

**The Republic of Somaliland**

**The Case for  
A Democratic African State**

**Ministry of Foreign Affairs and International Cooperation**

**2016**

## Contents

1	Introduction .....	3
2	Independence and Union with Somalia .....	4
3	Early expressions of Somaliland’s immediate disillusion with the hasty union .....	7
3.1	Referendum on the Union Constitution 1961 .....	7
3.2	Somaliland Coup d'état in 1961 .....	7
3.3	General dissatisfaction .....	7
4	Military Rule and Human Rights Violations in Somaliland, 1969-199.....	8
5	The Right to Self determination .....	9
6	Somaliland State and Re-instatement of Sovereignty in 1991.....	10
7	The Referendum on Somaliland Constitution, 2001 .....	10
8	Nation-wide Presidential, Parliamentary and Municipal Elections 2002 – 2012.....	11
9	A Democratic State, unrecognized but acknowledged as a state -.....	11
10	National Petition, 2016 .....	12
11	International Opinion on the Status and Recognition of Somaliland .....	12
12	Unions and disunions in Africa and elsewhere .....	15
	Annex I. ....	17
	Annex II. ....	18
	Annex III. ....	25
	Annex IV: .....	28
	Annex V. ....	29

# 1 Introduction

The Republic of Somaliland is located in the Horn of Africa and borders the Gulf of Aden to the north, Djibouti to the northwest, Ethiopia to the south and west, and Somalia to the east. The total area of the country is 176,119 square kilometers (6,800 sq miles), and has a coastline which is about 870 kilometers long. Present-day Somaliland constitutes the territory of the former British Somaliland Protectorate which, on independence on 26 June 1960, became the sovereign State of Somaliland. That state was re-born on 18 May 1991 when the Somaliland withdrew from the failed union with Somalia, and has, despite lack of international recognition, been functioning again as a peaceful and democratic state. It is home to about 4 million people of which around 50 percent pursue pastoralism as a way of life.

Somaliland has a unitary form of government with elected local district councils. Regional governors co-coordinating the locally based central government branch offices are appointed by the president, while districts/city mayors are voted for by democratically elected councilors. With adoption of a final constitution (preceded by a 1993 Charter and a 1997 Interim Constitution) endorsed by a national referendum in 2001 and the establishment of political parties, Somaliland has since held nation-wide local elections, parliamentary and presidential declared free and fair elections by international observers.

Historically, as in many other countries in Africa and Asia, ethnic Somalis who live in the Horn never shared, before the advent of colonialism, any common state, and so Somaliland developed its own distinct and separate political entity from Somalia, which was colonised by Italy. This separate national identity based on the internationally delineated territory of the British Somaliland Protectorate continued to exist during the short-lived independence of the State of Somaliland and survived, as a distinct identity, throughout the decades of the rushed and regretted union with Somalia. With the dissolution of the failed union on the re-assertion of Somaliland's independence in May 1991, the independent Somaliland State was re-born as the Republic of Somaliland.

It is not uncommon for states that formed unions with the other states for short or long periods to reclaim their independence. Senegal and Mali applied to, as the Federation of Mali, for UN membership on 23 June 1960 and the UN Security Council agreed and recommended the UN membership of the Federation on 28 June 1960. Egypt and Syria as the United Arab Republic as well as the Malaysia and Singapore unions and disunions were other relatively short lived unions that were dissolved, but there are also examples of the dissolution of long unions and reversions to previous statehood in for example, the cases of Serbia and Montenegro, and the cases of both Poland and the Czech state, each of which had gone through a very long period of union with another state. It is worth noting that even where, in long periods of union, the statehood may be lost, the peoples of these former states retained their previous national

origins derived from their former states despite acquiring new citizenships (or nationality) during their new unions, and, with that distinct national origin, they are entitled, as a people, to exercise their right to self-determination.

The initial nine years of the union of Somaliland and Somalia which proved to be highly lopsided and unsatisfactory but were, at least democratic were followed by two decades of a military, one-man dictatorship rule. The constitution (with its linked Act(s) of union) was immediately abrogated, political parties and associations were banned, and oppressive drastic decrees were introduced which curtailed the fundamental rights and freedoms. This culminated in the 1980s with targeted oppression of the majority of the Somaliland people, the destruction of their towns and considerable loss of life. There were no avenues for exercising internal self-determination and in the end when the regime fell and another unelected group in Somalia claimed to take power in January 1991, the Somaliland people decided to dissolve the union and reassert their sovereignty on 18 May 1991. This exercise of self-determination was not unlawful under international law and should be seen within that context. Since then, the world has been fully aware of what happened in Somalia during the last 25 years and Somaliland set out to build a peaceful and democratic state and, despite lack of international recognition, has made considerable advances.

The Republic of Somaliland meets the criteria of statehood and is accepted by many countries as a functioning country but unfortunately its unique claim of statehood has been obscured by the international community's preoccupation with making peace in Somalia and the increasing practice of collective consideration of recognition issues. When the 1980s years of a Somali 'Government at War with its people' are added, Somaliland's years of separation from Somalia surpass the two early decades of the union. There is no turning the clock back and Somaliland has repeatedly confirmed that Somalia's acceptance of two sisterly states that can cooperate on mutually beneficially areas is the only option that can ensure peace and prosperity for both countries and for the whole region.

The talks between Somaliland and Somalia about their future relations, which were recommended by the international community at the 2012 London Conference have not achieved much at all. It appears that the support and recognition extended to the Somali government by many countries which was meant to encourage the development of peace, governance and the rule of law in Somalia, have been taken as a carte blanche for pressing for re-union. This does not bode well for the future of the talks and the need for direct involvement of the international community in this process is more pressing.

## **2 Independence and Union with Somalia**

The British Somaliland Protectorate was officially proclaimed in July 1887 and all the population acquired the nationality of the protectorate. Somaliland received its independence from Great

Britain on 26 June 1960, by Royal Proclamation of Her Majesty Queen Elizabeth II (See Annex I). The independent State of Somaliland was the 15<sup>th</sup> state to gain independence in Africa and was immediately welcomed to the community of nations by a number of UN member States (about 34), including the five permanent members of the Security Council. The sovereign State of Somaliland concluded a number of treaties with the United Kingdom which were deposited at the United Nations under Article 102 of the UN Charter which deals with registration of treaties and international agreements between states. However short the independence of the State of Somaliland was, it was indeed a fully-fledged sovereign state with its own constitution, an elected legislature, a cabinet headed by a Prime Minister, a nationality, and an army etc.

