



Institute for Horn of Africa Studies and Affairs (IHASA)

Challenges to the Reconstruction of the Somali State: From a Unitary to a Federal State



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Report prepared by IHASA Research Team

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Introduction

The report explores state building in Somalia, and the challenges the country faces in moving ahead from a highly centralized unitary government to a federal system. The 1988 war against the Somali National Movement (SNM) in Northern Somalia and the 1991 ruinous civil war in South Somalia, which resulted in the death of thousands of innocent civilians and massive displacement of urban dwellers, (Kaptjein, 2013) have fundamentally altered the assumption that Somalia (one language, one ethnic, and a potentially unified culture) is a cohesive society because of its homogeneity. The civil war heightened clan animosity to the benefit of the country's political elite who used it as a tool to manipulate the affairs of the nation.¹

Prior to the 1991 civil war and its impacts that followed, there was an ostensible believe in the concept of having strong central government. However, more than 22 years of clan factionalism, lack of transparency, nepotism and mistrust among Somalia's disparate clan groupings, have cracked that assumption and eventually destroyed the very social contract that hitherto bound the Somali society together. Today, there is a persistent lack of confidence in centralism in favor of decentralization.

Yet, lack of clear understanding of how to apply and manage federalism to work in Somalia's context is pitting different political factions against one another. A major source of political factionalism is the absence of consensus on the division of power and responsibilities between the federal central authority and regional entities as well as lack of coherent guidelines for implementing the principles of the provisional federal constitution. Both issues are contributing to a stalemate in not achieving a speedy recovery, and the "rebirth of sound public institutions in Somalia.

On September 10, 2012, Somalia formed a new government led by Hassan Sheikh Mohamud which was elected by a clan-based proxy parliament to rebuild a federal state of Somalia from the ashes of the civil war. However, immediately after coming to the office with high expectations, and an overwhelming support across clans, this new Somali government had faced the challenging task of sorting out priorities, and even at times set out with the wrong priorities; for example, (1) its opposition to the prior agreed on Stabilization program by the preceding Federal Transitional Government, (2) its zeal to lobby for lifting the arms embargo without having a bottom up approach to building an inclusive national army, and (3) imposing handpicked regional administrators or potential regional state leaders are a few to mention. In a country that has been in a civil war for more than 22 years and with precarious security

¹ Kaptjeins, Lidwien, *Clan Cleansing in Somalia: The Ruinous Legacy of 1991*, *Pennsylvania Studies in Human Rights*, Pennsylvania State University Publishing, 2013.

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conditions in most of southern regions, the new government of Somalia's first order of business should have been finding ways to implement the provisional federal constitution with the objective of revamping and restoring the country's public institutions and restoring trust among Somalis.

Origins of the Failed Unitary Government

Somalia, a nation with past cohesive attributes, got its independence on the 1st of July, 1960 with the unification of the former British Protectorate (independence date of June 26, 1960) and Italian Somaliland (July 1st, 1960). As the independence of the Italian Somaliland approached, the British authorities in the former British Protectorate facilitated and proceeded with speed in the late 1950s for the latter's independence and unification with the ex-Italian territory, thus prompting "The British government...in principle to end its rule in time for British Somaliland to reunite it with the Italian territory on the July independence date that had already been decided by the UN."²

The first draft of the act of union was prepared by leaders of the British Protectorate who took it to Mogadishu's convention in April (16 through 22), 1960. With the sponsorship and facilitation by the United Nations, the late Mohamed Haji Ibrahim Egal's delegation met with its Southern counterparts at the convention. After drawing a new draft of the Act of Union, the two sides agreed to unify their territories without conditions in a unitary state under a single president who will be elected as head of state by a unified National Assembly with 123 seats. Thus, the creation of a united Republic of Somalia on 1st July, 1960, was indeed the basis for the eventual unitary system of government.

The 1960 unitary government gravely failed at the wake of the 1991 civil war, and several immediate and protracted sociopolitical issues contributed to the failure. Although the full discussion of the causes that led to the failure of the Somalia state is beyond the scope of this report, we nonetheless mention three of the major themes that led to Somalia's failed state condition:

- The tripartite power arrangement among Somalia's dominant groups to the exclusion of other groups not only eroded the concept of fairness and individual merit, but also weakened the faith that citizens entrusted in their government.
- The takeover of power by the military in 1969 and its mishandling of the war in the North in the 1980s not only promoted the concept of a Southern dominated

² *Roble, Faisal, "Local and Global Norms: Challenges to "Somaliland's" Unilateral Secession, <http://hornofafrica.newark.rutgers.edu> Volume XXV 2007*



“government at war with its people,” but also invoked a deep seated dissatisfaction and a latent secessionist ideology among some sectors within Northern Somalia .

