶
4. If the Attorney General charges a Minister or a Deputy Minister with an offence set out in Clause 1 of this Article, he shall forward the details of the charges to the President. If the President is satisfied with the details provided by the Attorney General, he shall remove the privileges of the Minister or Deputy Minister. But, if he is not so satisfied, he shall order the Attorney General to drop the charges.⁵⁷
5. The charges relating to the Ministers shall be tried by the High Court of Justice which shall consist of the Chairman of the Supreme Court, four judges of the Supreme Court and four members elected, two each, by the two House of Parliament from amongst their members.

CHAPTER FOUR

Part One

The Judicial Branch

Article 97:

1. The state⁵⁸ shall have a judicial branch whose function is to adjudicate on proceedings between the Government and the public and between the various members of the public.
2. The Judicial Branch shall fulfil its duties in accordance with the Constitution, and shall be independent of the other branches of the state.

Article 98:

1. The Judiciary shall have the power to:
 - a) interpret, in accordance with the Constitution, the laws passed by the Constitutional bodies and emergency laws;

⁵⁶ This US style impeachment process was introduced at the revision of the Constitution. The previous procedure for the President and the Vice-President was a two-thirds majority of both Houses leading to a trial at the High Court of Justice.

⁵⁷ In the previous Constitution, if the President was not satisfied with the information laid by the Attorney General, he was obliged to the charges to the House of Representatives would decide by a simple majority whether or not to accept the charges.

⁵⁸ I have translated “Qaran” as “the state” rather than “the nation” which is its normal meaning.

- b) adjudicate on disputes between the governmental bodies and the public and between the members of the public;
 - c) adjudicate on all disputes which relate to compliance with the provisions of the Constitution
2. A judge shall not engage in any other occupation whilst in office.
 3. The proper status of judges shall be determined by the law.

Article 99: The Structure of the Judiciary

1. The Judiciary consists of the courts and the Procuracy⁵⁹.
2. The judges and the members of the Procuracy are independent when exercising their judicial functions and shall be guided only by the law.

Article 100: The Courts

The courts of the Republic of Somaliland shall consist of:

1. the Supreme Court;
2. the Appeal Courts of the Regions;
3. the Regional Courts;
4. the District Courts; and
5. the Courts of the National Armed Forces.

Article 101: The Supreme Court

The Supreme Court is the highest organ of the Judiciary and is also at the same time the Constitutional Court. In addition to the Chairman, the number of judges in the court shall not be less than four. A special law shall govern the court.

Article 102: The Lower Courts

The appointment and the conduct of the work of the lower courts (the Appeal Courts of the regions, the Regional and the District Courts) shall be determined by a special law.

Article 103: The Procuracy

The Procuracy of the state shall consist of the Attorney General and his deputies.

Article 104: The Courts and Procuracy of the Armed Forces

1. The courts of the Armed Forces shall have special jurisdiction in hearing criminal charges brought against the members of the armed forces in peace or war.

⁵⁹ This refers to the national prosecution service, which, in Somali, is known as “Xeer-ilaalinta” meaning literally “the guardians of the law”. Although it is not mentioned in the Constitution, the Somaliland Attorney General’s Office has a wider role than prosecution services, and, for example, looks after civil suits on behalf of the Government organs and inspects the prison system. I have, therefore, chosen the word “the Procuracy” as a generic term for this office of state. Article 103 sets out the composition of the Procuracy, and it is unclear why it is considered to be part of the Judiciary, when, indeed under Article 113, it is identified as being an organ of the state and under Article 114, its head, the Attorney General, is appointed in the same way as the heads of other state organs and is very much part of the Executive.

2. The courts and procuracy of the Armed Forces shall be determined by a special law.

Article 105: The Appointment of the Chairman and Judges of the Supreme Court

1. The President, in consultation with the Judicial Commission⁶⁰ and having considered the level of education, professional experience and good character of the appointees, shall appoint the Chairman and judges of the Supreme Court. The appointment of the Chairman of the Supreme Court is subject to confirmation by the Houses of Parliament at a joint sitting which shall be held within three months of the date of the appointment.
The highest ranking judge in seniority among the Supreme Court judges shall act as the Deputy Chairman of the Court.
2. No person who does not fulfil the following conditions shall be appointed as Chairman of the Supreme Court:
 - a) He must be a citizen of the Republic of Somaliland.
 - b) He must possess a university degree in a recognised law course.
 - c) He must have professional experience of not less than ten years⁶¹ in total; and must have worked as a judge and/or a prosecutor, and/or lawyer, and/or law lecturer.
3. The President may relieve the Chairman of the Supreme Court of his duties but shall require the approval of the both the House of Representatives and the House of Elders⁶².

CHAPTER FIVE MISCELLANEOUS PROVISIONS

Part One

Article 107: The Judicial Commission

1. The Judicial Commission is the body which directs the administration of the Judiciary, and shall consist of the following:

▪ The Chairman of the Supreme Court	Chairman
▪ The two Supreme Court judges who rank highest in seniority	Member
▪ The Attorney General	Member
▪ The Director General of the Ministry of Justice	Member
▪ The Chairman of the Civil Service Agency	Member
▪ Two members selected from the public once every two years by the House of Representatives, one of whom to be chosen from among the intellectuals and the other from the businessmen, and	
▪ two members to be selected from the public once every two years by the House of Elders, one of whom to be chosen from among those who are well versed in the traditions and the other from the religious scholars.	
2. The quorum for the meetings of the Commission is (7) members.
3. If the Chairman of the Supreme Court is unable to fulfil the duties of chairing the Commission because of reasons of health, holidays or on vacating his office, the

⁶⁰ See Articles 107 and 108 for the composition and functions of the Judicial Commission.

⁶¹ In the previous Constitution, the requisite experience was 20 years.

⁶² In the previous Constitution, the President required the written consent of the Standing Committees of both Houses of Parliament

member of the Commission who is the Supreme Court judge with the highest rank in seniority, shall act as the temporary chairman. The Secretary of the Judicial Commission shall be the Chief Registrar of the Supreme Court.

Article 108: the Functions of the Judicial Commission

1. The Judicial Commission shall be responsible for the appointment, removal of office, promotion, demotion, transfer and discipline of the judges of the lower courts (the Appeal, Regional and District Courts), and the Deputy Attorney Generals. The other personnel who work in the judiciary shall come under the provisions of the Civil Service Law.
2. No judge or Deputy Attorney Generals may be detained without the consent of the Judicial Commission, but such consent shall not be required if the judge or the Deputy Attorney General is caught *in flagrante delicto* in relation to an offence which carries a sentence of no less than three (3) years imprisonment.
3. The Attorney General shall submit to the Commission the charges for the removal of the privileges and the disciplining of judges and Deputy Attorney Generals.

Part Two

Article 109: The Structure of the Country

1. The territory of the Republic of Somaliland shall consist of regions, and each region shall be divided into districts.
2. The structure of the regions and the districts, their boundaries and hierarchy shall be determined by law.
3. Changes in the number of regions and districts and their boundaries and the reasons for the changes shall be proposed by the Council of Government (*Cabinet*) and approved by the House of Representatives and the House of Elders.

Article 110: The Administration of the Regions and the Districts

1. The administration of the regions and the districts is part of the administration of the Government of the Republic of Somaliland.
2. The relationship of the central government and the regions and districts shall be set out in a special law.