Even though it was abundantly clear in the various woefully deficient 1960-61 Acts of Union between Somaliland and Somalia that two independent states of Somaliland and Somalia were aiming to form a union, there are sadly still some who think that Somaliland was a region of Somalia. This was partly fostered by the reference to so called five Somali ‘territories’, when indeed three of those were and are separate countries/states and only two – the Ethiopian and Kenyan areas inhabited by people of Somali ethnic origin – could have been correctly described as ‘territories’.

As Somaliland people were, at that time, keen to unite with Somalia, so as to form eventually “the Greater Somali Republic” with the third country (French Somaliland) and with the two neighbouring Somali inhabited territories in Ethiopia and Kenya, it passed hastily on 27 June 1960, the day after independence, the Union of Somaliland and Somalia law. This was intended to lay the foundation for the legal and political union of the two countries. As previously agreed with Somalia, the *Law of Union between Somaliland and Somalia* (Law of Union), was to enter into force as a treaty between the two independent states upon being signed by the “duly authorized representatives of the peoples of Somaliland and Somalia”. This requirement was already set out in the draft Constitution which predicated the signing of ‘the Act of Union’ of Somaliland and Somalia (as one agreed text) before the two combined Legislative Assemblies can proceed to any other business, such as electing the Provisional President of the new Republic.

Although the same text was forwarded previously to the Somalia Legislative Assembly, the latter met to consider the text on 30 June 1960 (the eve of Somalia’s independence) and approved “in principle” a different *Atto di Unioni* (Act of Union)<sup>1</sup> which differed substantially from the Act passed by the Somaliland Legislature. With no agreed instrument of union, the two legislative assemblies met the next day and proceeded, contrary to the constitution itself, to elect a provisional President of the Republic, and the Speaker of the Legislative Assembly. The provisional President promulgated a short Decree Law (DL – see Annex III) not addressing the union but aiming to legitimize the continuation of the existing Somalia administration until

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<sup>1</sup>[“Somaliland and Somalia: The 1960 Act of Union – An Early Lesson for Somaliland,” http://www.somalilandlaw.com/Somaliland\\_Act\\_of\\_Union.htm.](http://www.somalilandlaw.com/Somaliland_Act_of_Union.htm)

changes were made, but that decree law which needed approval by the Assembly to convert into a law was never converted.

Cotran [(1968)12 ICLQ 1010] comments that the legal validity of the legislative instruments establishing the union was “questionable” and he summarizes the reasons as follows:

*“a) The Union of Somaliland and Somalia Law, and the Somalia Act of Union were both drafted in the form of bilateral agreements, but neither of them was signed by the representatives of the two territories.*

*b) The Union of Somaliland and Somalia Law purported to derogate in some respects from the Constitution of the Somali Republic.*

*c) The Somalia Act of Union was approved “in principle” but never enacted into law.*

*d) The decree law of July 1, 1960, did not come into effect since it was not converted into law in accordance with the Constitution.”*

The rejected Union of Somaliland and Somalia included provisions about:

*a) laws applicable in Somaliland*

*b) the establishment of a special parliamentary Commission of equal representation dealing with the initial consideration of changes to the differing laws,*

*c) the rights of Somaliland serving officers, which should not become less favourable than what was applicable to them at the time of the union, and*

*d) the status of the union treaty vis-a-vis the constitution.*

With the exception of a minor change on the constitution relating to the civil service, these were, in effect, the only conditions that Somaliland put forward. No agreement was reached on any of these points and in January 1961, a new Act of Union, different in many respects from the Somaliland Law of Union was passed by the combined Assembly consisting of 90 Somalian member and 33 members from Somaliland. The January 1961 Act of Union was made retrospective and applicable from 1 July 1960. It repealed all “the provisions of the Union of Somaliland and Somalia (Law No.1 of 1960)” except for Article 11(4) which, related to treaties entered into by the **independent State of Somaliland** (Article 9(2) of the 1961 Act of Union), according to which:

*“all rights lawfully vested in or obligations lawfully incurred by the **independent Governments of Somaliland and Somalia...** shall be deemed to have been transferred to and accepted by the Somali Republic upon its establishment”*

**This confirms first of all that there was an unconstitutional merger between two states, but secondly and more importantly, that Somaliland was an independent state prior to the union.**

### **3 Early expressions of Somaliland's immediate disillusion with the hasty union**

#### **3.1 Referendum on the Union Constitution 1961**

Clear evidence of the Somaliland people's dissatisfaction with the union was demonstrated in the referendum on the new constitution<sup>2</sup> of the Republic held on 20 June 1961. Much of the population chose to boycott the referendum to display their displeasure, but of those who voted, the majority (53%) voted against the Union. In the four most populous of Somaliland's six districts, the 'no' vote ranged between 60% and 72%.

The Constitution of the Republic, which was after all a constitution drafted for Somalia and agreed to hastily by the Somaliland delegation as forming the initial basis of the union was found immediately wanting in actual practice. The government in the all-encompassing capital of Mogadishu which has turned the former capital of Somaliland into a distant small town did not gain legitimacy in Somaliland as it failed to fulfill the expectations of an equal union of two states.

#### **3.2 Somaliland Coup d'état in 1961**

Another sign of early discontent with the union manifested itself in December 1961 when a group of army officers of Somaliland origin staged a rebellion against the government to reinstate Somaliland's sovereignty. The rebellion was in part based on the lopsided nature of the union and the fact that the pre July 1960 Somalia institutions and politicians continued to look only after their interests and acted as 'business as usual' without any regard to the new partner in the union. The uprising was quickly suppressed, but when the planners were brought to court in March 1963, the British Judge who presided over the case dismissed the charges on the basis that there was no Act of Union between Somaliland and Somalia.