- The 1991 paradigm shift where victorious United Somali Congress (USC) turned the war against the military regime into a civil war and what Dr. Lidwien Kapteijn (2013) calls “clan cleansing,” concluded the process of the failed state.

The combined repercussion of these three factors resulted in: (1) massive displacement of Mogadishu’s urban population, (2) the unilateral secession of the former British Protectorate, (3) the establishment of the Puntland regional state of Somalia. The ongoing formation of Jubbaland and others regional state formation processes are also a direct result of the 1991 “ruinous civil war.” Whether or not the “phoenix” of a future federalist system of Somalia emerges out of the ashes of the failed unitary state is a challenging but not an insurmountable task.

Origins of the Federal Government

After 22 years of devastating civil war and a virtual absence of governmental institutions, foreign intervention in Somalia indeed became natural and unavoidable. Many forces, primarily the United States of America (1992-1993) and the United Nations interventions in Somalia in the 1990s are notable. The unilateral invasion of Somalia by Ethiopia in December 2005 is also part of the narrative of the failed state of Somalia. However, Somalia being a member of the Union of Africa (AU) and the Inter Regional Agency for Development (IGAD), the African Union’s Peace and Security Council (AUPSC) at its 69th meeting created on January 19, 2007 the African Union Mission in Somalia (AMISOM). On February 21, 2007; subsequently, the United Nations Security Council officially approved the mission’s mandate, thus placing Somalia under a limited UN mandate. Kenya, with its unilateral Operation Linda Inchi in 2011, made Somalia a bastion for military interventions. Despite AMISOM’s 17 thousand troops patrolling mainly Mogadishu’s deadly streets and dark alleys as well as some of the South-Central regions of Somalia, an arms embargo with a robust monitoring protocol was placed on the country. In August 2012, the former transitional federal government of Somalia, with the cooperation of the United Nations Political Office for Somalia (UNPOS), completed an ambitious Road Map with an aggressive timetable. Consequently, a provisional federal constitution was adopted with a whopping price tag of over \$60 million.³

³ *Michael Weinstein has argued that the current “rushed” federal constitution left many questions unanswered and that creates a lot of confusion in implementing the tenants of the document*



Notwithstanding international support and monitoring the end of the transition, the elections of the current president and members of the parliament were fraught with undemocratic hands.⁴ Nonetheless, with AMISOM granting security, the new president is mandated to implement the provisions of the new provisional federal constitution. A renewed hope and willingness for reconstruction of the country's failed institutions filled the airwaves. [Wardheernews](#) editorial board enthusiastically captured the sentiment of the majority of Somalis by an opinion it posted on October 12, 2012.

However, such early enthusiasm masked several serious and protracted challenges which choked off the country since the 1991 civil war. Some of the most pernicious challenges included the following:

- (1) Significant parts of the country still remained under Al-Shabab terrorist control. The prospect of Al-Shabab establishing a Jihadist state in Somalia was perceived both by its neighbors and by the West as a major blow to the "war on terror." Al-Shabab is still very much alive and holds significant portion of Southern Somalia.
- (2) The new leadership in Mogadishu made its position to manage federalism from the centre emphatically known, while leaders in the regions vowed to defend the federalist gains at regional level as it is enshrined in the constitution. This difference on the type of governance to be fully implemented in Somalia is widening the gulf between centralists and federalists.
- (3) Somalis have been divided horizontally along clan lines with different regional governments mushrooming all over the country in the face of almost non-existent central government, thus making central governance nearly impossible.

Owing to several missteps or wrongheaded policies, the Somali President and his government rather quickly lost the support of large swaths of the Somali public. [The strategy of "political conflict,"](#) which, according to Dr. Michael Weinstein, the central government has lately been exporting from Mogadishu to the regions, is seemingly having unintended consequences for both the president and for the posterity of the federal republic:

- ❖ **Diminishing public confidence:** To abate loss of public confidence, the president needs to reengage all Somali citizens with the spirit of accommodating different needs and stakeholders in the country. His tarnished image as a result of

⁴ See, Paul Williams, *AMISOM*, RUSI Journal, October, 2012, Vol. 157, No. 5, Pp. 32-45



inappropriate comments attributed a visit to his birth place in the early days of his administration, or insensitive comments pertaining to those who feel to have faced “clan cleansing” in Mogadishu about 22 years ago requires tangible cultural change in his approach to post civil war political issues.