Article 111: The Regional and District Councils

1. The regions and the districts of the country shall have legislative councils, whose powers are limited to passing by-laws which do not conflict with the laws of the country, and executive councils.
2. The total membership of each regional or district council, the conditions of membership and their election procedures shall be determined by law.
3. The Chairman of the district, shall, in consultation with the prominent members of village communities, propose village administration committees whose appointments shall be subject to the approval of the legislative council of the district.
4. The regional and district councils shall have power to plan their economic and social affairs.

5. The Chairman of the region shall be appointed by the Government and shall act as the representative of the central government in the region and the districts that come under it.
6. The Chairman of the region is the link between the central government and the districts of the region and shall come under the Ministry of Interior.
7. The term of office of the regional and district councils shall be 5 (five) years.
8. a) A regional or district council may be dissolved before the end of its term of office.
b) The conditions which could lead to such dissolution and the procedures for dissolution shall be determined by law.
9. The secretary of the region or the district and the heads of the branches or sections of the Ministries shall continue to fulfil the council's responsibilities⁶³ in line with the existing laws (*and by-laws*) until the election of a new council.
10. The regional and district councils shall have their own proper regulations, and shall be assisted in this task by the Ministry of Interior.

Article 112: The De-centralisation of Administrative Powers

1. The administration of community⁶⁴ services, such health, education up to elementary/intermediate school level, livestock husbandry, internal security, water, electricity, communication etc. shall be the responsibility of the regions and districts in so far as they are able to do so.
2. The demarcation of the administrative and tax levying powers between the central government and the regions/districts shall be determined by the law setting out the relationship between the central government and the regions/districts.
3. The demarcation referred to in Clause 2 of this Article must be such as to make it possible for the regions and districts to become self-sufficient in their provision of community services.

Part Three

The Organs of State

Article 113: The Special Organs of the state

The national organs of state are:

1. The Procuracy.
2. The Central Bank
3. The Civil Service Agency
4. The Auditor General

Other organs may be created, if deemed necessary, in accordance with the law.

Article 114: The Appointment of and Removal from Office of Heads of the Organs of the State

⁶³ This clause relates to situations where the local council has been dissolved.

⁶⁴ I have chosen the word "community services" rather than "social services" to denote the wider local services which the regions and districts could undertake.

1. The appointment of the Attorney General, the Governor of the Central Bank, the Chairman and the members of the Civil Service Agency and the Auditor General shall be proposed by the Chairman of the Council of Government (*Cabinet*)⁶⁵ and shall be approved by the House of Representatives before the appointee is sworn for duty.
2. The Heads listed in this Article may be removed from office by the President only.
3. The office holders of the state whose appointments are, according to the Constitution, subject to confirmation shall not hold office in a temporary capacity for more than three months (*whilst awaiting confirmation*).⁶⁶

Article 115: The Ulema⁶⁷ Council and their Responsibilities

The Ulema Council is independent and shall have the responsibility of :

1. Formulating formal declarations on:
 - a) religious disagreements that may arise; *and*
 - b) any matters in which there is a conflict as to whether they are contrary to the Sharia⁶⁸, or appear to the Council as being contrary to the Sharia. The Council shall forward their declarations to the offices which have requested the declarations or to the Constitutional Court, as they deem fit.
2. Undertaking research of all kinds from a religious perspective and, particularly, in a way which advances scientific and religious knowledge. (*Also, they shall*) review, and validate translated religious Sharia works, and specially those (prior to their acceptance as law) which the courts rely on in their rulings and those which are included in the educational syllabus and relate to religious traditions and knowledge.

Article 116: The Total Membership of the Council and Term of Office

The membership of the Ulema Council shall consist of 11 (eleven) members who shall serve for a 5 year term of office. Any suitable member may be re-appointed.

Article 117: The Conditions of Membership

Each member of the Ulema Council must fulfil the following conditions:

1. He shall be a citizen and is mentally and physically able to fulfil his duties.
2. He shall not be aged less than 40 (forty) years.
3. He shall be someone who is known for his piety (*allegiance to Allah*) and good manners.
4. He shall not have been convicted of a criminal offence that was proven in a court during the preceding five years.
5. He shall have been educated in religious matters to a university level or equivalent.
6. On the assumption of his duties, a member shall observe neutrality in political matters and in religious views.

⁶⁵ In effect, the President – see Articles 81 and 94(7).

⁶⁶ This is a new Clause which puts a limit on the period presidential appointees can hold office pending the confirmation of their appointments. As this Clause refers to office holders and not just the heads of the state organs referred to in the rest of this Article, it is submitted that this Clause applies also to other office holders such as ministers and deputy ministers (see Article 94), the Chairman of the Supreme Court (see Article 105) and the members of the Ulema Council (see Article 119) whose appointments are all subject to confirmation.

⁶⁷ Muslim scholars.

⁶⁸ Islamic jurisprudence.

Article 118: Matters in which Members are not Allowed

The members of the Ulema Council shall not be:

1. associated with a political party or a special religious group;
2. hold any other national office whilst still carrying the responsibilities of the Council.

Article 119: The Appointment of the Members of the Ulema Council

1. The members of the Ulema Council shall be nominated by a committee consisting of an equal number of persons chosen respectively by the Council of Government (*Cabinet*) and the House of Elders, and the nominations shall be confirmed by the House of Elders.
2. The Ulema Council shall elect from among its members a Chairman and a Deputy Chairman.

Article 120: Vacancies in the Membership of the Ulema Council

The membership of the Ulema Council may become vacant:

1. on resignation by a member or death;
2. on one of the conditions⁶⁹ of membership being no longer valid; (*and*)
3. on a member being subject to a final sentence for a criminal offence.

Article 121: Salaries and Remuneration

The salaries and remuneration of the members of the Ulema Council shall be determined by law.

Article 122: The Law of the Organs of State

Each special organ of state shall have a law setting out its structure, responsibilities and the status of its head.

Part Four

Article 123: The Principles of the National Armed Forces

1. The national Armed Forces shall be responsible for protecting and defending the independence of the country. In addition, they shall, when needed, undertake duties in periods of state of emergency, in accordance with the Constitution.
2. The national armed forces shall always obey and act in accordance with the Constitution and the laws of the country.
3. The structure (*and composition*) of the Armed Forces shall reflect all the various Somaliland communities⁷⁰.

⁶⁹ See Article 117.

⁷⁰ It is submitted that this Clause was a transitional one which marked the development of the Somaliland Army from a liberation army consisting of units raised by various communities during the liberation war to a unified fully assimilated command. The Clause has been amended during the revision of the Constitution to make it more imperative. The previous wording included the phrase “as far as possible”.

4. The person who is appointed as Minister of Defence shall be a civilian citizen.
5. The command structure of the national Armed Forces shall be determined by law.

Article 124: The Police and the Corrections Forces

1. The Police Force shall be responsible for protecting the peace and for enforcing the law, and its structure and duties shall be set out by law.
2. The Corrections Force shall be responsible for guarding and reforming prisoners, and its structure and duties shall be set out by law.

Article 125: The Preparation of the Referendum Law and the Appointment of the Referendum Committee

Whilst taking note of the provisions of the Constitution, a referendum law shall be issued so as to make possible the holding of the referendum. A Committee to organise the referendum shall be appointed in accordance with the Constitution.