#### **3.3 General dissatisfaction**

Dissatisfaction in the Somaliland had assumed such proportions that the Mogadishu government was moved to send a special team of Somaliland ministers to 'sort out the situation'<sup>3</sup>. As a mark of solidarity with the Somaliland people's disappointment with the

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<sup>3</sup> I M Lewis, *The Modern History of Somaliland* (Weidenfeld and Nicolson, London 1965) 176

'Union' Somaliland ministers, including Mohamed Haji Ibrahim Egal, Sheikh Ali Ismail and Yusuf Ismail Samatar resigned from the government in October 1962, and several days later Somaliland representatives walked out of the National Assembly and undertook to boycott it.

The hasty union with Somalia was propelled, from the part of Somaliland, by the burning desire to regain the Haud and Reserved Area which were finally transferred to Ethiopia by the United Kingdom in 1954 and the hope that a larger union may bring about also the union of the other Somali inhabited territories. That hope was fairly quickly dashed as Ethiopia had no inclination to change its previously declared stand and the Northern districts of Kenya were firmly kept within Kenya on its independence in 1963 contrary to the stated wishes of their Somali inhabitants. This proved quickly that the dream of a greater union of Somali inhabited areas was totally unattainable.

#### **4 Military Rule and Human Rights Violations in Somaliland, 1969-1991**

In October 1969, a military coup overthrew the civilian government and abolished the Somalia republic's constitution (and its linked Act of union). This effectively revoked and undermined the very foundations of the purported 'union'. Subsequently, in 1979, the Constitution was replaced by a new constitution which had no connection or bearing with the constitution of 1960. Since the alleged 'union' government and its constitution ceased to exist, the claimed 'Union state' also ceased to exist in principle.

Once the prime minister deposed by the Military in 1969, Mohamed Haji Ibrahim, who hailed from Somaliland, was removed, the junta adopted a policy towards the people of Somaliland marked by cruelty and draconian measures. Persecution, harassment, intimidation, confiscation of property, arbitrary imprisonment, discrimination and denial of basic human rights became the order of the day. The prime Minister himself spent 6 years behind bars in detention without trial. When popular resistance to these measures increased with the formation of the Somaliland National Movement (SNM) in 1981, the regime responded by escalating its oppressive measures against the people of Somaliland through widespread rape, torture and collective punishment.

The regime's attempt to quell dissent, which was marked by a systematic attempt to employ ethnic cleansing tactics against the civil population of Somaliland evolved into a fully-fledged attempt to massacre and eradicate the population. The regime waged a war on the people of Somaliland, mining roads and water points, deploying Government artillery and aircraft to bombard towns reducing them to rubble. In 1988 the army and the air force of the government relentlessly bombarded Hargeisa, the capital city of Somaliland, until they reduced it to rubble, displacing half a million people who took refuge in camps in Ethiopia. The military campaign against the civilian population continued unabated leading to the death of over 50,000 people, until the defeat of the army by

paramilitary groups, such the Somali National Movement (SNM) and the United Somali Congress (USC), which led to the final collapse of the government in January 1991.

## **5 The Right to Self determination**

The systematic and egregious abuse of the human rights of the Somaliland people by the state has been well documented by international human rights organizations such as Amnesty International and Human Rights Watch, which published a 268-page report on the war the government waged against its people. The report was based on research and interviews with newly arrived refugees in Djibouti, England and Wales. The report provided eyewitness accounts of the genocide carried out by the state.

The sustained abuse and denial of the most basic human rights by the state provides further justification for the people of Somaliland to exercise their right to self-determination under international law. The United Nations Charter states that: 'Nations, based on respect for the principle of equal rights and fair equality of opportunity, have the right to freely choose their sovereignty and international political status with no interference'. It is clear that the people of Somaliland were treated neither fairly nor equally under the unlawful union and occupation.

The United Nations (UN) case for self-determination is laid out in the December 1960 "Declaration on the Granting of Independence to Colonial Countries and People," which states, "All peoples have the right to self-determination; by virtue of that right they freely determine their political status."

The UN Charter of 1945 also specifically mentions self-determination. Article 1(2) speaks of the "development of friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples." Article 73(b) clearly advocates for the political aspiration of nations when it states that UN members are obligated "to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions." Additionally, article 21(3) of the 1948 Universal Declaration of Human Rights states unequivocally that, "The will of the people shall be the basis of the authority of government."

Even prior to the advent of the UN declarations and statements, self-determination, as a right, was widely accepted. The Montevideo Convention of 1933 determined that, "Even before recognition the state has the right...to organize itself as it sees fit, to legislate upon its interests, administer its services, and to define the jurisdiction and competence of its courts."

In an influential opinion, the Canadian Supreme Court found that a right to secession may arise "under the principle of self-determination of people at international law where 'a

people'...is denied any meaningful exercise of its right to self-determination within the state of which it forms a part."

## **6 Somaliland State and Re-instatement of Sovereignty in 1991**

At the Grand Buraao Conference in 1991, following the defeat of the Somalia military dictatorship, the people of Somaliland decided to restore their sovereignty and liberate themselves from the unlawful occupation and union with Somalia. The conference was attended by all the traditional leaders and clans of Somaliland. The conference appointed a transitional government under the leadership of the Somali National Movement, which subsequently reinstated the independence of Somaliland.

The Borama Conference in 1993 marked the continuation of the state-building processes which had taken shape in Buraao in 1991. The traditional elders who gathered in Borama elected a new Government, a new House of Representatives as the 'Lower House', and a house of Elders or 'Guurti' as the 'Upper House'. The conference ratified two charters, the Peace Charter and the National Charter. The Peace Charter was concerned with peace and reconciliation among the clans in Somaliland, while the National Charter covered administrative issues and relations among the governing bodies of the state. The state structure was therefore a hybrid of traditional and western-style forms of governance.

From 1991 to 1997, Somaliland managed to build public institutions, and establish government authority with limited international support and engagement. The development of these institutions contributed to Somaliland's stability and democratization. The institutions that evolved during this period have survived to date and are in a robust state of health. The Parliament's Upper House, the Assembly of Elders (Guurti) has become an indispensable force in maintaining Somaliland's peace. That successful political reconciliation and peace building process has provided the ground for successful political transformation.