- ❖ **Rearming factional militia:** The president’s misplaced prioritization of lifting of the arms embargo was premature and completely can derail prospective talks with Somaliland. While it is important to have access to weapons as a sovereign state and be able to withstand threats coming from Al-Shabab, the current administration should have first completed a program of national reconciliation, followed by the establishment of a volunteer-based inclusive national army. Significant portion of the Somali population views Mogadishu’s current approach to arming what is perceived to be “clan militia” can possibly force the nation to succumb into another potential inter-clan strife. Also, because the country does not have the capacity to protect its own weapons, there is real risk of massive weapons falling into the wrong hands.

- ❖ **Jubbaland debacle:** Since the new government of Hassan Sheikh Mohamud came to office in September, 2012, the formation of Jubbaland state has been the center piece that marked post transitional government crisis. The government in Mogadishu wanted to assert its power over the process of regional state formation, whereas Jubbaland leaders claimed otherwise. A number of high government delegations have been to Kismayo to negotiate with the interim administration, but none have yielded any meaningful result.⁵

- ❖ **Debate over local governance:** The government’s travel to the few cities under the AMISOM military security control, such as Hiiran, Bakol, Gedo regions, and replace the existing grassroots based administrations with handpicked pro-Mogadishu individuals is all the more complicating the issue of local governance. This strategy resulted in more chaos than stable conditions. On March 28, 2013, [Members of the federal parliament from Bay region](#) came out against such policy on a press release to nullify a declaration issued by Mogadishu on February 4, 2013 which replaced the Administrator of Bay region and his cabinet as unconstitutional. The most serious act by Mogadishu government was to handpick an administrator for Gedo region

⁵ The International community -the US Ambassador in Kenya, the UK embassy, IGAD, the UN - have asked the provisional federal government for mediated talks between Kismayo and Mogadishu. Unfortunately, Mogadishu refused the mediation and chose to keep forcing a centralized authority agenda to be imposed on Jubbaland. Ultimately, Jubbaland interim administration prevailed and a draft regional constitution t was adopted on April 2, 2013.



only days after the Prime Minister concluded a consultation meeting with the leaders of Jubbaland. In the words of Paul D. Williams, “AMISOM’s biggest long-term challenge is Somali politics – and once again this sphere is in transition.” Furthermore, international community -the US Ambassador in Kenya, the UK embassy, IGAD, the UN - have asked the provisional federal government for mediated talks between Kismayo and Mogadishu. Unfortunately, Mogadishu refused the mediation and chose to keep forcing a centralized authority agenda to be imposed on Jubbaland. Ultimately, Jubbaland interim administration prevailed and a draft regional constitution t was adopted on April 2, 2013.⁶

Challenges to the Federal Government

In addition to the longstanding historical and structural problems the initial euphoria surrounding the election of a new president and parliament masked, there are immediate challenges that are hindering any meaningful progress to manage the transition of governance, and the realization of a fully functioning united federal government of Somalia:

Constitutional Challenges

The current administration of Somalia has a provisional constitution at hand without implementation tools in place. Moreover, the constitution is not complete and has not been publically ratified. This leaves the entire constitution wide open to disparate and divergent interpretations and as such could be corrupted by an administration that does not support key provisions in the current constitution. For example, according to [Section 1 of Article 1 of the new provisional](#) constitution adopted on August 1, 2012, Somalia is defined as a federal, sovereign, and democratic republic founded on inclusive representation of the people, a multiparty system advised by social justice towards the country’s different regions. Furthermore, Section 6 of Article 49, whose original intent was to mediate between the interests of the center vs. the periphery regions, states that based on a voluntary decision, two or more regions may merge to form a Federal Member State.⁷

Yet the current administration in Mogadishu appears to have politicized the intent of this article. Many regionalists argue that the central government is intent on dictating the

⁶ *ibid*, Williams, Paul, AMISOM

⁷ *There is a need to establish a clear protocol on implementing the goals of Article 1 of the constitution and ensure that subsequent Articles, Sections and Subsections are reconciled with that goal. This could easily be accomplished through implementation ordinances or guidelines agreed upon by all state holder.*



formation and nature of federal states. For example, hand picking regional administrators without much consideration to the spirit of the provisional federal constitution, is a foreign concept to the existing constitution. If the government succeeds to do so, it would undoubtedly alter the current structure of the constitution and potentially narrow the rights of the regions.