Article 126: Amendments or Corrections of the Constitution

1. Proposals for the amendments and/or corrections of the Constitution shall be made by:
 - a) The President, after consulting the Council of Government (*Cabinet*).
 - b) 1/3 (one-third) of the total membership of the House of Representatives.
 - c) 1/3 (one-third) of the total membership of the House of Elders.
2. Any proposal to amend and/or correct the Constitution must be reasoned and signed.
3. Amendments and/or corrections of the Constitution shall be debated by the House of Representatives and the House of Elders within two months after the House of Representatives resolves by a (*simple*) majority of their total number that the amendments and/or the corrections are necessary.
4. Any amendment and/or correction of an Article or Articles of the Constitution shall come into force after its approval by 2/3 (two-thirds) of the total membership of the House of Representatives and by 2/3 (two-thirds) of the total membership of the House of Elders in separate votes.
5. If the House of Representatives does not resolve by a (*simple*) majority of its total membership that the amendment or the addition or both is not necessary; or if one of the two Houses does not approve of the amendment and/or correction by a 2/3 (two-thirds) majority of its total membership, the proposal shall not be re-introduced during the following 12 (twelve) months.

Article 127: The Limits of Amendments or Corrections of the Constitution

No proposal to amend or correct the Constitution shall be made if it includes a provision which is in conflict with the:

- a) Principles of Islamic Sharia.
- b) Unity of the country (territorial integrity).
- c) Democratic principles and the multi-party system.
- d) Fundamental rights and personal freedoms.

Article 128: The Basis and the Supremacy of the Constitution

1. The Constitution shall be based on Islamic principles.
2. The Constitution shall be the supreme law of the land, and any law which does not conform to it shall be null and void.

Article 129: The Constitutional Oath

The Chairman of the Supreme Court, who is, at the same time, the Chairman of the Constitutional Court, shall administer this constitutional oath to any person who is obliged to take an oath under the Constitution before that person can assume his office. In the same way, he shall also take an oath to be administered by the President.

“I SWEAR BY ALLAH THAT I SHALL BE TRUE TO THE ISLAMIC RELIGION AND MY SOMALILAND COUNTRY, AND SHALL MANAGE MY PEOPLE IN EQUITY AND JUSTICE SO LONG AS I HOLD OFFICE.”

Article 130: The Implementation of the Constitution

1. This Constitution shall come into force when a referendum has been held and the outcome of the referendum is known. It shall, however, be implemented, in the interim, for a period of three years (3) beginning from the date when it is approved by the 3rd Conference of the Somaliland Communities.
2. If the referendum cannot be held within the set period, the interim period in which the Constitution is implemented may be increased by the Parliament (the Representatives and the Elders).
3. In the event of one of the circumstances listed in Article 50⁷¹ happening to a member of the House of Elders or the House of Representatives, the community which he represented shall fill that vacancy until such time the system of elections through parties is adopted.
4. In the event of the circumstances listed in Article 86 happening to the President or the Vice-President or both until such time a party system with direct elections is adopted, the two Houses (Representatives and Elders) shall elect jointly, within 45 days, the President or the Vice-President or both. The Speaker of the House of Elders shall fill the vacant office during the period preceding such election.
5. All the laws which were current and which did not conflict with the Islamic Sharia, individual rights and fundamental freedoms shall remain in force in the country of the Republic of Somaliland until the promulgation of laws which are in accord with the Constitution of the Republic of Somaliland.⁷² At the same time, laws which conform to the Constitution shall be prepared, and each such law shall be presented within minimum time scales set by the House.
6. If the regions and districts fail to set up their councils within 3 (three) months, the Government, in consultation with the relevant members of the Houses of Representatives and Elders who represent these regions or districts and also with the

⁷¹ Also, by implication, the circumstances listed in Article 68, in respect of the members of the House of Elders.

⁷² Notwithstanding the provisions of Article 128 which make null and void any law which is in conflict with the Constitution, this Clause specifically mentions the two conditions (Islam and human rights) which would make old (pre1991) laws void.

elders in these communities, shall appoint, on a temporary basis, regional and district administrators.

The names of the Constitution Preparation Committee: This is the Committee which prepared the Constitution at the 1997 Hargeisa Conference

(Note: All the spellings of the names are in Somali Script)

1. Sh. Cabdilaahi Sh. Call Jawhar **Chairman**
2. Maxamed Axmed Cabdulle **Deputy Chairman**
3. Clqaadir X. Ismaaciil Jirde **Secretary**
4. Sh. Maxamuud Suufi Muxumed
5. Maxamed Siclid Maxamed (Gees)
6. Sh. Call Sh. Cabdi Guuleed
7. Faysal Xaaji Jaamac (Counsel)
8. Cismaan Xuseen Khayre (Judge)
9. Prof. Faarax Cabdllaahi Farlid
10. Prof. Maxamuud Nuur Caalin
11. Xasan Cabdi Xabad
12. Axmed Macaim Jaamac
13. Yuusuf Aadan Xuseen
14. Cismaan Cali Blue
15. Maxamed Jaamac Faarax

The Constitution Revision Committee

The House of Elders:

(Mud is short for Mudane “the honorable” – a title used by members of Parliament)

- 1) Mud. Siclid Jaamac Cali, Chairman
- 2) Mud. Axmed Nuur Aw Cali, Secretary
- 3) Mud. CILaahi Sh. Xasan,
- 4) Mud. Siclid CILaahi Yaasir
- 5) Mud. Call X. Cabdi Ducaale
- 6) Mud. Clraxmaan Axmed Areye
- 7) Mud. Maxamed Clise Faarax
- 8) Mud. Yuusuf C/Laahi Cawaale
- 9) Mud. Muxumed Aw Axmed
- 10) Mud. Maxamed Gaaxnuug Jaamac
- 11) Mud. Maxamed Cismaan Guuleed

The House of Representatives

- 1) Mud. Xasan Axmed Ducaale, Chairman
- 2) Mud. Cali Maxamed Cumar, Secretary
- 3) Mud. C/raxmaan Xuseen Cabdi
- 4) Mud. Maxamed Xuseen Dhamac
- 5) Mud. Cabdi Daahir Camuud
- 6) Mud. C/Laahi Ibraahim Kaarshe
- 7) Mud. Axmed C/Laahi Cal
- 8) Mud. Faysal X. Jaamac
- 9) Mud. Maxamed Aadan Gabaloos

- 10) Mud. Cumar NuurAare
- 11) Mud. Yaasiin Faarax Ismaaciil
- 12) Mud, Yaasiin Maxamuud Xiir
- 13) Mud. Cali Obsiiye Diiriye

The Committee for Corrections, Authentication and Production of Copies of the Constitution who also appended their signatures:

- 1) Mud. Axmed Maxamed Aadan, Speaker of the House of Representatives
- 2) Mud Axmed Nuur Aw Cali, Secretary of the House of Elders
- 3) Mud C/ILaahi Sh. Xasan, member of the House of Elders
- 4) Maxamed Xuseen Cismaan, Secretary of the House of Representative.

SIGNED BY:

Sh. Ibraahim Sh. Yuusuf Sh. Madar, Speaker of the House of Representatives.
Axmed Maxamed Aadan, Speaker of the House of Representatives

The Secretariat of the Constitution Committee:

- 1) Faisa Maxamed Axmed
- 2) C/risaaq Siciid Ayaanle

THE LAW OF THE REFERENDUM ON THE CONSTITUTION OF THE REPUBLIC OF SOMALILAND

THE PARLIAMENT OF THE REPUBLIC OF SOMALILAND

HAVING SEEN Article 125⁷³ of the Constitution, which relates to the preparation of the law of the Referendum on the Constitution;

HAVING SEEN Clauses⁷⁴ 1 and 2 of Article 130 of the Constitution, which relate to the holding of the Referendum on the Constitution;

HAVING DEBATED AND PERUSED the Government's proposals on this law of the Referendum on the Constitution;

CONSIDERING that the end of the period⁷⁵ of the implementation of the Constitution, which was increased by Parliament is fast approaching;

PASSED THE FOLLOWING LAW

Chapter I General Principles

Article 1: The Purpose of the Referendum

Every citizen shall cast his vote for or against the Constitution in the Referendum to which this law refers.