## **7 The Referendum on Somaliland Constitution, 2001**

In 1993, Somaliland adopted a National Charter which laid the path towards the adoption of a constitution. In 1997, an interim constitution was agreed upon at another national conference in Hargeisa. The Conference established formation of political parties, holding of democratic elections and a schedule for a referendum on the constitution. This laid the foundation for Somaliland to become one of the most well-functioning and genuinely representative constitutional democracies in the East African region. On 31<sup>st</sup> May, 2001, a constitutional referendum was conducted, which declared Somaliland to be an Independent Republic, and thus was effectively a vote on the status of Somaliland as a sovereign state. The Constitutional referendum was voted on by 1.18 million people with an overwhelming 97.7 per cent of the voters approving it.

## **8 Nation-wide Presidential, Parliamentary and Municipal Elections 2002 – 2012**

On 15 December 2002, Somalilanders went to the polls for the first time in more than thirty years when they voted in municipal elections to elect 379 councilors in 23 districts in Somaliland's six regions. The election also served as a means to establish the three leading political parties that would take part in future elections. The first presidential election was held in April 2003. Three candidates from the three official parties contested, and the election was won by the incumbent by a margin of only 83 votes. However, the other candidates did not contest the result, which demonstrated the people's commitment to the democratic process. The first parliamentary elections, in which 82 seats for the House of Representatives were contested, was conducted in September 2005.

In May 2010, a second presidential election was held. This was followed by the second municipal elections conducted in November 2012. All the elections were monitored by international observers and were declared to be free and fair. As a further sign of legitimacy, the results received the endorsement of the international community.

## **9 A Democratic State, unrecognized but acknowledged as a state -**

Since 1991, when Somaliland liberated its territories and reinstated its sovereignty, it has established its own government, parliament and judicial system, thereby fulfilling all the traditional requirements of statehood, such as:

- a) A permanent population estimated as 4 million
- b) A territory defined by international colonial boundaries set under the following treaties: The Anglo-French treaty of 1888, The Anglo Italian protocol of 1894, and the Anglo Ethiopian Treaty of 1897, and properly delineated mostly during the 1930s. A stable System of government which exerts authority over its territory
- c) The capacity to enter into relations with Sovereign states and international organizations

Somaliland has a well-established government, its own security forces, flag, anthem, insignia, currency, central bank and passport, and over the past two decades, it has signed agreements with many states, international organizations and companies.

Somaliland has established offices and representatives in more than dozen countries around the World including: USA, Canada, UK, Sweden, France, Norway, Belgium, Ethiopia, Djibouti, Kenya, UAE, Yemen and China. On the other hand, several countries including Ethiopia, Djibouti, and Turkey have established representatives and consulates in Somaliland. In addition

22 UN agencies including UNDP, UNFPA, UNAIDS, UNHCR, UNICEF, WHO and WFP represent the UN in Somaliland. The country complies with international rules, regulations and protocols like any other sovereign country, and Somaliland nationals have travelled with the Somaliland passport to countries in every continent.

As a mark of the increasing acceptance of Somaliland's sovereignty and independence, three elected local authority councils in the UK have approved motions that endorsed Somaliland's right to self-determination and recognition:

- a) Sheffield Council – April 2014
- b) Cardiff Council – March 2015
- c) Tower Hamlets Council in London – November 2015

It is important to note that for the past 25 years Somaliland has charted its own path and determined its own political process. It has never been part of the Somalia political architecture including the present iteration of the Federal Project. It has never attended any of the conferences sponsored by the international community for Somalia, nor has it ever sent representatives to partake in any of the political activities in Somalia. Somaliland did enter into a dialogue with Somalia in 2012, but this was on the basis of being two neighbouring states that were equal, separate and distinct, and in the interests of pursuing peaceful coexistence, and cooperation on issues of mutual interest.

## **10 National Petition, 2016**

To mark the 25<sup>th</sup> anniversary of the reinstatement of Somaliland sovereignty and statehood, the people of Somaliland created a petition, signed by one million and twenty one thousand (1,021,000) citizens, which appealed for the formal recognition of Somaliland by the international community. The petition campaign which was conducted over the course of three months, involved a team of 246 activists, and was carried out according to international standards. The number of signatories of the petition clearly shows the depth of the support of the Somaliland people for independence and illustrates their unwavering aspiration to have their country, which has been independent for 25 years, to be internationally recognized as a sovereign state.

## **11 International Opinion on the Status and Recognition of Somaliland**

The legitimacy of the Somaliland case for recognition is widely recognized from a moral, legal and political standpoint. The following are quotes, testimonials and opinions of international organizations and notable figures acknowledging Somaliland's achievements, strategic

importance, the uniqueness of its case, its right to self- determination and independence and the consequences of the denial of recognition for its people.

**2003 - *The Department of Foreign Affairs, Republic of South Africa***

- “It is undeniable that Somaliland does indeed qualify for statehood, and it is incumbent upon the international community to recognize it. Any efforts to deny or delay would not only put the international community at risk of ignoring the most stable region in the Horn, it would impose untold hardship upon the people of Somaliland due to the denial of foreign assistance that recognition entails.”
- “The interest of world peace and stability require that, where possible, the division or fragmentation of existing states should be managed peacefully and by negotiation. But where this is not possible, as is the case with Somalia, international law accepts that the interests of justice may prevail over the principle of territorial integrity.”
- “Somaliland had not only been a separate colonial unit but actually a separate independent state...which makes Somaliland’s case unique and special as a legal justification for secession when things have not worked out”.

**2004 - *Sir Tony Baldry MP, former UK Foreign & Commonwealth Office Undersecretary of State (2004)***

- “The people of Somaliland have worked extremely hard to rebuild their country and community, and they deserve our help and support.”

**2004 - *Chris Mullin, then Foreign Minister in charge of African Affairs,***

- “In a region torn by war and chaos Somaliland stands out as a beacon of stability and progress...In the long term, however, sustainable development and prosperity in Somaliland will only be possible if there is peace and stability throughout the region...Let me assure you, however, that the British government will never be party to an agreement that pushes you – against your will – into a forced marriage with the South.”