In the absence of a clear constitutional implementation program and guidelines, there is a potential deadlock between the center (Mogadishu) and the regions (federal states). If such problems are not carefully addressed, Mogadishu could emerge as the loser and may not have much relevance to the affairs of the regional states; the current government in particular may waste its four years in office on doing nothing but squabble on procedural issues in lieu of reconstruction of the country's institutions.

Political Challenges

During the past 22 years, in the absence of any functioning central government, regions and their inhabitants took initiatives to organize their own local governance to ensure peace and security for their citizens. Regionalists believe that the current government in Mogadishu is undermining local empowerment of the regions at the expense of a center that is plagued by political instability.

Northern Somalia (Somaliland), for example, has declared a unilateral independence on May 18, 1991. Even though no single country has yet recognized it, the region has achieved remarkable peace and stability with a modicum of democratic institutions in full swing. Likewise, the autonomous region of Puntland has registered remarkable progress in both peace and good governance. In the case of the emergent Jubbaland state, where remarkable grassroots efforts have been under way to establish local governance since 2008, the current central government, despite its young age, has shown tenacity to draw a conflict line on the sand and refused to mediate the issues of centralism and regionalism. As if the problems emanating from Jubbaland were not enough, new conflicts are emerging in Lower Shabele, Bakool, and Bay and even inside Mogadishu, where the indigenous and traditionally unarmed groups are demanding respect for their political space. All these problems are resulting from the absence of any implementation program or guidelines to correctly deliver the provisions of the constitution.

Security Challenges

A good portion of the country is still under the de facto control of the Harakat Al-Shabaab al-Mujahideen Movement (Al-Shabab), a militant Islamist movement declared and designated as a global terrorist by the U.S. Department of State in 2008 as well as by most

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Western countries. Recently, a number of assassinations and car bombings in Kenya have been alleged to have been committed by Al-Shabab.⁸ There are other fundamentalist groups, such as Hisbul Islam, that are still conspicuously operating in the southern parts of the country and resist a federal constitutional framework.

AMISOM in particular and neighboring countries in general have been actively supporting financially the Somali government in its effort to rebuild the country and create stability. The Grand Stabilization Plan for South-Central regions of Somalia is to support the Provisional Federal Government (PFG) and facilitate the emergence of an inclusive local political settlement as well as assisting to establish credible administrative arrangements in the liberated areas. This Plan is part of the wider strategy of liberating the occupied area from Al-Shabab, and supporting the provisional federal government to facilitate for regional states to organize local communities along the forces that liberated the area.

Recommendations

We believe that a war torn Somali society should at minimum secure local democratic rights and at best collectively revamp its failed national institutions. In that view, we recommend the following steps as a road way to arrest the deteriorating political condition of the current government:

- Draft a constitutional implementation ordinance(s) that gets input from the regional governments as well as from different civil societies in the country. This implementation ordinance or ordinances must spell out the authorities and mechanics to establish regional governments and the role of the federal government per the spirit of federalism.
- Address some of the basic and important consequences of the civil war, such as repatriations of the Somali refugees from Kenya and Ethiopia, evacuating land and houses taken by unlawful residents in the capital city of Mogadishu and elsewhere.
- Create reconciliation and justice commission to address crimes against humanity as well foster and promote an environment of confidence and impartiality in the government.
- Support all the regions equally to fight the extremist Al-Shabab group, and start to implement confidence building measures and ameliorate the central government's overemphasis on "political conflict."

⁸ *The US government who in recent past pushed for the lifting of the 20-year-old arms embargo on Somalia changed its position, and on April 5, 2013 President Obama issued an executive order to re-impose the embargo emphasizing the precarious nature of Somalia's security.*



- Declare Mogadishu a “national charter city” to be administered by the federal government, with particular emphasis given to the diversity of its administration and council seats to all Somalis regardless of their home town or region.
- Create a vision to move the nation beyond factionalism and division and look at the long term collective interest of the country so as to regain the cohesion that once defined this beleaguered nation.