Article 2: The Right to Vote and its Exercise

1. Every citizen who fulfils the conditions set out in Article 6 shall be entitled to one vote, which he can cast at the district where he is⁷⁶.
2. Voting is personal, free, and direct; and all persons⁷⁷ are equal.

⁷³ Article 125: The Preparation of the Referendum Law and the Appointment of the Referendum Committee: Whilst taking note of the provisions of the Constitution, a Referendum law shall be issued so as to make possible the holding of the Referendum. A Committee to organise the Referendum shall be appointed in accordance with the Constitution.

⁷⁴ Article 130: The Implementation of the Constitution:

1. This Constitution shall come into force when a Referendum has been held and the outcome of the Referendum is known. It shall, however, be implemented, in the interim, for a period of three years (3) beginning from the date when it is approved by the third Conference of the Somaliland Communities.

2. If the Referendum cannot be held within the set period, the interim period in which the Constitution is implemented may be increased by the Parliament (the Representatives and the Elders).

⁷⁵ The three year period referred to in Article 130(1) of the Constitution (see above) was extended by the two Houses of Parliament early last year by one year, and then again earlier this year by six months. The Constitution was initially adopted at the third Conference of the Somaliland Communities in February 1997.

⁷⁶ As there is no voter registration system, this may not necessarily be the same as the district where he normally resides.

⁷⁷ The word person throughout this Law is denoted to indicate natural persons or individuals.

Article 3: The Polling Station

To make the conduct of the Referendum possible, it shall be based on the boundaries of the legally formed districts⁷⁸, which currently exist in the country, and each district shall be sub-divided into polling stations.

Article 4: The Administration of the Referendum

The Referendum shall be administered at:

1. The polling stations;
2. The District Referendum Office;
3. The Central Referendum Office.

The District Referendum Office shall be at the seat of the District, and the Central Referendum Office⁷⁹ shall be at the capital city, Hargeisa.

Article 5: The Date of the Referendum

The voting at the Referendum shall be conducted in one day only, the date of which will be set in a Presidential Decree to be issued in an official publication⁸⁰ within a maximum period of up to sixty days before the date of the Referendum.

Chapter II

Conditions for Participation in the Referendum

Article 6: The Right to Vote

Any one (male or female) who meets the following conditions shall have the right to vote in the Referendum:

1. He must be a citizen⁸¹ who is a patrial descending from the persons who were resident in the Republic of Somaliland on 26 June 1960⁸² or before.
2. He must not be aged less than 18 years.
3. He must not be certified as insane.
4. He must not be a prisoner serving a sentence passed by a court.

Article 7: The Identification of Persons who have the Right to Vote

⁷⁸ There are currently 33 districts in 6 regions.

⁷⁹ It is believed that the Central Referendum Committee is also the National Referendum Committee.

⁸⁰ The set date is 31 May 2001.

⁸¹ This is the same as Article 4(1) of the Constitution which defines a citizen as “any person who is a patrial of Somaliland, who is the descendant of a person residing in Somaliland on 26th June 1960 or earlier, shall be recognised as a citizen of Somaliland.”. Citizenship is based on *jus sanguinis* (descent) and not *jus soli* (place of birth), and is linked to patriality i.e descent from a person who was resident in Somaliland on 26 June 1960 or before – see also article 1 of the Somaliland Citizenship Law.

⁸² That was the date of the independence of the State of Somaliland from Britain. Somaliland was an independent state from then onwards until it joined voluntarily with Somalia.

The Polling Station officers shall reach decisions about the eligibility of individuals to vote expeditiously and in line with the provisions of this Law.

Chapter III Polling Stations

Article 8: The Number and Location of Polling Stations

The National Referendum Committee⁸³ shall, after receiving the advice of the Chairmen of the Regions⁸⁴, designate twenty days before the date of the Referendum:

1. The location of the polling stations⁸⁵ in each district, which shall be based on its size and the estimated number of its residents.
2. The estimated number of persons casting their votes at each polling station shall be planned to be 1500 or more.
3. Polling stations outside towns shall be situated in accessible locations which (*potential*) voters can reach and return from⁸⁶ in no more than a half-day's walking.

Article 9: The Structure of the Polling Stations

1. The Polling Station Committee shall consist of:
 - a. A Chairman
 - b. An Assistant who may be designated as deputy Chairman
 - c. A Secretary.

The above members shall be appointed by the Chairman of the Region after consulting the Mayor or Chairman of the District⁸⁷.

2. If it becomes necessary to replace the Assistant or the Secretary whilst the voting is in progress, the Chairman⁸⁸ shall replace him with someone selected from the persons present at the polling station and meeting the criteria for eligibility for voting set out in Article 6. If, however, it is the Chairman of the polling station that has to be replaced, the Chairman of the Region shall do so in accordance with the procedure set out above.

Article 10: Structure of the District Referendum Office

1. The District Referendum Office Committee shall consist of:

⁸³ See note 7 above. The function of the Committee when sitting as a National Referendum Committee is to plan and execute the Referendum – see the various Articles referring to distribution of voting equipment and materials (Articles 14 and 41) and Article 44 relating to the oversight of the Referendum.

⁸⁴ Regional Chairmen are normally referred to as Governors (Badasaab). There are Six regions in Somaliland.

⁸⁵ It was announced that there will be 600 polling stations in the 33 districts of the country.

⁸⁶ Presumably back to their homes. This is presumably to enable nomads to have accessible polling stations.

⁸⁷ Mayors are in cities and main towns.

⁸⁸ It is not clear which Chairman this clause refers to, but it is submitted that it is the Chairman of the Polling Station.

- a. A Chairman.
 - b. Three Assistants, the oldest of whom shall act as deputy Chairman.
 - c. A Secretary.
 - d. Three Counting Officers.
2. The National Referendum Committee shall, after consulting the Chairman of the Region, appoint the members of the District Referendum Office. If there are urgent circumstances that necessitate the replacement of any of the above members, the Chairman of the Region shall have the power to do so.

Article 11: The Structure of the Central Referendum Office

The Central Referendum Office Committee shall consist of⁸⁹:

1. A Chairman.
2. A Deputy Chairman.
3. Three Assistants.
4. A Secretary.

The members of the Central Referendum Office shall be appointed by a Presidential Decree⁹⁰.

Article 12: Notice of Appointment and Oath

1. No one may be excused from an appointment to serve as a member of the Referendum administration (committees), if he does not proffer a satisfactory reason. The appointing authority of the member shall have the power to accept such a reason.
2. Appointments shall be communicated to the persons concerned, at the latest, 20 days before the date of the Referendum.
3. The following oath shall be administered to all members of the Referendum administration mentioned in Article 4 of this Law before they assume their offices: “I swear in the name of Allah that I shall fulfill the duties relating to the Referendum that I have been entrusted with, in a conscientious and honest manner and shall observe this Law and the other laws of the Republic of Somaliland”.

Article 13: The Preparation of Polling Stations, the District and Central Referendum Offices

⁸⁹ See also Article 41(1). The addition of Counting Officers in Article 41 below is to enable the Office to exercise the technical task of verifying the tentative overall results of the Referendum. Nonetheless, the composition of the Committee and the Office and its nexus with the National Referendum Committee could have made been clearer in this Law. The National/Central Referendum Committee needs staffing and support to undertake its wide duties.