**2005 – *African Union– Fact Finding Mission***

- Somaliland received an AU Fact- Finding Mission in April, 2005 which visited and stayed in Somaliland from 30 April to 4 May 2005. The mission’s aim was to understand and monitor the prevailing situation politically, economically and socially. After finalizing their visit the Mission stated in their report that since its declaration of independence in 1991, Somaliland has been consistently laying the foundations of a democratic State,

clothed with the relevant attributes of a modern state. The Mission made the below statement:

- *“Going by the clear presentation and articulate demands of the authorities and people of Somaliland concerning their political, social and economic history, Somaliland has been made a “pariah region” by default. The Union established in 1960 brought enormous injustice and suffering to the people of the region. The fact that the “union between Somaliland and Somalia was never ratified” and also malfunctioned when it went into action from 1960 to 1990 makes Somaliland’s search for recognition historically unique and self-justified in African political history. Objectively viewed, the case should not be linked to the notion of “opening a Pandora’s box”. As such, the AU should find a special method of dealing with this outstanding case.”*

#### **2006 - The International Crisis Group report**

- ‘The African Union’s challenge is to provide timely, neutral leadership in order to ensure a just, peaceful and enduring settlement, before confrontation and violence becomes the only option imaginable by both parties’
- ‘Somaliland should be given AU observer interim status analogous to the observer status it has granted 31 non-African States or the status of the Palestinian Authority at the UN’

#### **2008 – US Secretary of Defense**

- ‘Somaliland is an entity that works’

#### **2008 - African Union Follow up Fact Finding Mission**

- ‘As a peace dividend the International community should provide institutional capacity building support to Somaliland infrastructure and facilitate its access to the international and regional financial institutions and banking systems’

#### **2010 - The African Union Peace and Security Council directed the AU Commission Chairperson to:**

- ‘Broaden consultations with Somaliland’

#### **2011 – Brenthurst Foundation Study Report**

- ‘Recognition of Somaliland would be most effective means to ensure security in an otherwise troubled and problematic region’
- ‘At a time when ungoverned spaces have emerged as a major source of global concern, not least in this region of the world, it is deeply ironic that the international community denies itself the opportunity to extend the reach of global governance in a way that would be both beneficial to itself, and to the people of Somaliland’

- ‘For Africa, Somaliland’s recognition should not threaten a Pandora Box of secessionist claims in other states. Instead, it offers a means to positively change the incentives for better governance, not only for Somaliland, but also in south-Central Somalia’
- ‘Recognition would illustrate that African borders, far from being sources of insecurity, can be a source of enhanced state capacity’

#### **2011 – EU Commissioner for Development**

- ‘The European Union welcomes the contribution that Somaliland is making to peace and good governance in the region. It is an encouraging example of peace, democracy and stability’.

#### **2011- Henry Bellingham, UK Africa Minister**

- ‘The UK is proud of its historical ties to Somaliland, and we are keen to maintain and strengthen our close relationship’

#### **2016 –Raila Odinga–Kenya, former Prime Minister, Opposition leader**

- ‘..I was one of the first leaders to go to Somaliland when my late friend Mohamed Egal was still alive, and I saw what was done at that time, and I know the history of that union between Somaliland and the South and it was not happy.’
- ‘...There is a very strong case for the recognition of Somaliland as an independent state’

## **12 Unions and disunions in Africa and elsewhere**

While the Somaliland case is of course unique, there are nevertheless a number of relevant historical precedents, and the idea of one country separating from another is not entirely new to the African continent. Historically the African Union permitted states to reclaim and retrieve their sovereignty following the dissolution of an unsuccessful union:

- a) Syria and Egypt created a political union, the United Arab Republic (UAR) in 1958, which was subsequently dissolved in 1961.*
- b) French Sudan and Senegal united as Mali in June 1960 and split in August 1960.*
- c) Senegal and Gambia formed Senegambia in 1980, and then parted ways in 1989.*
- d) In 1950 The UN General Assembly passed a resolution to federate Eritrea and Ethiopia. In 1962 Ethiopia annexed Eritrea, but the two countries separated following a UN monitored Referendum in 1993.*
- e) After two civil wars (1955-1972) and (1983 -2005); a peace deal in 2005, and a referendum in 2011, South Sudan seceded from Sudan. In all five cases the international community accepted and acknowledged the separation.*

In a similar fashion, following the end of the Cold War, successor state claims were a key factor in reestablishing the independence of former Yugoslav Republics and Soviet Socialist Republics. Political scientist Henry Srebrnik (2004) asserts that, "Certainly, in terms of international law, Somaliland has a stronger case to qualify for statehood than did Bosnia-Herzegovina following the dissolution of Yugoslavia". Yet, Bosnia-Herzegovina has been accepted as a UN member since May 22, 1992.

## Annex I.

### Somaliland Independence

#### Royal Proclamation of her Majesty

#### The London Gazette

Published by Authority

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*Registered as a Newspaper*

*For contents see last page*

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FRIDAY, 24TH JUNE 1960

STATE INTELLIGENCE

BY THE QUEEN

A PROCLAMATION

TERMINATING HER, MAJESTY'S

PROTECTION OVER THE

SOMALILAND PROTECTORATE

ELIZABETH R.

Whereas the territories in Africa known as the Somaliland Protectorate are under Our protection :

And whereas by treaty, grant, usage, sufferance and other lawful means We have power and jurisdiction in the Somaliland Protectorate:

And whereas it is intended that the Somaliland Protectorate shall become an independent country on the twenty-sixth day of June 1960 (hereinafter referred to as " the appointed day " ) :

Now, therefore, We do hereby, by and with the advice of Our Privy Council, proclaim and declare that, as from the beginning of the appointed day, Our protection over the territories known as the Somaliland Protectorate shall cease, and all treaties and agreements in force immediately before the appointed day between Us or Our Government of the United Kingdom of Great Britain and Northern Ireland and any of the Tribes of the said territories, all Our obligations existing immediately before that day towards the said territories and all functions, powers, rights, authority or jurisdiction- exercisable by Us immediately before that day in or in relation to the said territories by treaty, grant, usage, sufferance or otherwise, shall lapse.

Given at Our Court af (Buckingham Palace this .twenty-third day of June in the year of our Lord one thousand nine hundred and sixty, and in the ninth year of Our Reign.

GOD SAVE THE QUEEN

**Annex II.**

**Somaliland – Somalia Act(s) of Union**

**ATHE UNION OF SOMALILAND AND SOMALIA LAW**

**THE SOMALILAND GAZETTE**

Published under the authority of the Council of Ministers

Vol.1, No. 3, HARGEISA, 5<sup>th</sup> July, 1960.