⁹⁰ The Decree named the following as members of the National Referendum Committee:

- | | |
|---------------------------------|-----------------|
| 1. Ahmad Jambir Suldaan | Chairman |
| 2. Abdulqadir Haji Ismail Jirde | Deputy Chairman |
| 3. Said Jama Ali | Member |
| 4. Ali Omar Ahmad | Member |
| 5. Adan Ahmed Diriye | Member |
| 6. Abdillahi Ibrahim Habane | Secretary |

1. The Mayors or Chairmen of the Districts shall be responsible for the preparation of polling stations and the district offices.
2. The National Referendum Committee shall be responsible for the preparation of the Central Office.
3. The above-mentioned authorities shall inform the public 20 days before the date of the Referendum:
 - a. The number and location of the polling stations;
 - b. The printed materials to be used in public places, notice boards, meetings, assemblies and the media.

Chapter IV The Voting Equipment

Article 14: The Polling Station Equipment

1. The National Referendum Committee shall send to each polling station the following equipment:
 - a. A copy of the Constitution.
 - b. A copy of this Law.
 - c. A sealed envelope containing the stamp of the polling station, ink and inkpad.
 - d. A sealed envelope containing the ballot papers.
 - e. Ballot boxes.
 - f. A container for carrying the voting and office equipment.
 - g. A number of registers for recording any incidents relating to the conduct of the voting.
 - h. A bottle of indelible ink.
 - i. A number of printed large boards explaining the voting procedure to the public.
 - j. Office equipment and any other necessary materials.
2. The Referendum Committee⁹¹ shall also prepare for the District and Central Referendum Offices sealed envelopes containing:
 - a. Stamps, ink and inkpads.
 - b. Counting Sheets.
 - c. Registers.
 - d. Office equipment.
 - e. The printed materials needed for the above-mentioned Referendum equipment shall be in a closed and sealed container, accompanied by the ballot boxes.
3. The National Referendum Committee shall also prepare for the Mayors or the Chairmen of the Districts spare sets of the materials needed for the voting, which can be used when a signed and stamped request containing the reasons for the expressed need are received from a Chairmen of a polling station.

Article 15: The Standardization of Voting Equipment

1. The voting equipment, the stamps of the polling stations and the Referendum office(s), the ballot papers, the registers, the ballot boxes, (and) the counting sheets shall be of the same type throughout the country.
2. The stamps shall have different serial numbers, and each polling station shall have its own number.
3. The Referendum ballot papers shall be made of white perforated paper with detachable counterfoil and each set shall contain one hundred sheets. The counterfoil of each sheet shall have a serial number of its own.

Article 16: Envelopes and Ballot Boxes

1. At each polling station, the Mayor or Chairman of each District shall prepare a room with a curtain in the middle to enable secret balloting.
2. A ballot box shall be placed in each of the partitions. One of the ballots boxes shall be white and is for ballot papers accepting the Constitution, and the other shall be black and is for ballot papers rejecting the Constitution.
3. The top part of the white ballot box shall be marked (YES), and that of the black ballot box (NO).

Article 17: The Explanation of the Voting Procedure

A copy of the board mentioned in Article 14(9) shall be displayed at a place inside and outside of the polling station, where the public can see. The board shall be displayed, in the same way, inside each partition (of the polling station).

Chapter V The Voting

Article 18: The Delivery of Voting Equipment

The Mayor or Chairman of the District shall:

1. Cause to deliver the containers and ballot boxes at each polling station at 6.00 o'clock in the morning before the date of the Referendum;
2. Cause to deliver the containers for the District Referendum Office at 4.00 o'clock the day before⁹²;
3. Ensure that notice of the appointments of the members of each polling station office or the District Referendum Office are received at their respective locations.

Article 19: The Setting up of the Polling Station

On receipt of the equipment set out in Article 18 of this Law, the Chairman of the polling station shall:

1. Start preparing the layout of the polling station, and assembling the Assistant and the Secretary;

⁹² Presumably, the day before the Referendum

2. Confirm, in the presence of the other members, that the seals of the containers holding the voting equipment are intact, and ensure that all the contents are there;
3. After waiting for the presence of the other members who shall confirm with him that all the seals are intact, open the envelope containing the stamp of the polling station and place it in the above mentioned container; and shall record in the register the numbers of the stamp and of the ballot papers;
4. Confirm, in the presence of the other members, that the ballot boxes are empty and then proceed to close them and seal them whilst leaving clear the slots for insertion of the ballot papers; and then place them in their appropriate places;
5. Display a copy of the Constitution of the Republic of Somaliland Republic;
6. Hand over the rest of the equipment to the Secretary;
7. Ensure that all the voting equipment has been provided in a way that makes possible the proper conduct of the Referendum.

As soon as the above activities are carried out in the shortest time possible, the Chairman shall announce the opening of the voting.

Article 20: The Power to Keep the Peace

The Chair of the Polling Station shall:

1. Be responsible for the preservation of the security of the polling station to which the public are congregating, and its surroundings;
2. Call for the assistance of the security forces which will remove or arrest anyone who causes acts which are detrimental to the proper conduct of the Referendum or commits offences;
3. Have his orders only fulfilled by the officials of the agencies of the state and the commanders of the security forces so as to enable all voters to have access to the polling station.
4. The above powers can also be exercised by the Chairmen of the District Referendum Office and the Central Referendum Office.

Article 21: Access to the Referendum Polling Station

1. Other than the polling station committee members, only persons who have the right to vote may enter the polling station.
2. Voters shall enter the polling station one at a time whilst observing the order in which they arrived.
3. Voters shall not enter the polling station if they are in possession of weapons or other objects that may cause harm.

Article 22: Steps Before the Voting

Every citizen may cast his vote at the (polling) station where he is and shall prove:

1. His name and age;
2. Place of residence;
3. That he can be accepted at the (polling) station that he is eligible to vote. Taking note of any evidence in writing or by witnesses or any other matters that may

convince them, the Polling Station Committee shall reach a decision about his eligibility in a quick and brisk manner.

4. Before a ballot is issued to a voter, he shall have indelible ink marked on his left hand, or if he does not have one, his right hand. If the voter has no hands, the mark shall be placed on another visible part of his body.

Article 23: Voters who are Unable to Cast their Votes

1. Votes may be cast by persons who are eligible to vote and who attend the polling station in person.
2. The Chairman shall allow any person, who is unable to vote because of a clear physical infirmity, and is accepted at the polling station as someone who cannot vote, to choose a person who can help him and in whom he has confidence.
3. The Secretary shall record any such event in the register and shall note the names of the person and his helper and the reasons for the decision.

Article 24: The Voting Procedure

On completion of the steps set out in Article 22 of this Law:

1. The Chairman shall hand, one at a time, to each voter a stamped ballot paper that is detached from the sequentially numbered counterfoil.
2. The voter shall proceed with the ballot paper to one of the partitions in the polling room.
3. Votes accepting the Constitution shall be cast in the White ballot box, and those rejecting it shall be cast in the Black ballot box.
4. If a voter is handed a ballot paper, which is deficient, he may hand it back to the Chairman and ask for a replacement.
5. Any voter who deliberately loiters whilst voting may be ejected by the Chairman and have his ballot paper confiscated.
6. Any such ejected voter shall be allowed to vote after all the other waiting persons have cast their votes.
7. Any voter who is found to have: a) more than one ballot paper; b) (ballot) paper different from the standard paper in use; c) cast his vote before; shall have his ballot paper(s) removed by the Chairman, who shall hand him over to the security forces so that appropriate legal steps, including court proceedings, can be taken against him.
8. If any of the above incidents take place, they shall be recorded in the register accompanied by the following: the name of the relevant voter, and the ballot paper(s) removed from the person, which shall be signed by the Chairman and, at least one of the other members of the polling station committee and placed in the envelope provided for this purpose.

Article 25: The Hours of Voting

The voting shall start at 6.00 o'clock in the morning and shall carry on continuously until 6.00 o'clock in the evening. If necessary, the voting may continue until 10.00 o'clock in the evening. Nonetheless, so long as (potential) voters are waiting in front of the polling station, the vote shall not be closed.

Article 26: The End of the Voting

On conclusion of the activities mentioned in the preceding Article, the Chairman shall proceed promptly to undertake the following activities:

1. Announce that the vote is closed.
2. Seal the ballot boxes, and impress the polling station stamp and the signatures of the Chairman and the other members of the polling station committee on the seals.
3. Confirm and note in the register the (total) number of ballot papers used by checking the remaining counterfoil.
4. Confirm and note in the register the (total) number of ballot papers taken from voters:
 - a. Because of the papers being imperfect or incomplete⁹³;
 - b. Who deliberately loiter whilst voting;
 - c. Who have been found to be in possession of ballot papers which do not conform to the legal ones;
 - d. Who have been found to have cast their votes previously.
5. Confirm and note in the register the (total) number of ballot papers which remain unused.
6. On the basis of the above matters, confirm and note in the register the (total) number of persons who actually cast their votes.
7. Close the registers of the polling station.
8. Place all the printed materials mentioned above in their respective envelopes, and close and seal the envelopes in the manner set out in Clause 2 of this Article.
9. Place the polling stations stamps in the envelope provided, seal the envelope and add the signatures on top of the seal in the manner set out in Clause 2 of this Article.
10. Place all the envelopes in the container, and close and seal the container and add the signatures on top of the seal in the manner set out in Clause 2 of this Article.
11. The container(s) shall be dispatched with the ballot boxes.

Article 27: The Presence of the Polling Station Committee Members

All the polling station committee members must be present whilst the vote is in progress. The short absence of one member, at a time, is permissible subject to the approval of the Chairman of the polling station.

Article 28: The Polling Station Register

The recording in the register of the incidents that take place at the Referendum polling station shall be made triplicate which shall be signed by all the members of polling station committee. One copy shall be for the District Referendum Office to use it for

⁹³ See Article 24(4) for the general power of the Chairman to replace “deficient” ballot papers. Different adjectives to describe these ballots are used in this Article – 26(4)(a) - and I have translated these adjectives as “imperfect” or “incomplete” ballot papers.

fulfilling its responsibilities, and the other two copies are for the Mayor or Chairman of the district.

Article 29: The Return and Handing Over of Polling Equipment

1. On conclusion of the activities set out in the above Articles, the Chairman, accompanied by, at least, one other member of the polling station committee and protected by the security forces, shall transport promptly the container carrying the materials set out in Article 26 of this Law and the ballot boxes, and shall deliver them at the District Referendum Office.
2. On receiving the container(s) and the ballot boxes, the District Referendum Office shall check that they are properly sealed and shall record that in a register with two copies, one of which shall be handed to the Chairman of the polling station and the other to be retained by the District Referendum Office.
3. The Chairman of the polling station shall then hand over to the Mayor or the Chairman of the District the two copies of the polling station register, which are referred to in Article 28.

Chapter VI

The Functions of the District Referendum Office

Article 30: The Setting up of the District Referendum Office

On receipt of the materials set out in Article 18 of this Law, the Chairman of the District Referendum Committee shall:

1. Start setting up the district office and shall assemble the Assistant, the Secretary and the Counting Officers;
2. After confirmation by him and other the members that all the seals are intact, open the container and take out and check the materials therein;
3. After confirmation by him and the other members that all the materials, are there, open the envelope containing the stamp, and note its number in the register;
4. Hand over the rest of the materials to the Secretary of the District Referendum Office. The District Referendum Office shall then wait for the arrival of the materials set out in Article 26 of this Law.

Article 31: Receipt of the Materials from the Polling Station

The District Referendum Office shall, in accordance with Clause 2 of Article 29 of this Law, receive the containers and the ballot boxes of the polling stations in the order of their arrival.

Article 32: The Closing of the District Referendum Office

1. The District Referendum Office shall not be closed until all the materials from the polling stations in the district have reached it or have been handed over to it formally.
2. When the Office is closed, no one shall remain inside it, and, whilst fulfilling the orders of the Chairman, the security forces shall secure it from the outside.

Article 33: The Start of the Counting Activities

Notwithstanding the setting up of the District Referendum Office, the counting activities shall start at 8.00 o'clock in the morning after the date of the Referendum, but the count of the polling station votes shall not start until the completion of the process⁹⁴ of receipt of the Referendum materials from all the polling stations in the district.

1. Before the count of each polling station vote is started, the Chairman shall, having checked that the seal is intact, open the containers and shall also check the seals of the envelopes enclosed in the container and the seals of the ballot boxes.
2. The chairman shall announce in a loud voice:
 - a. The unique number of the polling station and its location;
 - b. The (total) number of the persons who actually cast their votes at the polling station as set out in the register of that polling station.

Article 34: The Sifting of Ballot Papers

1. On completion of the activities mentioned in the preceding Article, the Chairman, aided by one of Assistants, shall remove the seal from and open the White ballot box, which contains the votes accepting the Constitution.
2. The ballot papers in the White boxes shall be removed one at a time, and shall be checked, counted and then placed together in a particular place. At the same time, the running tally of such votes accepting the Constitution shall be announced in a loud voice.
3. When the sifting of the ballot papers accepting the Constitution is completed, the ballot papers shall returned to their boxes, which shall be sealed. Any improper⁹⁵ ballot papers shall be placed in a special envelope, and the Secretary shall mark a running tally of the votes. After removing, in front of the Committee⁹⁶, the seal of the Black ballot boxes, which contain the votes rejecting the Constitution, the Chairman shall open them and follow the procedure laid down in the preceding Clause.
4. No one, other than the Committee members, can handle the ballot papers.

Article 35: Improper Ballot Papers

Improper ballot papers are:

1. Those which do not carry the stamps of the polling stations;
2. Those which have on them signatures, names or other markings written or made by the voters in their own hands;
3. Those that have not been issued by the relevant polling station.

Article 36: The Presence of All the Members of the Office

⁹⁴ The process is set out in Clauses 1 and 2 of this Article.

⁹⁵ See the following Article 35 for the definition of improper papers.

⁹⁶ The District Referendum Office Committee.

All the members of the District Referendum Office shall be present during the period of the count of the ballot papers. The short absence of one member, at a time, is permissible subject to reasons being given for the absence and the approval of the Chairman.

Article 37: Decisions about Complaints

On completion of the sifting of the ballot papers, the District Referendum Office Committee shall reach decisions, by a simple majority, on all written complaints brought from the polling station during the voting or afterwards.

Article 38: The Confirmation of the Polling Station Result

On completion of the activities set out in the preceding Article of this Law, the Chairman of the District Referendum Office Committee shall:

1. Confirm any differences between the total number reached by the District Referendum Office and that noted in the polling station register, whilst explaining any reasons for the differences;
2. Declare loudly the total number of voters, the total number of ballot papers cast, the total number of ballot papers which were proper and that of the improper papers;
3. Declare loudly the result of the Referendum whilst showing the number of votes accepting the Constitution and those which reject it;
4. Note all the above matters in the Register of the District Referendum Office.