TABLE OF CONTENTS

SUPPLEMENT No. 2

(Containing a Law)

LAW No. 1. The Union of Somaliland and Somalia Law

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**Supplement No. 2 to the Somaliland Gazette,**

**Vol. I No. 3, dated 5<sup>th</sup> July 1960**

**Containing Law**

**LAW**

**No. 1 of 1960**

Assented to by the Council of Ministers

Mohamed Ibrahim Egal

Ahmed Haji Dualeh

Ali Garad Jama

Haji Ibrahim Nur

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## THE UNION OF SOMALILAND AND SOMALIA

### LAW

#### **Preamble**

WHEREAS the State of Somaliland achieved independence and ceased to be under British protection or within the jurisdiction and sovereignty of Her Britannic Majesty on the 26<sup>th</sup> day of June, 1960 (being Muharram 1<sup>st</sup> 1379):

AND WHEREAS the State of Somalia achieved its independence and ceased to have the status of a Trust Territory of the United Nations Organization administered by the Republic of Italy on the 1<sup>st</sup> of July, 1960

AND WHEREAS it is the will of the peoples of Somaliland and Somalia that their States shall united shall forever be united in the Somali Republic:

NOW, we the signatories hereof being the duly authorized representatives of the peoples of Somaliland and Somalia and having vested in us the power to make and enter into this Law on behalf of our respective States and peoples do hereby solemnly and in the name of God the compassionate and Merciful agree as follows:-

#### **Union**

1. (a) The State of Somaliland and the State of Somalia do hereby unite and shall forever remain united in a new, independent, democratic, unitary republic the name whereof shall the SOMALI REPUBLIC.
- (b) The Capital of the Somali Republic shall be Mogadiscio.

#### **Conditions of Union:**

2. Subject to the express provisions of this Law the Union hereby constituted shall be upon the following conditions: -
  - (1) That the component administrative units of the Government of the Somali Republic until more suitable administrative arrangements are made, shall be, firstly, the region comprising the territories contained in the boundaries of the presently existing State of Somaliland (hereafter referred to as "the Northern Region") and, secondly, those presently existing territories which comprise the six Regions of Mijertain, Mudugh, Hiran, Banadir, Upper Juba and Lower Juba all in Somalia (hereafter collectively referred to as "the second named Regions").
  - (2) That the existing laws presently in force in the Northern Region and in the second named Regions respectively shall remain in full force and effect within the

respective territories where the same presently apply and shall not have force or effect beyond those respective territories where the same presently apply.

- (3) That all persons now serving the Somaliland Government in the Northern Region and the Government of Somalia in the second named Regions respectively shall continue to serve the Government of the Somali Republic upon terms not less favourable than those at present applicable to them.
- (4) That the Courts as presently constituted in the aforesaid Northern Region and the aforesaid second named Regions shall continue to exercise within their respective territories the jurisdiction which is conferred upon them by presently existing law and shall be Courts of the Somali Republic.
- (5) That all rights and obligations vested or accruing, whether public or private (including any status of legal personality acquired under law by corporate or non-corporate bodies) shall continue to subsist in accordance with subsection (2) hereof be recognized and enforced by the Courts of the Somali Republic, referred to in subsection (4) hereof and by the Government of the Somali Republic.
- (6) That in the Somali Republic the National languages of the Republic shall be as to the spoken tongue Somali and as to the written language Arabic, English and Italian, which shall have equal status.

#### **Citizenship**

3. (1) All persons who upon the date of this Union possess the citizenship of Somaliland and Somalia respectively shall by this Union now become citizens of the Somali Republic.

(2) All persons who hereafter would, but for this Union, have become citizens of Somaliland or Somalia respectively under the law of either of the two uniting States as presently subsisting, shall hereafter become citizens of the Somali Republic.

#### **Head of State**

4. The Head of with State of the Somali Republic shall be the PRESIDENT of the Republic chosen in accordance with the provisions of the Constitution referred to in section 7 hereof.

#### **Executive Authority**

5. Executive Authority of the Somali Republic shall be vested in the COUNCIL OF MINISTERS appointed in accordance with the provisions of the Constitution referred to in section 7 hereof and shall be exercised as therein provided.

#### **Legislative Power**

6. The Legislative power of the Somali Republic shall be vested in the NATIONAL ASSEMBLY constituted in accordance with the provisions of the Constitution referred to in section 7 hereof and shall be exercised as therein provided.

### **The Constitution**

7. The CONSTITUTION OF THE SOMALI REPUBLIC shall be the Constitution of the State of Somalia with such adaptations as may be necessary to bring in into conformity with this Law but notwithstanding the provisions thereof relating to amendment, no amendment of that Constitution shall derogate from the conditions of Union set forth in section 2 hereof unless made in accordance with the procedure and provisions set forth in section 10 hereof.

### **The existing Executive and Legislative Organs**

8. (1) Upon this Law being made the presently subsisting Legislative Assembly of Somaliland and Somalia respectively shall cease as such to subsist: but the existing elected members of the said Legislative Assemblies shall constitute the first National Assembly of the Somali Republic. Immediately upon the National Assembly of the Somali Republic being constituted under these provisions, the members thereof shall each before the person presiding over the National Assembly make oath of allegiance to the Somali Republic.

(2) The existing President or Vice President of the Legislative Assembly of Somalia shall preside over the National Assembly of the Somali Republic for the purpose of taking the oaths of allegiance in accordance with subsection (1) hereof and for the purpose of electing the first President of the National Assembly only.

(3) The members of the Council of Ministers after being appointed in accordance with the Constitution shall each make an oath of allegiance to the Somali Republic before the President of the National Assembly.

### **Freedom of movement and trade**

9. (1) Notwithstanding anything in section 2 hereof, the citizens of the Somali Republic shall have the right freely to move for lawful purposes throughout the territory of the Republic subject to the provisions of any law relating to public order or human or animal health.

(2) Notwithstanding anything in section 2 hereof there shall be no customs, exercise or other tax imposed upon the movement of goods (including animals) between any parts of the territory of the Somali Republic provided such goods originate from the Region from which they are proceeding.

(3) Until unification of customs tariffs is achieved goods imported from foreign countries and moving from the Northern Region to the second name Regions and vice versa shall be subject to the customs laws at present in force in the Northern Region and the second named Regions.

### **Special Commission for Uniformity**

10. (1) There shall be established a Special Commission the members of which shall be persons who were immediately prior to this L\w either members of the Legislative Assembly of Somalia or members of the Legislative Assembly of Somaliland together with a Chairman being a member of the National Assembly appointed by the members of the Commission.

(2) The members of the Special Commission (other than the Chairman) shall be appointed by the President of the Somali Republic acting on the advice of the Council of Ministers and shall consist of an equal number of former members of the Legislative Assembly of Somali and former members of the Legislative Assembly of Somaliland.

(3) The Special Commission shall examine into and make recommendations (which in the event of the Commission not being unanimous shall be the recommendations of a majority of its members to which a minority report shall be attached) as to the provisions to be made from time to time by law for the purpose of establishing uniformity between the laws, institutions, public service and social services presently existing in the Regions referred to in section 2 hereof.

(4) The Special Commission shall for the aforesaid purpose be empowered to establish sub-commissions or committees, the members whereof may include other persons and to engage or call for assistance from any person by way of advice or otherwise.

(5) The Special Commission shall from time to time report to the Council of Ministers as to its recommendations under subsection (3) of this section and the Council of Ministers shall thereupon with all reasonable dispatch lay such report before the National Assembly together with the proposed legislation to be made to give effect thereto.

(6) The National Assembly shall thereupon decide by majority of the members thereof present and voting upon such proposed legislation whether the same shall be enacted.

(7) Upon the National Assembly so deciding then the President shall assent to such legislation and upon the same coming into operation any condition set forth in section 2 hereof shall so far as it is inconsistent with such legislation be abrogated.

(8) The Special Commission may with the approval of the Council of Ministers make rules regulating its procedure and providing for the duration of the appointments of its members, the remuneration of any person whose participation or assistance is called for under subsection (3) hereof, the filling of vacancies in membership and all other matters as may be required for the performance of the function conferred upon the Special Commission by this section:

Provided that if the Special Commission fails to make rules under this subsection in accordance with a request made to it by the Council of Ministers, the Council of Ministers may make the said rules.

(9) Any rules made under subsection (8) may be added to, amended or revoked in the same manner.

### **Succession to rights and liabilities**

11. (1) Any property (including any rights arising from contract or otherwise) that is immediately before this Law vested in the Government of Somaliland or in the State of Somalia shall upon this Law being made vest in the Somali Republic or in such person or authority on behalf of the Somali Republic as the Council of Ministers may direct.

(2) Any liability or obligation (whether arising from contract or otherwise) incurred by the Government of Somaliland or by the State of Somalia and subsisting immediately before this Law shall upon this Law being made be a liability or obligation of the Somali Republic or of such person or authority on behalf of the Somali Republic as the Council of Ministers may direct.

(3) For the purposes of the preceding subsections, any property which immediately before the making of this Law was vested in or any liability or obligation which at that time had been incurred by, any person or authority on behalf of the Government of Somaliland or the State of Somalia shall be deemed to be property vested in or a liability or obligation incurred by the respective Government or State.

(4) Without derogation from the foregoing provisions of this section the right and obligations arising from agreements entered into between the Government of Somaliland and the Government of the United Kingdom of Great Britain and Northern Ireland and between the Government of Somalia and the Government of Italy and other States and International organisations which are set out in the Schedule to this Law shall be binding upon the Somali Republic.

### **Transitional**

12. (1) For the time being the provision subsisting immediately before the making of this Law for the expenditure of public moneys of the Somali Republic hereby constituted within and upon the Northern Region and second named Regions shall as far as practicable continue to the intent that those moneys which have been authorized to be expended within and upon the respective Northern Region and second named Regions

shall continue to be expended upon the public service and upon the development and welfare and in the service of the said Northern Region and second named Regions and the inhabitants thereof respectively.

(2) For the time being the presently subsisting provision for the expenditure of public moneys (including such moneys as may be provided by way of assistance from foreign States) upon the development and welfare of the aforesaid Northern Region and second named Regions and the inhabitants thereof respectively shall as far as practicable continue to the intent that those schemes of development and welfare which are now current shall be completed and that those schemes of development and welfare which have been planned shall be proceeded with within the respective Northern Region and second named Regions hereinbefore referred to and for the benefit of their respective inhabitants.

(3) The Supreme Court of the Somali Republic shall have appellate jurisdiction in relation to decisions of the Courts now constituted and which will continue to subsist in the aforesaid Northern Region.

#### **SCHEDULE**

1. The Agreement between the and Government of Somaliland and the Government of United Kingdom of Great Britain and Northern Ireland regarding interim arrangements in respect of the Somaliland Scouts.
2. The Interim Agreement between the Government of Somaliland and the Government of the United Kingdom of Great Britain and Northern Ireland for a United Kingdom Aid Mission.
3. The Pubic Officers Agreement between the Government of Somaliland and the Government of United Kingdom of Great Britain and Northern Ireland.

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This Bill has been passed by the Legislative Assembly on 27<sup>th</sup> June, 1960.

**AHMED MOHAMED ADAM**

Clerk of the Legislative Assembly

I hereby certify that at the third reading of this Bill, (which has now been passed as the Somaliland and Somali Union Law) the votes of not less than two third of the members of the Assembly were cast in favour thereof.

W. F. STUBBS,

Speaker.

Copied from the SOMALILAND GAZETTE

Vol. I, No. 3, HARGEISA, 5<sup>th</sup> July, 1960.