Article 39: The Postponement of the Sifting

1. When the sifting of the ballot papers of the polling station is started, it shall not be stopped until it is all completed.
2. If, however, it cannot be completed within the day, the Chairman may postpone it until 8.00 o'clock of the following day.

Article 40: The Tally of the Total Result of the District Referendum

On completion of the activities of the District Office⁹⁷ set out in the preceding Article of this Law, the Chairman shall:

1. Add up the totals of the votes cast in all the polling stations of the District as well as the totals of the proper ballot papers, the improper ballot papers, the votes accepting the Constitution, and those rejecting the Constitution;
2. Declare loudly the tentative result of the District, whilst making clear the numbers of those who accepted and those who rejected the Constitution;
3. Inform the Central Referendum Office the result, which shall be written in both numbers and words;
4. Note in the register in triplicate and signed by all the members of the committee the activities of the District Referendum Committee and its declared result.

⁹⁷ This is referred to, incorrectly in my view, as the district polling station, rather than the District Referendum Office.

- The three registers: one shall be handed to the Mayor or Chairman of the District; of the other two one shall go to the Supreme Court and the other to the Central Referendum Office, and shall be accompanied by various sealed separate envelopes containing all the complaints received by the District Referendum Office, with each envelope identifying on its cover the name of the relevant polling station to which the incident relates
5. The Chairman shall store the voting equipment and materials of the polling station and of the District Referendum Office in a special room and shall inform the Mayor or the Chairman of the District. The room shall be locked, sealed and kept secure for the Supreme Court to approve formally the Constitution.

Chapter VII The Functions of the Central Referendum Office

Article 41: The Structure of the Central Referendum Office⁹⁸

On receipt of the equipment and materials set out in Article 14 of this Law from the National (Referendum) Committee, the Chairman of the Central Referendum Office shall:

1. Assemble the other members of the Committee who are:
 - a. The Deputy Chairman;
 - b. The Assistants;
 - c. The Secretary;
 - d. The Counting Officers;
2. Open the containers, check and remove the enclosures after the seals have been confirmed by him and the other members;
3. Open the envelope containing the stamp of the Office, after the seal have been confirmed to be intact by him and the other members;
4. Hand over the rest of the materials to the Secretary.

Article 42: The Functions of the Central Referendum Office

1. On receipt of the telegrams referred to in Clause 3 of Article 40 of this Law, the Central Referendum Office shall declare⁹⁹ the tentative overall result of the Referendum.
2. On receipt of the registers and the complaints referred to in Clause 4 of Article 40 of this Law, the Central Referendum Office shall add up and declare the tentative overall result of the Referendum by:
 - a. Reaching tentative¹⁰⁰ decisions about the complaints including those which have reached the Central Referendum Office at a later stage;

⁹⁸ See Article 11 and notes 17 and 18 above relating to the Central and National Referendum Committees.

⁹⁹ See the following Clauses of this Article about how this declaration should be made.

¹⁰⁰ The decision is referred to as “tentative”, because the final decisions will be made by the Supreme Court.

- b. Adding up the total number of votes cast in all the polling stations of the Republic, and the totals of the number of proper and improper ballot papers, as well as the total number of votes for and against the Constitution.
 - c. The Chairman shall then declare loudly the tentative result of the Referendum of the whole country of the Republic of Somaliland.
3. The above-mentioned activities shall be recorded in a register with two copies. One of the registers, together with other materials and the complaints which reached the Central Referendum Office, shall be sent to the Supreme Court for the fulfillment of its duties as laid down in this Law, and the other shall be sent to the National Referendum Committee.

Chapter VIII Crimes

Article 43: Crimes

Anyone who commits the following criminal acts which may affect the proper conduct of the Referendum activities and the acceptance of the Referendum result, such as:

1. The obstruction of the holding of the Referendum¹⁰¹;
2. Any acts which are detrimental to the right to vote¹⁰²;
3. The unlawful entry of a polling station or a Referendum office;
4. Falsification, forgery, or the fraudulent alteration of the Referendum accounts;
5. Unlawful voting;
6. Offences committed by the members of the Polling Station Committees and of the Referendum Offices;
7. Obstruction of the proper conduct of the Referendum¹⁰³;
8. Refusal of the appointment to membership of the Polling Station Committee and that of the Referendum Offices.

Article 44: The Oversight of the Referendum Activities

1. The National Committee¹⁰⁴ for arranging the Referendum shall have the overall responsibility for the conduct of the Referendum activities.
2. As representative of the above Committee, the Chairman of each region shall monitor and ensure that Referendum activities in the region are completed within the planned time limits.
3. The Mayor or the Chairman of the District shall be responsible, in the same way, at District level.

¹⁰¹ There is also an offence under Article 265 of the Penal code in respect of anyone who uses force or threats towards a public body in order to prevent , wholly or in part, or even temporarily or disturbs in any manner its activities. This offence and others against the public administration are in Book II, Part II – Crimes against the Public Administration of the Penal Code.

¹⁰² Some of these offences are also covered by Article 226 of the Penal Code which makes an offence for anyone to prevent wholly, or in part, the exercise of a political right, or to induce someone to exercise it in a manner contrary to his wishes. This is punishable with imprisonment from one to five years. The right to vote in both the Constitution (Article 22(2)) and this Law (Article 6, above) is a political right.

¹⁰³ See 29 above.

¹⁰⁴ This is the National Referendum Committee.

Article 45: Responsibility for Security

The security and peaceful conduct of the Referendum shall be the responsibility of the security forces, which shall always obey the instructions and directions of the Chairmen of the Regions, the Districts, the polling stations and the Referendum Offices.

Article 46: The Approval of the Referendum

The Supreme Court shall have the power to approve the Referendum activities, and shall declare its decision within 10 days of the announcement of the tentative results by the Central Referendum Office. When the Court approves the Referendum, it shall issue the final outcome of the Referendum.

Article 47: The Outcome of the Referendum

1. If, in the Referendum, the Somaliland public accepts the Constitution (YES), the Constitution shall be promulgated by the President.
2. If the outcome of the Referendum is (NO), the two Houses (the Representatives and the Elders) shall meet urgently within 7 days so as to reach a resolution about the period of the interim implementation of the Constitution¹⁰⁵, and the preparation of a new Constitution.

Article 48: Implementation

This Law shall be applicable to the Referendum on the Constitution only. This Law shall come into force on the date it is signed by the President of the Republic of Somaliland, and shall be published in the Official Bulletin.

Translated and annotated by Ibrahim Hashi Jama LL.B, LL.M
© May 2001

¹⁰⁵ See Article 130(2) of the Somaliland Constitution as set out in note 2 above.

For Details, Contact:
M. Dane Waters
Initiative & Referendum Institute
Phone 202.429.5539

Press Release

Initiative & Referendum Institute Provides Election Observers for Somaliland Referendum

Washington, DC: At the request of the Somaliland Government, the Initiative & Referendum Institute has sent ten Institute representatives to Somaliland to observe the nation's first national referendum election to be held on May 31, 2001. The election is being held to give the citizens of Somaliland an opportunity to freely cast their vote in support of or in opposition to the nation's proposed constitution. "The Institute is in Somaliland not to comment on the contents of the Constitution, but to ascertain whether or not the citizens of Somaliland are allowed to participate fully in a fair and open election," stated Dane Waters, President of the Initiative & Referendum Institute, a non-partisan non-political research organization that provides information on the initiative and referendum process to citizens and governments around the world.

"This election demonstrates the Somaliland Government's understanding that no government can be considered legitimate without allowing the citizens the opportunity to freely show their support or opposition to the proposed constitution and the rules and procedures in which the government will operate," stated Dennis Polhill, Chairman of the Institute and leader of the observation team in Somaliland.

Somaliland is located in the horn of Africa and encompasses the northwestern most portion of Somalia. Somaliland declared its' independence from Somalia in 1991. Election day, May 31st is the 10th anniversary of its declaration of independence. The country has a population estimated to be 2.5 million; 750,000-900,000 are expected to cast a vote in this historic election.

Somaliland is not officially recognized by the United States or many of the Western Nations. However, this vote, along with other steps taken by the government over the last several years, are all designed to show the international community that the country is serious in establishing a true democracy with further hopes of gaining international recognition.

The Institute will issue a report soon after the election that will provide an analysis of the extent to which the election is held in a fair and open manner, consistent with recognized international practices for referendum elections.

May 30, 2001

Statement
Initiative & Referendum Institute Somaliland Observation Team
June 7, 2001

On behalf of the American, Swiss and British observation team members assembled by the Initiative & Referendum Institute, we wish to express our deepest appreciation to the Somaliland Government and people for their help and support during our visit.

Our purpose in being in Somaliland was to witness the historic election held on May 31, 2001 that was intended to give the citizens of Somaliland the opportunity to freely cast their vote in support of or in opposition to the nation's proposed constitution. Even though it is too early to definitively state whether or not this goal was achieved, we can state that we were impressed by the level of effort in which the Government and the people put forth in seeing that the election was conducted in a fair and open manner. We must also commend the Somaliland Government and the citizens for conducting this election free of violence and must also commend the neighboring governments for not interfering with Somaliland's efforts at becoming a true Democracy. This election demonstrated the Somaliland Government's understanding that no government can be considered legitimate without allowing the citizens the opportunity to freely show their support or opposition to the proposed constitution and the rules and procedures in which the government will operate.

Our role in Somaliland was not to comment on the contents of the Constitution, but to ascertain whether or not the citizens of Somaliland were allowed to participate fully in a fair and open election. Our final report, which will be issued over the coming weeks, will hopefully help the Government and the people learn valuable lessons from this election and prepare them for future elections. No election is problem free and this election was no exception, but based on our initial observations, the election seems to have been conducted in a manner that was consistent with recognized international practices for referendum elections.

Again, we would like to express our sincere appreciation to the Somaliland Government and the Somaliland people. We are honored that they would allow us the opportunity to help them in their struggle for international recognition and wish them well. We hope that when our report is issued that it will help in their struggle.

What is the Initiative & Referendum Institute?

The Institute, a 501(c)(3) non-profit non-partisan research and educational organization founded in 1998, is dedicated to educating the citizens about how the initiative and referendum process has been utilized and in providing information to the citizens so they understand and know how to utilize the process.

The Initiative & Referendum Institute extensively studies the initiative and referendum process and publishes papers and monographs addressing its effect on public policy, citizen participation and its reflection of trends in thought and culture. We also research and produce guides to the initiative and referendum process and we work to educate and update the public on how the process is being utilized around the world. We analyze the relationship between voters and their elected lawmakers and when and why the people turn to initiative and referendum to enact changes. Already, the Initiative & Referendum Institute has garnered significant media attention. We have been interviewed or cited by numerous media outlets including, ABC News, Voter News Service, CBS Radio, Pacific Radio Network, CNN, *The Washington Post*, *The New York Times*, *The Chicago Tribune*, Fox News Channel, *The Christian Science Monitor*, The News Hour with Jim Lehrer, *The National Journal*, *The Wall Street Journal*, *Governing Magazine*, *USA Today*, Court TV's "Supreme Court Watch" and "Washington Watch", *The Economist*, National Public Radio, *Campaigns and Elections Magazine*, *U.S. News and World Report*, *Congressional Quarterly*, and dozens of other publications, newspapers and radio stations around the world.

The Institute is uniquely qualified to undertake this mission. Comprising the Institute's Board of Directors, Advisory Board and Legal Advisory Board are some of the world's leading authorities on the initiative and referendum process, including prominent scholars; experienced activists - who know the nuts and bolts of the process and its use; skilled attorneys; and political leaders.

The Institute is headquartered in Washington, DC but also has a sister organization, IRI – Europe, which is located in Amsterdam, The Netherlands.

Visit our two award winning websites at <http://www.iandrinstitute.org> and <http://www.ballotwatch.org> for additional information or contact Dane Waters, President of the Initiative & Referendum Institute via email at mdanewaters@iandrinstitute.org or by calling 202.429.5539.

**THE REPUBLIC OF SOMALILAND
SUPREME COURT**

MS/GMS/G-7/134/2001

13/06/2001

SUBJECT: Decision Relating to the Approval and Declaration of the Outcome of the Vote on the Constitution of the Republic of Somaliland

THE COURT:

HAVING SEEN:

Article 125 of the Interim Constitution of the Republic of Somaliland, which authorizes the promulgation of a law that will enable the holding of a referendum.

HAVING SEEN:

Article 130 of the same Constitution, which makes it clear that the implementation of the Constitution shall begin after the outcome of the referendum, has been approved.

HAVING SEEN:

The copies of the Registers set out in Article 40(4) and Article 42(3) of the Law of the Referendum on the Constitution, NO: 16/2000 of 12/11/2000; and the fact that no complaints have been received.

HAVING PROPERLY:

Examined and concluded that, on the whole, the voting activities of the referendum at the districts of the Republic of Somaliland conformed to the above-mentioned Articles of the Referendum Law.

HAVING CONCLUDED:

that the total of the Referendum results of the Districts was:

1. The total number of persons who registered themselves = 1,188,7467.
2. The total number of persons who voted in the Districts of the land was = 1,187, 833
3. The number of proper votes cast = 1,183,242.
4. The number of improper votes cast = 4,591
5. The total number of votes which approved of the Constitution (YES) = 1,148,940.
6. The total number of votes which rejected the Constitution (NO) = 34,302.

HAVING SEEN: The discussions and the detailed examination of the results of the Referendum and its related activities.

HAVING CONSIDERED: Article 46 of the Law of the Referendum on the Constitution, and the above-mentioned matters.

HAS DECIDED:

1. That the result of the Referendum on the Constitution of the Republic of Somaliland shows clearly that the Somaliland nation has indicated its wish to approve the Constitution by a vote of **1,147,949**, which equates to **97%**; with the number of votes rejecting the Constitution being = **34,302**, which equates to **3%**.
2. That in view of the Referendum held on 31/05/2001, the interim Constitution of the Republic of Somaliland shall, as from 13/06/2001, be approved formally and shall be implemented forthwith in the Republic of Somaliland.
3. This decision was promulgated today, Wednesday, 13/06/2001, at 11.00 am.

THE MEMBERS OF THE COURT

1.	Osman Hussain Khayre	Chairman	Signed
2.	Sheikh Mohamad Hassan Dualeh	Member	Signed
3.	Shawqi Elmi Ali	Member	Signed
4.	Mohamad Yusuf Ainan	Member	Signed
5.	Sheikh Mohamad Abdi Naleyeh	Member	Signed

The details of the results of the Referendum of the Constitution which took place in the Republic of Somaliland is attached to this Decision.