SUPPLEMENT No. 2 (Containing Law)

LAW No. 1

### **Annex III.**

Law No.5 of 31 January 1961: Act of Union  
Appendix

Somali Republic  
Law of 31 January 1961, No.5  
'Act of Union'

THE PROVISIONAL PRESIDENT OF THE REPUBLIC  
TAKING NOTE of the approval of the National Assembly  
HEREBY PROMULGATES

The following law:

#### Article 1

*(Union and Capital of the State)*

1. Somaliland and Somalia, being united, constitute under the constitution the SOMALI REPUBLIC, which shall be an independent, democratic and unitary republic
2. The Capital of the Somali Republic shall be Mogadishu

#### Article 2.

*(National Assembly)*

The Legislative Assemblies of Somaliland and Somalia shall together comprise the first National Assembly of the Somali Republic

#### Article 3

*(Continuation of Laws and Institutions)*

1. The Laws in force in Somaliland and Somalia at the time of the establishment of the Union shall remain in full force and effect in the respective jurisdictions subject to the provisions of the constitution, this law or any future law.
2. Subject to the provisions of Article 94 of the Constitution concerning the jurisdiction of the Supreme Court, and any future law, the Courts as presently constituted in Somaliland and Somalia shall continue to exercise the respective jurisdiction conferred upon them by law
3. Save as otherwise provided in the Constitution, this law or any future law, all public bodies, both central and local, shall continue to exist and shall retain all their duties, functions and powers.
4. Subject to the provisions of any future law, the terms and conditions of service of public officials and employees serving central or local bodies shall not be less favourable than those applicable to the time of the establishment of the Union.
5. All rights and obligations, whether public or private, shall continue in existence in accordance with the applicable law, and shall be recognized ad given full force and effect.

Article 4  
*(Succession to Rights and Obligations)*

1. All rights lawfully vested in or obligations lawfully incurred by the independent Governments of Somaliland and Somalia or by any person on their behalf shall be deemed to have been transferred to and accepted by the Somali Republic upon the establishment of the Union
2. Whenever such rights or obligations arise from any international agreements their acceptance by the Somali Republic shall be subject to Article 67 of the Constitution

Article 5  
*(Citizenship)*

All persons who on the date of the establishment of the Union possessed the citizenship of Somaliland or Somalia shall become citizens of the Somali Republic

Article 6  
*(Army and Police)*

1. The Somaliland Scouts and the National Army of Somalia shall constitute the National Army of the Somali Republic and shall be under the authority of the Minister of Defense
2. The Police Forces of Somaliland and Somalia shall constitute the Police Force of the Somali

Republic and shall be under the authority of the Minister of the Interior

Article 7  
*(Financial Provisions)*

Until a unified budget of the Somali Republic has been established, the budgetary appropriations of Somaliland and Somalia shall as far as practicable continue to be applied in the respective territories for the purposes for which they were originally intended.

Article 8  
*(Customs)*

1. Until otherwise provided by law, goods imported from foreign countries and moving from the territory of Somaliland to the territory of Somalia and vice versa shall be subject to the customs laws in force at the date of the establishment of the Union.

Provided that (a) where the rate of duty in the territory to which the goods are proceeding is equal to or lower than the rate in the territory from which the goods are proceeding, no duty shall be charged; and (b) where the rate of duty in the territory to which the goods are proceeding is higher than the rate in the territory from which the goods are proceeding there shall be charged an amount equal to the difference between the two rates

2. No customs, excise, or other tax shall be imposed upon the movement of goods (including animals) between Somaliland and Somalia or vice versa when such goods originate in the Somali Republic

3. Nothing in this article shall be deemed to revoke or modify any restriction in force at the time of unification in Somaliland or Somalia on the import, export or movement of any goods into or out of Somaliland or Somalia

Article 9  
*(Repeal of Inconsistent legal Provisions)*

1. Any Provision of any law of Somaliland or Somalia, including the Somaliland Order in Council, 1960 (Being the Constitution of Somaliland) which is inconsistent with the Constitution of the Somali Republic or this law is hereby repealed

2. The provisions of the Union of Somaliland and Somalia Law (No1 of 1960) are hereby repealed, except for Article 11(4) thereof

Article 10

(Title and Entry into Force)

This law may be cited as the 'Act of Union" and shall be deemed to have come into operation on the 1<sup>st</sup> day of July, 1960

This Law shall be included in the Official Compilation of Laws and Published in the Official Bulletin

All Persons shall be required to observe it and to cause others to observe it as a Law of the Republic

The Prime Minister

Abdirashid Ali Sharmarke

The President

Aden Abdulla Osman

**Annex IV:**

**Resolution of Burao Elders' Meeting**

**Annex 1: Resolution from Burao Elders' Meeting**

Burao 5/5/1991

**KU: GUDOOMIYE-ku xigeenka ururka X S N M AYNA GUDOOMIYAHA SHIRKA AAYA KA TALINTA WAQOQYI.**

Shirka aayo ka talinta waqooyi oo ay isugu yimaadeen guurtida iyo suldaamada iyo odayaasha wax garadka ah ee beelaha waqooyi oo maanta lagu qabtay magaalada Burco waxa la isku raacay qodobadan hoos ku qorani:-

1. In waqooyi gaar isu taago oon la raacin Koonfur
2. In lagu dhaqmo shareecadda Islaamka
3. In la sugo nabadgelyada Waqooyi
4. In si dhaqso ah loo dhiso dawlad Waqooyi
5. In golayaasha ururka iyo dawladda si cadaalad ah loogu qaybiyo beelaha Waqooyi
6. Arrinta nabadgelyada Samaag in si gaar ah wax looga qabto oo gudi laa saaro.

MAGACYADA SAKHEEXAY

1. Suldaan Maxamed Faarax G/W/Galbeed .....  
Shiikh Ibraahim Sh. Yuusuf Sh. Madar Gudoomiyaha Guurtida reer Shiikh-Isaxaaq .....
2. Suldaan Cabdi Sh. Maxamed G/W/Galbeed .....
3. Suldaan Maxamed Suldaan C/gadir G/W/Galbeed .....
4. Suldaan Yuusuf Suldaan Xirsi G/Togdheer .....
5. Suldaan Saxardiid Suldaan Diiriye G/W/Galbeed .....
6. Suldaan Ismaaciil Muuse G/W/Galbeed .....
7. Suldaan Rashiid Suldaan Cali G/Sanaag .....
8. Suldaan Ismaaciil Suldaan Maxamuud D/Laasqoray .....
9. Axmed Shiikh Saalax D/Laasqoray .....
10. Shiikh Daahir Xaaji Xasan G/Sool .....
11. Axmed Xirsi Cawl G/Sool .....
12. Suldaan Maxamed Jaamac G/Awdal .....
13. Shiikh Muuse Jaamac G/Awdal .....

## Annex V.

### Somaliland Map

